

DIRECTIONS OF CHANGES TAKING PLACE IN POLISH PUBLIC ADMINISTRATION



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With social, civilizational and economic development, the needs and expectations of societies towards the state and its bodies, especially the public administration, are changing. Simultaneously, the tendencies for changes come from the public administration itself and its personnel. Not without significance for model of public administration is the political, social and economic doctrine, which may favor greater or less involvement of the state and thus the public administration into the life of citizens. After all, in Poland's case, some changes are necessary due to European Union membership, which with respects the principle of procedural autonomy of states, is giving guidance to the public administrations of the Member States, such as soft law standards or the jurisdiction of the Court of Justice of the European Union. All this is aimed at realizing the right to a good administration and causes that the public administration in Poland is dynamic. Because it is worth watching, learning from others, sometimes drawing critical conclusions, sometimes motivating, this text is supposed to present to the reader directions of changes taking place in the

Polish public administration.

Hence the layout of this study, which begins with the theoretical part explaining the notion of public administration on the grounds of Polish legal doctrine. The second part is devoted to new ideas and theoretical concepts of public administration, which begin to be implemented in Poland. Next part refers to the process of state withdrawal, thereby and the public administration, from the activity in public sector, for example in environmental protection. The fourth part deals with the replacement of public entities, including administration, by private entities in the implementation of public services, for example in the communal services. The fifth part, the last one, describes currently implemented proces of computerization of activity in public administration, administrative proceedings and court-administrative proceedings in Poland. The study ends with the conclusions and the list of sources.

The work was based on sources of, widely understood, administrative law and administrative science, as well as legal acts current as of August 31, 2017.

Key words: public administration, new public management, private entities, computerization, Poland, European Union.

1. The concept of public administration under the Polish doctrine

The public administration perceived, in traditional terms, unlike the private one, otherwise the private sector of entrepreneurs and NGOs, is a set of activities, actions and organizational and executive enterprises carried out for the realization of public interest by various subjects, bodies and institutions based on acts and in the forms defined by law.¹ In other words, it is exercised by the state, or its authorized entities,² in the pursuit of the common good, meaning the public interest, to bring about any gain to public or to provide for the interest of the individual, representing the interests of the whole of society or of the community, or because of universally accepted values.³

All definitions of public administration cover two aspects: subjective and task. The first describes public administration bodies, taking into account all structural divisions and classifications known to the administration science and administrative law. The second shows the scope of activities undertaken by the public administration. Hence, the interpretation of public administration not only by the structural prism but also by the functional activity it carries, gives it not only the nature of the subject but also the object of public management.

Features describing the public administration are: acting on behalf of the state, administrative control, acting on the basis of legal acts.⁴ Moreover, it is indicated among the functions of the public administration, besides the disciplinary/regulatory ones as well as providing, function of leading that lies on the development and directing actions supporting the independent, positive actions of individuals.

2. New theories of functioning of public administration

As a result of integration with the European Union, increased international cooperation and interest in the world, the expectations of Poles towards public administration grow. More and more trends, ideas and philosophies, created in Western European public administration models, begin to reach into Polish doctrine and begin to be implemented in home functional models.

One of them is public governance, the primary method of which is new public governance. It should be understood as the introduction of management idea, shaped in the private sector, into the public sector. New public management involves necessity of changes in the traditional model of public administration.⁵

These changes include, firstly, market-oriented reforms that include the introduction of competition. In the concept of public management the emphasis is on the citizen, as the

¹H. Izdebski, M. Kulesza, *Administracja publiczna. Zagadnienia ogólne*, Warsaw 1998, p. 91.

²Like non-governmental organisations and entrepreneurs offering services. More: J. Blicharz, *Zagadnienie prawnej możliwości przekazywania wykonywania niektórych zadań administracji publicznej organizacjom pozarządowym*, *Acta Universitatis Wratislaviensis, Przegląd Prawa i Administracji* 2005, Number 69.

³J. Zimmermann, *Prawo administracyjne*, Warszawa 2010, p. 26.

⁴*Ibid.* Compare with: E. Ochendowski, *Prawo administracyjne*, Toruń 1996, pp. 8-10.

⁵See more: B. G. Peters, *Policy Transfers between governments: the case of administrative reform, „West European Politics”*, vol. 20/1997, pp. 73-75.

consumer of public services, with all associated consumer rights. This concept strongly benefits from services outsourcing for the public administration, simply enabling at the same time replacing public administration with private sector services. Additionally comes efficiency and evaluation of the performance of the administration, ie new market elements in the public sphere.

Secondly, changes postulated by the new public management, should include stress on participatory decision-making mechanisms. This is increasingly evident in both the formation of social communication as well as the formal procedures for the creation of substantive law and the functioning of procedural law. Broadly develops in Poland mechanism of the so-called citizens' budgets, where the inhabitants of the town in the form of a plebiscite decide on the part of the budget of the city provided for investments meaning they choose the projects to be implemented in the first place.

Finally, public management needs deregulation currently being discussed in the public space that limits excessive and inadequate number of regulations, mainly in the area of substantive administrative law.

Quite a number of literature on new public management indicates a catalog of its characteristics. J. Hausner describes these distinctive for the public management from the ideal bureaucracy model,⁶ pointing to managerial style of management, flexible and diversified structures, oriented externally and for the needs of the audience, external control, long-term perspective of acting, interactive management and partnership and broad cooperation.⁷ Among the other features it is necessary to emphasize:

- handing control to professional managers who have clear goals and indicators, often in the form of audits,
- control of results rather than procedures that derive directly from quality management methods,
- taking into account the efficiency otherwise the correct proportion of inputs to effects, which is manifested as well as material consumption monitoring, the quality management systems, but also in terms of ecological efficiency and thus economic gain, environmental management systems.

The features of new public management are also:

- basing on economic theory, management theory and entrepreneurship theory, what much more emphasizes the need for implementation in public sector, management systems that come from private sector,
- public interest is understood as the interest of members of society, which in the case of pro-environmental management does not required,
- alternation of the role of the state for directing, meaning the use of management instruments and competitive market pressure to maximize the efficiency of delivery of public service, for such a control are management systems described,
- delegation of decision-making power that serves to achieve a high degree of freedom

⁶Model of ideal bureaucracy, presented first in 1922 by Max Weber bases on: continuation of the governments, described competences, hierarchy, technical procedures, open recruitment for objective and independent public functionaries, rules of formalism. More: M. Weber, *The Theory of Social and Economic Organization*, New York 1965, p. 328.

⁷J. Hausner, *Zarządzanie publiczne*, Warszawa 2008, p. 31.

of achievement for the purposes set out as a complementary method of quality management and environmental management systems that implementers may use voluntarily to achieve their goals and objectives more effectively;

- co-decision and delegation of responsibility, which is part of active participation of staff,

The process of redirecting public administration from the bureaucracy model to public management is neither easy nor short. It has been in Poland for a long time and its results are, in the first place, easier and faster for citizens to handle their official affairs. Tools to support new public management are, inter alia, quality management and environmental management systems.⁸

3. The withdrawal of the state from the public sector by the example of environmental protection

The tasks of the state, also in the sphere of environmental protection, are already mentioned in the Constitution of the Republic of Poland⁹ and they are further extended to several legislative acts. No matter what criterion of division of state tasks in the field of environmental protection we adopt, the role of the State in the issue of regulations is indisputable. These competences and tasks by no means can be passed on to the private sector subjects, as they are connected with the lawmaking function immanently assigned to the legislature. However, it is important to note the fact of globalization and Europeanisation of environmental law in force in Poland, which in some respects also results in the minor role of the state in establishing legal norms with a view to the protection of the environment.

The financing of environmental protection tasks in Poland largely originates from private sources, particularly those borne by entrepreneurs and other users of the environment in the form of fees, administrative penalties and concessions but also investments. Undoubtedly significant public funds, in terms of environmental protection expenditure in Poland, are those originating from abroad, especially from European Union funds and non-EU countries but participating in the European Economic Area.

If to present data on environmental protection financing in Poland, it is worth using the publications of the Central Statistical Office. While the most up-to-date ones¹⁰ are

⁸More: T. Bojar-Fijałkowski, *Elementy zarządzania jakością i zarządzania środowiskowego w rozwoju administracji publicznej i jej kadr – dobrowolne instrumenty ekonomiczno-prawne w miejsce dobrych regulacji* [in:] *W służbie dobra wspólnego – ludzie, postawy i kompetencje w administracji publicznej*, B. Jaworska-Dębska, A. Dobaczewska (ed.), Warszawa 2016, pp. 77-90; T. Bojar-Fijałkowski, *Elementy zarządzania jakością i zarządzania środowiskowego wspomagające nowe zarządzanie publiczne w administracji* [in:] *Pomiędzy zarządzaniem publicznym a ogólną teorią administracji*, E. Jasiuk, G. P. Maj, K. Sikora, S. Wrzosek (ed.), Radom 2013, pp. 127-144.

⁹Constitution of the Republic of Poland of 2.04.1997 (Journal of Laws No. 114, item 946, with amendments) hereinafter referred to as „the Constitution”.

¹⁰Central Statistical Office of Poland, *Nakłady na środki trwałe służące ochronie środowiska i gospodarce wodnej w Polsce w 2015 r.*, <http://stat.gov.pl/obszary-tematyczne/srodowisko-energia/srodowisko/naklady-na-srodk-trwale-sluzace-ochronie-srodowiska-i-gospodarce-wodnej-w-polsce-w-2015-r-4,5.html>, (access 06.06.2017).

for 2015 and only cover fixed assets thus excluding educational, promotional and other so-called „soft activities”, they show some trends and tendencies. They point out clearly that since 2002 investments in fixed assets for the protection of the environment, excluding water management, have systematically and significantly increased, with the exception of 2012 and 2013.¹¹ While in 2015 as much as 41.6% of these expenditures came from private investors (individuals or entrepreneurs) own funds and 26.9% from abroad, 23.9% were ecological funds loans and credits and only 3,1% came from the state budget and territorial self-government units. However, over the past few years,¹² there has been a tendency to decrease the share of all these sources, while at the same time increase of foreign sources, mainly from the European Union. The decline in commitment to environmental protection relates first of all to the state budget, subsequently, budgets of local self-government units. For example, the commitment of these public budgets into outlays on fixed assets for environmental protection in 2011 amounted to 10.2% of all expenditures¹³ and in 2015 only 3.9% of all spendings. These data clearly show that financing environmental protection in Poland is outside the public sector and investors are usually entrepreneurs and individuals, not the state.

Monitoring the environment and its changes and controlling the users of the environment is an important environmental protection function. Tasks in this regard are assigned to environmental protection authorities, especially to those, which are specialized, such as the Environmental Protection Inspectorate. However, the number of implementing bodies, at various levels and to a varying extent, these tasks are much greater, including other central and territorial general administrations, maritime and river administrations and finally territorial self-government bodies. At the same time this structure is far from being transparent and efficient. Hence, so active in environmental monitoring are non-governmental organizations, which the legislator has given specific powers to access and protect environmental information, to participate in environmental protection, and to play an active role of official participant in the administrative procedures regarding environment.¹⁴ Thus, the state systematically withdraws from environmental monitoring activities.

The same is true with the planning function of environmental protection. The last document establishing the ecological policy of the State covered the years 2009-2012 with

¹¹Ibid. In year 2002 it was 5 billion Polish Zloty, in 2003 it was 5,1 billion, in 2004 it was 5,3 billion, in 2005 it was 6,0 billion, in 2007 it was 7,5 billion, in 2008 it was 8,5 billion, in 2009 it was 10,7 billion, in 2010 it was 10,9 billion, in 2011 it was 12,2 billion, in 2012 it was 10,1 billion, in 2013 it was 10,9 billion, in 2014 it was 14,2 billion and in 2015 it was 15,2 billion (1 Polish Zloty = 0,23 Euro).

¹²Central Statistical Office of Poland, *Nakłady na środki trwałe służące ochronie środowiska i gospodarce wodnej w Polsce w 2014 r.*, <http://stat.gov.pl/obszary-tematyczne/srodowisko-energia/srodowisko/naklady-na-srodki-trwale-sluzace-ochronie-srodowiska-i-gospodarce-wodnej-w-polsce-w-2014-r-,4,4.html>, (access 06.06.2017).

¹³Central Statistical Office of Poland, *Nakłady na środki trwałe służące ochronie środowiska i gospodarce wodnej w Polsce w 2011 r.*, http://stat.gov.pl/cps/rde/xbcr/gus/SE_Naklady_na_st_sluzace_ochronie_srod_i_gosp_wod_w_PL_w_2011.pdf, (access 06.06.2017).

¹⁴Under the Act on the provision of information on the environment and its protection, public participation in environmental protection and on environmental impact assessments of 3.10.2008 (Journal of Laws 2008, item 1405, with amendments) and article 31 of Code of Administrative Procedure of 14.07.1960, (Journal of Laws 2017, item 1257, with amendments).

a perspective until 2016.¹⁵ Following the legislative changes of 2014,¹⁶ the foundations of environmental planning have been transformed, combining these issues with development policy and strategic planning. The legislator has delegated the tasks of environmental planning to the local self-government units in order to adopt the appropriate plans in their areas of competence, in the form of resolutions. It is still difficult to clearly assess the effectiveness of these radical system changes for environmental protection efficiency, but the tendency can be seen already.

The issue of using the environment in Poland is quite clear. Established by art. 20 of the Constitution of the Republic of Poland model of social market economy leaves no doubt about the role of the free market and private property in the model of economic activity. While in some sectors, such as hard coal mining, the exploitation of resources is carried out with the large participation of entrepreneurs that belong to the State Treasury, in the scope of whole economy and in the whole environment, there can be no doubt that private sector entrepreneurs and individuals are the users of the environment in Poland. This tendency, apart from the coal sector, is maintained as confirmed by the shale gas concession proceedings several years ago when concessions were granted to private investors.

Another example of the withdrawal of the state from the active role in carrying out public tasks is the system of segregation and recycling of communal waste. The so-called “garbage revolution” of 2011¹⁷ has transferred to the communes an uneasy task of organizing a public system of the collection, transport and disposal of municipal waste. This system, what might be expected after its decentralization and allowing for a complete individualization in every commune, proved to be ineffective enough so it was necessary to make it amended towards unification.¹⁸ It also illustrates how central agencies of governmental administration try to withdraw from their active role in the field of environmental protection by delegating the obligation of such actions to local self-government units.

4. Private entities in the implementation of public services

The existence of private entities in the public sphere affects in Poland, in the largest number, the communal economy. The communal economy consists in the execution by local self-government units of their own tasks, in order to meet the collective needs of the local community.¹⁹ It is important to note here that the communal economy consists in performing public service tasks aimed at the ongoing and continuous fulfillment of the collective needs of the population through the provision of publicly available services.

¹⁵Resolution of Polish Parliament of 22.05.2009 adopting „Ecological Policy of the State for years 2009-2012 with perspective until year 2016”, (Monitor of Law Number 34 item 501).

¹⁶Act amending the Environmental Protection Act of 11.07.2014 (Journal of Laws 2014, item 1101, with amendments).

¹⁷More: T. Bojar-Fijałkowski, *Gospodarka odpadami komunalnymi jako ekologiczny instrument estetyki w gminie – uwagi prawne*, *Space-Economy-Society*, number 2/II/2012, pp. 31-40.

¹⁸Regulation of the Minister of Environment of 29.12.2016 on the methods of the selective collection of certain waste fractions, (Journal of Laws 2017, item 19).

¹⁹Article 1 of Act on Communal Economy of 20.12.1996 (Journal of Laws 2011, number 45, item 236 with amendments) hereinafter referred to as „UGK”.

A sample catalogue of own local self-government units, in the area of which they run the communal economy, is contained in the acts on municipal self-government,²⁰ the district self-government²¹ and regional self-government.²² At all levels of local self-government, with particular saturation in the case of communal self-government, they fall into several areas of tasks: administrative-order, educational-cultural-social, infrastructural-technical. Particularly extensive is the last catalogue related to the construction and maintenance of road infrastructure; streets and bridges; water supply and sewage collection; maintenance of greenery; collection, transport and disposal of municipal waste; housing. It is infrastructural-technical services that involves the largest, apart from education, expenditures of local self-government units.

UGK indicates several ways of implementing its economy. In practice, most often, this is done by means of a company of commercial law belonging to a self-government unit, much less often a budgetary agency, which in itself is already a method of transferring the implementation of state public tasks to private sector entities.

Running a communal economy with the help of a company is encumbered with a number of defects. Unprofitable should be considered tendency of moving more and more public tasks to commercial law entities, which is specific commercialization or privatization of the public sector. This process can undermine citizens' confidence in institution of state, when public administration units, especially self-government units and even governmental administration, so often and willingly renounce the right to manage public affairs. Particularly questionable are the situations when commercial law agencies are entrusted with not carrying out specific tasks such as receiving, transporting and disposing of municipal waste, but managing e.g. the city development, organizing eg a communication system, or other conceptual and substantive work that should remain the domain of the body, and especially the officials.

Owing to its nature and ownership composition, a communal company may use „in-house” contracts provided without a tender, in the form of entrustment by the commune, district or regional owned by it. However, the amendment of the public procurement law²³ introduced in this area the conditions²⁴ under which it is possible to apply this method, which is advantageous from the point of view of the self-government unit and its company. In practice, municipal companies often do not meet current, inflated criteria. Thus, the tasks of self-government units are entrusted under the procurement law,²⁵ where in the competition of municipal companies with private entrepreneurs often public tasks are

²⁰Article 7 of the Act on Municipal Self-Government of 8.03.1990, (Journal of Laws 2015, item 1515 with amendments).

²¹Article 4 of the Act on District Self-Government of 5.06.1998, (Journal of Laws 2015, item 1445 with amendments).

²²Article 14 of the Act on Regional Self-Government of 5.06.1998, (Journal of Laws 2015, item 1392 with amendments).

²³Act amending the Public Procurement Act of 22.06.2016, (Journal of Laws 2016, item 1020).

²⁴Purchaser (from a public finance sector) must control entity and more than 90 % of entity's activity must refer to public services made on behalf of purchaser and there cannot be direct participation of any private capital in such entity.

²⁵Public Procurement Act of 29.01.2004 (Journal of Laws 2015, item 2164 with amendments).

entrusted to private entrepreneurs. At the same time, the assessment,²⁶ conducted by the author, agree with the view with reference to lowering the costs of implementing public tasks through the use of private entities for their realization. It is important to particularly emphasize the risk of lowering the quality of such services, and sometimes even the problems of delivering them.

Only as an addendum it should be added that the form of state withdrawal from the sphere of public tasks is generally every privatization of it understood as the replacement of public entities by private ones in the process of carrying out public tasks. This process may have effect of reduction the costs of implementing public tasks, but on the other hand, do not provide such a guarantee of reliability and quality as when it is implemented by public entities.²⁷ An example of such privatization is the realization of public tasks, which can be any non-imperative and non-public forms of their implementation, including these on the basis of the Law on Public Benefit and Volunteering,²⁸ Public-Private Partnership,²⁹ Concession for Construction Works or Services.³⁰

5. Computerization of public administration and administrative proceedings

Both citizens and entrepreneurs expect that the public administration provides them with services of a similar quality as the private sector currently provides. Digitization of public administration is currently one of the top priorities of the state. Poland, realizing the goals of the European Digital Agenda³¹ and the Integrated State IT Program,³² creates new methods of communication between citizens and the public administration, fulfilling the requirements of the European Union.

The basic instrument used for this purpose is the 2005 Act.³³ Since 2014, amendments have been made³⁴ providing for a number of solutions aimed at increasing the accessibil-

²⁶More: T. Bojar-Fijałkowski, G. Cern, Ograniczenia działalności gospodarczej spółki komunalnej – uwagi krytyczne [in:] Współczesna problematyka wybranych zagadnień prawnych i ekonomicznych, M. Geryk, A. Pławska (ed.), Gdańsk 2016, pp. 19-32.

²⁷More: S. Biernat, Prywatyzacja zadań publicznych. Problematyka prawna, Warszawa-Kraków 1994; M. Stahl, Instytucja zlecenia funkcji z zakresu administracji publicznej i prywatyzacja zadań publicznych [in:] M. Stahl (ed.), Prawo administracyjne. Pojęcia, instytucje, zasady w teorii i orzecznictwie, Warszawa 2009, pp. 277.

²⁸Act on Public Benefit Activity and Volunteering of 24.04.2003 (Journal of Laws 2016, item 1817 with amendments).

²⁹Act on Public-Private Partnership of 19.12.2008 (Journal of Laws 2015, item 596 with amendments).

³⁰Act on Concession for Construction Works or Services of 21.10.2016 (Journal of Laws 2016, item 1920 with amendments).

³¹Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions A Digital Agenda for Europe of 19.5.2010, COM(2010)245 final.

³²Ministry of Digitization of the Republic of Poland, <https://mc.gov.pl/konsultacje/program-zintegrowanej-informatyzacji-panstwa/program-zintegrowanej-informatyzacji-panstwa>, (access 26.08.2017).

³³Act on digitalization of activity of entities implementing public services of 17.02.2005, (Journal of Laws 2017, item 570 with amendments).

³⁴Act amending Act on digitalization of activity of entities implementing public services of 10.01.2014,

ity and attractiveness of the electronic customer cooperation system with public administration bodies, and the universality of the electronic form of communication with the public administration.

The result of tasks taken up is the public administration services platforme PUAP.³⁵ Through it you can: settle on-line many cases in various offices, check on-line status of cases and requests online, receive and send official correspondence in electronic form. Among the services offered by ePUAP is the establishment of a “Trusted Profile”, which allows electronic filing with legal effect without the need for a traditional signature.

However, only 32% of citizens use Internet in their contacts with public administration and 1.5% have a “Trusted Profile”. Hence efforts to standardize the practice of public administration. The legislator imposed the obligation on the public administration to use uniform delivery boxes. The authorities are obliged to submit their electronic formulas to the central repository where they will be audited. Forms that do not meet the standards will be authoritatively removed from the ePUAP not to mislead the public. Particularly worth mentioning is the equalization of the electronic way with paper one. Offices are also obliged to correspond with the interested party electronically when he expresses his consent, or he himself initiates it.

Digitalization also goes deeper into the structure of administrative proceedings by allowing the electronic form to be used in the granting of a power of attorney, in testimony or in explanations, in the formulation of a reference by an official, and in the summons. In addition, it is possible to use electronic copies of documents in their administrative proceedings after their authentication with a qualified certificate or trusted profile. It deserves a notice to make possible for the parties to view the file via electronic channels in both administrative and judicial administrative proceedings.

The success of computerization is clearly visible on the grounds of tax proceedings. For the fiscal year 2015, the annual electronic settlement of personal income tax was filed by 8 million 400 thousand taxpayers. For the fiscal year 2016 there are already 9 million 670 thousand thus 50% of all settlements.

In addition to, the digital content of the 2014-2020 program is also the development of the broadband Internet. The part of Digital Poland 2014-2020 program, with a budget for 2,2 bln Euro, alongside shaping the digital competence of the society and the e-administration projects described above is also the development of the broadband Internet.

Conclusions

The study above allows us to draw the following conclusions:

1. The conception of public administration in the Polish doctrine of law probably does not differ much from the doctrines of other countries. Its current shape was most influenced by the democratization of the breakthroughs of 1989 and 1990. (Nowadays), public administration is identified with executive authority, in terms of Montesquieu’s thripartite division. Public administration in Poland, apart from governmental bodies, both central and territorial, also consists an extremely important local self-governments.

2. The new theories of public administration, like the new public management, derive

³⁵(Journal of Laws 2014, item 183).

much from the achievements of the science of private administration, meaning management. According to these new ideas, public administration should become more customer-friendly, not suppliant, more efficient, more efficiently run. This process is neither easy nor fast but is already visible in the practice of functioning of the Polish public administration. This is particularly true of the local self-government, which is most susceptible to any change and has the greatest freedom to do so.

3. The environmental protection as an example shows that the Polish state is withdrawing in some areas of public activity. The public sphere does not tolerate the vacuum and in place of the state appear, among others, non-governmental organizations, entrepreneurs or individuals. This process is not arbitrary and seems to be planned by the state, since the withdrawal from particular areas of the public sphere entails savings for public finances. In a sense, the doctrine of a democratic state and at the same time liberal includes the limitation of the role of the state in particular areas of the public sphere and realization of tasks there.

4. It may seem that in parallel with the active withdrawal from the public sphere by the state within the communal economy, including the local government, the legislator creates legal solutions that hinder its implementation by other public entities. Consecutive areas of responsibility of the state are passed on to private sector entities, over which public control is much less, more difficult to supervise, and do not guarantee the sustainability of their activities, thereby sustaining the quality of public tasks.

5. Extremely dynamic, currently being implemented on a large scale, is the process of computerization or digitization, of the Polish public administration. This is due both to the expectations of the society and to the requirements of belonging to the European Union. This process is mainly financed from the European Union funds. While the earlier attempts at public administration of public administration in Poland have not produced spectacular successes, the process has taken on an extraordinary speed and momentum. Public administration is slowly catching up with the emerging e-society, although it is still far from European or global leaders in this category.

Т. Бояр-Фиялковски: Польшаның қоғамдық әкімшілігіндегі өзгерістердің бағыттары

Қоғамның мемлекетке және оның органдарына, соның ішінде мемлекеттік басқаруға қатысты сұраныстары мен үміттері қоғамның, өркениеттің және экономиканың дамуымен қатар өзгеріп отырады. Сонымен қатар, өзгерістер үшін үрдістер мемлекеттік басқару мен оның кадрларынан бастау алып отырады. Мемлекеттің, тиісінше мемлекеттік басқарудың саяси, әлеуметтік және экономикалық доктринасы азаматтардың өмірінде ерекше рөл атқарады. Қалай болғанда да, Польшаға қатысты айтатын болсақ, өзгерістер Еуропалық Одаққа мүше болуымен тығыз байланысты, мемлекеттердің процессуалдық автономиясы қағидатына орай мүше – мемлекеттердің әкімшіліктері үшін басшылықтарды, соның ішінде «жұмсақ» құқық стандарттарын немесе Еуропалық Одақ Сотының юрисдикциясын даярлайды. Осының барлығы Польшадағы мемлекеттік басқарудың икемді және «жақсы» басқарудағы құқықты жүзеге асыруды бағытталған. Өзгелерден үйрену және бақылау, кей жағдайларда сыни және ынталандыратын қорытындылар жасау арқылы Польшадағы мемлекеттік басқару өзгерістерімен оқырманды осы мақала таныстыратын болады.

Бұл зерттеудің құрылымы поляктік құқықтық доктрина негізінде мемлекеттік басқару түсінігін аша түсетін теориялық бөлімнен басталады. Екінші бөлім Польшада енгізіле бастаған мемлекеттік басқарудың жаңа идеялары мен теориялық тұжырымдамаларына арналған. Келесі бөлімде қоршаған ортаны қорғау мысалы негізінде мемлекеттің, яғни мемлекеттік басқарудың жария сектордағы қызметінен біртіндеп бас тартуы, яғни одан кетуі жазылады. Төртінші бөлім мемлекеттік қызметтерді жүзеге асырған кезде (соның ішінде коммуналдық қызметтерді беру мысалы негізінде) мемлекеттік органдарды, соның ішінде әкімшілікті жеке тұлғалармен ауыстыруға арналған. Соңғы бөлімде қазіргі кездегі Польшада мемлекеттік басқаруды, әкімшілік процедураларды және әкімшілік сот өндірісін компьютерлендіру үдерісі ұсынылады. Зерттеу автордың қорытындыларымен және пайдаланылған деректермен аяқталады.

Бұл жұмыс кең мағынада түсінілетін әкімшілік құқық және мемлекеттік басқару ғылымының деректеріне, сондай-ақ 2017 жылғы 31 тамызға дейінгі өзекті болған құқықтық актілерге негізделеді.

Түйінді сөздер: мемлекеттік басқару, жаңа мемлекеттік менеджмент, жеке тұлғалар, компьютерлендіру, Польша, Еуропалық Одақ.

Т. Бояр-Фиялковски: Направления изменений в общественной администрации в Польше.

Потребности и ожидания общества по отношению к государству и его органам, в особенности – к государственному управлению, меняются вместе с развитием самого общества, цивилизации и экономики. В то же время тенденции для перемен исходят от самого государственного управления и его кадров. Особую роль играет также политическая, социальная и экономическая доктрина, которая может способствовать большей или меньшей вовлеченности государства и, следовательно, государственного управления в жизнь граждан. Так или иначе, в случае с Польшей необходимость перемен обусловлена членством в Европейском Союзе, разрабатывающим в соответствии с принципом процессуальной автономии государств руководства для администраций государств-членов, в частности стандарты «мягкого» права или юрисдикцию Суда Европейского Союза. Все это направлено на реализацию права на «хорошее» управление и служит причиной динамичности государственного управления в Польше. В связи с тем, что очень важно наблюдать, учиться у других, а иногда – делать критические и стимулирующие выводы, предполагается, что данная статья ознакомит читателя с изменениями в государственном управлении Польши.

На этом строится структура данного исследования, которое начинается с теоретической части, раскрывающей понятие государственного управления на основе польской правовой доктрины. Вторая часть посвящена новым идеям и теоретическим концепциям государственного управления, которые только начинают внедряться в Польшу. В следующей части описывается процесс отхода государства и, следовательно, государственного управления от деятельности в публичном секторе на примере охраны окружающей среды. Четвертая часть касается замены государственных органов, включая администрацию, частными лицами при реализации государственных услуг (в основном на примере предоставления

коммунальных услуг). В последней части представлен внедряемый в настоящее время процесс компьютеризации государственного управления, административных процедур и административного судопроизводства в Польше. Исследование заканчивается выводами автора и списком использованных источников.

Данная работа основывается на источниках понимаемого в широком смысле административного права и науки государственного управления, а также правовых актах, актуальных на 31 августа 2017 года.

Ключевые слова: государственное управление, новый государственный менеджмент, частные лица, компьютеризация, Польша, Европейский Союз.

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НОВЫЕ КНИГИ

Возняк О.А.

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Монография посвящена исследованию института освобождения от уголовной ответственности через анализ истории становления данного института и изучение зарубежного законодательства. Нашли отражение новые основания освобождения от уголовной ответственности, предусмотренные Уголовным кодексом Республики Казахстан 2014 года. Особое внимание уделено изменению обстановки как основанию освобождения от уголовной ответственности.

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