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## The right to social control administration as an inalienable human right

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## The importance of human rights

Human rights are a set of rights and freedoms enjoyed by everyone regardless of race, sex, language, religion, political, national or social origin, property, etc. Human rights are rights to moral character, a set of demands calling for respect for the values most precious to man, such as life, dignity, freedom, freedom of development.

Creating an international system of protection of human rights began after World War II, the United Nations. The first international treaty that guarantees human rights was the United Nations Charter of 1945, it was formulated in one of the main objectives of the United Nations – to promote and encourage respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion (Article 1 § 3 )[1].

Polish contribution to the field of human rights is very large. Poland has ratified all the conventions on human rights (also acceded to the European Convention on Human Rights and the European Social Charter) and participated in their development. Since the beginning of participating in the work of the Commission on Human Rights and Women's Rights Committee. It also works creatively in various international organizations (UNESCO, etc.). Everyone should understand that the fact of compliance or non-compliance of human rights is not just solely an internal problem of a separate state but the problem of the whole world community to which the Member belongs.

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[1] The United Nations Charter was signed in San Francisco June 26, 1945, at the end of the United Nations Conference on International Organization and came into force on 24 October 1945. Statute of the International Court of Justice is an integral part of the Charter.

### Social control

As for the right to social control, it is also very important that everyone enjoyed the right to assess and analyze the situation, both factual and legal situation. Regarding the legal environment, you will see a special link between the human right and human right to social control. Social control is the cornerstone of the development of any democratic state of law. Poland has over 20 years is treated as a young, democratic state, which in its legislation, has given the possibility of direct and indirect influence on the manner of governance in all levels of management of public administration.

The term "social control" has been formulated by the American sociologist Edward Ross Alswortha in 1890, but only in 1901, he published his most famous work, entitled Social Control. Edward Alsworth Ross separated from the social control of social influence, a criterion for accepting the intended impact, which doszukiwał in social control, and which lack the social impact. Control functions at various levels of society and includes all of us. Social control is the emphasis we have on individual communities, so these are preserved in accordance with the prohibition or injunction. It is a complex system of psychosocial (self-control – we have learned to abide by the norms and values) and material-social (external coercion)[2].

It is worth noting that social control is a system of orders, prohibitions and sanctions that serve a group or community to maintain conformity to the values of their members. In theory, social groups, social control is considered a general equipment and resources for collective action to ensure its integration and subordination of members of the group norms. Social control operates various types of negative (punishment) and positive (rewards), types of sanctions: legal, economic, ethical, which depend on the type of population, the so-called. contemporary societies, social control prevails based on the legal system and justice (formal sanctions), while in primitive societies have played a major role moral sanctions (informal).

Stronger standards and are governed patterns of behavior (as a result of socialization, and education), the less the need to use sanctions social control. The function of social control is a set of devices and measures, aimed at ensuring the consistency of a social group and the subordination of its members, the standards group.

In the Polish legal system has the following types of social control:
• formal – which is written in the rules of various organizations, associations, state legal codes. Formal control is always measured;

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[2] See M. Wierzbowski, *Administrative Law*, LexisNexis, fourth edition, Warsaw 2001, p. 23–42.

- informal – includes all the patterns provided in personal relations, and all the reactions and sanctions spontaneously and on the basis of custom. Informal control can be both intentional and unintentional;
- external – that all punishments and rewards;
- affairs – is a lock with the outside world and the manipulation of information.

## Types of social control

In modern legal reality that not every organization must be a watchdog organization. Moreover, those who play such a role might it play in very different ways. Starting from the preliminary inspection, in which the concerned citizen saw the activity illegal or contrary to public interest simply intervenes. So often these are actions not fully justified (without legal basis), sometimes simply due to lack of knowledge. This does not mean, however, that this type of control is less important. Often, because such actions signal a problem that has hitherto been unnoticed or treated as granted[3].

Another type is the control of inquiry. It is especially characteristic of different types of media such as newspapers, radio or television, whose aim is to prove violations of the law. Here are the suspect intentionally breaking the law concerned citizens (investigative journalists) going so over time, not only for surveillance, but even provocation collect various types of material which is unambiguously proven violation of law (actions inconsistent with public interest. However, events in the country show that the committees of inquiry really play its role, which under the Constitution have been set up[4].

Another form is the monitoring, which involves the systematic study of some areas of government activities in order to objectively determine whether and to what extent the law is violated. For a specific type of social control may be considered a predicative some action (which often refer to as a tool of social control). Jurisprudence, or activities on behalf of the amendment is already legal provisions or the manner of their enforcement, in some cases can be treated as an attempt to prevent violations and circumvention of the law.

Social control can also be mounted in different ways by bodies controlled. Increasingly, we are dealing with informal control, in which the opera-

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[3] See J. Jagielski, *Control in public administration*, Warsaw 2004, p. 56–88.

[4] It seems indisputable that the meaning of the media ate up investigative commissions. Everything happens on the show, are more field manipulation of public opinion, than to serve their original mission for which they were created. It is worth recalling what each commission of inquiry. Commissions of inquiry are to assist the instruments of state control over its pathologies. Promote the right of where it is not sufficiently effective. And the effect of these activities varies.

tion of the organization encounters reluctance controlled. Control in this case is not so much a treat as a way to resolve the issue as a trial of strength. Increasingly, however, we are dealing with acceptable control, where representatives of the institutions accept the right to control the social factors. Although treat it as a necessary evil, it is for your own peace cooperate with the inspection. There are also cases where social control is part of a system of institutions. In this case we are dealing with institutionalized control. It depends mostly on the appointment of various advisory bodies, control, monitoring and inviting to them, representatives of the social side. And even though this form of control is often an effective form, where representatives of the public are gaining a real impact on the functioning of institutions, while the institution is able to conduct constructive dialogue with the inspection – it can not replace the whole of social control, whose role in the discovery of new problem areas are the most important[5].

In a pluralistic society, in the face of competing models of behavior, diminishes the force of custom, religion, and the growing importance of the right. Today, in democratic western civilizations, social control is evolving towards a fully conscious process in which they directly participate all the citizens, as social control takes the form of written law which is enacted by a democratically elected parliament. This is a new phenomenon, since as is well known in earlier times, was dominated by religion, tradition and customs that are less conscious form of social control, because in them more difficult to prove intentional human action. Of course, there are many cases created a new custom, tradition or religion, even by artificial means, mostly inspired by ideology (may processions organized by the Labor Day during the period before 1989). It is worth noting that the law is invoked in order to maintain social order, and other forms of social control are entering its reach in other areas of human activity. The positive forms of regulation, which include custom orders. In Poland, requires a good habit of giving way to young people in public transport, the elderly or pregnant women, etc.

Social control is the inherent feature of societies, despite the momentary impression of decay, does not disappear completely only undergoing a metamorphosis into another form. The old forms of control cease to exist, while creating new based on law and technology. The issue made more than a hundred years ago by Edward Ross Alswortha released in numerous detailed studies and publications, so that we can more fully understand the mechanisms of social control.

Every social control is quite clear from the administration as enshrined in the Constitution the right of citizens to obtain information about the activities of public authorities and public office. This law also applies to

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[5] Compare J. Hausner (ed.), *Public administration*, Warsaw 2005, p. 96–114.

information about the activities of self and work, and other persons or entities, in which they perform the tasks of public authorities and manage communal assets or property of the State (Article 61). These records clarifies the law on Access to public information of 6 September 2001. In addition, the Constitution in Article 63 specifies the right of a citizen to submit petitions, proposals and complaints in the public interest, their own or another person with the consent of the public authorities and social institutions and organizations in connection with the performance of prescribed duties in the field of public administration.

In the area of environmental law is reinforced by the provisions of the Aarhus Convention called by the Convention on access to information, public participation in decision-making and access to justice in environmental matters, which the Law of 21 June 2001 and ratified by Poland, which means that in accordance with Article 91 of the Constitution – it is part of domestic law and is applied directly[6].

Right, and even the obligation to participate to the informal social control, so have the people, but also the organizations cited by the citizens or non-governmental organizations, known as social organizations, whether public benefit. Even just through access to public information, as well as through participation in civil dialogue with all public bodies, or the opportunity to participate in administrative proceedings (as a party). The concept of NGO is very broad. The concept of non-governmental organizations is defined in the Act on public benefit activity and volunteerism. This concept is not always accurate. Just look at the Code of Administrative Procedure[7], which speaks of social organizations, which until recently not considered foundations. Most, however, for the non-governmental organizations are simply institutions with the legal form of associations or foundations. NGO's are non-entities public sector entities, not-for-profit operating under the Law on public finance[8].


## Non-governmental organizations and social control

NGO's are an important element of a democratic state. Non-governmental organizations willingly, often and boldly articulate and represent the interests of the group. They are so determined, in activities that indicate any

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[6] Ratified international agreements, laws are in force internally, which are built into the system of sources of law of general application.

[7] See Act of 14 June 1960 Code of Administrative Procedure – Acts (Journal of Laws of 2000 no. 98, item 1071 with subsequent amendments).

[8] Act of 27 August 2009 on public finances (Journal of Laws no. 157, item 1240 with subsequent amendments).

problems that arise during their missions and seek to develop standards, giving the possibility of articulating his case loud and aspirations.

Most of the NGO's act as a buffer change. With a large capacity to adapt to new, rapidly changing, market environment and law (the possibility of unconventional, relatively low institutionalization), and thanks to his serious approach to social problems, first identify the new social problems and initiate, or even force changes in society. This is possible thanks to the elaboration of a micro scale new ways to solve these problems, and through the whole range of efforts to mold public opinion, political education and socialization of citizens[9].

## Partnership

Non-governmental organizations because of its broad activity may not only control both power and business, but also assume the tasks of administration. It is possible based on the acquisition of the social organizations to carry out the tasks of public administration under the Act of 19 December 2008 on public-private partnership[10]. Partnerships affect the current management. Non-governmental organizations, engaging in building civil society in countries undergoing transition to democracy, to effectively support the activities of state[11]. With close cooperation between NGO's and local governments, it is important to preserve the autonomy of partners. Where there is consensus on the essential purposes, you can find fields of activities, where the public agent need not demonstrate the activity, but which can – and indeed should – give people, especially those organized in the framework of foundations and associations[12]. Increasingly, too, are released for decision-making procedures in the form of consultation or through direct democracy. Participation in NGO's can also be a specific path of social advancement and economic development.

The interactions consist mainly of two or more partners, are held according to patterns of known and understood in our culture. In this case it is

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[9] See M. Chmaj (ed.), *Administrative law. General part*, Warsaw 2003, p. 45–59.

[10] Act of 19 December 2008 a public-private partnership (Journal of Laws of 2009 no. 19, item 100 with subsequent amendments).

[11] G. Czubek (ed.), *Partnership for foreign policy*, Stefan Batory Foundation, Warsaw 2002, p. 6.

[12] Especially today, an important area for partnership between public institutions and non-governmental sector was the European integration. Undoubtedly, a lot must change in order to fully utilize the existing potential. This issue is an important subject of discussion. Some of the instruments of cooperation of public institutions with non-governmental sector are universal. They can be used for partnership activities of NGO's and local governments, where the latter uses more courageously experience and commitment in the implementation of activities carried out by NGO's.

the one hand, a citizen or organization, while the other municipalities. One can distinguish patterns of mutual and positive inducements and impact:

1) authorization for cooperation between these various entities;

2) invitation or incentive to do any act;

3) participating subordination – for example, the NGO received funds committed and sometimes subordinate to the preservation of a donor (local government);

4) inappropriate to make a single entity over the other, one is bound to another entity on a voluntary basis to achieve some goal, but not as a partner, but as a performer;

5) imitation and emulation as a good model of activities to achieve objectives.

In addition, the tools of public-public partnership, which is a binder of local governments with citizens may be: discussion of current and relevant to residents and non-governmental organizations topics, information contained in the local press, regular, joint press conferences, joint publications and a list of programs and services by providing given municipality.

Consultation, often taking the form of temporary organizational structures, mostly as a platform for citizens to influence the administration.

Exchanged at the same time:

1) consultation sessions, linked to economic development and spatial resolution – the strategic sessions, presentations in various for a of planning documents (programs, studies and development plans), in sessions such by society includes people with high social prestige in the community, professionals, experts, so called the local authorities, usually typed by the scientific community, or just non-governmental organizations;

2) working group invoked to solve specific, complex issues associated with the current functioning of the territorial organization, most often in situations of conflict or crisis, from the public participation in such structures will be invited specialists and professionals, as well as representatives of groups directly affected residents - including – representatives of stakeholders;

3) open discussion panels, through which the authority carries out a process of social dialogue in all matters of community: the future, ongoing, strategic, short-term, investment etc.; to participate in such meetings with government officials should be invited to any interested members of the community, in practice, and this usually the case – that people with non-governmental organizations play a dominant role[13].

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[13] A. Noworol, *Fundamentals of management in public administration*, University of Szczecin, Szczecin 2003, p. 41.

## Social participation

NGO's in cooperation with public authorities should take the issue of participation. The concept of social participation means participation of citizens in managing the affairs of the community in which they are members. In the broad sense of social participation is the foundation of civil society, whose members take part in public activities. This participation can take different forms, depending on the legal conditions (corresponding to a particular affairs) and culture (regional and local bodies of public authority).

With the inclusion of social participation and residents in various decision-making processes, governments can achieve success thanks to the fact that the threshold increase its credibility – build trust to the people in power. This streamlines the communication process between representatives of government and administration, and community self-government. Government decisions are becoming clear, and residents have a sense of influencing the development and functioning of the units. It is worth noting that the scope and role of the participants socialized decision-making process is clearly defined. This is primarily for a clear separation of the phase of preparing the plans and decisions related to the act of making a decision. Participants must know how they will build on the results of their work and under what conditions they can count on the acceptance of their share of developed plans. In addition, it is observed that the public participation process is conducted under the general concept of the participation of citizens in decision-making by the authorities, and not as a single share.

Participation is often a charity and is a deep need for residents to participate in community life. The occurrence of active partnership and participation for the development of local communities must meet the essential conditions, which may include:
• signs and reciprocal treatment of partners,
• activity, creativity and innovation partners,
• sharing a common vision on the future direction of local communities to achieve the objectives set by them.

It should be stressed that social participation – is a conscious and active participation of citizens involved in the activities of NGO's, in resolving their problems in all important matters of the municipality and residents. Through social participation, local governments are learning more and more non-governmental organizations, resulting in mutual, more correct relations and trade.

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In the process of governance, there is always a need to communicate with the public authorities and NGO's. This also applies to those situations when you need to go beyond the framework of contacts with political parties to establish a direct dialogue with members of the community. Processes of communication, consultation and active participation of social play, in this case an important role. Communication is the ability to receive information coming from the caller and transfer the content they want to pass, while maintaining the understanding of both sides. Communication is a process to communicate certain meanings from the recipient to the sender[14]. Both sender and recipient, in this case, are the units of local government and NGO's, which are increasingly communicating on important matters related to the development of the region. Consultation and non-governmental organizations should provide opportunity to actively engage in the development of common positions on matters of policy relating to local government. In carrying out public tasks of local governments are actively involved non-governmental organizations, which improve the regulatory capacity of public administration and to help spread the cooperation in the reconciliation policy between public administration and social partners[15].

The modern democratic state of law must be based not only on well-designed legal system, but also on compliance procedures, which is right down. Violation or circumvent the law is not always the result of bad intentions, and often is simply because of the multiplicity and diversity of rules, unconscious action. Paying attention to whether the law is applicable is the primary task of the institution of control.

However, modern democracy, particularly in the context of the pace of change taking place in contemporary societies are characterized by a kind of ambivalence in the approach to the law, which is treated as an equivalent value of respect for the rights and activities for its correction. For this reason, part of inspection activities (guard) is aimed not so much on the law, what the social interest, which may be jeopardized by the application of the law, and not adapted to new conditions.

## Weight social control

Social control is important for three reasons. First is the realization of the fundamental values of democratic society. Underestimating the importance of values and possibilities of their realization in social life is undoubte-

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[14] Information from the community to prepare for action LEADER – Training of local partners animators, Brwinów 22–24.06.2005.

[15] J. Kurczewski (ed.), *Local community, civil society*, ISNS University of Warsaw, Warsaw 2003, p. 92–103.

dly one of the causes of corruption in public life. Theories of social capital shows how profitable (expensive) are the social activities in which the trust ceases to function[16].

Second, social control is an important element of innovative management methods. Experience with the introduction of changes in the local community, where the important role of diverse stakeholders has shown that even formally the most rational solution can not be effectively implemented in spite of, even without the consent of those concerned. Sense of influence in the process of change, and in this sense the possibility of its control, affect the acceptance of any changes.

Thirdly, in turn, social control can be regarded as a cheap (free) method of internal control. The idea of controlling as a means of preventing the negative phenomena in the functioning of the state is already widely recognized. Social involvement of citizens – properly used – can be part of controlling the institution.

It seems that social control may be regarded as something that impedes the work of the institution only in three cases:
- when private interests,
- a routine victory over the innovative ideas,
- if the decision is left to the last minute. Search for consensus, work on solutions that can satisfy the various stakeholders to hear their sentences takes time. When decisions are taken under time pressure all the consultations not only lose their meaning, but also bring confusion.


## Completion

Without well-functioning communication – from citizens to government – or the system changes, or systemic reforms are not possible. Problems faced by individuals for the ruling elites and distant plan of cognition. Power is typically increase their privileges and reduces your own risk. Effective antidote to this state of affairs is public scrutiny and pressure caused the civil actions that need well-functioning communication channels and vertical using modern communication techniques.

Without direct human intervention in the system and method of governance at all levels of functioning of the state, can not talk about the full process of public administration and control of all activities that occur every day in Poland.

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[16] See M. Joanna (ed.), *The second wave of social economy in Poland and the concept of active social policy*, [in:] T. Kazimierczak, M. Rymsza, *Social capital. Social economy*, Warsaw 2007, p. 75–89.

In the era of globalization, the most important players are the governments, business and civil society, enforcing social control. New technologies enable organizations of civil society networking across national borders. Their efforts may lay the framework for the activities of government and business that lead to new international conventions and national regulations to prevent the spread of bribery and unfair practices. Civil society can be a guide in monitoring progress on corporate governance and the implementation of these new conventions and national regulations. The public trust only reports on the progress of such work done by social organizations authorized to do so. Also, non-governmental organizations operating in an ever wider areas and are becoming very popular form of active societies.

It is also worth a moment to stop at the general mechanism of control of the administration. The issue of control in public administration in two systems. The first regards the control of public administration by others, and the second to control by the public administration itself over others. Scientific work organization theorists capture control as a necessary element of targeting, management, administration and governance. Control in this approach to management is to determine whether any subordinate administrative apparatus properly carry out its tasks, it allows the detection of faults, their removal and serves to prevent negative phenomena. Control of civic, social administration is over control of public opinion, controlling the press, control of informal groups in the apparatus of state administration. Social control will control over the administration of social organizations and citizen control by making requests and complaints, as well as enjoyed by citizens in the formal proceedings of the remedies.

The analysis concerning the reality of social control initiatives shows that this sphere is developing. Lack of belief in the social consciousness of the importance of activities related to general social control are indeed factors that inhibit growth, but it is done regardless of adversity. It therefore appears that the control of civic and social control – especially in an era in which the internet allows you to quickly share information and mobilizing people to action, and to hide anything is becoming more difficult – it will matter much more common. Of course, if the public will want to exercise their rights. Greater challenge for the next generation is to build mass awareness of the right to information and enforcement of civil rights, than to convince the authorities that they have to give up control. But time will show that it is increasingly difficult to exercise authority in a closed, opaque and abstractive from social needs.

# Streszczenie

## *Prawo do społecznej kontroli administracji jako niezbywalne prawo człowieka*

Słowa kluczowe: prawa człowieka, kontrola społeczna, wywiad, organizacje pozarządowe.

Prawo do kontroli społecznej administracji gwarantuje każdemu prawo do oceny i analizy sytuacji zarówno okoliczności faktycznych, jak i prawnych. Kontrola społeczna jest podstawą rozwoju każdego demokratycznego państwa. Rzeczpospolita Polska jest młodym państwem demokratycznym, liczy niewiele ponad 20 lat, ale w swoim ustawodawstwie daje możliwość bezpośredniego i pośredniego wpływu na sposób zarządzania na wszystkich szczeblach administracji publicznej.

Termin „kontrola społeczna" został sformułowany przez amerykańskiego socjologa Edwarda Rossa Alswortha w 1890 r. Funkcje kontrolne na różnych poziomach społeczeństwa obejmują wszystkich obywateli. Kontrola ta jest ważna z trzech powodów. Po pierwsze, realizuje podstawowe wartości demokratycznego społeczeństwa, a niedocenianie znaczenia możliwości ich realizacji w życiu społecznym stanowi niewątpliwie jedną z przyczyn korupcji. Po drugie, kontrola społeczna jest ważnym elementem nowoczesnych metod zarządzania. Po trzecie, można ją uznać za tanią (darmową) metodę kontroli wewnętrznej. Ten sposób zapobiegania negatywnym zjawiskom w funkcjonowaniu państwa jest już powszechnie znany. Zaangażowanie społeczne obywateli – odpowiednio wykorzystane – może stanowić częściową kontrolę instytucji.