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THE PRINCIPLE OF EFFICIENCY OF ADMINISTRATIVE PROCEDURE IN SELECTED SCANDINAVIAN COUNTRIES AND POLAND*

I. INTRODUCTION

The idea of procedural justice is an inextricable component of all legal procedure. The compliance of investigative bodies with procedural standards helps to build citizens' trust in the authorities, and the timely handling of cases is crucial in this respect.[1] However, the paradox present in all types of legal procedures is that the parties' expectations regarding the fastest possible handling of cases have to be balanced with the authorities' obligation to comply with the standards guaranteeing that a given procedure is dealt with and resolved in a manner that is recognized as fair. Generally speaking, we can assume that the optimal solution would be to issue the fairest decision possible as a result of the case being dealt with as efficiently as possible.[2]

From the point of view of individuals who demand the protection of their rights before public administration bodies or courts, one of the most important issues is undoubtedly the duration of the procedure.[3] The excessive length of administrative procedures has long been one of the biggest problems in the field of public administration; this is especially true of procedures involving businesses, and this is an issue which is widely discussed in the doctrine of administrative procedural law.[4] In the doctrine it is stressed that administrative and judicial procedure should fully implement the principles of the efficiency of procedure and procedural economy.[5] There is even the view that the aim of achieving the highest possible efficiency of procedure should be the driving force behind all efforts to reform administrative procedure.[6]

The aim of making administrative procedure quicker and more efficient is also present in international discussion concerning such procedures. For

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[1] Kmieciak (1994): 57; (1994): 57.

[2] Weitz (2009).

[3] Kmieciak (2018): 35.

[4] Gurba (2018): 83 and the literature cited therein; Wojciechowska (2018): 407.

[5] Sawczyn (2017): 103.

[6] Kovač, Kotnik (2018): 531.

example, with regard to Community regulations, Article 41 of the Charter of Fundamental Rights stipulates that every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union.[7] In the case of soft-law acts, there are provisions aimed at quick settlement of cases. The European Code of Good Administrative Behaviour (functioning in Poland as the Europejski Kodeks Dobrej Administracji) also provides for the citizen's right to good administration, entailing that cases should be dealt with as quickly as possible, while at the same time ensuring that other procedural rules are respected.[8] The problem of the efficiency of administrative procedure is therefore not only addressed in the Polish legal science of procedural law.[9] From the perspective of European law, it should be noted that the shape of the administrative procedure is left to the discretion of the Member State. However, it is suggested that the procedure should be shaped in such a way as to maintain equal treatment and effectiveness.[10] The latter feature can be combined with the principle of efficiency of procedure, with the emphasis on the temporal aspect.

The subject of this study is an analysis of regulations on the efficiency of administrative procedure, with particular focus on the norms setting deadlines for dealing with administrative cases and the legal remedies available to the parties for ensuring that a public administration body fulfils its obligation to settle a case without unnecessary delay. At the same time, it should be noted that, in the considerations presented below, administrative procedure is treated as conceptually identical with jurisdictional procedure.[11] Thus, in principle, other forms of public administration activity than administrative procedure are left out of the scope of considerations. It is obvious that the organizational efficiency of broadly understood public administration (even taking into account personnel or financial conditions) also has an impact on the course of administrative procedure; however, this study will be limited to procedural aspects. These deliberations attempt to assess whether the regulations currently in force in the Polish legal system ensure that individuals can exercise the right to have their cases examined in a fair manner, without unnecessary delay, and that these regulations do not differ from the solutions adopted in other countries of the European Union. In this study, two Scandinavian statutes – the Swedish and Finnish Administrative Procedure Acts – are used to compare different regulations and remedies of administrative procedure concerning efficiency. It is generally accepted that these Scandinavian countries are mature democracies, which are highly regarded for the standard of administrative service provided to their citizens and for their guarantees of human rights protection.[12] The Swedish model of administrative procedure

[7] OJ 2010/C 83/02.

[8] Świątkiewicz (2013): 37.

[9] Cf. Kmieciak (2014): 63–68.

[10] Bignami (2004): 6.

[11] Ostojski (2017): 80; regarding the possibility of a broad understanding of the concept of 'administrative procedure', see Niewiadomski (2002): 12; Adamiak (2015): 11.

[12] Pecaric (2011): 399; Freedom House Report (2016) – Freedom in the World 2016.

was chosen due to the fact that a new code (act) regulating administrative procedure was introduced on 1 July 2018. The Finnish legal system, in turn, is considered to be one of the most user-friendly public administration systems. Both Sweden and Finland have introduced a number of improvements in the development of e-governance and e-administration, which encompass administrative procedure. In Sweden, a programme has been introduced to improve management efficiency, which is collectively referred to as Kungsbacka 2020.[13] Finland, on the other hand, is a country that promotes the handling of cases in administrative procedure by means of electronic communication.[14] In particular, reflection is required on whether the institutions provided for in selected foreign regulations better solve the problem of the excessive duration of administrative procedure, and if so, whether these structures would be suitable for adoption, at least to some extent, in the Polish Code of Administrative Procedure. At the same time, it must be stressed that in this study the considerations are limited to the Swedish and Finnish models of administrative procedure mainly due to their effectiveness.

II. REGULATIONS AIMED AT ENSURING EFFICIENCY OF ADMINISTRATIVE PROCEDURE UNDER SWEDISH LAW

First of all, it should be pointed out that – as the Swedish scholarly literature maintains – the Swedish legal system has developed steadily and, at the same time, in isolation from the influence of Anglo-Saxon or continental law.[15] As far as the functioning of public administration is concerned, the Swedish doctrine of administrative law makes it abundantly clear that public administration should act independently, in accordance with the law, and on its own responsibility.[16] Public administration bodies are organised as independent institutions, and are covered by virtually the same constitutional protection as courts when making individual decisions.[17]

In Sweden, administrative procedure has been codified since 1971.[18] However, in recent years some shortcomings in administrative procedure have been noticed, in particular with regard to the problem of implementing the guarantee that a case will be dealt with without unnecessary delay. In 2008, work was undertaken to introduce new regulations, in particular including amendments to regulations related to the time taken for dealing with cases and remedies for combatting delays in the operation of public administration

[13] The judgment of the Goteborg Administrative Court of 26 May 2014 [in:] Digital Evidence and Electronic Signature Law Review (2015): 103.

[14] eGovernment in Finland (2016).

[15] Szewczyk (2010): 372; Ortwein (2003): 405–406.

[16] Malmberg (2014): 359.

[17] Wenander (2018): 4.

[18] For more detailed discussion on the history of the codification of the Swedish administrative procedure, see Szewczyk (2010): 372–373.

bodies.[19] The amendments resulted in the adoption of a new legal act regulating administrative procedure. The new Swedish Administrative Procedure Act – Förvaltningslag – has been in force since 1 July 2018 (hereinafter referred to as SAPA).[20] It introduced quite significant changes in relation to the previous regulations, including those concerning the efficiency of administrative procedure.

Firstly, it should be stressed that the Act explicitly sets out the general and basic principles of administrative procedure, such as the rule of law, objectivity and proportionality. Like the Finnish Act, the new Swedish regulation departs from the concept of 'exercising public authority', emphasizing instead that public administration activities are service-oriented, including those undertaken within the framework of administrative procedure of a jurisdictional nature (Sections 7–8 SAPA). In the interpretation of legal norms, emphasis is to be placed on a pragmatic approach to the activities of public administration bodies.[21] While maintaining independence from other authorities and impartiality when dealing with cases, public administration bodies should strive to ensure the greatest possible accessibility in the performance of public tasks, to provide assistance to individuals in settling their cases, and to cooperate with other public administration bodies.[22] The new regulations also increase the clarity and transparency of procedures. A public administration body is obliged to ensure that contacts between a party and public authorities are flexible and straightforward (Section 6 SAPA), as well as to ensure access to direct contact between citizens and representatives of public authorities (Section 7 SAPA).

With regard to deadlines for dealing with cases, the new statute upholds the general rule that cases should be dealt with as efficiently, swiftly, economically and as effectively as possible, without prejudice to the legal certainty of those administered (Section 9 SAPA). Significant modifications to the previous Act concern the specification of a deadline for dealing with cases and the possibility of compelling observance of this deadline by the body conducting the proceedings. The previous Act lacked a statutory deadline for settling the case. The time by which a case was to be concluded resulted from court rulings and the practice of public administration bodies.[23] The newly introduced regulations make significant changes in this respect. The amendments mainly concern the imposition of an additional obligation on the authority in the event of a significant delay in the examination of a case. If such a situation occurs, the authority is obliged to inform the party. In this notification, the authority is obliged to indicate the reason for the delay (Section 11 SAPA). It should be noted, however, that the term 'significant delay' has not been statutorily defined by law.

An important new feature of the new Act is that a person who initiates a case may apply to a public administration body for a decision to be taken on

[19] Lofven (2017): 20.
[20] Förvaltningslag (2017): 900.
[21] Bogdan (2013): 76.
[22] Nergelius (2011): 84.
[23] Zagorc (2015): 780.

the case (case settlement) if the case has not been considered at first instance within six months (Section 12, sentence 1 SAPA). Such an application must be made in writing. Within four weeks from the date of filing the application, the public administration body should either settle the case by issuing a decision closing the procedure or reject the application by a special decision (Section 12, sentence 2 SAPA). The latter decision may then be appealed by a party to an administrative court or a higher body. Section 49 SAPA provides that if the court (or public authority) accepts the position of the applicant, it shall set a deadline for the administrative procedure to be terminated by the authority conducting the administrative proceedings. Therefore, the possibility of appealing against inaction or the excessive length of the administrative authority's procedure is expressly introduced. The Swedish legislator therefore decided – in contrast to the previous law – to introduce a general regulation from which it can be deduced that a case must be dealt with within six months of its initiation. After the lapse of this period, the party to the procedure is entitled to request that the case be dealt with within four weeks. The authority then has the right to demand that the case be dealt with, and the authority should deal with the case within this time limit, or reject the application in which the request to deal with the case was made. The Swedish legislator has introduced a solution into the domestic administrative procedure that is similar to the urgency provision of the Polish Code of Administrative Procedure. In the case of the Polish procedure, the maximum statutory time for dealing with a case is two months (in practice, of course, it is often extended). In the case of the regulations introduced in Sweden, it was determined that a legal measure to combat the inaction of administrative authorities will be available only after six months from the commencement of procedure, but the time limit will be the same for all administrative cases, regardless of the course of the procedure or the subject matter of the case. It must therefore be concluded that, having taken into account the provisions of European law, the Swedish system of administrative law recognised the need for measures to combat the lengthiness of administrative procedure. It should be noted that the new Swedish Act does not contain any regulations concerning the 'silent settlement of cases' or special procedures (similar to the institution of silent settlement and simplified procedure introduced recently in amendments to the Polish Code of Administrative Procedure).

III. REGULATIONS AIMED AT ENSURING THE EFFICIENCY OF ADMINISTRATIVE PROCEDURE IN FORCE UNDER FINNISH LAW

Finland, like Sweden and Poland, is a country with a codified administrative procedure. The current Administrative Procedure Act (Hallintolaki; hereafter FAPA) was adopted in 2003.[24] It is a result of work aimed at broadly understood improvement of administrative procedure, and in this scope it is

[24] Administrative Procedure Act (434/2003).

interesting that it was aimed at the realization of the right to good administration, which is directly enshrined in the Finnish Constitution.[25] What distinguishes the Finnish Act regulating administrative procedure is the repeated references to the notion of good administration and the broadly understood quality of activities performed by public administration bodies.[26] This is a result of constitutional regulation, since the Finnish Constitution directly refers to the concept of good administration. Section 21 of the Finnish Constitution provides that everyone has the right to have his or her case dealt with appropriately and without undue delay by a legally competent court of law or other authority, and to have a decision pertaining to his or her rights or obligations reviewed by a court of law or other independent organ for the administration of justice.[27] Furthermore, statutory provisions guarantee the publicity of the proceedings, the right to be heard, the right to receive a reasoned decision, the right of appeal, and other guarantees of a fair trial and good governance (Section 21, sentence 2 of the Finnish Constitution).[28] Moreover, as is indicated in the literature, the transparent functioning of public administration bodies is a fundamental value in terms of the standards of the activities undertaken by these bodies.[29]

The right to good administration, as was mentioned above, is of paramount importance for shaping the standards of administrative procedure. It is regarded as a synthesis of the universally accepted principles and values applicable in procedures handled by authorities in a democratic state of law, which justifies its perception as a collective term for designating various guarantees of legal protection in administrative procedure.[30] Moreover, in Finland, great emphasis is placed on the digitalization of contacts between citizens and public authorities, not only in the case of administrative procedure, but also in the case of all actions taken with regard to administered persons and entities.[31]

Section 1 FAPA already indicates that the purpose of the Act is to implement and promote good administration and protection in administrative matters. Another objective of the Act is to promote the quality and efficiency of administrative services. Therefore, the Finnish legislator clearly places emphasis on the effectiveness of the procedural system related to the protection of an individual, while assuming the need to guarantee an adequate level of administrative services. The use the expression 'administrative service' is also symptomatic, whereas in Polish doctrine, for example, the expression 'administrative power' is much more widely used. Importantly, the Finnish codification of administrative procedure also includes regulations on administrative

[25] Kmieciak, Królikowska-Olczak (2010): 139.

[26] For example, Articles 1–3, Articles 6–10, Article 53b–53c FAPA.

[27] The English version is accessible at <https://www.finlex.fi/fi/laki/kaannokset/1999/en19990731.pdf>.

[28] Maenpaa (2002): 414 f.

[29] Wilhelmsson (2016): 15.

[30] Krawczyk (2017): 32.

[31] Kuopus (2010): 170.

contracts, along with the indication that the foundations for good administration (Section 3 FAPA) should also be complied with when concluding such agreements. Next, Section 7 FAPA indicates that it is the duty of the authority to arrange the use of its services and the consideration of matters in such a way that those to whom it provides services in administrative matters are properly served, and the authority can perform its duties effectively. However, these concepts are not defined and the right to good administration needs to be referred to again.

In the Finnish procedure, there are no statutory deadlines for settling cases. Section 23 FAPA only provides that a matter shall be dealt with without undue delay. Thus the general time limits for dealing with cases in administrative proceedings are not specified, as they are in Article 35 of the Polish Code of Administrative Procedure.[32] However, Section 23a FAPA states that in the main categories of matters that fall within its area of responsibility, an authority should determine the expected duration of consideration for those matters requiring an administrative decision that can become pending only at the request of a party. This does not apply to the consideration of matters with a statutory time limit.[33] This means that, similarly to the Polish Act, there is a possibility for stipulating a specific deadline for handling particular categories of administrative cases. Additionally, Section 49e FAPA introduces the principle that a request for a review should be considered immediately. As in the case of Polish and Swedish regulations, the Finnish legislator decided to introduce a general principle concerning efficiency of procedure, but did not introduce a legal measure similar to the urgency provision stipulated in Article 37 of the Polish Code of Administrative Procedure.

However, parties do have recourse to some legal instruments aimed at ensuring that the case is heard as soon as possible. A remedy which may be used to counter the protracted delay of a public administration body is a complaint which can be lodged against the authorities handling the procedure, provided for in Section 53a FAPA. Such a complaint is considered by a supervisory authority, which may oblige the authority dealing with the procedure to perform certain actions, and may also issue an 'admonition', unless the nature or severity of the act constituting the subject of the complaint requires measures to initiate disciplinary proceedings. However, the literature indicates that the lack of a legal remedy that directly and explicitly counteracts unecessary delay is a weakness of the Finnish procedure, as was pointed out by the Finnish Ombudsman.[34]

Thus the Finnish Administrative Procedure Act, like the Swedish Act, does not contain any regulations concerning the possibility of silent settlement of cases or simplified procedures.

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[32] Barlow (2017): 189.

[33] Similar regulations are contained in the legislation of Spain and Estonia, see Zagorc (2015): 780.

[34] Suvirata (2014): 184.

IV. REGULATIONS CONTAINED IN POLISH LAW

When the current Polish Code of Administrative Procedure (hereinafter also: CAP) first came into force, it contained a general directive addressed to public administration bodies, stipulating the obligation to act thoroughly and quickly, using the simplest available methods to deal with cases (Article 10 of the CAP, in its original wording[35]). It is obvious that the requirement to conduct proceedings effectively can already be derived from the norms contained in the Constitution, for example the principles of a democratic state ruled by law and of the rule of law.[36] The latter, repeated in the CAP, imposes an obligation on public administration bodies to act on the basis of and within the limits of the law.[37] Undoubtedly, taking actions in accordance with the abovementioned orders of constitutional rank presupposes efficient and effective action. The principle of the efficiency of proceedings, which is currently derived from Article 12, sec. 1 CAP, is an optimization norm, the purpose of which is to ensure the realization of a certain state of affairs to the highest possible extent, which will in reality depend on legal and factual possibilities.[38]

Recent legislative changes are crucial for the issue under discussion. It suffices to recall that pursuant to the Act of 7 April 2017 amending the Code of Administrative Procedure and some other acts,[39] there have been significant changes in the regulations aimed at compelling the timely handling of cases by public administration bodies. Their aim was, among other things, to streamline the administrative process.[40] As Wojciech Piątek has observed, similar reasons for introducing modifications to the Code regulations had already been given in earlier amendments to the Code of Administrative Procedure.[41]

The deadlines for settling cases determine the time available to the public administration body dealing with a case to consider it and make a decision. The deadlines for settling cases are specified in Article 35 CAP and are instructive in nature. When assessing the regulations in force, one has to concur with the view expressed in the literature that the vague manner of indicating that cases should be dealt with promptly, and the lack of 'calendar' deadlines for settling cases, could cause discrepancies in the assessment of the body's actions, due to the possibility of different interpretations of the expression

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[35] JL RP 1960, No. 30, item 168.

[36] Adamiak (2009): 17.

[37] Kowalski (2013): 277. With regard to doubts concerning the possibility of forming the right to a fair administrative procedure based on Article 45 of the Polish Constitution, see Krawczyk (2017): 38.

[38] Adamiak (2009): 417.

[39] JL RP 2017, item. 935.

[40] Government bill amending the act – Code of Administrative Procedure and some other acts with draft executive acts – Sejm paper no. 1183; <http://www.sejm.gov.pl/Sejm8.nsf/druk.xsp?nr=1183>. The assessment of the changes introduced in the doctrine is not straightforward, see Piątek (2017): 35–36; Zimmermann (2017): 7.

[41] Piątek (2017): 22. It should be noted, however, that as early as before World War II attempts were made to accelerate administrative proceedings. Langrod (1939): 5–6.

'deal with cases without unnecessary delay'. There is no specific framework in which the principle of the efficiency of procedure should be fulfilled.[42] In the absence of other safeguards, the mere establishment of such mechanisms seems ineffective.[43] Imposing an obligation to examine a case without the possibility of implementing sanctions for the violation of this obligation could in practice result in the inability to enforce the obligation to act in the manner prescribed by law. In the Polish Code of Administrative Procedure, the legislator decided to introduce a legal remedy, i.e. the institution of urgency, and then to enable the party dissatisfied with the time in which the case is being dealt with to respond to the actions (omissions) of public administration bodies through appeal to administrative courts. Undoubtedly, the institution of urgency should refer to cases that may be described as reprehensible, or very serious, and thus their appearance in administrative procedure is undesirable. Situations that could be defined as inactivity or protracted delay, within the meaning of Article 36 CAP, are in clear conflict with the principle of swift and efficient procedure.[44]

In addition to setting deadlines for dealing with cases and providing for legal remedies aimed at enforcing their observance, in the literature it is pointed out that the positive aspects of the current regulations include simplified procedures and a comprehensive regulation on the silent settlement of cases.[45] Among the measures aimed at preventing lengthy administrative procedure, the introduction of objections to cassation decisions is also highlighted in the literature. An instrument aimed at accelerating administrative procedure is undoubtedly the introduction of regulations related to silent settlement of cases in the Code of Administrative Procedure.[46] It is now increasingly applicable, and the silence of an administrative body cannot be treated as unlawful activity in every case where there is no need to articulate the will of a public authority.[47] Another element aimed at accelerating proceedings is the introduction to the Code of Administrative Procedure of the possibility of examining a case in a simplified manner, which was intended to bring the Polish regulation closer to the European standard of administrative bodies dealing with cases within a reasonable time.[48] In the literature, the introduction of this special procedure met with a moderately positive reception. [49] It is pointed out that it should apply to simple and minor cases where the factual situation

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[42] Samulska (2017): 109.

[43] Adamiak (2009): 422.

[44] Mełgieś (2018): 12.

[45] Knysiak-Sudyka (2018): 366.

[46] The justification of the government bill amending the Code of Administrative Procedure and some other acts, <http://www.sejm.gov.pl/Sejm8.nsf/druk.xsp?nr=1183>. In the justification of the Act amending the Code of Administrative Procedure, it was pointed out that, apart from accelerating and simplifying the administrative procedure, it should improve and reduce the costs of functioning of public administration.

[47] Gurba (2017): 85.

[48] Krawczyk (2017): 48.

[49] Jaśkowska (2018): 106; Szubiakowski (2017): 326 f.

is uncomplicated.[50] It should be noted, however, that the legislator is guilty of a certain inconsistency, which sets the same time limit (one month) for cases settled under the simplified procedure and for cases requiring examination. Summarizing these considerations, it should be noted that the Polish legislator decided to introduce into the Code of Administrative Procedure mechanisms which are not in force in the corresponding Acts of Sweden and Finland.

V. CONCLUSION

Undoubtedly, the swift handling of a case constitutes in itself an important value of administrative procedure.[51] That a case will be dealt within a reasonable time is an obvious expectation of citizens in a State governed by the rule of law.[52] In the doctrine there is the saying that 'justice delayed is justice denied'.[53] Inordinately lengthy proceedings may lead to the settlement of a case losing any value for the party, and it certainly constitutes a denial of stability and certainty in legal relations, which undermines the authority of the (executive or judicial) authority.[54] There is no doubt that, as was indicated at the beginning of these considerations, the value of the efficiency and speed of proceedings will usually be attained at the cost of a thorough and insightful handling of the case, or through limiting the rights of the parties to the proceedings. For good reason, in the scholarly literature it is said that the real test of a good State is its ability and inclination to good administration.[55] However, this does not mean that the rapid action of the administration is – as was indicated in the initial part of the considerations – the overriding value.

The Polish legal system, like the Swedish Administrative Procedure Act, has recently undergone a significant change, but not a comprehensive one, with regard to mechanisms that facilitate dealing with cases quickly. However, the changes introduced (in particular with regard to the institutions of urgency, silent settlement of cases, mediation or simplified procedures) should undoubtedly be assessed positively. Critical assessments of regulations concerning, in particular, silent settlement and mediation should be accepted as recommendations for the modification and improvement of the regulations in which they were introduced: it cannot be said that they are a criticism of the institutions themselves. As has already been indicated in the Polish scholarly literature, the model of silent settlement of cases is undoubtedly desirable from an institutional point of view, but it should be introduced in a deliberate and prudent manner, so that the need to accelerate procedure does not result

[50] Knysiak-Sudyka, Klat-Wertelecka (2016): 101.
[51] Kotulska (2018): 414.
[52] Celińska-Grzegorczyk (2018): 53.
[53] Redelbach (1999): 279.
[54] Iserzon (1970): 62.
[55] Hamilton, Madison, Jay (2008): 502.

in a threat to the (broadly understood) public interest or individual interest. In short, following analysis, two years after their introduction, the changes to the regulations aimed at ensuring the efficiency of administrative procedure should be assessed positively. The literature also indicates that the current Code of Administrative Procedure is a functioning, efficient and verified regulation.[56] This does not change the fact that in practice there may occur cases of serious inactivity or delay, which should be combatted with every available legal means, which may result in persons guilty of such a state of affairs being brought to justice and facing disciplinary proceedings, in accordance with Article 38 CAP.

When comparing the norms contained in the administrative procedures of Poland, Sweden and Finland, it is impossible not to notice significant differences, but also some similarities. In each of these countries, there is now a normative obligation to settle cases without unnecessary delay. At the same time, the Finnish procedure does not set statutory deadlines for dealing with particular types of cases, nor does it establish a specific legal measure to counteract the excessive length of administrative procedure. The Swedish Administrative Procedure Act recently introduced a time limit (six months) after which the party will be entitled to file a complaint concerning the excessive length of the procedure. When compared with the Polish Code of Administrative Procedure, the procedural acts in force in the Scandinavian countries seem to be more synthetic. This is not a criticism of the current Polish regulation; however, it is evident that a number of interpretative problems remain with regard to the practice of public administration bodies. On the other hand, it should be noted that the Swedish legislator, despite the long-standing model of the Administrative Procedure Act, decided to introduce a specific deadline, which, it can be assumed, is the maximum deadline for dealing with a case. It also seems reasonable to enquire about the possibility of further modifications of the process itself. There is also no doubt that an important factor aimed at accelerating administrative procedure may be the use of electronic means of communication (including in particular the delivery of litigation documents).[57] It is therefore necessary to recommend the implementation of solutions which encourage electronic correspondence both from the body conducting the proceedings to the parties and in written communication formulated by the parties, in particular when the party is represented by a professional attorney. As a result, the costs of administrative procedure should be reduced, their duration should be shortened and, consequently, citizens' trust in public authorities should be increased. Such solutions should bring about a visible increase in efficiency and accessibility, and provide a better service to citizens in their relations with public sector bodies.[58] Although this change is likely to occur as a result of changing

[56] Bogusz (2018): 61; Tarno (2010): 847; Knysiak-Sudyka (2018): 154.

[57] Lipowicz also draws attention to shortcomings in the delivery mechanisms in administrative procedure (2018): 188–189.

[58] Cf. Monarcha-Matlak (2018): 158.

social relations and the computerization of society, it would be difficult to accept the introduction of a statutory order for the electronic transmission of documents, irrespective of the will of the parties to the proceedings. Additionally, it seems that a worthwhile change could be the implementation of solutions resulting in the increased responsibility of employees of public administration bodies for serious cases of inactivity or delay in administrative procedure. It would also be justified to extend the rights of parties to obtain compensation for clearly culpable inactivity or delay.

It is clear that the degree to which standards of procedural law imposing specific obligations on public administration bodies are fulfilled depends to a large extent on the expertise and commitment of public officials. It also seems obvious that – as it is emphasised in the literature – as public administration is increasingly burdened with obligations and the responsibility to satisfy the needs of society through carrying out the tasks of public administration, and as it seeks to formalize its diverse activities, the normative model of decisions taken within the framework of administrative procedure is becoming increasingly complex.[59] The increase in the case law, numerous amendments to regulations, and the increase in the degree of procedural formalism, is conducive to excessive bureaucracy, delays in dealing with cases, and the development of 'clerical legalism'.[60] This aspect, however, remains outside the scope of legal considerations. In the case of the legislator's actions in relation to procedural regulations, it is only possible to consider the possibility of shaping the form of the procedure itself, or the rights and obligations of its participants.

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[59] Kmieciak (2014): 256.

[60] Kmieciak (2017): *A*12.

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THE PRINCIPLE OF EFFICIENCY OF ADMINISTRATIVE PROCEDURE IN SELECTED SCANDINAVIAN COUNTRIES AND POLAND

Summary

The subject of this study is an analysis of legal norms focused on the efficiency of administrative procedure, including norms establishing the time limits for the administrative authorities to deal with cases and legal remedies to ensure that cases are settled without unnecessary delay. The considerations seek to verify whether the currently applicable regulations in the Polish legal system protect the right for cases to be considered in a fair manner, without undue delay, and whether they do not differ from the solutions adopted in other countries of the European Union.

To compare models of administrative procedure in these terms, two Scandinavian procedures were chosen: Swedish and Finnish. It is widely accepted that Scandinavian countries are mature democracies, highly regarded for the administrative services provided to citizens and their guarantees of human rights protection. The Swedish model of administrative procedure was chosen due to the introduction of a new code of administrative procedure. The Finnish legal system is considered one of the most citizen-friendly public administration systems. In both Sweden and Finland, a number of improvements have been made to popularize e-administration, including actions taken in administrative procedure.

Keywords: administrative procedure; delay in administrative procedure; time limits for the settlement of cases