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Procedural Justice as a Guarantee of Protection of Individual Rights in Court Proceedings

In this thesis, the author strives to provide a complete assessment of compatibility between the basic assumptions underlying judicial process in Poland and constitutional and international standards of procedural justice.

The concept of procedural justice has been construed based on an analysis of case law, texts of normative acts and other legal instruments and writings of legal scholars. The defined criteria of procedural justice have been applied to assess the Polish legislation. The analysis covered legislative acts (above all the Code of Criminal Procedure, the Code of Civil Procedure, the Law on the Administrative Court Procedure, the Law on the Administrative Court System and the Law on the Common Court System) and, to a lesser extent, regulations.

The dissertation explores selected juridical process institutions which are of relevance from the point of view of procedural justice criteria. Key legislative changes that took place over the last twenty years have been analysed. As a result of the conducted research, some queries have arisen with regard to certain legal constructs and recommendations for the law-maker have been put forward.

The first chapter outlines the genesis of procedural justice as a legally protected value. Procedural justice is a general descriptive legal principle derived from the clause of a democratic state governed by the rule of law, and is applicable to all procedural relations between an individual and the state.

The second chapter defines guarantees of procedural justice in the judicial process. Thus defined justice includes the right of an individual to be heard, the right to have his or her case examined within a reasonable time, the right to participate in person in the proceedings, the right to a comprehensive examination of the circumstances of the case, predictability of proceedings, the right to be provided with clear reasons behind the ruling and the right to challenge the ruling of the first-instance court. Procedural justice is also reflected in the constitutional status of the judiciary and the corresponding right of an individual to have his or her case tried by an impartial judge and an independent sovereign court of proper jurisdiction, established by virtue of a statute.

The third chapter sets out the features of general process guarantees which are universal for all three types of court proceedings. The fourth chapter outlines specific problems relating to procedural justice in administrative court proceedings. Chapter five was devoted to institutions and principles applicable to civil proceedings. In chapter six, the author analysed specific problems associated with procedural justice in criminal proceedings. Chapter seven discusses the effects of violating the principle of procedural justice.

At the time this research was completed, it was assumed that, in general, the criminal, civil and administrative court procedures meet the standards of procedural justice set out in the case law of the Constitutional Tribunal and the European Court of Human Rights. The dissertation contains some postulates for legislative improvements (*de lege ferenda*) which, if implemented, would facilitate a fuller embodiment of procedural justice.