

Małgorzata Ganczar, Alicja Sytek, *Computerisation of Public Administration. Effectiveness of Regulations*, Wydawnictwo CeDeWu, Warsaw 2021, pp. 298

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Малгожата Ганчар, Алиция Сытек, *Информатизация публичной администрации. Эффективность регулирования*, Wydawnictwo CeDeWu, Варшава 2021, 298 стр.

Малгожата Ганчар, Аліція Ситек, *Комп'ютеризація державного управління. Ефективність правових норм*, Wydawnictwo CeDeWu, Варшава 2021, стор. 298

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The subject of this peer review is a monographic study titled *Informatyzacja administracji publicznej. Skuteczność regulacji* (*Informatization of Public Administration. Effectiveness of Regulations*) written by Małgorzata Ganczar and Alicja Sytek. The research assumption adopted by the authors is based on assessment of the law effective and binding in the field of informatization and computerization of public administration in the context of adequacy of said law in regards to the changes occurring in the administration resulting from establishing and development of an information society. The subject of these deliberations also consists of the assessment in the context of the practice of applying legal solutions; this fact is undoubtedly a major merit of the monograph. It is so because the existing subject literature regarding the law pertaining to the new technologies in the public administration is primarily dominated by descriptive works referring to the issue of informatization of administration which do not include an assessment as comprehensive as the assessment presented herein and due to the fact that such works are out of date while the technical progress and its influence on the tasks of administration and the manner in which said tasks are realized requires ongoing and increasingly topical presentation.

Thus we should draw our attention to the fact that the authors touched upon the issues concerning a very current and interesting subject the value of which was significantly influenced by the challenges related to remote work in the age of the COVID-19 pandemic. And although the very process of informatization of the operations of public bodies was initiated in Poland along with adopting the first legal

regulations regarding this issue, i.e. at the time of adopting the act of 17 February 2005 on the IT development of the bodies performing public tasks,¹ the very progress of this process was not without hindrances emerging as a result of various factors such as lack of proper training for administrative staff.

Putting the discussed issue not only into the context of the law pertaining to administration but also approaching the issue from the perspective of a common citizen acting as a subject of administrative procedures, a subject which wishes to utilize electronic administration services or is forced by effective law to use such services, is also worthy of emphasizing. This issue gives birth to the challenge of securing assets of a citizen, personal details in particular. It also sparks development of additional requirements referring to proper administration of the data procured by an office. An attempt at assessing these regulations made by the authors is an interesting approach.

The specific contents of the monograph present interesting deliberations referring to the issue of an information society and public administration operating in the age of widespread and common Internet. The first part of the monograph is devoted to this very issue. The authors engage in their deliberations in the thematic and chronological order. The authors begin with familiarizing readers with basic concepts such as the concept of an information society and its origins, indicate the achievements of the countries which were first to tackle the issue in an ordered fashion and coped with the results of transforming from an industry-based society into an information-based society. In demonstrating the origins and meaning of the term "Information Society" the authors did not limit themselves to demonstrating only the current solutions but also demonstrated how the concept developed until the current understanding of the notion of an information society was reached. This part of the monograph also provides readers with the knowledge regarding the preparations conducted by the European Union in the field of software which are aimed at adapting the process of development to the new challenges resulting from the technical and technological progress. And thus the authors discussed the framework documents referring to functioning of a society under the conditions of the so called global information and the role of the state in this field, particularly in the context of ensuring security and cohesion. The authors verified the intentionality and effectiveness of the assumptions adopted across the years by confronting their adequacy in reference to the Polish information society. The notion of information society services adopted in the directives of the EU and comparison of the scope of this notion with the solutions adopted by the Polish legislator, i.e. in the

¹ Consolidated text: Journal of Laws [Dziennik Ustaw] 2023 item 57.

regulations regarding rendering electronic services, described in this part of the monograph present an added value. It is significant due to the fact that the services of an information society are an object of operations of the public administration in the age of its informatization.

In the subsequent part of the monograph – the Electronic Public Administration – the authors present the issues related to application of new technologies by public administration discussed against the backdrop of the e-government and the e-governance concepts which are frequently, as indicated by the authors, and incorrectly equated in common speech. An e-government is such mode of operations of a public administration and local self-government under which modern communication technologies are utilized for contacting addressees of public services, including citizens and entrepreneurs acting as subjects of the governance, and for maintaining contacts with other administrative entities. Under the deliberations concerning the issue of e-government the authors present the expert opinions regarding the conditions and prerequisites required for factual spread and universalization of this phenomenon in the Polish public administration because the essence of this phenomenon consists of not only computerization of public administration. As underscored by the authors this essence also consist of transforming the functions of state governance and rendering public services in a manner which will ensure meeting the commonly accepted e-administration standards.

Therefore, according to the authors, simply providing citizens with common access to the public information in electronic format is not enough. A paradigm shift in regards to the state governance is required. It is hard to argue with such statement and it is also difficult to counter the arguments presented by the authors in this part of the monograph. Even more so due to the fact that the authors justify their statement in detail yet clearly. An additional merit of this part of the monograph is the deliberations concerning the obstacles for development of the Polish e-administration which authors have identified as well as the results of the development of electronic administration, in particular in the area of human activity, e.g. in regards to the risks emerging as a result of electronic election procedures. The authors correctly emphasize that the state and its administration bear particular responsibilities, particularly in regards to data protection, resulting from the fact that the administration is undergoing transformation towards its electronic form. The authors demonstrate interesting issues of development and operations of e-administration but also consider the normative aspect. Herein a detailed analysis of the effective and binding regulations was presented. The authors analyze the basic regulations, i.e. the act on the IT development of the bodies performing public tasks, along with the origins of the solutions adapted therein; furthermore,

the authors analyze the process of implementation of the regulations and indicate sources of individual problems regarding applying these regulations in practice. It is prudent to emphasize the diligence of the reasoning contained in this part of the monograph. The authors draw attention of the reader to the clarity of the terms utilized by the legislator and their uniform scope under the act and the ordinance; simultaneously the authors indicate the shortcomings in the field of basic terms, e.g. an electronic document, which present a major problem for applying said provisions. As emphasized herein, the authors do not limit themselves solely to presenting the subjective-objective scope of the statutory regulations but analyze the executive regulations in detail.

Another issue closely related to operations of an electronic administration is informatization of administrative proceedings. Also in regards to this issue the authors perform a thorough analysis of the legal conditions ensuring availability of electronic citizen services. The authors demonstrate these amendments to the provisions of the Code of Administrative Procedure the introduction of which was related to implementation of the principle of promptness and simplicity of the administrative procedure. Against this backdrop the authors present the issue of electronic documents and the regulations referring to the electronic signature – a fact which is a mark of thoroughness of Authors' deliberations.

The subsequent part of the monograph demonstrates the electronic administration services. The authors begin with presenting the evolution in the field of rendering services by public administration; during this presentation attention is primarily drawn to the transformations in the field of the services offered to the citizens on a macro-scale but also to the changes in regards to the forms of realizing services. This part also contains a theoretical foundation for the deliberations as well as presentation of the doctrine. The authors present the issues of transformations in the field of the form in which the services related to transferring information are rendered and do not limit themselves to providing a reference to the basic regulations but instead confront said regulations with other solutions, e.g. the solutions in the field of the Telecommunications Law. This part of the monograph discusses the legal solutions which are of significance to development of e-administration; these solutions were selected consistently with the criterion concerning their inclusion into the legal system. The authors begin presentation of the services in question with discussing the Electronic Platform of Public Administration Services, e-PUAP, developed in 2008 which after numerous transformations continues to operate until this day. Also in this case the origins and transformations in the operations of this platform were presented; additionally, the authors did not limit themselves to describing the legal grounds and scope of the regulations but verified

their suitability and, importantly, identified the hindrances in proper functioning of the regulations emerging despite removing the legal obstacles. Another service significant from the point of view of an information society and e-administration which was distinguished is an electronic inbox. It is a publicly available mean of electronic communication which is utilized for submitting documents to a public body. It is, as emphasized by the authors, the first and the simplest administrative e-service, common use of which significantly accelerates reaching public institutions in regards to the matters pertaining to citizens and entrepreneurs. The subsequent part of the monograph presents in detail other platforms providing citizens with e-services: the Central Register of Vehicles and the Central Registry and Information about Business Activity Having. Next the authors present in detail the previously indicated issues pertaining to an electronic document, the service of certification/authentication, the electronic management of official documentation as well as the related electronic archive; lastly the authors indicate the currently operating electronic registers.

In the fourth part of the monograph the authors focus on the issue of the access to the information held by the administration. It is an issue of a crucial importance for execution of the right to access to public information, particularly in a government state governed through the rule of law. Thus this part presents the relations with the idea of democracy, freedom of expression and the principle of transparency of public life and activities of authorities as well as the influence the aforementioned issues exert upon improving the trust of citizens in the state and the bodies operating in state's name. The authors also drew attention to the issue of equality in access to information, particularly in the age of the digital exclusion issues and state's obligation to counteract these phenomena indicated on the EU level. This part of the monograph presents the regulations of the act on access to public information. The authors supplement their own deliberations with opinions presented in the subject literature. The public information, its qualities and importance in the relations between the administration and citizens are analyzed in detail. The domestic legal solutions pertaining to access to public information were presented in the context of the international law and extensive body of issued judicial decisions. This part discusses in detail the issues of the origins of the right to access to information in Polish law, its constitutional basis, the subjective and objective scope of the statutory regulations, practical implementation of the right to access to public information, the Public Information Bulletin as a tool used by administration and the central repository for sharing information.

In the last part of the monograph titled: "Restrictions in access to public information" the authors present the issues related to protection of the undisclosed

information and other statutory protected information, the right to protection of personal details and the issue of business confidentiality as the categories of data and information subjected to special protection and the resulting restrictions regarding access to such data and information. The provisions of individual acts pertaining to these issues were analyzed by the authors in the context of protection of rights of individual categories of entities and in the context of the obligations borne by controllers of such data. The authors supplemented their deliberations with presentation of the doctrine and assessment of the solutions adopted in Poland.

Conclusions

The monograph constitutes a complex study of a significant cognitive value, important from the point of view of legal solutions regarding informatization utilized by the obliged administrative entities as well as the citizens-addressees of the actions of the administration (clients, recipients of services) and members of an information society.

The division of contents and their arrangement are characterized by logical consistency whereas the deliberations are conducted in a clear manner. The language used by the authors is fully coherent and comprehensible despite the subject of the individual deliberations consisting of the legal regulations from the field between technology and legal knowledge. Technical and specialist expressions and terms used by the authors were explained to the reader in an approachable and understandable manner, a fact which increases value of the monograph.

The assessed monograph is characterized by a clearly stated research goal. The authors undertook to describe the issue of adequacy of the current legal solutions and to assess said solutions in the context of their effectiveness. The research problem consists of the regulations in the field of informatization of public administration. In the assessed monograph the authors analyze legal solutions pertaining to implementation of the process of informatization of public administration and analyze the effectiveness of the solutions adopted in this field until now.

The approach to the detailed contents adopted by the authors as well as the manner in which contents are arranged point towards a high substantive level of the deliberations and comprehensiveness of the monograph. These qualities are further emphasized through a multitude of references to the correctly selected and expansive subject literature. This fact is also underlined by the invoked judiciary decisions. It is so because we should bear in mind that the manner of organization

and operations of an electronic administration cannot be analyzed in isolation from the classical legal law institutions which do not transform along with the changes resulting from the technological progress of the surrounding world.

The conclusions formulated by the authors correspond to the research premises adopted in the introduction. According to the reviewer the thesis adopted by the authors was fully implemented. The monograph constitutes an important contribution to development of the administrative law science, particularly due to the lack of complex and topical studies of this type which would clearly and comprehensively depict the issue of an information society and electronic administration. And despite the fact that the matter for deliberations is exceptionally extensive the authors selected the contents in a well-balanced manner. The manner in which individual issues are presented points towards competence of the authors. The assessments performed by the authors on an ongoing basis undoubtedly present a major added value. These assessments are not without consideration and the manner in which they are formulated indicates comprehension of the subject matter and tact. This verification of the specific issues and presented problems in the context of adequacy and feasibility under dynamically changing external conditions enables the reader to understand the entirety of the complex conditions for administering in the age of the Internet society but also to develop own view on the bulk of the legal solutions adopted in this field and to assess their usefulness from the point of view of an individual. The authors do not shy away from the criticism expressed on the basis of a thorough analysis of the presented issue and thus increase the cognitive merits of the monograph and this fact, in turn, contributes to the positive assessment and recommendation of the monograph.

Translated by Monika Zielińska

