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## Europeanisation of Administrative Proceedings Law – Opportunities and Risks

**Abstract:** The article presents a number of opportunities and risks to the Europeanisation of administrative proceedings law. This process may in particular lead to: the development of a system of institutions of administrative proceedings law in European terms, the more effective implementation of substantive law rules determined by EU law, the improvement of complex proceedings based on the cooperation of national administration authorities and EU institutions, the modernisation of national institutions of administrative proceedings law under the influence of European models and the strengthening of the standards of the protection of individual rights in administrative proceedings. However, at the same time it is open to a number of challenges, which may be perceived as risks to Europeanisation. These include, *inter alia*, the atomisation and disintegration of administrative procedure from the perspective of national legal systems, adoption by the EU legislator of procedural solutions incompliant with national models of administrative procedure, difficulties with the appropriate implementation of EU acts determining procedural solutions into national law, the appropriate co-application of national and EU procedural rules by administration authorities, and the diversification of the standards of protection for individuals in various cases. Additionally, the measures used to partially eliminate the risks of Europeanisation in the area of administrative proceedings law and increase the chances offered by this process for the development of administrative law and improving the standards for the protection of individual rights have also been pointed out.

**Keywords:** Administrative Proceedings, Europeanisation of Administrative Proceedings Law, Integrated Administrative Proceedings

### 1. Introductory remarks

The article addresses the issue of Europeanisation of administrative proceedings law. This issue has been considered from the perspective of the opportunities and risks related to the establishment of formal rules by the EU legislator to determine the course of administrative proceedings. A systemic (legislative) perspective for the

Europeanisation of law was adopted, in contrast to the interpretative Europeanisation that occurs as a consequence of the harmonising influence of European court decisions on administrative practice. In terms of subjective scope this article addresses only the legislative influence of the European Union, whereas for objective scope it focusses mainly on the influence of EU legislation on national legal systems (*top-down* Europeanisation<sup>1</sup>). However, emphasis has been placed on the attempts to create a general model of administrative proceedings at the level of EU institutions, authorities, and organisational units.

The subject matter calls for the dynamic perception of Europeanisation as an ongoing process, rather than as a static phenomenon. Its dynamics in respect of administrative proceedings law is significant, resulting in the development of new procedural models and institutions under the influence of EU law. The larger number of legal acts (other than substantive rules) include the formal regulations that considerably limit the procedural autonomy of Member States in particular types of cases. This relates both to the integration model (related to adopting rules having a direct effect) included in regulations, and the harmonisation model (associated with the establishment of certain procedural solutions in directives that need to be transposed into national law).<sup>2</sup>

As a consequence, it is possible to distinguish a specific group of administrative proceedings determined by EU procedural law, referred to here as administrative proceedings integrated into EU law. In such proceedings, certain actions of the administration authorities are dictated either by European Union or national rules determined by EU law. Such proceedings include proceedings in which a case is decided by:

- a national authority without the cooperation of the authorities of other states or EU institutions (a simple decentralised model),
- a national authority with the cooperation of the authorities of other states or EU institutions (a complex decentralised model),
- an EU institution (authority, organisational unit) without the cooperation of national authorities (a simple centralised model), or
- an EU institution (authority, organisational unit) with the cooperation of national authorities (a complex centralised model).<sup>3</sup>

The diversity of administrative procedures developed as a result of the Europeanisation of administrative proceedings law reveals the complex nature of the

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1 A. Wróbel, D. Miąsik, Europeizacja prawa administracyjnego – pojęcie i konteksty, (in:) R. Hauser, Z. Niewiadomski, A. Wróbel (eds.), System Prawa Administracyjnego, vol. 3, Europeizacja prawa administracyjnego, Warszawa 2014, pp. 10-11.

2 K. Chorąży, W. Taras, A. Wróbel, Postępowanie administracyjne, egzekucyjne i sądownoadministracyjne, Warszawa 2009, p. 20.

3 M. Wilbrandt-Gotowicz, Zintegrowane z prawem Unii Europejskiej postępowania administracyjne, Warszawa 2017, p. 265.

influence of EU law, both internal (influence on national legal systems) and external (establishment of a European legal arena).

In terms of the internal aspect, it should be noted that national administration authorities, when issuing decisions in individual cases, are required to take into account not only national but also EU rules. In the application of law, they should take into consideration the general principles of EU law, which may lead to the non-application of a national provision that is contradictory to a rule provided by an EU regulation or the direct application (under certain conditions) of a provision of a directive that has either not been implemented or been wrongly implemented. The establishment of EU procedural rules is thus associated with both the limitation of the principle of the procedural autonomy of Member States and the requirement to take into account the general principles of EU law, including the principle of primacy and efficiency, as well as with the co-application of national and EU procedural rules. The complex procedural grounds for integrated proceedings means that they constitute a particular challenge for national authorities, including from the perspective of implementing the value of good administration.

With regard to the external aspect, EU legislative activities contribute to the standardisation of centralised proceedings, hence establishing foundations for the EU system of regulations of administrative proceedings. The solutions adopted are, as a matter of fact, fragmentary, as they are associated with the so-called sectoral method of the Europeanisation of law. However, there are works aimed at the development of model rules for EU administrative procedures, which would constitute a comprehensive codification of administrative proceedings.<sup>4</sup>

This article characterises selected opportunities and risks related, in the author's opinion, with the Europeanisation of administrative proceedings law.

## **2. Opportunities for Europeanisation of administrative proceedings law**

### **2.1. Development of the system for institutions of administrative proceedings law from a European perspective**

*De lege lata* lacks any provision for a coherent system of the institutions of administrative proceedings law in European terms. This is understandable, considering the different legal traditions of the Member States. One should not expect that Europeanisation will at any point spread to enable the replacement of national code regulations with European rules. However, it is possible to develop, as part of sectoral regulations (or alternatively complex codification), a certain system

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4 Compare ReNEUAL Model Rules on EU Administrative Procedure, <http://renewal.eu> (access 1.09.2017). See also European Parliament resolution of 9 June 2016 for an open, efficient and independent European Union administration (2016/2610(RSP)).

for institutions of the administrative proceedings, which would be characterised by fairly uniform elements and coherent application in centralised procedures, and within a certain scope also in decentralised procedures (by national authorities in those cases falling within the scope of EU law).

So far there is a significant lack of coherence between the regulations of analogous institutions in different sectoral acts. Such differences do not usually ensue from the specific nature of the regulated subject, rather they are related, for example, to actions taken at the preliminary stage of proceedings instituted upon a motion (related to accepting a motion for examination, its approval, lack of confirmation of the acceptance or rejection) or prerequisites of the application of extraordinary modes and their consequences.<sup>5</sup>

One of the opportunities of Europeanisation may be thus seen in the development of a uniform group of institutions of administrative proceedings law in EU law. An introduction to this could be the model rules on EU administrative procedures developed by ReNEUAL.

## **2.2. More effective implementation of substantive law rules determined by EU law**

The implementation of legal order, as expressed in the regulations of substantive law, is one of the fundamental tasks of administrative proceedings<sup>6</sup>; hence the “service” or “ancillary” function of formal rules vis-à-vis the regulations of substantive law is emphasised.<sup>7</sup> Despite the fact that at present the functions of procedural rules go beyond the ancillary role of vis-à-vis substantive law,<sup>8</sup> their functional relationship should be underlined.

Therefore, as part of the sectoral method of the Europeanisation of law, sets of procedural rules are included in acts regulating collectively a certain area of administrative law, inter alia, concerning the marketing of a given category of products (e.g. plant protection products,<sup>9</sup> or medicinal products<sup>10</sup>), provision of

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5 M. Wilbrandt-Gotowicz, *Zintegrowane...*, *op. cit.*, 563.

6 K. Jandy-Jendrośka, J. Jendrośka, *System jurysdykcyjnego postępowania administracyjnego*, (in:) T. Rabska, J. Łętowski (eds.), *System Prawa Administracyjnego*, vol. 3, Wrocław 1978, pp. 139-140.

7 S. Jędrzejewski, *Ochrona uprawnień obywatela w polskim systemie kontroli administracji państwowej*, Toruń 1973, p. 42; J. Filipek, *Założenia strukturalne procesu administracyjnego*, (in:) L. Bar (ed.), *Studia z dziedziny prawa administracyjnego*, Ossolineum 1971, p. 206.

8 B. Adamiak, J. Borkowski, *Postępowanie administracyjne i sądownoadministracyjne*, Warszawa 2016, p. 25.

9 Regulation (EC) No. 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).

10 Regulation (EC) No. 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal

services subject to control (e.g. authorisations to engage in the occupation of road transport operator,<sup>11</sup> or telecommunications activity<sup>12</sup>) or competition law.<sup>13</sup> Thus the unification of administrative proceedings is related mainly to the integration in particular areas of the common market. Formal sectoral solutions are strictly subordinated to the goals and methods of the substantive law regulations, irrespective of the delegating of power to issue decisions in individual cases to EU or Member State authorities.<sup>14</sup>

Hence the progress of Europeanisation in the scope of administrative procedural rules may contribute also to the more efficient application of substantive law regulations in those cases falling within the scope of EU law.

### **2.3. Improvement in complex proceedings based on cooperation between national administration authorities and EU institutions**

A characteristic feature of integrated proceedings is that some are not based on the simple linear arrangement of a procedural relationship (an authority deciding on a case – a party[s] to the proceedings), but takes the form of complex models (centralised, decentralised), and even certain mixed procedural sets. This ensues from the possibility of participating in the issuance of decisions by entities from more than one state or institution, EU authorities and organisational units, which corresponds to the contemporary pluralistic model of administration organisation.<sup>15</sup> Apart from the classic jurisdictional proceedings of national authorities and proceedings of EU authorities, there are also procedures that involve the “mixed” decision-making powers of EU and Member State authorities. The latter are known as multistage proceedings (German *mehrstufiger*) or transnational,<sup>16</sup> composite procedures<sup>17</sup> or

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products for human and veterinary use and establishing a European Medicines Agency (OJ L 136, 30.4.2004, p. 1).

11 Regulation (EC) No. 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ L 300, 14.11.2009, p. 51).

12 Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33).

13 Council Regulation (EC) No. 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (JO L 1, 4.1.2003, p. 1).

14 M. Wilbrandt-Gotowicz, Zintegrowane..., *op. cit.*, 173.

15 C. Franchini, European principles governing national administrative proceedings, “Law and Contemporary Problems” 2004, no. 1, p. 183.

16 H.P. Nehl, Europäisches Verwaltungsverfahren und Gemeinschaftsverfassung. Eine Studie gemeinschaftsrechtlicher Verfahrensgrundsätze unter besonderer Berücksichtigung „mehrstufiger“ Verwaltungsverfahren, Berlin 2002, pp. 29–30.

17 H.C.H. Hofmann, G.C. Rowe, A.H. Türk, Administrative law and policy of the European Union, New York 2011, pp. 361–362; C. Franchini, European..., *op. cit.*, 184.

mixed administrative proceedings,<sup>18</sup> as well as multijurisdictional procedures or multi-level procedures.<sup>19</sup> A special group of such procedures comprises transnational proceedings, recognised by the author as part of the complex decentralised model, involving horizontal proceedings in which decisions are made by cooperating national authorities of different Member States (e.g. as regards procedures for the mutual recognition of authorisations).

Thus, complex procedures are not uniform. The level of their complexity, the group of entities participating in the handling of the case, the manner of (decision-making and executive) power division between national and EU administration authorities or the legal position of the remaining entities to the proceedings are different.<sup>20</sup> This triggers particular difficulties with regard to the application of administrative procedural rules. Therefore, Europeanisation of this area is important for the development of legal mechanisms facilitating the efficient and effective conduct of complex proceedings. Therefore, they constitute an opportunity for their optimisation.

#### **2.4. Modernisation of administrative proceedings law of the Member States**

When analysing the opportunities for the Europeanisation of administrative proceedings law, one cannot disregard the potentially modernising influence of EU procedural rules on national legislation. Certain tendencies or specific legal regulations may constitute a model for reflection on the changes required for a national legal system, enabling its adaptation to current needs. In the discussion on the shape of administrative procedures, the requirement to seek suitable mechanisms makes it possible to weigh (in the course of administrative proceedings executing various model assumptions) all kinds of interests and arguments as well as the methods of their protection, while the need to combine the principles of the rule of law and the demand for innovativeness in public administration and the requirements of pragmatism and efficiency of its actions is particularly emphasised.<sup>21</sup>

In the applicable regulations and directives, a number of innovative solutions may be identified. Some of them may be introduced into the Polish system of administrative procedure (e.g. general decisions), or they partly overlap with the changes adopted in the amendment to the Code of Administrative Procedure<sup>22</sup> of 7

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18 G. della Cananea, *The European Union's mixed administrative proceedings*, "Law and Contemporary Problems" 2004, no. 1, pp. 197-199.

19 J. Supernat, *Administracja Unii Europejskiej. Zagadnienia wybrane*, Wrocław 2013, p. 26.

20 M. Wilbrandt-Gotowicz, *Zintegrowane...*, *op. cit.*, 255.

21 Z. Kmiecik, *Współczesna formuła ochrony interesów w prawie administracyjnym (aspekt procesowy)*, ZNSA 2015, no. 2, p. 20.

22 The Act dated 14 June 1960 – Code of Administrative Procedure (Journal of Laws of 2017, item 1257).

April 2017<sup>23</sup> (e.g. with regard to simple proceedings or the tacit examination of the case). The interesting structures found in EU law include, *inter alia*, the concept of an interested entity and secondary parties, a ruling in the form of a general decision, separation of the initial stage of the proceedings instituted upon a motion, simplified modes of amending an authorisation decision, lower formal requirements for decisions issued in proceedings with the participation of multiple parties, simplified proceedings in similar cases, renouncing the right to a hearing when a positive decision is issued, elaborate forms of a decision with consensual elements, the form of a document (report) summing up explanatory proceedings, publicly available registers or, characteristic for complex procedures, mechanisms for the preventive review of drafted administrative acts based on consultations.<sup>24</sup>

### **2.5. Strengthening of the standards for the protection of individual rights in administrative proceedings**

The Europeanisation of administrative proceedings law may also contribute, in European terms, to the strengthening of the standards of protection of individual rights in contacts with national and EU administration authorities, as well as to the implementation of the right to good administration, which was established in the CJEU decisions as one of the principles of law, defined in Article 41 of the EU Charter of Fundamental Rights.<sup>25</sup> It is perceived as the right expressed in procedural guarantees provided for individuals and as a standard in the form of procedural rules, which limit the discretion of authorities.<sup>26</sup> Article 41 of the EU Charter of Fundamental Rights provides for a number of special rights, with which the corresponding obligations of authorities are correlated – not only the right to reliable and impartial proceedings completing within a reasonable time, but also the right to defence, to present one's case (right to a hearing), access to case files, right to receive grounds for the ruling or to have damage caused by administration authorities and their officers redressed. This is an open catalogue, as it does not cover the whole content of the right to good administration.<sup>27</sup> Procedural guarantees of individuals related to this right are characterised by extensive “content capacity”.

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23 Journal of Laws of 2017, item 935.

24 M. Wilbrandt-Gotowicz, *Zintegrowane...*, *op. cit.*, 565.

25 A. Dauter-Kozłowska, *Prawo do dobrej administracji w Karcie Praw Podstawowych Unii Europejskiej i w świetle Europejskiego Kodeksu Dobrej Administracji*, (in:) C. Mik, K. Gałka (eds.), *Prawa podstawowe w prawie i praktyce Unii Europejskiej*, Toruń 2009, pp. 338-339. See also Judgment of the Court of First Instance of 27 September 2002, T-211/02, *Tideland Signal Ltd.*, EU:T:2002:232.

26 E. Bălan, D. Troanță, *Considerations on the principles and evolutions of E.U. administrative procedure*, “*Curentul Juridic*” 2013, no. 4, p. 16.

27 Z. Kmieciak, *Postępowanie administracyjne i sądownoadministracyjne a prawo europejskie*, Warszawa 2009, p. 59.

Given the manner of the regulation of procedural rules, it should be noted that sectoral acts include only general *de minimis* standards. National laws, including the Polish Code of Administrative Procedure, generally establish more detailed protective rules. An adequate level of protection of individual rights in integrated proceedings, with the participation of national authorities, is ensured in connection with this, provided the EU and national procedural rules are co-applied. It may take a simple (direct application of national rules in the scope not regulated in national law) or complex (reconstruction of multicentric rules of EU and national law) form.<sup>28</sup>

With regard to the proceedings, in which decisions are issued by EU administration authorities (centralised proceedings), strengthening of the standards of protection of individual rights may be a consequence of adopting appropriate regulations in sectoral acts (alternatively *de lege ferenda* for the establishment of model rules on EU administrative procedure).

### **3. Risks of Europeanisation of administrative proceedings law**

#### **3.1. Atomisation and disintegration of the administrative procedure from the perspective of national legal systems**

Apart from the opportunities perceived in the further development of administrative procedural rules determined by EU law, the associated risks should be emphasised as well. The Europeanization of national law on administrative proceedings may, from such a perspective, be perceived as an atomisation factor of administrative procedure, and even disintegration of the subject matter of the code or general decodification of administrative proceedings. This leads to the development of an *ad casum* of complex procedural grounds for the actions of an authority, which comprise not only national rules not determined by EU law, but also rules implementing the directives or rules of EU regulations having a direct effect. Consequently, although the provisions of the Code of Administrative Procedure will remain the core and resource of model regulations for general proceedings, their application in particular cases will (due to the diversification of the solutions adopted in particular sectoral acts) be subordinated to even wider amendments and exclusions ensuing from special provisions conditioned by EU law (provisions of EU regulations or acts implementing directives).

From the internal perspective, Europeanisation is thus related to the disintegration of systematic, uniform sets of law provisions included in the Code's regular framework.<sup>29</sup> In the event of the establishment of special rules by a legislator other than a national legislator, which are aimed at harmonisation within all EU

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28 M. Wilbrandt-Gotowicz, *Zintegrowane...*, *op. cit.*, 247.

29 M. Gajda-Durlik, *Problematyka dekodyfikacji a proces rozwoju polskiego prawa o postępowaniu administracyjnym*, "Administracja" 2007, no. 2, p. 50.



Member States, it should be expected that the procedural rules will become more diversified vis-à-vis national law than in the event where the legislation of a given state is taken into account.<sup>30</sup>

### **3.2. Adoption by the EU legislator of procedural solutions incompliant with national models of administrative procedure**

The establishment of procedural rules to be applied not only at the EU level but also by the authorities of Member States of different legal traditions, poses a risk of incompliance of the regulations determined by EU law with the national models of administrative procedure. Such rules may, in fact, repeat the solutions adopted in a given national code or special provisions, as well as refer to procedural solutions at variance with those present in national law, and even the institutions provided for therein. It should be noted that there are quite significant terminological inconsistencies as regards the institutions determined in the EU regulations and Polish regulations within the scope of administrative procedure, with a similar or even identical legal character (e.g. rejection of a motion and the decision on the refusal to institute proceedings). Adopting EU procedural rules with the right of priority, which are not set in the legal tradition of the national administrative procedure (e.g. “withdrawal” of a decision with an *ex nunc* rather than an *ex tunc* effect) may cause problems both in respect of the appropriate implementation of EU acts (in accordance with the efficiency requirement), and their application by national administration authorities.

### **3.3. Difficulties with the appropriate implementation of EU acts determining procedural solutions into national law**

A lack of coherence between the acts (and in particular between EU regulations and the legal solutions functioning in law of a given state) causes certain problems related to the appropriate implementation of EU acts. A national legislator is required not only to take into account the principle of the primacy of EU law, but also to ensure its efficiency in national legal order. Thus, the need for the implementation includes not only the transposition of procedural solutions determined by directives into domestic law, but also the appropriate implementation of those EU regulations having a direct effect into such law. It should be borne in mind that it is easier generally to ensure the efficiency of EU law when, in the course of its broadly understood implementation, the maximum convergence of the regulations, irrespective of their origin, is ensured.

With regard to procedural rules, special provisions implementing EU acts should guarantee that their application, which will not only be compliant with them as regards the procedural regulations provided, will as closely as possible correspond

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30 M. Wilbrandt-Gotowicz, *Zintegrowane...*, *op. cit.*, p. 109.

to the model solutions of the national administrative procedure (e.g. by establishing an appropriate legal form for the actions of an authority and the possibility of challenging it, for which EU law provides only for a consequence, such as a refusal of a motion as a method of closing proceedings). With regard to directives, it should be remembered that there is a certain framework for their solutions. Repeating the terminology of directives in implementing acts, in respect of procedural solutions, should be reflected on taking into account the national system of administrative procedure. It cannot be automatic. The appropriate implementation may often be effected as a result of using procedural institutions set in national law.

#### **3.4. Difficulties with the appropriate co-application of national and EU procedural rules by Member State authorities**

The fragmentary nature, the lack of completeness of EU procedural rules and their divergence, combined with structural attributes – the multilingualism of EU law and its application in states with different regulation models, are (due to the efficiency principle) related to the requirement for the co-application of procedural rules of different origins in the course of the administrative proceedings conducted by national authorities. It may constitute a certain challenge for such entities. The models for the co-application of EU and national procedural rules are not uniform. They may take simple (direct application) or complex (reconstruction of multicentric rules) forms. In the former case, a national authority complementarily applies national procedural rules (rules not determined by EU directives) in the scope not regulated in EU law (and national acts implementing them). This is related to procedural institutions not regulated (in a manner which makes them directly effective or requires their transposition) in a given sectoral act, e.g. the suspension of proceedings or exclusion of a functionary of an authority from dealing with the case. Whereas in the complex model, the effective application of a given institution, indicated in an EU regulation, requires the reconstruction of a comprehensive rule taking into account not only the EU regulation, but alternatively also a national regulation (that is a multicentric rule). This is justified in situations where EU legal and procedural regulations determine the elements of a given rule in an incomplete or ambiguous manner (e.g. pointing to the procedural effect, but not determining the form of actions for an authority).<sup>31</sup>

Thus, the application of national law in integrated proceedings sometimes requires complex assessments in respect of the choice of procedural grounds for the action of an authority or its reconstruction from EU and national provisions, when taking into account not only the concept of the procedural autonomy of Member States, but also the principles of primacy and effectiveness (including the criteria of efficiency and equivalence).

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31 M. Wilbrandt-Gotowicz, *Zintegrowane...*, *op. cit.*, p. 560.

### **3.5. Diversity of the standards for the protection of individuals in various cases**

The last of the risks referred to is related to the popularisation of legal and procedural regulation in sectoral acts, without the development of a uniform apparatus for formal institutions in a general act at the European Union level. Associating procedural regulations with substantive regulations may lead to excessive diversification of the standards for the protection of procedural rights, e.g. in the scope of the right to defence, depending on the type of case examined, enhancing the instrumental dimension of procedural rules.

A remedy for such a risk is related to the above-mentioned challenges for national authorities. An optimum standard for the protection of individual rights in proceedings with the participation of Member State authorities may be ensured by the appropriate implementation of EU regulations into national law and the appropriate co-application of national and EU procedural rules in integrated proceedings (including assessment of such co-application by administrative courts). Such actions should take into account the right to good administration as a fundamental value. With regard to the procedures, in which decisions are issued by EU administrative authorities, this is guaranteed by the decisions of the Court of Justice of the European Union, based, *inter alia*, on the interpretation of Article 41 of the EU Charter of Fundamental Rights.

## **4. Summary**

This article presents selected opportunities and risks related to the Europeanisation of administrative proceedings law. The former are related to the development of a system for the institutions of administrative proceedings law in European terms, the more effective implementation of substantive law rules determined by EU law, the improvement of complex proceedings based on the cooperation of national administration authorities and EU institutions, the modernisation of national administrative proceedings law and the strengthening of the standards for the protection of individual rights in administrative proceedings. It may be argued that they are related to conducting efficient and, at the same time, procedural justice-based activities of the administration authorities of EU Member States and EU administration.

In order to meet this objective, it is necessary to face a number of challenges, which may be perceived as risks to Europeanisation. These include: atomisation and disintegration of the administrative procedure from the perspective of national legal systems, adoption by the EU legislator of procedural solutions incompliant with national models of administrative procedure, difficulties with the appropriate implementation of EU acts that determine procedural solutions into national law,

difficulties with the appropriate co-application of national and EU procedural rules by Member State authorities and the diversification of the standards of protection for individuals in various cases.

However, it seems that they may be largely eliminated by suitable practices by national and EU legislators, administration authorities applying procedural rules provided for in EU law or determined by this law, as well as the courts controlling their actions. This calls for increasing legislators' awareness as to a wider scope of integrated proceedings as well as for establishing, not only in the EU case law, but also national law, a practice which would take into account the specific nature of such proceedings and the requirement to co-apply national and EU procedural rules. Additionally, it is worth taking into consideration not only the interpretation of national law, which is compatible with EU law, but also (within the scope allowed by EU law, e.g. the principle of efficiency) the interpretation of EU procedural rules, which is compatible with national systems of administrative procedure.

Greater cohesion between sectoral acts as well as between EU acts and national systems of administrative procedure can be achieved by developing comparative studies. Whereas, the fragmentation of sectoral regulations could be certainly prevented by adopting the codification of administrative proceedings at the EU level; nevertheless, it seems barely possible for such codification to cover decentralised procedures. What should be noted though is that EU law has an essential modernisation potential in respect of national procedural rules, e.g. as regards demands to introduce the institution of a general decision or interested entity and secondary parties into the Polish Code of Administrative Procedure.

Thus, it should be deemed possible that the risks of Europeanisation in the area of administrative proceedings law would be partially eliminated, and the chances, offered by this process, for the development of administrative law and improving the standards for the protection of individual rights would be increased.

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