



### 17.11 Operation of the third sector in Poland [video]

Please find below the video of the lecture given by Tomasz Opara, a barrister trainee, on operation practices related to the third sector in Poland. The speech was made on the first session of the School of Leaders, operating within the program Administration Under Control.

If you intend to learn on:

- How many non-governmental organizations are there in Poland?
- How does the Polish civil society look like as compared to other states?
- What are the traps and threats in NGO operations?
- How to act efficiently and effectively?

Click the video below and you will expand smoothly your knowledge and competences.

### 18.11 Increased garbage collection fees in Kalisz preceded by threats against a councilor.

**Pursuant to Art. 61 of the Constitution of the Republic of Poland “A citizen shall have the right to obtain information on the activities of organs of public authority as well as persons discharging public functions”. Not everyone obliged to provide public information respects the constitutional right of a citizen. Such a case might have happened in Kalisz.**

Over one of this year’s sessions of the Kalisz City Council the rise garbage collection fees was not enforced, since one of the councilors - Agnieszka Konieczna – decided to abstain. Finally, 11 councilors was for and 11 against. Afterwards, the councilor filed a petition for revealing public information on agreements concluded between the city and garbage collecting companies. The councilor was supported by another Law and Justice councilor, who called the Mayor to provide the documentation. The discussed information ought to be commonly available in the Public Information Bulletin. Information on imposing and increasing charges or taxes shall be publicly available and non-publication of such is considered essential undermining of citizens’ trust in the administration.

### Threats against the councilor





The interesting fact is that both the councilor and the Mayor of Kalisz come from the same political party, that currently rules the city. Nonetheless, in this case, the councilor, Agnieszka Konieczna, decided to vote differently. It might be concluded that someone recognized her act as a strike, since she started receiving unlawful threats, that directly corresponded to garbage disposal. It is to be highlighted that unlawful threats used towards the councilor resulted from the fact that she had been revealing information, that should have been publicly available.

## Voting in favor of increases

In the end of the day, a month later the City Council outvoted raises amounted to ca. 60% of existing fees. Presently, inhabitants of Kalisz have to pay a monthly fee of PLN 23 per person for garbage collected selectively and PLN 40 for wastes do not subject to selection. To compare, the same fee in Poznań is PLN 16 and PLN 48, respectively.

Sources:

A Kalisz councilor is concerned about her safety and life – “I hope that we are not dealing with the trash mafia”: <https://calisia.pl/kaliska-radna-obawia-sie-o-swoje-zdrowie-i-zycie-mam-nadzieje-ze-nie-mamy-do-czynienia-z-mafia-smieciowa,46246>

The Law and Justice councilor fears for her life due to the threats: <https://fakty.interia.pl/wielkopolskie/news-radna-pis-obawia-sie-o-swoje-zycie-w-zwiazku-z-grozbami,nId,4663746>

No more raises in garbage collection fees! <https://zyciekalisza.pl/artukul/stop-podwyzce-cen-za/732679>

Fees and due dates: <https://www.goap.org.pl/deklaracje-i-platnosci/stawki-i-terminy-platnosci>

## 19.11 Constitutional regulations of the social control over public administration [video]

Please find below the video of the lecture given by Andrzej Pogłódek, Ph. D., on constitutional regulations of the social control over public administration. The lecture was delivered on the first session of the School of Leaders, operating within the program Administration Under Control.

If you intend to learn on:

- what are the constitutional foundations of the social control of administration,





- how do constitutions specify guarantees of transparency in terms of operations carried out by representative bodies,

- why is an obligation to announce the established law so essential,

Click the video below and embark on the path to become an expert in public administration social control;)

## 20.11 The school statute is not the public information

**Some time ago, on one of the Facebook group, a user decided to send out application to randomly selected schools, asking for access to public information, including the statute of each education center. The interesting this was that the user has rarely been given a positive response on his request.**

Some of the centers have not provided the said user with the feedback, some sent him messages suggesting him to be an intruder or a person acting to the detriment of the entity. Unfortunately, it seems that the vast majority of individuals managing education centers are not familiar with their liabilities when it comes to presentation of public information.

### Legal nature of the school statute

To begin with, it is worth noting that the statute is a document of the school's internal law. Its subjective scope comprises all members of the school society, including teachers, students and parents. Therefore, the headmaster's liability should be making it public, providing a free access to its content. It proves that the school statute is public information.

### Presenting the school statute as public information

Access to public information, i.e. the school statute is anchored in the constitutional right to gain information on activities carried out by the authorities. In accordance with Art. 4, item. 1 of the Act on Access to Public Information (AAPI), the entities obliged to provide public information include public authorities. School is undoubtedly an entity that exercises public tasks in the field of education and a headmaster is a public authority.

Moreover, the authority heading the educational center shall keep the Public Information Bulletin and information and publish information in it (Art. 8, items 2 and 3 of AAPI). Thus, the simplest solution is to make the school status available in the Public Information Bulletin. Unless it is released in the bulletin, it shall be presented upon the request.

**The school statute is public information and shall be made available upon the request of anyone interested.**

Source:

The Constitution of the Republic of Poland of April 2, 1997 r. (Journal of Laws, No 78, item. 483)





Act on Access to Public Information of September 6, 2001 (Journal of Laws, No 112, item 1198 as amended.),  
<http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20011121198/U/D20011198Lj.pdf>

## 21.11 Mechanisms of efficient administration operations [video]

Please find below the video of the lecture's portion given by Zbigniew Cieślak, Professor, on mechanisms of efficient operations of public administration. The speech was made on the first session of the School of Leaders, operating within the program Administration Under Control.

If you intend to learn on:

- what are mechanisms of efficient administration operations,
- when administration is inefficient,
- what are possible behaviors of the state administration,

Click the video below and get to know how the administration can act properly.

<https://www.youtube.com/watch?v=m3d7zx078ak>

Zbigniew Cieślak – PhD in Legal Sciences, University Professor, Chair of the Science Department of Administration and Environmental Protection, Faculty of Law and Administration, University Cardinal Stefan Wyszyński, Judge of the Constitutional Tribunal, author and research supervisor of the Warsaw Seminary of Administration Axiology, member of the State Electoral Commission, member of the editorial board in “State Control”, deputy editor-in-chief “Public Law Quarterly”.

*The School of Leaders covers 6 weekend trainings held in Warsaw, allowing the users for taking part in lectures and workshops on law and soft skills as well mentoring sessions. The participation in The School of Leaders is free of charge and organizers provide educational materials, board and accommodation at all sessions.*

## 23.11 Mechanisms of efficient administration operations [video]

Please find below the video of the lecture's portion given by Zbigniew Cieślak, Professor, on the theory of administrative law. The speech was made on the first session of the School of Leaders, operating within the program Administration Under Control.

If you intend to learn on:





- does the theory of administration exist?

- what is the essence of the administrative law?

- can the administrative law be considered from the perspective of management sciences?

Click the video below and gain expertise on the administrative law in an easy manner.

<https://www.youtube.com/watch?v=P4wS4XXQMsY>

## 24.11 Basics of the administrative procedure [video]

**Please find below the video of the lecture's portion given by attorney Krzysztof Wąsowski, PhD, on basics of the administrative procedure. The speech was made on the first session of the School of Leaders, operating within the program Administration Under Control.**

If you intend to learn on:

1. Is the Code of Administrative Procedure still useful?
2. When can the administrative decision be passed?
3. What is the objective of controlling in administration?

Click the video below and get to know smoothly basics of the administrative procedure useful in controlling operations .

Krzysztof Wąsowski – a graduate of Faculty of Law and Administration, Warsaw University (1998), attorney, PhD in Law (2003), lecturer at Department of Administrative Law and Procedure, Faculty of Law and Administration, University Cardinal Stefan Wyszyński.

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## 25.11 Criteria for controlling administrative decisions [video]

**Please find below the video of the lecture's portion, in which attorney Krzysztof Wąsowski, PhD, explains how to control efficiently administrative decisions. The speech**





was made on the first session of the School of Leaders, operating within the program  
Administration Under Control

If you intend to learn on:

1. Does the lawful administrative decision exist?
2. What is the difference between a material and immaterial error?
3. What features are necessary to be held to control administrative decisions in an efficient manner?

Click the video below and learn how to control administrative decisions in an efficient manner.

Krzysztof Wąsowski - a graduate of Faculty of Law and Administration, Warsaw University (1998), attorney, PhD in Law (2003), university lecturer.

**26.11 It is likely that today Sejm will be voting once again on election of a new Ombudsman. If it is another failure in appointing of the new Ombudsman, the term of current one may be extended until the new representative has taken the office. It shall full comply with the applicable laws. Pending the voting results, may we remind you the most important information about the Ombudsman.**

The right to present candidates for the Ombudsman is held by the Speaker of the Sejm and the group of 35 MPs. The Ombudsman is appointed by Sejm for the five-year term with the consent of the Senate. It is essential that she/he shall not be a member of any political party, trade union, or carry out public activities, that cannot be compatible with the dignity of the office. Furthermore, her/his operations shall be autonomous, independent from other state authorities and she/he is only liable to the Sejm upon the provisions set out in the Act. The Ombudsman shall enjoy immunity and her/his liabilities include notifying to the Sejm and Senate on her/his operations and reporting on the degree of respect accorded to the freedoms and rights of persons and citizens.

Ombudsman is a constitutional body. Pursuant to Art. 208, item 1 of the Constitution of the Republic of Poland – the Ombudsman upholds freedom as well as human and citizen rights set out in the Constitution and other applicable regulations.

Moreover, it is to be highlighted that anyone may request the Ombudsman to protect her/his freedom and rights. In this very case the legislator has applied the broadest term “anyone:”, to define the scope of entities entitled to approach the Ombudsman. The objective scope of the request, referred to in Art. 80 of the Constitution of the Republic of Poland ought to refer to protection of freedom and rights infringed by the public authorities. Here, it is necessary to point out those infringements, in particular, resulting from acting or failing to act (inaction) of the public authority.







Turning to analysis of the Ombudsman Act of July 15, 1987, it is to be stressed out that when it comes to initiating of proceedings by the Ombudsman, this Act shall exercise both the principle of accusatorial procedure ( Art. 9, items 1-2a) and ex officio procedure (Art. 9 item 3). Proceeding may be initiated by the Ombudsman upon the request and ex officio. It is worth mentioning that Art. 11 of the Act stipulates that the Ombudsman shall be obliged to go through each request she/he has received, thus providing the requesting party with huge opportunities. Nevertheless, due to the number of requests submitted, going through them may be carried out with some help from employees of the Ombudsman's Office (see art. 20, item 1 of the Act).

The Act provides for four proceeding scenarios related to the request submitted at the Ombudsman. In each of the four cases, the Ombudsman ought to inform the petitioner and the person this case refers to on her/his decision explaining how the request is going to be proceeded.

The style of Art. 11 of the Act indicates that the Ombudsman shall notify the petitioner and the person this case refers to on her/his decision. Therefore, the Act does not require that the Ombudsman shall deliver a detailed explanation of motifs, she/he based upon while taking the decision on the proceeding scenario to handle the case he had been addressed. At the moment the case has been initiated by the Ombudsman, following the investigation, the Ombudsman – unless she/he has detected any infringement of freedom and rights – shall explain the petitioner prerequisites of such statement (Art. 14, item 1 of the Act).

An interesting element of this case study is that persons not satisfied with the way this case is dealt with or it has been settled by the Ombudsman, shall lodge a complaint to the administrative court. However, settlement of requests addressed to the Ombudsman shall not be made in forms provided for in Art. 3 § 2 items 1-4 of the. The conclusion is that the evaluation of operations shall not be made by administrative courts, yet the above-mentioned competences are to be exercised by the Sejm and Senate, that are received from the Ombudsman. Nonetheless, such a follow-up assessment of the Ombudsman's operations shall in no way affect individual cases of the requesting parties.

It is also worth adding that the regular person holds the public right to claim his complaint to be investigated by the Ombudsman, but the applicant shall not request her/his case to be handled in accordance with her/his demands.

### Bibliography:

The Constitution of the Republic of Poland of April 2, 1997 (Journal of Laws, No 78, item. 483)

The Ombudsman Act of July 15, 1987 (Journal of Laws of 2020, item. 627)

Act – Law on Proceedings before Administrative Courts of August 30, 2002 (Journal of Laws, No 153, item 1270 as amended)





# ADMINISTRACJA POD KONTROLĄ

Spółeczna kontrola samorządów,  
bezpośrednia władza w Twoich rękach

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Trociuk S., The Ombudsman. Commentary, LEX 2007.



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