

FUNDAMENTAL IMPORTANCE OF EUROPEAN ADMINISTRATIVE LAW

The establishment of the European Union resulted in widening and expansion of a number of structures, institutions and bodies *unijnych*. Increased the frequency and intensity of individual units of these institutions and bodies. Direct relationships of individuals and legal offices gained the status of those they administer, and therefore dependent on the administrative authority bodies of the Union. This caused a need to step up legal protection of individuals by granting certain procedural and substantive claims against the EU institutions.

Since the entry into force of the European Charter of Fundamental Rights (Article. 41), then the inclusion of the Charter to the Treaty on the European Constitution, the right to good administration gained a new face normative in art. II - 41 In terms of the legal nature can be credited to the so-called rights of third generation. «(...) Good administration - based on values anchored in the constitution, reliable, efficient and effective functioning of a proper legal basis, in the forms provided for by law, adhering to the administrative procedure and at the same time flexible and unbureaucratic is a conceivable ideal for citizens this part of the executive. Acting as a general concept, vague, has been used in policy debates at local and nationwide but did not have a normative reflection, it was rather reverence everyday, common understanding of the concept of "good state", "good authority". The law is gradually institutionalized the Council of Europe in its recommendations».¹ The idea discussed at some length in the doctrine of administrative law is whether there is an individual right to good administration. According to Zygmunt Niewiadomski «(...) the adoption and redesign of the concept as a legal concept entails - in the light of Polish law - fundamental qualitative changes. This means Jumps in administrative law to protect the administration, and not before the administration».² This means vigorous demand from the state not only to create and apply a rule of law, but that that the administration was «good». Whether it is a phase transition from the rule of law understood rather «judicial» phase «administrative»? It seems that the full development of this law marks the beginning of transformation. Zbigniew Cieślak sees the right to good administration «(...) part of the right to a good prey and distinguishes four basic possible understanding of this concept by analyzing the

1. Bulletin No. 4 of the Council of Europe, the right to good administration, Warsaw 2003

2. Z.. Niewiadomski, The right to good administration - aspects of the process, fluids and material in: Right to good administration, Warsaw 2003, p.42 et al.

consequences of the recognition sequence for legal, extralegal category - public subjective rights or powers of the citizen, opting for a diagnosis that As for the legal concept».³

The right to good administration has been placed in Chapter V of the Charter of Fundamental Rights Fri «Rights of the Citizen». Before the acceptance of the right to good administration as a fundamental right, it was adopted by the Court of Justice as the central principle of EU law. In theory often chosen uncertain understanding of this principle. It was thought in particular, that right is not treated as a right independent and normally used in conjunction with other rights and obligations.

Article II-41 of the Charter of Fundamental Rights of the European Union entitled «The right to good administration» provides that: 1. «(...) any person has the right to have his or her case has been dealt with by the authorities and the EU institutions impartially, fairly and within a reasonable period of time. 2. This right includes in particular: - right of every person to be heard before it is applied to it disadvantageous individual measure; - right of every person to have access to it on the behavior of the legitimate interests of ; -confidentiality and of professional and business secrecy; obligation of the administration to justify its decisions. 3. Everyone has the right to ensure that the Community in accordance with the general principles of the Community to the laws of the Member States, evened its damages caused by the action of the authorities or of its staff in the performance of their business activities. 4. Any person may address of the Union in one of the Treaty languages and must have an answer in the same language».⁴

The right to good administration is the right of every human being, this means that the fundamental right of a citizen of the European Union is calling for the EU institutions competent, fair and lawful hearing addressed to the institution or body. These bodies are required together with all officers employed there realize the matter so that everything was lawful. In the event that the appellant realized suffered damage as a result of bad administration activities the Union officials have a duty to fulfill his case fairly and without any undue delay as a necessary element for building citizens' trust in state authorities. The most common violations of the law apply to a court of law. Everyone has the right to a fair and public hearing within a reasonable time by an independent and credible court, and speaks right to legal counsel and representative. Referring to the Polish good administration should pay attention to its shortcomings. J. Świątkiewicz sets «(...) the main deficiencies in the administration as a triad of shortcomings in the transparency of structures and procedures certainty of the predictability of

3. Z. Cieślak, The right to good administration, CSWU, Warsaw 2003 p. 18-20

4. Charter of Fundamental Rights of the European Union Article 41, The right to good administration

action».⁵ In addition to bribery and nepotism which is the opposite of good, fair administration, which are coercive forces element to name the Polish government as well, which is why it is necessary to transform administrative procedures, in particular the Code of Administrative Procedure flourish «(...) both in terms of active participation of the parties in the proceedings as the issue of timeliness, which requires a code of good administration as the need for changes in the structure and the functioning of the administration - the predictability and stability of action rules».⁶ Competence explain their decisions by the administration are in the Code of Good Administrative Behaviour in terms of the refusal to disclose documents and refusal to provide the information that is in the refusal must be included facts and legal basis of the decision adopted, individual arguments and reasons on which the decision taken. We can point out the importance of the information currently stage decision-making process that attempts to hide from the addressees of decisions. Transparency and openness effectively equates one typical feature of Weber adopted by the administration, which is an important part of protecting the anonymity of an official from the vengeance of the environment.

Good public administration is a challenge not only for society but also for people who exercise authority. European Code of Good Administrative develops guidelines Charter of Fundamental Rights relating to the principles of good administration and implementation of imagination used for good administration.

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Area of law in which intensive research processes law is clerical, which includes both the provisions of the labor law and administrative law. One of the problems dealt with in this branch of law is the problem of the internationalization of civil service. This problem relates to the four planes. These are: the sources of international law issues clerical, issues of Polish Foreign Service, the question of clerical force in the European Union, as well as the issue of models operating in other international organizations.

Law clerical developed in the shadow of modern public administration, and administrative law. According to Z. Duniewskiej its origins should be positioned in France, associating them with the French Revolution and the Declaration of the

5. J. Świątkiewicz, Good administration as the right of a citizen, Warsaw 2002, p. 9

6. A. Zoll, Right to good administration, Lodz 1998, p. 3