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Organizational ties in the structures of public administration as a subject of regulation of administrative law

1. Introduction

Public administration in terms of the subjective approach is a complex structure, which consists of administrative entities whose main purpose is to carry out public tasks.

The very structure of public administration is subject to the regulation of the administrative law of the system, whose rules create the system of public administration entities and shape the principles of mutual relations between them.

The proper implementation of public tasks is conditioned by the appropriate structural placement of individual public administration entities and their equipment with appropriate means to carry out tasks.

However, from the point of view of management sciences, public administration can be treated as a group of organizations – offices.¹

The presented dependence indicates the mutual interpenetration of legal and systemic issues, covered by the sphere of regulation of administrative law with the issues concerning the principles of the functioning of the organization and their constituent units - organizational units, in particular organizational ties being the subject of interest of management sciences.

This dependence also applies to the legal status of persons performing tasks in the structures of public administration.

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¹ T. Rostkowski, *Strategic human resources management in public administration*, Wolters Kluwer, Warsaw 2012, p. 80.

2. The Structure of public administration

In social relations, the concept of a system is associated with the phenomenon of organized human teams, i.e. such sets of people in which one can state the existence of a common goal and cooperation processes due to this goal and communication due to cooperation.² This distinction applies in particular to public administration.

The system of public administration is subject to a systemic administrative law - this part of the administrative law that regulates the problems of rules and structures fulfilling the function of public administration due to the fulfillment of public goals. The object of its interest is the instantiation of constitutional norms by means of ordinary legislation.³ From the point of view of the most important for the law of administrative protection of the rights of the individual, the role of administrative law is to ensure the existence of such structures that optimally implement its rights and public goals.⁴

As part of the traditional division of administrative law into the general part, substantive administrative law, procedural administrative law and systemic administrative law – the latter regulates the organizational aspects of public administration – the system of public administration.

The issue of the doctrine of the administrative systemic law has significant links with other branches of the legal system and other fields of knowledge. Due to the fact that regulations regarding the structure of public administration are directly related to the state system, the issues of systemic administrative law have strong links with constitutional law.

However, due to the subject of legal regulation – organizational aspects of the functioning of a complex structure that is public administration, have significant ties with the sciences on organization and management as well as administrative sciences. This dependence applies in particular to the so-called sphere of internal public administration, which is one of the essential subjects of the system of administrative law.

Another important issue concerning the public administration system is its direct relationship with the legal situation of persons performing functions in public administration structures. One should agree with the opinion of J. Stelina that: *the necessary condition of the functioning of all organizational units is the involvement of the human factor*.⁵ For this reason, at the interface between the issues of the public administration system, there are regulations

² W. Dawidowicz, *Problems of the system of state administration in Poland*, Państwowe Wydawnictwo Naukowe, Warsaw 1970, p. 15.

³ J. Sługoński, *Administrative law. Basic political issues*, Wolters Kluwer, Warsaw 2007, p. 16.

⁴ Z. Leoński, *Substantial administrative law*, C.H. Beck, Warsaw 2009, p. 4.

⁵ J. Stelina, *The clerical law*, C.H. Beck, Warsaw 2013, p. 1.

regarding working relations in public administration, classified as clerical law. The regulations of the clerical law, due to the subject matter of the regulation, aggregate norms that belong both to administrative law and labor law. This situation causes the necessity of cooperation between the branches of law to ensure clerical law in accordance with the right indication of T. Górczyńska: *rational and justified balancing of the participation of the provisions of both branches of law - administrative law as public law and labor law as a private law*.⁶

The structures of public administration form a complex system of organizational units – offices, for which the functioning of administrative law is of fundamental importance. This also applies to organizational relationships occurring in the structures of public administration. In relation to private sector organizations, the role of formalization of the organizational structure and the normatization of organizational dependencies in public administration is specific and directly affects the rules of functioning of organizational units of public administration.

3. The concept and types of organizational ties

In the literature on the subject organizational ties have been defined by J. Zieleniewski as relations between parts of organized things (organization, institutions) resulting from communication and cooperation of some organized things⁷, consequently they signify any somehow distinguished type of relations between parts of the institution (people, resource components), if that relation affects the success of the institution.⁸ J. Zieleniewski distinguished working ties, functional ties, technical ties, and information ties.⁹

On the other hand, J. Kurnal distinguished specialization ties (referring to connections based on the division of labor), hierarchical ties (including superiority relations) and information ties (based on information transfer).¹⁰

One should also agree with the opinions that derive the concept of organizational ties from the wider sphere of social relations and social ties – inter-

⁶ T. Górczyńska, *Relationship of clerical law and labor law* [in:] W. Drobny (ed.), *Polish clerical law - identity crisis*, C.He Beck, Warsaw 2016, p. 8.

⁷ J. Zieleniewski, *Organization of human teams. Introduction to the theory of organization and management*, Państwowe Wydawnictwo Naukowe, Warsaw 1964, p. 102.

⁸ J. Zieleniewski, *Organization and management*, Państwowe Wydawnictwo Naukowe, Warsaw 1976, p. 382.

⁹ J. Zieleniewski, *Organization of work in administration*, Państwowe Wydawnictwo Naukowe, Warsaw 1972, p. 79 and next.

¹⁰ J. Kurnal, *Outline of organization and management theory*, Państwowe Wydawnictwo Ekonomiczne, Warsaw 1969, p. 5.

personal relations.¹¹ Due to the common goal of people operating in a specific organizational unit, institutions, these ties acquire special features related to the implementation of tasks and the effectiveness of the organization.

Therefore, such organizational relations are organized in the following categories: working ties, functional ties, technical ties, information ties and social ties. Organizational ties and the way of their formalization have a significant impact on the possibility of implementing administrative functions in individual organizational units of public administration – public administration offices, which are created to support public administration bodies in the implementation of their competences. In the structural and organizational sense, the office of public administration should be defined in accordance with the administrative law doctrine as defined them J. Zimmermann: *a team of people associated with the public administration body and assigned to assist in the function and implementation of its tasks*.¹²

One also need to point out that from the point of view of the objectives of the functioning of public administration structures, the implementation of the external function- dealing with matters concerning administrated citizens¹³, is of primary importance to the office. However, in order for the external sphere of public administration to be properly implemented, the organizational units of the administration must be properly organized in terms of organizational ties enabling the implementation of administrative functions.

3.1 Working tie

The working tie is the dependence of the subordinate from the superior.¹⁴

In the organizational units that make up the structures of public administration, the normative basis for a particular working tie is the working relationship. In its content, the working relationship includes the rights and duties of a public official, from this wide range of regulations, a working relationship results from an employee obligation - following instructions. The obligation to follow the instructions is subject to the regulation of the official pragmatists.¹⁵

¹¹ A. Pakuła, *Stages of creating the organizational structure* [in:] A. Chrisidu-Budnik, J. Korczak, A. Pakuła, J. Supernat, *Science of organization and management*, Cologne Limited, Wrocław 2005, p. 328.

¹² J. Zimmermann, *Administrative law*, Wolters Kluwer, Cracow 2005, p. 128.

¹³ E. Knosala, *Organization of public administration*, Wydawnictwo Wyższa Szkoła Zarządzania i Marketingu in Sosnowiec, Sosnowiec 2005, p. 142.

¹⁴ W. Dawidowicz, *Issues of the theory of organization and management in state administration*, Państwowe Wydawnictwo Naukowe, Warsaw 1972, p. 19.

¹⁵ T. Kuczyński, *Responsibilities of officer and employee* [in:] T. Kuczyński, E. Mazurczak-Jasińska, J. Stelina, *Service relationship*, Administrative Law System Volume 11. (ed.) R. Hauser, Z. Niewiadomski, A. Wróbel, CH Beck, Warsaw 2011, p. 415.

The obligation to comply with instructions is regulated in art. 100 paragraph 1 of the Act of June 26, 1974, the Labor Code¹⁶, according to which an employee is obliged to follow the orders of his superiors, which relate to work if they are not contrary to the provisions of law or a contract of employment.

According to art. 77. paragraph 1. of the Act of 21 November 2008 on civil service¹⁷, a member of the Civil Service corps is obliged to execute official orders of his superiors. In accordance with paragraph 2. of the same article, if a member of the civil service corps is convinced that the order is unlawful or contains a mistake, he is obliged to inform the superior in writing. In the event of a written confirmation of the command, he must follow them. A member of the civil service corps does not execute the order, if it would lead to committing a crime or offense, of which he shall immediately inform the director general of the office.

According to art. 204. paragraph 1. of the Act of November 16, 2016 on the National Fiscal Administration¹⁸, the officer of the fiscal administration chamber is obliged to perform official orders of the superiors.

However, in accordance with paragraph 2. If the official command in the conviction of an officer is illegal, prejudicial to the public interest or contains signs of confusion, the officer should submit his objections to the superior in writing. In the event of a written confirmation of the order, the officer should execute it, at the same time notifying about his objection the head of the organizational unit, and when the order was issued by the head of the organizational unit - the Head of the National Fiscal Administration.

The officer is obliged to refuse to execute the order, if its execution would lead to committing a crime, offense, fiscal crime or fiscal offense. The refusal to carry out the order referred to in paragraph 3, must be notified by the officer to the head of the organizational unit or the Head of the National Fiscal Administration, omitting the official road.

Working ties are the expression of power in a given institution, their formalization takes place within the framework of defining the organizational structure and separation of managerial and executive positions. As a result, within a given organizational structure a detailed hierarchy arises, the functioning of a given institution is possible due to the indication of managerial powers and the circle of positions related to the given scope of management.¹⁹

As part of the study, attention will be paid to the internal regulations of the Chamber of Fiscal Administration in Lublin, in particular the Organizational

¹⁶ I. e. Journal of Laws 2018, item 917, 1000, 1076.

¹⁷ I.e. Journal of Laws 2017 item 1889, 2203, of 2018, item 106.

¹⁸ I. e. Journal of Laws 2018, item 508, 650, 723, 1000, 1039.

¹⁹ J. Łukasiewicz, *Outline of administration science*, Lexis Nexis, Warsaw 2005, p. 148.

Regulations of the Fiscal Administration Chamber in Lublin (hereinafter referred to as the organizational regulations).²⁰ In point 2) § 9 of the organizational regulations is a reference to the official relationship – according to which – it is the duty of the employees of the Chamber to carry out the instructions of their superiors.

The Director of the Fiscal Administration Chamber is a non-joint government administration body subordinated to the minister competent for public finances and is the body of the National Fiscal Administration. The Director of the Fiscal Administration Chamber is appointed by the minister competent for public finance at the request of the Head of the National Fiscal Administration. The Director of the Fiscal Administration Chamber is a higher-level body in relation to the Head of the Fiscal Office and the Head of the Customs and Fiscal Office.

The Director of the Fiscal Administration Chamber performs his tasks with the help of the Chamber of Fiscal Administration. The Chamber supports the Director of the Chamber in the scope of tasks of the fiscal authority and the authority over the supervision of enforcement bodies, as well as other tasks specified in separate regulations, including the tasks of the unit's manager.

Pursuant to § 10 paragraph 1. organizational regulations - organizational units perform tasks specified in section III of the regulations, as well as other ones set by the director, deputy directors and chief accountant in relation to supervised departments.

3.2. Functional tie

Functional ties mean the obligation of at least two or more organizational links of the institutions (work posts, organizational units, divisions) to cooperate permanently²¹. The principles of cooperation between the organizational units of the office are subjected to the regulation of internal acts. Functional ties are defined in the provisions on cooperation between individual organizational units of the office. An example of such a regulation is point 7) § 29 of the organizational regulations indicating that the tasks of the Multi-person Security Post and License (IIB) include, in particular, cooperation with the unit of security and protection of information in the field of IT security management in the chamber.

²⁰ On the basis of: Order No. 3/2017 of the Director of the Tax Administration Chamber in Lublin of 6 March 2017 on granting the Organizational Regulations of the Tax Administration Chamber in Lublin, Order No. 75 of the Director of the Tax Administration Chamber in Lublin of May 2017 amending the order in granting the Organizational Regulations of the Tax Administration Chamber in Lublin, <http://www.lubelskie.kas.gov.pl> [access on August 27, 2018].

²¹ M. Jełowicki, W. Kieżun, Z. Leoński, B. Ostapczuk (ed.), *Theory of organization and management*, Państwowe Wydawnictwo Naukowe, Warsaw 1979, p. 106.

A specified duty of cooperation applies to the majority of organizational units in the chamber, moreover – in accordance with § 10 paragraph 2. organizational regulations – organizational units are obliged to cooperate for the proper implementation of the tasks of the chamber.

According to J. Zieleniewski, the functional and working tie is distinguished by its character, it means professional help in the implementation of tasks, hence its cited example is the position of legal counsel in the institution.²²

3.3. Technical tie

The issue of technical ties (also referred to as cooperative²³) is related to the division of labor – it concerns institutions in which the division of labor is far advanced, as a consequence of the activities of each team member are dependent on the activities of other members. The “technical” success of a given activity is thus dependent on the technical connection with other members of the institution and organizational units.²⁴ Contrary to appearances, in the structures of public administration, the technical bond is of great importance. It applies in particular to internal procedures related to the application of legal forms of public administration activities, in particular issuing administrative acts in administrative proceedings. In terms of the internal sphere of public administration, the application of procedural rules is implemented within related administrative activities depending on each other. From the point of view of applying imperial forms of action - for example, administrative decisions of reasons for their importance in shaping the rights and obligations of citizens, their legal status requires close cooperation in their conduct. In this interpretation, the notion of technical ties should be understood as a manifestation of the complexity of procedural activities in the office.

3.4. Information ties

Information ties are ties consisting of the obligation to inform one another or one-sidedly about events and states of affairs.²⁵ In today's public administration offices, apart from traditional information structures, the flow of information provided by IT systems is of key importance. The proper implementation of these functions is dealt with by the appropriate organizational units.

²² J. Zieleniewski, *Organization and management*, op. Cit. p. 384.

²³ A. Pakuła, *Stages of creating the organizational structure* [in:] A. Chrisidu-Budnik, J. Korczak, A. Pakuła, J. Supernat, *Science of organization and management*, Cologne Limited, Wrocław 2005, p. 331.

²⁴ J. Zieleniewski, *Organization ...*, op. Cit., p. 384; S. Kowalewski, *Theory of State Administration Structure*, Państwowe Wydawnictwo Ekonomiczne, Warsaw 1973, p. 348.

²⁵ J. Zieleniewski, *Organization ...*, op. Cit., p. 109.

For example, in accordance with § 32 of the organizational regulations, the tasks of the First IT Support Department (IIW-1) include providing IT services at the Lublin Tax Office in Lublin, the First Tax Office in Lublin, the Tax Office in Biała Podlaska, the Tax Office in Lubartów, the Tax Office In Łuków, the Tax Office in Opole Lubelskie, the Tax Office in Parczew, the Tax Office in Puławy, the Tax Office in Radzyń Podlaski, the Tax Office in Ryki, the Tax Office in Włodawa. In particular: 1) management and implementation of the process of direct support for information services users g) optimization of the quality of IT services provided by: a) monitoring processes in incident management, application management and problem management, b) initiating and conducting activities aimed at increasing the effectiveness of IT support; 3) administration of local IT systems in subordinated offices, including: a) maintaining the continuity of IT systems, b) ensuring the proper performance of systems, c) installing new releases and patches, d) managing user accounts and permissions, e) managing system backups and databases, i) compliance with security rules set out in security policies and systems management instructions, g) monitoring and maintenance of technical conditions of hardware and software infrastructure 4) participation in tests and acceptance of IT systems implemented locally, regionally and centrally; 5) handling orders for information/statements/reports from information systems by formulating database queries, creating scripts.

Pursuant to § 10 paragraph 3. organizational regulations - all organizational units are obliged to optimally use the data collected in the information systems of the chamber, tax offices and the customs and tax office, especially in the preparation of all types of reports.

As part of the public administration tasks, the processes of computerization are becoming increasingly important. At present, the correct flow of information in offices is provided by IT systems. In the sphere of external public administration, this concerns contacts with administrators. As part of the tax administration, these functions are provided by the Platform for Electronic Treasury and Customs Services (PUESC) constituting a single point of access to the e-services of the National Fiscal Administration in the area of servicing and controlling trade in goods with third countries and trading in excise goods.²⁶

4.5. The issue of social ties

The concept of social ties is connected with the fact that each institution is a larger or smaller human team in which really function various informal groups.²⁷ The

²⁶ <https://puesc.gov.pl>, [access on 27/08/2018].

²⁷ M. Jełowicki, W. Kieżun, Z. Leoński, B. Ostapczuk (ed.), *Theory of organization and management*, Państwowe Wydawnictwo Naukowe, Warsaw 1979, p. 100.

functioning of informal ties in organizational units of public administration is a typical element of the functioning of human teams. The typical issues of human resources management, which analyze this type of dependence within the structures of public administration, appear problems with the threats of abusing public positions. One should include here the possibility of occurrence of corruption. The proper functioning of the organizational structure should counteract the emergence of misunderstood informal groups (so-called in-crowds – informal groups whose activity is in contradiction with the objectives of the institution²⁸) that threaten the ethical performance of administrative functions in public administration offices.

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²⁸ See more: Z. Leoński, *Science of administration*, C.H. Beck, Warsaw 2004, p. 105.

Summary

Public administration from the subjective point of view is a set of complex organizational units. The possibility of proper implementation of public tasks by individual entities of public administration depends mostly on the organizational efficiency of public administration offices - human teams supporting public administration bodies in exercising competences. The efficiency of operations of individual organizational units, the public administration offices, is conditioned by the quality of organizational ties present in them. Organizational ties in organizational units of public administration are, to a large extent, formalized. It results from the public-law nature of public administration activities and established administration practices adopted in a given country. The current increase in requirements as to the quality, efficiency and openness of public administration activities means that the correct formation of organizational ties in each organizational unit of public administration can have a significant impact on the level of implementation of public tasks. A high level of formalization of the basis of organizational ties in public administration should not be treated as an obstacle to the effective shaping of modern administrative structures based on solutions in the private sector. The determined level of formalization of the structure of organizational units of public administration is to provide those values that are fundamental for the operation of public administration entities: the rule of law, equality before the law. The formation of organizational ties within the framework of the formalization of public administration structures should be a compromise between the necessary elements giving the basis for applying uniform principles to the administrated, citizens and solutions aiming to ensure professionalisation and to improve the quality of public administration organizational units.

Key words: Organizational ties, Administrative law, Public administration structure.

Więzi organizacyjne w strukturach administracji publicznej jako przedmiot regulacji prawa administracyjnego

Streszczenie

Administracja publiczna w ujęciu podmiotowym stanowi zbiór szeregu rozbudowanych jednostek organizacyjnych. Możliwość prawidłowej realizacji zadań publicznych poprzez poszczególne podmioty administracji publicznej w znacznym stopniu zależy od sprawności organizacyjnej urzędów administracji publicznej – zespołów ludzkich wspierających organy administracji publicznej w wykonywaniu kompetencji. Sprawność działania poszczególnych jednostek organizacyjnych, urzędów administracji publicznej jest uwarunkowana jakością więzi organizacyjnych w nich występujących. Więzi organizacyjne w jednostkach organizacyjnych administracji publicznej są w znacznym stopniu sformalizowane. Wynika to z publicznoprawnego charakteru działania administracji publicznej oraz ustalonych praktyk administrowania przyjętych w danym państwie.

Obecny wzrost wymagań co do jakości, efektywności oraz jawności działania administracji publicznej powoduje, że prawidłowe ukształtowanie więzi organizacyjnych w poszczególnych jednostkach organizacyjnych administracji publicznej, może mieć istotny wpływ na stopień realizacji zadań publicznych. Wysoki stopień sformalizowania podstaw więzi organizacyjnych w administracji publicznej nie powinien z założenia być traktowany jako przeszkoda w efektywnym kształtowaniu nowoczesnych struktur administracyjnych wzorowanych na rozwiązaniach w sektorze prywatnym. Określony stopień formalizacji struktury jednostek organizacyjnych administracji publicznej ma za zadanie zapewnić, te wartości, które podstawowe dla działania podmiotów administracji

publicznej: praworządność, równość wobec prawa. Kształtowanie więzi organizacyjnych w ramach formalizacji struktur administracji publicznej powinno być kompromisem pomiędzy niezbędnymi elementami dającymi podstawę do stosowania jednolitych zasad wobec administrowanych, obywateli a rozwiązaniami, które mają zapewnić profesjonalizację i podniesienie jakości działania jednostek organizacyjnych administracji publicznej.

Słowa kluczowe: więzi organizacyjne, prawo administracyjne, struktura administracji publicznej.
