

Right to public information in polish legal system¹

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Abstract –The main purpose of this paper is to describe model of access to public information in polish legal system. Author present main institutions and regulations connected with execution of right to public information.

Keywords – democracy, public information, jurisprudence, politics, transparency, public authorities, civil society

Introduction

Access to public information is one of the guarantees of public life transparency. In opposition to PRL Constitution (1952) [1], which obligated citizen to „cover the state’s secret” and „to be vigilant to state enemies”, current Constitution (1997) [2] gives citizen the right to obtain and receipt public information. This situation shows the difference between two political systems: communism, where the governing party want to be anonymous, and democracy, where the principle of law is public life transparency. The main purpose of this paper is to describe how this right can be executed, to specify scope of this right, and to show situations when it can be limited. [3]

I. Sources of right to „public information”

In the European Union, right to public information is guaranteed by Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. Nonetheless, it empowers citizens of European Union to request only for the information possessed by european institutions. Access to public information in Poland is guaranteed by another regulations. At first, it’s The Constitution of the Republic of Poland (Article 61), which enable citizens to obtain information „on the activities of organs of public authority as well as persons discharging public functions”. Right to information also include „receipt of information on the activities of self-governing economic or professional organs and other persons or organizational units relating to the field in which they perform the duties of public authorities and manage communal assets or property of the State Treasury.” The procedure for the provision of information is regulated in statue called: The Access to Public Information Act [4].

II. Methods of access

There are four methods of the access on the grounds of The Public Information Act. It’s uploading that information onto special site called „BIP”, requesting that information by citizen, entry to sittings of collective organs of public authority formed by universal elections, with the opportunity to make sound and visual recordings and making them available in general central system.

III. The „public information” term

The Access to Pubic Information Act enshrines the definition of „public information” term, which oblige us to understand it in only one specific way. According to that definition „Public information is every information regarding to public matters”. In judicature, it’s said that the definition doesn’t explain precisely, what kind of matters are public. That’s classic logic error, called in latin *ignotum per ignotum*. As a consequence, polish jurisdiction created it’s own

definition: „Public information is every information created by public authorities or addressed to public authorities, and every information addressed to subject performing public function, if it's connected with performing public tasks.” [5] In the statute, we can find a list of information, which is treated like public. It is information about: „interior and foreign policy, subjects, who are obliged to give an access to public information and organization of that subjects, public data and public property. Nonetheless, there is much more data outside of this list, which can be obtained by citizen.

IV. Limitations

Right to information is not an absolute one and in some cases it can be limited. As a general factor determining limitation of access to public information jurisprudence find protection of some secret. In some cases it can be limited in the event of collision with another statute, like The Tax Ordinance Act or Banking Law. In another disputes, it is being limited because of privacy of the third party. In the rest of situations, citizen can't execute his right to information, if it's connected with economic secret of unit possessing that information.

Conclusion

After year 1989 polish citizens was empowered with right to public information, guaranteed by Constitution and statute. Various methods of access and wide range of subjects who are obliged to respond to citizens requests ensure transparency of public life.

References

- [1] Dz.U. 1952 nr 33 poz. 232
- [2] Dz.U. 1997 nr 78 poz. 483
- [3] Sibiga G., „O reformę przepisów o dostępie do informacji publicznej” in Samorząd Terytorialny 25/4, Warsaw, Poland, 2015, 7-16
- [4] Dz.U. 2001 nr 112 poz. 1198
- [5] Judgement of Supreme Administrative Court in Warsaw, 25th of march 2003, II SA 4059/02