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IMPACT OF THE CONCEPT OF GOOD GOVERNANCE
ON THE FUNCTIONING OF PUBLIC ADMINISTRATION
IN POLAND—AN OUTLINE

INTRODUCTION

It can be seen that contemporary administrative law, perceived as a set of norms shaping the organisation and providing guidelines for public administration, is determined primarily by the political shape of the State and the principles resulting from the Constitution. This means that, on the one hand, the current type and form of the State predetermines the statutory model of public administration, but on the other hand it does not rule out the possibility of shaping it using the postulates formulated by scholars with respect to the legislator, who follows up by transforming the provisions defining the organizational forms and activities of public administration, which fall within the adopted political framework, for example within the notion of a democratic state of law.¹ Among them, some other postulates are gaining importance (e.g. ones formulated by the science of administration, which considers the impact of non-normative factors affecting public administration), which play the primary role for the legal regulations adopted since they determine the acceptance of specific theoretical assumptions to the legal system

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¹ A. MIĘTEK, “Zasada demokratycznego państwa prawnego w orzecznictwie Trybunału Konstytucyjnego,” *Dialogi Polityczne* 11 (2009): 77–78 and the literature indicated therein; E. KOSIĘRADZKA and M. ZDYB, “Zasada państwa prawnego na gruncie prawa administracyjnego w kontekście współczesnych wyzwań,” *Studia Iuridica Lublinensia* 25, no. 1 (2016): 83–84, 92.

ex ante,² or, in a secondary manner, by affecting the actual functioning of public administration they contribute to their application in the system of universal law. This situation causes that the postulates are accorded a normative status, as it were, *ex post*.³ Undoubtedly, among such non-normative factors of an ideological character showing a strong and lasting influence on public administration is the concept of good governance, which is further developed on the level of political, material and procedural administrative law.

THE ORIGIN AND MEANING OF THE NOTION OF GOOD GOVERNANCE

The problems we notice to result from the shortcomings in the functioning and effectiveness of the organized administrative structures, which are an emanation of the State's service towards its citizens, has spurred a quest for new directions of development. Needs for change were seen in the era of global crises, when in the 1990s, at the forum of international organizations such as the World Bank and the International Monetary Fund, a concept of effective management of public matters emerged, which in essence meant the achievement of economic efficiency by the public administration,⁴ with a simultaneous departure from the existing organizational model.⁵

As much as this concept should be discussed in the past tense due to the critical perception of it and impossibility to adapt it to the reality of public administration in many countries resulting, for example, from the conceptual

² For instance, the acceptance of assumptions of citizens' participation in administrative processes reflected in the draft act on strengthening the participation of residents in activities of the local government, on cooperation of *gminas* (communes), *powiats* and voivodeships and on amending certain acts, which ultimately was not subject to further legislative processing being criticised for the multiplicity of legal forms.

³ For example, the application of certain ethical norms in the culture of administration may over time take the form of legal norms of generally applicable law, as in the case of Act of 21 November 2008 on the Civil Service, Journal of Laws of 2017, item 1889, Articles 76–78, which reflects the moral and ethical norms covered by Ordinance No. 114 of the Prime Minister of 11 October 2002 on establishing the Code of Ethics of the Civil Service, Official Gazette (Monitor Polski) No. 46, item 683 (currently not in force).

⁴ H. IZDEBSKI, "Kierunki rozwoju zarządzania publicznego w Europie," in *W poszukiwaniu dobrej administracji*, ed. H. Izdebski and H. Machińska (Warszawa: Wydział Prawa i Administracji UW, Biuro Informacji Rady Europy, 2007), 15–17.

⁵ K. KUŁAK-KRZYSIAK, "W poszukiwaniu skuteczności działania administracji. Współczesna forma menedżerskiego podejścia do administracji publicznej—New Public Management," in *Administracja niewładcza*, ed. A. Barczewska-Dziobek and K. Kłosowska-Lasek (Rzeszów: Wydawnictwo Uniwersytetu Rzeszowskiego, 2014), 154.

differences and the fact of legal determination,⁶ we can observe its influence on the shaping of the idea of good governance at the level of public administration. At this point, it is assumed that public administration, while striving for more efficiency, as an organisation should function in connection with its own environment; in other words, it should open up to various actors (citizens and entrepreneurs) for the service of whom public administration was devised. This is why this openness should entail greater concern for the needs of those entities.⁷

This concept reflects the postulate of good rule, which—treated as a notion—has been interpreted and defined in various ways.⁸ The very notion of “good governance” is difficult to translate [into Polish—Translator’s note] and define, so we can try to elucidate it by either referring to its etymology or attempting to show its core sense. Our first interpretation implies the interpretation of the term *governance* as synonymous with “rule.” This, too, can also be construed ambiguously. *Governance* can mean “managing complex communities by coordinating the actions of entities belonging to different sectors”⁹ or it can be understood as “a process of managing a complex society with the participation of entities of the public and private sectors, often in the form of networks in which the central position does not have to be occupied by a body of public administration.”¹⁰ As Grzegorz Krawiec notes, in the literature of the subject you can find “three areas of governance: corporate governance, public governance and good governance,”¹¹ and the meaning of the term *good governance* is synonymous with the definition adopted by the World Bank in 1992. *Good governance* means “a predictable,

⁶ Compare A. BŁAŚ, “Administracja publiczna a gospodarka rynkowa,” in *Współczesne problemy prawa administracyjnego i administracji publicznej. W 35. rocznicę utworzenia Instytutu Nauk Administracyjnych Uniwersytetu Wrocławskiego*, ed. A. Błaś and K. Nowacki (Wrocław: Wydawnictwo Uniwersytetu Wrocławskiego, 2005), 74ff.

⁷ W. RUDOLF, “Koncepcja governance i jej zastosowanie—od instytucji międzynarodowych do niższych szczebli władzy,” *Acta Universitatis Lodzianae, Folia Oeconomica* 245 (2010): 74.

⁸ H. IZDEBSKI, “Nowe kierunki zarządzania publicznego a współczesne kierunki myśli polityczno-prawnej,” in *Nowe zarządzanie publiczne i public governance w Polsce i w Europie*, ed. A. Bosiacki et al. (Warszawa: Wydawnictwo Liber, 2010), 12.

⁹ IDEM, “Od administracji publicznej do public governance,” *Zarządzanie Publiczne* 1 (2007), 15.

¹⁰ J. SUPERNAT, “Administracja publiczna, governance i nowe publiczne zarządzania,” in *Prawna działalność instytucji społeczeństwa obywatelskiego*, ed. J. Blicharz and J. Boć (Wrocław: Wydawnictwo Kolonia Limited, 2009), 139.

¹¹ G. KRAWIEC, “Założenia koncepcji good governance wobec materialnych, proceduralnych i ustrojowych zasad prawa administracyjnego,” in *Zastosowanie idei public governance w prawie administracyjnym*, ed. I. Niżnik-Dobosz (Warszawa: Difin, 2014), 16.

open and enlightened (transparent) way of creating public policies; bureaucracy imbued with professional ethos, an executive arm of government accountable for its actions; a strong civil society participating in public affairs, based on the assumption that all members of society act under the rule of law.”¹² Thus, thanks to good governance the manner and desired outcomes of governance have been determined. With regard to public administration, the term denotes its capability of carrying out public tasks, assessed in terms of its professionalism and accountability; with respect to society, the term denotes its ability and right to participate in public decision-making. Seen in this light, *good governance* captures the way in which authority is exercised in the process of managing economic and social development. The method of exercising power was defined by indicating its characteristic features: open and pro-development policy, professional administration, working towards the public good, the existence of legal principles, transparency of processes (especially decision-making ones), and the presence of a strong civil society.¹³ The existence of a “system of good governance”—exemplifying the way in which authority is asserted—is also linked to the principles of good governance, set out in source documents.¹⁴ They relate to decision-making and implementation processes in the public sector and they affect the transformation of the way bodies of public administration operate, a manner which due to the existing discrepancies requires to be transformed in such a way as to increase the significance of citizens’ participation in decisions taken both at the EU and national levels.¹⁵ This inclusion is to reflect the demand for democratisation, which implies the ability of public administration to involve citizens, social and non-governmental organisations in administrative work in compliance with the principles of adequate representativeness. This aspect of *good governance* concerns the assurance of social

¹² *Governance, The World Bank’s Experience* (Washington: World Bank, 1994), 7; accessed August 31, 2018, <http://documents.worldbank.org/curated/en/711471468765285964/pdf/multi0page.pdf>.

¹³ G. SCHÖLER and C. WALTHER, *A Practical Guidebook on Strategic Management for Municipal Administration* (The World Bank, Bertelsmann Foundation, 2003), 13, quoted after A. PODGÓRNIAK-KRZYKACZ, “Dobre rządzenie w teorii i praktyce strategicznego zarządzania w teorii i praktyce,” *Studia Ekonomiczne* 169 (2013): 169.

¹⁴ For example, the principles of openness, participation, accountability, efficiency and coherence, adopted in the White Paper “European Governance,” established to create a common mechanism for the EU Member States to shape and implement cohesion policy, see *European Governance, A White Paper*, Brussels, July 25, 2001, COM (2001), OJ C 287, 12.10.2001.

¹⁵ M. DĘBICKI and A. JAXA-DĘBICKA, “W poszukiwaniu good governance,” in *Nowe problemy badawcze w teorii prawa administracyjnego*, ed. J. Boć and A. Chajbowicz (Wrocław: Wydawnictwo Kolonia Limited, 2009), 199–200.

consensus, as well as resolving conflicts between clashing interests.¹⁶ As a result, this leads to the formation of new legal constructs promoting increased civic participation in the identification of needs and the designing of decisions made in public spheres. This is to serve the implementation of the demand that individuals and social groups should participate and be represented in administrative processes—a postulate aimed at increasing trust in public institutions, on the one hand, and fostering a culture of dialogue and cooperation instead of unilateral and authoritarian decisions.

PARTICIPATION AS A DIMENSION OF GOOD GOVERNANCE

Participation itself, conceived as a collective term defining the participation of citizens in the exercise of public authority, is the subject of many recent studies in the literature on the subject.¹⁷ Depending on the assumed research perspective, the idea of participation can have a broad subjective and objective scope, although such a perspective is typically associated with public participation in decisions taken by administrative bodies in order to strive towards the interest of all.¹⁸ Thus, it can be considered in the context of law-making decisions,¹⁹ that is decisions which are objectively associated with the making of universally binding law, at the stage when normative acts are drafted, to be enacted at all levels of authority—from the level of central²⁰

¹⁶ MINISTERSTWO ROZWOJU REGIONALNEGO, *Koncepcja Good Governance—refleksje do dyskusji* (Warszawa, 2009), 7.

¹⁷ T. KAŹMIERCZAK, "Partycypacja publiczna: pojęcie, ramy teoretyczne," in *O uczestnictwie obywateli w życiu wspólnoty lokalnej*, ed. A. Olech (Warszawa: Wydawnictwo ISP, 2011), 83–84.

¹⁸ M. STEFANIUK, *Działanie administracji publicznej w ujęciu nauk administracyjnych* (Lublin: Wydawnictwo UMCS, 2009), 409; K. OSTASZEWSKI, *Partycypacja społeczna w procesie podejmowania rozstrzygnięć publicznych* (Lublin: Wydawnictwo KUL, 2013), 18; I. NIŻNIK-DOBOSZ, "Partycypacja jako pojęcie i instytucja demokratycznego państwa prawnego i prawa administracyjnego," in *Partycypacja społeczna w samorządzie terytorialnym*, ed. B. Dolnicki (Warszawa: Wydawnictwo Wolters Kluwer, 2014), 28.

¹⁹ Compare the classifications of decisions taken by public administration bodies proposed by Marian Zdyb, who, taking their relationship with the law as a criterion for their classification, distinguished legal and factual decisions. More comprehensively on this in: M. ZDYB, *Istota decyzji* (Lublin: Wydawnictwo UMCS, 1993), 142–52.

²⁰ The legal institutions for citizens' participation in the process of making commonly binding law are provided in provisions of the following: Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative, OJ L 65, 11.03.2011, Article 2; Act of 24 June 1999 on the exercise of legislative initiative by citizens, Journal of Laws No. 62, item 688 as amended, Article 2; Act of 14 March 2003 on the national referendum, Journal of Laws of 2015, item 318, as amended, Article 2; Resolution No. 190 of the Council of Ministers

authority to the lowest one of local government.²¹ It can also be considered in relation to the so-called public policies, decisions which objectively refer to the formulation of goals and directions of action of public administration bodies and do not have the status of universally binding legal acts,²² are treated by the doctrine of administrative law as acts of planning.²³

Participation may also be considered in relation to the legal forms in which the citizens' right to participate in state authority may be exercised. Starting with those forms that enable participation in the least possible way—through indirect forms—ending with those in which participation occurs to its fullest exerting the greatest influence on the content of normative decisions and public policies, we can envisage a participatory ladder as it were.²⁴ At its lowest level, we have unilateral actions of administration, which essentially are intended to publicise those actions, or possibly give information about planned actions, such as those concerning future regulations—without citizens interacting. The next level is occupied by public and social consultations (terminology used by the regulations currently in force), which are a form of consultation regarding a project being developed by an administrative body (whether a normative act or other programme or strategic document). Next, there is a form of cooperation which, through dialogue and consensus, gives rise to a joint project serving to settle issues of public importance, which can be illustrated by consultative and advisory bodies

of 29 October 2013—Rules of Procedure of the Council of Ministers, Official Gazette (Monitor Polski) of 2016, item 1006 as amended, chapter 3.

²¹ Act of 15 September 2000 on the local referendum, Journal of Laws of 2016, item 400, as amended, Article 2.

²² Z. DUNIEWSKA, "Plany, strategie, programy i inne zbliżone formy prawne działania administracji," in *Podmioty administracji publicznej i prawne formy ich działania: studia i materiały z Konferencji Naukowej poświęconej Jubileuszowi 80-tych urodzin Profesora Eugeniusza Ochendowskiego, Toruń, 15–16 listopada 2005, praca zbiorowa* (Toruń: Towarzystwo Naukowe Organizacji i Kierownictwo "Dom Organizatora", 2005), 142.

Act of 27 March 2003 on spatial planning and development, Journal of Laws of 2017, item 1073, as amended, Article 1 para. 1 point 11; Act of 28 November 2003 on support for rural development cofinanced by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund, Journal of Laws of 2017, item 1867, Article 1 para. 1; Act of 9 October 2015 on revitalisation, Journal of Laws of 2017, item 1023, as amended, Article 3 paras. 1–2; Act of 11 September 2015 on elderly people, Journal of Laws of 2015, item 1705, Article 4 para. 2; Act of 12 March 2004 on social assistance, Journal of Laws of 2017, item 1769 as amended, Article 16b; Act of 6 December 2006 on the principles of development policy, Journal of Laws of 2017, item 1376, as amended, Article 1 para. 1.

²⁴ J. ROKICKI, "Konsultacje społeczne (ujęcie procesualne)," in *Partycypacja społeczna we współczesnym samorządzie terytorialnym*, ed. M. Gurdek (Sosnowiec: Oficyna Wydawnicza Humanitas, 2016), 81.

functioning within the structures of public administration, which, besides gathering representatives of administration, group representatives of social players.²⁵ There are also forms of co-decision, where the content of a public issue is determined by the will of the parties involved. At the last level, there are forms of co-administration which involve citizens participating in administration not only in relation to draft normative or public decisions, but also the phase of its implementation.²⁶ This category may also include such forms of citizens' involvement in power through which they are contribute to the processes of public task performance²⁷ or the evaluation of administrative activities.²⁸

GOOD GOVERNANCE AS A FACTOR INSPIRING CHANGES IN THE OPERATION OF ADMINISTRATION

If we embark on the task of identifying the impact of the idea of good governance on the way public administration functions in contemporary Poland, in the context of forms of administration directly reflecting the impact of this idea, we need to focus not so much on the problem of participation, but rather the emergence of such new forms of administration within the existing legislation which, on the one hand, would fall within the scope of participation interpreted as citizens' participation in state authority but in a broader sense than before because they also comprehensively regulate citizens' participation in simultaneous execution and control of public decisions. This

²⁵ Act of 24 July 2015 on the Social Dialogue Council and other social dialogue institutions, Journal of Laws of 2015, item 1240, Articles 22–24 and Article 47, which include, apart from administrative bodies, representatives of employers and employees; Act of 12 March 2004 on social assistance, art. 125, forming the Social Assistance Council, which includes persons representing social assistance organisational units, units of territorial self-government, voivodes, social and professional organisations, churches and other religious organisations and scientific circles; Act of 24 April 2003 on public benefit and volunteer work, Journal of Laws of 2016, item 1817, as amended, Article 35, establishing the Public Benefit Works Council, formed by representatives of bodies of government administration and their subordinate units, representatives of territorial self-government units, representatives of non-governmental organisations, unions and agreements of NGOs and social cooperatives.

²⁶ P. BIEŚ-SROKOSZ, "Partycypacja społeczna warunkiem dobrego rządzenia?" in *Partycypacja społeczna we współczesnym samorządzie terytorialnym*, 36.

²⁷ M. KAMIŃSKI, "Formy partycypacji podmiotów prywatnych w procesach wykonywania zadań publicznych w polskim porządku prawnym," in *Zastosowanie idei public governance*, 81.

²⁸ Compare D. SZĘCİŁO, "Współzarządzanie (zarządzanie partycypacyjne). Teoria i praktyka," *Administracja. Teoria. Dydaktyka. Praktyka* 2 (2014): 54–56.

answers the question whether—among many legal forms of participation which partly concern either the object of administrative activity or the subjective scope of those entitled to participate, and which partly capture impact on the activities of administration (either on specific decisions or on an ad hoc basis)—there is a form thanks to which, in line with the postulate of good governance, a wide subjective and objective scope of participation is realised in its fullest and most durable version. The answer to this question might be found in regulations concerning a specific sphere of public administration, that is the sphere of planning and implementing regional and local development policies, which is determined by the EU regulations relating to cohesion policy. Here, first of all, we should notice a significant impact on the way public administration functions because the classical functions of administration have been abandoned in favour of partnership cooperation between administration bodies with other entities. After the ideas of *good governance* were adopted in the realm of law, a transformation can be seen in the conduct and role of public administration. This process occurs like this: a sovereign structure, acting as a regulator of social life and a provider of public services, becomes a structure initiating and organizing cooperation with entities from outside the public sector, whose purpose is to realise jointly identified social needs and determine optimal measures ensuring effective, fair performance of public tasks. This is noticeable at the level of regulations relating to the implementation of a common developmental policy within the European Union, promoting solutions which can be universal in character since they bring about changes that are generally accepted and understood by society, and improving, on the one hand, the quality of governance and, on the other, increasing trust in the activities of public authority, that is state administration. They also contribute to changes in the perspective from which public administration is assessed, the latter losing its characteristic and inherent feature of sovereignty in favour of forms of non-sovereign acts, which essentially imply cooperation with citizens through the use of consensual forms.

Expressed in the EU regulations concerning this sphere of action, the principles of operation, that is those of partnership, social inclusion and multi-level management,²⁹ enable transformation of domestic regulations in

²⁹ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and

such a way that the existing unilateral decisions of public authorities regarding identification of social and economic issues and determination of the ways to solve them are being replaced by forms of cooperation involving, on the one hand, national, regional and local authorities and so-called social partners as well as other non-public actors, in line with the EU definition of *governance*, which—concerning the State’s ability to serve its citizens, the rule of law and defining the way public functions and regulatory powers are to be exercised—is also an instrument for stabilisation, social stimulation and institutional administration achieved through innovative decision-making procedures, regulation and policy-making.³⁰ Cooperation between organs of public administration and actors from outside this sphere is not a new phenomenon under domestic legislation, and therefore does not constitute in itself an innovative form of administration since we know of very diverse legal forms associated with the involvement of citizens, society and its organisations in the activities of administration.³¹ It can be pointed out that there is a great deal of fragmentation in the legal framework of many regulations and there exists a unique mosaic of forms, as well as that they are not durable. Modification in the mode of operation of public administration along the lines of good governance must be validated by the argument that

the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, Preamble, point 11 in connection with Regulation (EU) No 1305/2013 of the European Parliament and of the Council 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005, OJ L 347/487, 20.12.2013, Preamble, points 31–32 and Article 5(6) and Article 42.

³⁰ J. RUSZKOWSKI, *Ponadnarodowość w systemie politycznym Unii Europejskiej* (Warszawa: Wydawnictwo Wolters Kluwer, 2010), 257–58.

³¹ For example, the forms of the so-called intersectoral cooperation implemented under the provision of the Act of 24 April 2003 on public benefit and volunteer work, Article 5 para. 2, which enumerates the following forms: keeping mutually informed on the planned lines of action, delegating tasks, consulting on draft normative acts of administration concerning the statutory sphere of NGOs, consulting on draft normative acts of administration of objective relevance to the sphere of public tasks, appointment of joint initiative and advisory groups, agreements on the execution of local initiatives, partnership agreement; or based on the provisions of Act of 12 March 2004 on social assistance, Article 2 para. 2, which indicates that tasks related to social assistance are carried out in cooperation, which is there to increase their effectiveness. For more on this, see A. MIRUĆ, “Współdziałanie podmiotów zajmujących się pomocą społeczną,” in *Formy współdziałania jednostek samorządu terytorialnego*, ed. B. Dolnicki (Warszawa: Wydawnictwo Wolters Kluwer, 2012), 54 and 64ff; or pursuant to Act of 20 April 2004 on employment promotion and labour market institutions, Journal of Laws of 2017, item 1065 as amended, Article 21, where the forms of cooperation of public authorities with social partners within the framework of tasks resulting from employment policy are indicated, including local partnership.

among forms of cooperation there are those which presuppose durability and continuity of interaction between the cooperating actors and the existence of a mechanism of co-realization and co-responsibility. This seems to be the point of the principles addressed above.

Such a solution is exemplified by the provisions of Act of 20 February 2015 on local development with the participation of the local community,³² which directly implement the assumptions of partnership cooperation of public administration at the local level, expressed in the provisions of the EU regulation³³ relating to the formation and implementation of public decisions in tasks of administration in the field of development policy. These provisions form the platform for further financing of institutional cooperation in the form known since 2007,³⁴ namely that of an association of units of local government and social partners, called local action groups,³⁵ taking place with the participation of financial resources from the EU budget allocated for the implementation of programmes in the field of cohesion policy.³⁶ The current solutions, first of all, delimit a new scope of activity for local administration and an innovative form of implementation of tasks related to local development. Provisions of law define priority measures, whose nature should be manifested through the development and implementation of local action strategies. These would be: developing the ability of local communities to identify tasks that they find important, including the ability to analyse the needs and the potential needed to carry out the undertaken tasks, developing the ability to define objectives and indicators for their attainment, and project management skills. It also becomes a priority—for the implementation of tasks—to develop and apply appropriate procedures for community involvement in local activities, which should promote the cooperation of

³² Journal of Laws of 2015, item 378, as amended.

³³ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, OJ L 347/320, 20.12.2013 [henceforth quoted as Consolidated Regulation].

³⁴ Act of 7 March 2007 on support for rural development cofinanced by the European Agricultural Fund for Rural Development, Journal of Laws No. 64, item 427, as amended.

³⁵ A. BARCZEWSKA-DZIOBEK, “Instytucjonalne formy współdziałania jednostek samorządu terytorialnego z organizacjami pozarządowymi,” in *Formy współdziałania jednostek samorządu terytorialnego*, 19–20, 25–31.

³⁶ Act of 11 July 2014 on the principles of implementation of the cohesion policy programmes financed under the 2014–2020 financial perspective, Journal of Laws of 2015, item 1146, as amended.

the local community with the local authorities, social and economic partners as well as residents.³⁷

The existence of a suitable form for the implementation of tasks related to local development—the association—in which a public administration entity, that is a unit of local government, participates on special terms,³⁸ and a definition of terminology concerning the parity of participation of particular sectors—public and social ones,³⁹ especially in the administrative bodies of the association, such as the management board, review panel and council—both give rise to a new organisational form, by the power of law, for which the implementation of a specific public task has been reserved. On the one hand, the legal nature of an association seen as a legal entity characterised by its voluntary, self-governing, permanent and non-profit character—determines that these tasks will be performed by it, regardless of changes in the composition of the local action group, especially that they must have open character.

On the other hand, the organisational link between an organ of administration and other persons, natural or legal, and other organisational units (e.g. a local entrepreneur) in the association and its managing bodies, makes it necessary to introduce an internal division of competences and responsibilities. Therefore, one can observe the formation of co-administration bonds in a designated area of public good with a simultaneous division of solidarity-oriented roles. When examining the issue of the association's accountability, especially the accountability of its authorities, two areas can be identified: one of legal liability, subject to supervision with respect to legality, and one of its accountability for the purposefulness of its functioning assessed from the perspective of both its statutory objectives and expectations of the local community. Each of these issues could form the subject

³⁷ Consolidated Regulation, Articles 32 and 33.

³⁸ The specific nature of the membership of a unit of local self-government, which by virtue of its legal personality, in accordance with the general provisions of Act of 7 April 1989—Law on Associations (Journal of Laws of 2017, item 210, Article 10 para. 3) could only be a supporting member; in the case of the discussed regulations, local government units (excluding voivodeships) are seen as ordinary members, which is characteristic of natural persons.

³⁹ Ordinance of the Minister of Agriculture and Rural Development of 23 May 2008 on the detailed criteria and method of selection of the local action group for implementation of the local action strategy under the 2007–2013 Rural Development Programme, Journal of Laws No. 103, item 659, Appendix. Initially, the ordinance indicated that the maximum level of representativeness in the decision-making body is attained through assurance of equal participation of representatives of a public partner and social and economic partners, preferably 3 persons or more. In the text of the ordinance, currently in force (Journal of Laws of 2013, item 861, Appendix 2, item 1), the requirements are left to be in force.

of separate, in-depth studies, going beyond the scope of the presented study, but it does not preclude any conclusions regarding the unique nature of such a legal construct. Indeed, few studies in the literature of the subject address the issue of administering conceived as an institution of administrative law⁴⁰ and co-administering⁴¹ related to the division of powers and responsibilities.

CONCLUSION

The concept of good governance, anchored in the ideology of an efficient and effective state, exerts impact on the modification of the activities of bodies of public administration. It is promoted by international institutions, including the European Union, especially in relation to cohesion policy, which should be modelled upon the principles of openness, participation, accountability, effectiveness and coherence. The adoption of such assumptions is reflected in the law legislated for the Member States, which results in the concept of good governance being reflected in national legal systems. Therefore, the existing mechanisms of cooperation are being enhanced and innovative legal forms of public administration action are being created to implement the postulates of openness and dialogue of public administration with social partners (units and their organisations), increase the effectiveness of actions undertaken by administrative bodies, through the obligatory mechanisms of consultation but also inclusion of social partners in the implementation of tasks so as to increase legitimacy of administration actions and social trust in authority. This leads to the emergence of partnership forms of institutional action which—among the diversity of known forms of cooperation between administrative bodies and social and economic partners—are distinguished by permanent and comprehensive character and the existence of a division of powers and responsibilities.

⁴⁰ The concept of administering was introduced to administrative law by Jerzy Starośćiak, who pointed out the functions that constitute the process of administration, carried out in various legal forms. See J. STAROŚCIAK, *Prawo administracyjne* (Warszawa: Państwowe Wydawnictwo Naukowe, 1977), 231.

⁴¹ Compare J. KORCZAK, “Współadministrowanie jako forma ochrony praw i wolności jednostki wobec władczej ingerencji administracji publicznej,” in *Jednostka wobec władczej ingerencji administracji publicznej*, ed. E. Wójcicka (Częstochowa: Wydawnictwo im. S. Podobińskiego Akademii im. Jana Długosza, 2013): 15–17.

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IMPACT OF THE CONCEPT OF GOOD GOVERNANCE
ON THE FUNCTIONING OF PUBLIC ADMINISTRATION IN POLAND—AN OUTLINE

Summary

The concept of "good governance," reflected in legislation, modifies the nature of the activity of public authorities. It is currently being promoted by international institutions, including the European Union, particularly with regard to its cohesion policy, which should be based on the principles of openness, participation, accountability, effectiveness and cohesion. Therefore, the existing mechanisms of cross-sectoral cooperation are being modified and new organisational and legal forms are emerging. They meet the requirements of openness, partnership and dialogue of public administration with social partners, thus increasing the effectiveness of bodies of public

administration. As a result of consultation, as well as through the direct involvement of social partners in the implementation of tasks, the public are more trusting and the actions of public authorities are gaining more legitimacy.

Key words: cooperation; cohesion policy; participation; social inclusion; local development.

Translated by Tomasz Pałkowski



The preparation of the English version of *Roczniki Nauk Prawnych (Annals of Juridical Sciences)* and its publication in electronic databases was financed under contract no. 836/P-DUN/2018 from the resources of the Minister of Science and Higher Education for the popularization of science.