

Lazarski University  
Faculty of Law and Administration  
Olga Karczewska

**Summary of the PhD dissertation entitled**

**„Access to public information in commercial law companies”**

**prepared under the supervision of prof. nadzw. dr hab. Przemysław Szustakiewicz**

The aim of the PhD dissertation is to put attention on the special character of commercial law companies as entities obliged to provide public information.

Access to public information in the context of public administration bodies is a topic much more widely commented in the doctrine than the issue of commercial law companies as entities obliged to provide public information. The jurisprudence indicates that commercial law companies can not be treated in the same way as public administration bodies. However, the Act of 6 September 2001 on Access to Public Information (Journal of Laws of 2018 item 1330, hereinafter: "*UDIP*") does not differentiate in no way entities obliged to provide public information. This causes numerous practical problems that this dissertation mentions.

It should be pointed out that this issue has never been the subject of any publication, which clearly indicates that the doctrine in this area focuses only on "typical" entities obliged to provide public information.

The dissertation is interdisciplinary, i.e. it concerns the scope of commercial and administrative law, as well as refers to selected institutions of civil and constitutional law. Moreover, it also refers to economic, linguistic and technological theories.

The main hypothesis was finding that "appropriate" application of the provisions of the Act of 14 June 1960 The Code of Administrative Procedure (Journal of Laws of 2018 item 2096, hereinafter: "*KPA*") does not always match the nature of a commercial law company. For the purpose of its thorough verification, 5 auxiliary hypotheses were identified. They were as follows:

- a) a small number of procedural provisions of UDIP causes problems with their practical implementation,
- b) the entrepreneur's interest in the confidentiality of business secrets obliged to disclose public information is not sufficiently secured,
- c) in the jurisprudence of administrative courts there is a phenomenon of abuse of the right to access to public information,
- d) there is a conflict between the right of citizens to information about public matters and the individual interest of the entrepreneur,
- e) the majority of complaints addressed to administrative courts concern inactivity (companies do not feel obliged entities or do not consider the requested information as public information).

The study employed 5 research methods, i.e .:

- a) the dogmatic method,
- b) the descriptive method,
- c) the historical method,
- d) the individual case method,
- e) the method of the diagnostic survey.

Using the dogmatic method, the analysis of law and jurisprudence, as well as literature on access to public information, post-control statements of the Supreme Chamber of Control, Central Statistical Office surveys and analyzes made by private entities regarding individual problems discussed at work were analyzed. The introductory issues to the analyzed topic are presented using the descriptive and historical method. Thanks to the application of the individual case method and the diagnostic survey method, the work has been enriched with practical examples (case study in selected companies), as well as statistics (diagnostic survey directed to companies and courts).

The dissertation consists of seven chapters.

The first one concerns the issue of the right of access to public information. In the following subchapters, the issue of the constitutional basis of transparency of public life, the heterogeneous set of entities obliged to provide public information and the scope of the subject concept of public information were analyzed.

The second chapter discusses the issue of a commercial law company as an entity obliged to provide public information. It presents particular types of commercial law companies divided on the basis of the prerequisites for the application of UDIP in their case, i.e. .:

- a) State Treasury companies,
- b) municipal companies,
- c) companies with public assets,
- d) companies performing public tasks.

The third chapter deals with the problem of the heterogeneous character of commercial law companies as an entity obliged to provide public information. The following subchapters present a commercial law company as an entrepreneur, an entity performing administrative authority and a private law entity, as well as the existence of a conflict between the information obligation and the individual interest of the entrepreneur.

The fourth and fifth chapter present the issue of limitation of the right of access to public information. The first one discusses the limitation of the right to public information on the basis of art. 5 para. 1 and 3 UDIP, ie due to the protection of classified information, other statutory protected secrets and provisions on forced restructuring, the next on the basis of art. 5 para. 2 UDIP, i.e. for the protection of privacy of an individual and business secret.

The sixth chapter concerns the issue of not making public information available. The following subchapters discuss the construction of an administrative decision refusing to provide public information, the mode of appeal proceedings and proceedings before an administrative court, as well as the rules of criminal liability for violation of UDIP regulations.

The seventh chapter is a presentation of the conducted surveys. The following subchapters discuss the general assumptions of the study, the results in individual survey groups, i.e. .:

- a) companies.
- b) administrative courts,
- c) civil courts,
- d) criminal courts,

as well as conclusions with a breakdown into the conclusions for each of the surveyed groups of entities and conclusions common to the entire survey.

The last part of the dissertation presents a summary of the analysis performed together with the verification of research hypotheses accepted (main and 5 auxiliary ones) and conclusions from it are indicated.