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*Access to public information in the jurisdiction of administrative courts -
selected issues*

Summary

In Poland, the right to obtain information on the activities of public authorities and public officers is guaranteed, in particular, in article 61 of the Constitution. Access to public information in Poland is regulated by the Act on Access to Public Information of 6 September 2001. Apart from the procedure for granting access to public information, the law regulates other important issues, such as e.g. the scope of public information, and identifies the parties responsible for granting access to public information as well as the limitations of the scope within which public information may be made available. From the citizen's point of view, it is significant which information can be obtained, especially when the law is based on unclear, vague definitions and open catalogues. Such a situation raises practical problems that are subsequently put before administrative courts that are the proper courts to deal with such matters. The courts must clarify the meaning of notions such as public information, processed information, or the obliged party, whether a given matter is within the scope of public interest or when/if the proceedings are too lengthy. All this means that administrative courts settle issues that are rather fundamental when it comes to the access to public information. In view of the above, the critical opinions of the Act seem to be justified. It is claimed that the Act contains rules of poor quality that deviate from accepted legislative standards in Poland, and that the Act itself tends to limit its own scope. Moreover, it is also claimed that under the Act confidentiality is still more important than access to information and the Act has not been well thought over and lacks clarity, is full of internal misunderstandings, unclear terminology, provides for very long procedures related to obtaining public information, contains ambiguous principles of charging for the access to information and poor provisions regarding the Public Information Bulletin. An analysis of the above complaints has shown that they are, at least partly, true.

Such a shape of one of the most important issues in the legal system, in which one need to support the Act with legislature to such extend, should be considered incorrect and changes need to be made in this area.

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