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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. 419

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 420

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.