

Summary

Referring to previous and well-established case law as an argument (case law line argument) is a solid element of the administrative court practice. In order to employ the case-law line argument, one needs to pursue interpretation of law engaging different methods such as systemic, axiological, functional and historical. However, the crux of the matter is to find a stable model of interpretation that was created in the courts' jurisprudence. The case law line argument, in a form developed by the practice, can be compared to precedential model of legal reasoning.

The case-law line argument is a practical instrument which serves to ensure uniformity of administrative court's jurisprudence and in consequence also supports certainty of law, equality and justice. In this way, it realizes principles that are enshrined in the procedural law statutes, the Constitution as well as the Constitutional Tribunal's, the Highest Administrative Court's and the Supreme Court's case law. It should be underlined that an appropriate use of the case law line argument does not undermine the principle of judicial independence – just the opposite – it materializes this principle in a better way than other legal means of unifying jurisprudence such as abstract resolutions of the Highest Administrative Court. The analyzed argument is a flexible tool which enables to make fast and precise adjustments of the jurisprudence that are necessary in case of changing circumstances of social, commercial and cultural nature. At the same time, it conduces the internal discussion within the administrative court's system which has an universal and abstract meaning.

One should note that the use of the case-law line argument broadens the scope of influence of a single ruling. A statement that was made in the ruling (thesis) takes a form of a judge-made, abstract and general norm which is then recognized by entities applying the law such as citizens, administrative bodies and voivodeship administrative courts.

The empirical analysis based on a broad research has confirmed the growing impact of the case law line argument – and its qualified forms – in the practice of administrative courts. This phenomenon is most probably connected with technological (regarding publication of rulings) and methodological changes that concern the manner in which a reasoning of a ruling is being prepared as well as the system of administrative courts itself. The empirical studies enabled to describe the model of departing from an existing case law line and reasons justifying it which includes legislative changes, a new resolution being passed by the Highest Administrative Court or the Constitutional Tribunal's ruling.

The comparative analysis, on the other hand, leads to a conclusion that a broad use of the case law line argument – in its nominal meaning – is mostly Polish phenomenon. Although such a term is marginally used in German jurisprudence and almost unknown in French or American legal system, the court practice in these countries has developed equivalents to the case law line argument. This is mostly dependent on the local culture of preparing a reasoning for a ruling or – in from a wider perspective – on a local culture itself.

The conducted research enabled to establish a proposed model of referring to the case law line argument. Firstly, it should be emphasized that this kind of argument cannot have a spontaneous character. It rather ought to support the results of interpretation of law pursued by traditional methods. Then, the proposed model of referring to the case law line argument – enabling to monitor it – is connected with a few conditions. It requires a judge to quote the precedential ruling which has introduced a new case law line as well as the most recent award following this interpretation together with a full reference to these judgments. Additionally, an administrative court should justify why it finds this case line to be convincing.

In principle, defective use of the case law line argument by a voivodeship administrative court in the reasoning does not result – in the light of the Law on Procedure before Administrative Courts – in a duty of the Highest Administrative Court to reverse such a judgment. However, a ruling must be reversed if the case law line argument which was defectively used was the only basis for explaining the motives of a decision made by a judge. It is because such a reasoning violates the principle of

procedural justice and makes the control by the Highest Administrative Court's control to be impossible.

Finally, the conducted research was crucial in establishing the correct way of departing from an existing case law line. The court should widely describe the contested case law line and clearly state reasons for departing from it. It makes the change in the jurisprudence more likely to be approved by the judicial community.