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E-ADMINISTRATION POLAND - EXPERIENCES AND CONCLUSIONS

1. Introduction

The phenomenon of *digitalization*[1] of public administration, including the implementation of the e-administration approach[2], can be qualified as the "ongoing"[3] process, because for years[4] it has been, and will be setting the directions of changes - not only in legislation, but above all - in day-to-day praxis of public administration. Paradoxically, an effort to modernize the functioning of public administration has its own quite long history.

2. Experiences and conclusions

Firstly, the development of e-administration is a multi-stage process, and regulations are implemented in sequence-model – step by step, separately for each group of public authorities. This process has been ongoing in Poland for more than 20 years and will continue for many more. One may ask, why? Well, it is impossible to build e-government once and for all, because of technical and technological reasons; namely they are evolving[5].

A well-known example of sequence-model of implementation of new e-administration solutions is the Act on electronic deliveries in Poland of November 18, 2020. It should be noted that the inter-temporal provisions enacted by the legislator determines that registered electronic deliveries will be fully applicable (i.e., will be applicable to all public entities) from October 2029[6]. This means that

during the transitional period, public administration bodies and their clients will have to operate in a "dual legal regime" of electronic deliveries consisting in the parallel binding of the so-called old and new delivery procedure[7]. Such a solution seems to be complex, especially for clients of administration, yet it was necessary due to the resources on the disposal of Polish government. Therefore, the great educational effort must be made. Without proper campaign public administration client's will be confused and distrustful.

Secondly, because e-government implementation is carried out in stages – what we call - sequence-model of implementation, the process is related with frequent changes of law. The lack of certainty of the law and the permeant need for training makes implantation process difficult or even repulsive. Apart from enthusiastic "early adopters"[8], people are just discouraged[9]. The distaste for to e-administration in Poland was overcome a little bit by the COVID-19 pandemic[10] and the actual need to operate online.

Thirdly, the process of building e-administration requires a high level of citizens' trust in the state, including the technology that it uses[11]. The trust must cover a following fields: a) the public authorities; b) the technical infrastructure and c) the legal provisions. The crisis of the rule of law in Poland, including the independence of the judiciary, has reduced citizens' trust in public administration bodies and courts[12]. This seems to be a challenge or even an obstacle for introduction of the e-government and the e-judiciary in Poland. First the rule of law, then e-government and e-administration. The best ICT systems, computers, cameras, and other equipment will not remedy the lacking element of democratic state and rule of law.

Fourthly, the phenomenon of fragmentation should be avoided in the process of building e-administration. This is a significant problem in Poland. There are many different portals, applications and platforms assigned to different public entities. Each platform works differently, has a different interface, different hardware requirements[13]. All in all, this requires a permeant education, trainings and breaking down barriers. The remedy for fragmentation in Poland was to be the Act on electronic deliveries[14]. The Act, supposed to provide a model solution regarding communication with public entities, and was designed to reverse the phenomenon referred to as fragmentary digitalization[15]. The idea was that all public authorities (from the administration bodies to the courts and prosecutor's offices, through public universities) would use one "model" for electronic deliveries. One may ask, how? Deliveries would be made via registered electronic deliveries referred to in the eIDAS Regulation[16]. Unfortunately, the deadline for the implementation of this piece of legislation is still being postponed.

And the last issue - when building e-administration, it is necessary to ensure the accessibility of infrastructure for people with special needs, functional limitation, and with disabilities. The participation of the elderly and the digitally excluded should also be secured[17]. The Polish report of the state of the accessibility of websites, and administration applications in 2022 showed that none is fully digitally accessible[19].

Conclusions

The analysis of Polish experience teaches what mistakes should be avoided when building e-government. The biggest threats are not lack of financial resources,

but:

a) lack of trust in public authorities and lowering the authority of the state.

b) poor quality of legislation. The law is changed too often.

c) fragmentation of e-administration by using many different technologies, means and platforms.

Among the positive Polish experiences, mention should be made of:

a) a sequential model of implementing e-administration. Authority by authority, step by step - not all actors at one time.

b) no legal obligation to use e-administration. Citizens are entitled, but not obliged. E- administration as a rule is not mandatory[19].

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1-10-2021-r-nie-rozwiazuje-watpliwosci-prawnych-i-dalszego-prowadzenia-postepowania-administracyjnego-na-podstawie-przepisow-przejsciowych/,15.10.2022r.). Intertemporal issues related to the amendment to the Code of Administrative Procedure, including adaptation of the delivery procedure in the Code of Administrative Procedure to the legal framework set out in the Act is discussed in detail in the article: A. Cebera, *Podwójny reżim prawny doręczeń elektronicznych w postępowaniu administracyjnym jurysdykcyjnym w okresie przejściowym po nowelizacji k.p.a.,* in print.

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13. See statistics: CBOS, KOMUNIKAT Z BADAŃ, Zaufanie Społeczne, No. 37/2022, ISSN 2353-5822. The level of trust in officials and administration is declared by 53% of respondents. On the other hand, only 33% trust the courts, and only 22% trust the Constitutional Tribunal. The above figures are worrying and also manifests a crisis of citizens' trust in the state.
14. See: https://www.gov.pl/web/cyfryzacja/e-uslugi, access: 20.05.2023.
15. Consolidated text Journal of Laws of 2022, item 569 as amended.
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17. Regulation (EU) no 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.

18. Statistical data on the use of the Internet by the elderly: CBOS, *Komunikat z badań, Korzystanie z internetu w 2022 roku*, No. 77/2022: 41% of respondents aged 65-74 use the Internet, and only 22% aged 75 and over. Source: https://www.gov.pl/web/dostepnosc-cyfrowa/monitoring-2022-r, accessed on 20.05.2023.
19. Unfortunately, in recent months there have been exceptions to this principle and the requirement to use e-forms, e.g. with regard to entrepreneurs and the PUE ZUS portal.

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THE LOCAL GOVERNMENT APPEAL COURTS AS AN ELEMENT OF THE PUBLIC ADMINISTRATION CONTROL SYSTEM – SYSTEMIC AND PROCEDURAL ASPECTS

Local government appeal courts appeared in the Polish system of public administration bodies in connection with the reactivation of local government in Poland in 1990. In view of the separation of some public authority tasks and their assignment to communes, the legislator decided to create new administrative bodies that were established to exercise instance control over administrative rulings in individual public administration cases belonging to the jurisdiction of local government units. The establishment of the courts was thus dictated by the necessity to apply the principle of two-tier administrative proceedings.[1] This is because local government appeal courts are organs of a higher level, within the meaning of the provisions of the Code of Administrative Procedure[2] and the General Tax Regulations Act[3] of 29 August 1997 in individual cases that fall within the scope of public administration and belong to the competence of local government units unless specific provisions provide otherwise.[4] Acting as appeal bodies, they are not limited to reviewing the validity of the charges raised in the appeal against the decision of the authority,[5] but they review the entire administrative case, aiming to resolve it on its merits.[6] These courts not only hear appeals and complaints, but also rule in extraordinary administrative modes. Moreover, it should be noted that these courts are also competent to hear appeals against their own decisions (i.e. non-devolutive appeals).[7] This is because there is no authority that acts as a higher level authority in relation to such courts. A decision issued at first instance by a court may therefore be appealed to the same court that issued it. However, the members of the court who issued the appealed decision cannot participate in the proceedings (and thus the principle of impartiality of the proceedings is observed).[8] In addition, courts also adjudicate on other matters under the rules set out in separate laws.[9] On the basis of a separate act, the local government appeal courts, obtained the competence to adjudicate in civil cases and