

STATE AND ADMINISTRATIVE LAW

1. LAW DATED 17th JUNE, 1966 ON EXECUTION PROCEDURE IN ADMINISTRATION
(Dziennik Ustaw [Journal of Law, abbr. J. of L.] No. 24, item 219)

This law is a fruit of few year works. The project has been repeatedly sent to presidiums of voivodeship people's councils, chairs of administrative and financial law, as well as political, co-operative and social organizations; use was made of discussions and conclusions. First intention — to include this law to the code of administrative procedure issued in 1960 as its Part II — has been neglected; nevertheless according to the new law in some cases, not otherwise by it regulated, enactments of the code are binding.

The law has regulated compulsory duties according to administrative decisions and duties regarding administration that effect directly from laws, and annulated enactments of 1928 and 1947 that regulated separately executions of financial and non-monetary obligations. Execution power is given to district organs, however, present rights of the smallest administrative units are maintained as regards the suspension of an execution procedure against farmers. Executions of any financial charges rest with the Department of Finance, while all other non-monetary obligations with the appropriate departments, e.g. execution of the obligatory animals vaccination lies with the Department of Agriculture.

The execution processing is based on the following principles.

In case doing an obligation is shirked, the execution processing is obligatory, no matter what are penalties method under other processing. Execution means provided in a given statute will only lie; an effective means least burdensome for one under an obligation is to be applied. Things needed for minimum of existence cannot be subject of the execution. Execution may be proceeded not before summoning to do an obligation. An employee whose negligence caused illegimate execution accounts for injury in an official or disciplinary way, apart from a civil responsibility.

For carrying an execution of non-pecuniary obligations a fine may be assessed (repeated until a duty is done), or substitutive fullfilment (by a third person at a cost and risk of one under obligation), distraintment of goods and direct compulsion.

Execution of money obligations may be carried out of a personal estate and property rights of one under an obligation (including postal matters and money orders addressed to a debtor).

Execution of a real estate may be carried into effect at law only, according to the code of civil proceeding.

Execution effected by arresting a part of a salary received for work binds an employer to make deductions out of payments. In the case an employee gets off from a job he receives his certificate of work with a notice about his dues to be stopped out; (this is a new move preventing from avoiding execution by changing place of employment).

Enactments of the statute on execution of bank account do not infringe upon a guaranteed by law secrecy and protection of savings, they do, however, make possible execution of money over a sum under protection.

Dues to be executed from state Treasury, and state railway companies, post and telecommunication offices are to be covered by a unit under obligation that have received an implementing order stating that due is subject to execution. In a contrary case a superior unit order to cover dues from funds of a unit in question.

As regards other units of socialized economy, execution is carried out of their bank accounts. Execution of other belongings of such units is admissible only in case of non-state organizations.

2. LAW DATED 17th JUNE, 1966 ON ESTABLISHING CENTRAL OFFICE OF QUALITY AND MEASURES AND ON MEASURES AND MEASUREMENT IMPLEMENTS

(J. of L., No. 23, item 207)

Rapid development of technology has caused a need for establishing a central unit for organization and co-ordination of control works on quality of products.

The Office keeps an eye on control made by various establishments and their superior units; in some justified cases it may control them itself, may demand removing imperfections or suspend production and order fines on persons responsible for passing into production improper materials or giving for sale obviously useless products.

All offices of quality and measures in a district and assay offices are subjected to the Central Office. The new Office has also taken over all the duties of the recently liquidated Central Measurements Office, and the statute — issued at the same time — on measures and measuring instruments has considerably extended the scope of its activities particularly in measurements of production procedure in industry. In establishments where a proper measuring technique of particular importance — managers are obliged to organize own measurement services and to submit patterns of measures and control measuring instruments for temporary legalization.

3. LAW DATED 21st APRIL, 1966 ON PROTECTION AGAINST AIR POLLUTION

(J. of L., No. 14, item 87)

As soon as in 1958 the Supreme Control Chamber pointed out the necessity of action against smoke and dust ever greater in consequence of rapid development of industry. Tests performed proved how substances comprised in gases and fumes harmfully affect human health and how absolutely necessary is to undertake an organized action for solving the problem since casual moves do not give a satisfactory effect. The new law has introduced a general obligation to protect the air against pollution basing on the following principles.

Special service for protection of the atmosphere is set up, which was to make prognosis how substances spread in the air, to determine admissible concentrations, and to supervise that appropriate dispositions and cautions are kept by factories and other establishments that cause pollution of the air.

All establishments that expel substances into the atmosphere are obliged to give the appropriate data what enables the voivodeships organs to determine maximum quantities and a nature of substances to be evacuated by particular factories; introduction of special preservative devices are ordered, if necessary.

Projects of construction, reconstruction, or modernization, and location of a factory the operation of which may cause excessive concentrations in the air must be agreed with an organization for protection of the air. It may be ordered that around a given factory the protective zone is established which constitutes the natural air cleaner. Land owners

in such area may be obliged to use it in a particular manner at a cost of a factory. Establishments are obliged to measure concentration of expelled substances and may be ordered to remove any imperfections as regards protection of the air. An establishment that does not observe the appropriate rules may be put out of operation.

In case of direct danger for human health or when great damage for national economy is to be expected the presidium of a voivodeship national council may inhibit a factory from expelling certain substances for a given period of time or may forbid to use certain fuels by motor vehicles. If the presidium has not adequate resources it should make a project of necessary moves in order to provide security in a given area and submit it to the Ministers' Council for acceptance.

Keeping strictly to enactments of this statute considerably contributes to improvement of people's health in industrial areas, and climate conditions, as well as to reduction of damages in agriculture and forestry, to protection of soil and ground waters against air pollution, and retrieval of valuable raw materials that get lost in the air.

4. LAW DATED 17th JUNE, 1966 ON HEALTH RESORTS AND THERAPEUTICS

(J. of L., No. 23, item 216)

This statute that now stands for completely obsolete laws of 1922 has been elaborated for rather a long time because of difficulties in co-ordinating national councils rights that administrate in a given area with general policy to benefit by therapeutical devices and attributes in a whole country.

The new law determines conditions that are favourable for development of therapeutics, tourism and rest-cures in places recognized by the Ministers' Council as health-resorts. For particular health resorts the appropriate areas of protection are determined that comprises territory greater or smaller than a place on which certain activities that can negatively affect local conditions advantageous for therapeutics require permission.

Before a resolution of the Ministers' Council is taken the presidium of voivodeship people's council makes the following preparations. It obtains the statement made by the Minister of Health that determines therapeutical attributes of a given place, what kind of treatment may be applied in sanitariums and indispensable sanitary conditions. Moreover, it accepts a project of a health resort chart with concerned authorities (e.g. President of the Central Committee for Physical Culture and Tourism and ministers involved in administration of protection of area in a health resort). Finally, the presidium submits a project of the charter to the appropriate people's council that makes a resolution in agreement with a voivodeship commission of trade unions.

The statute determines boundaries of a health resort and its protection area, what kind of activities require individual permission, and special conditions advantageous for development of a given health resort. The law comes into force simultaneously with recognition of a given place or a health resort by the Ministers' Council.

For decisions and suggestions regarding planned development of therapeutics in health resorts, the Central Council of Health Resorts and Workers Vacations have been established by Prime Minister. The Council consists of representatives of ministries concerned, Central Council of Trade Unions, and experts in health resort problems. On assent of the Ministers' Council similar councils may be established by presidiums of voivodeships of people's councils.

Superior supervising on therapeutics rests with the Minister of Health who in agreement with Central Trade Unions determines principles of granting treatment in san-

itariums. Sanitariums and facilities are administered by the Minister of Health and/or people's councils, and to some extent by certain units of trade unions or some other institutions if they will be permitted. Principles of exploitation are determined by the Ministers' Council in agreement with Central Council of Trade Unions.

Supervision on a standard of benefits and facilities and on protection of natural environments rests with a chief medical officer in a health resort who acts as a representative of a local presidium and is, however, appointed and dismissed by the Minister of Health in agreement with that presidium, or by health department of the presidium of voivodeships people's council that has been authorized by the Minister of Health.

Chief medical officer controls operation of sanitariums and facilities; decisions as regards functions described in the charter are made by the mentioned officer or after his opinion is taken. Any decision made without the required opinion is invalid, and the chief medical officer should be informed in every case a decision contradictory to his opinion is made in order to enable him to bring an action against it. Cancellation of a decision made by the chief medical officer is considered by the health department on a level of voivodeship (not a district).

National councils in places recognized as health resorts are obliged to render accessible all the therapeutical attributes of a given place, and engage themselves to a greatest possible extent, as for instance to include needs involved in programmes of development of local economy, keep an eye that environmental conditions are not wasted, provide communal and cultural facilities, ensure operation of various service institutions, and the like in order to meet all the demands of tourist and persons taking a cure. People's councils have certain co-ordination rights with regard to tourist units and sanitariums that are not under their management. Extra costs involved in running a place (e.g. particular demands regarding hygiene, esthetical, and/or cultural values are covered from funds made by special cure taxes charged in health resorts. Moreover, the Ministers' Council may oblige sanitariums, tourist organizations, and boarding houses in existence in a given health resort to share the costs.

For social control of proper organization in a health resort local people's councils call into existence permanent commission for vacation and tourist questions that includes experts in the field and representatives of trade unions.

5. LAW DATED 11th NOVEMBER, 1965 ON EXTENSION OF RIGHT OF SMALLEST ADMINISTRATIVE UNITS (HAMLETS) AS REGARDS TAXES AND IMPROVEMENT IN ASSESSMENT AND COLLECTION OF TAXES AND OTHER MONEY OBLIGATIONS

(J. of L., No. 46, item 288)

For quite a time country people has postulated to transfer decision making as to assessment and tax reductions from district units on to hamlets and to simplify a procedure by including all the obligations in favour of the State (not only taxes) to one assessment with the same payment terms. Experimental realization of the postulates in a number of chosen hamlets proved successful. Applications for cancellations of tax assessments have considerably decreased in number since decisions have been made with better acquaintance with facts, and due to the simplified proceeding all the financial obligations have been accomplished readily.

The new statute has carried this system into effect all over the countryside. Due to this the importance of hamlets authority has increased and administrative manipulations have decreased by $\frac{2}{3}$. In offices of hamlets people's councils files for every farm

have been introduced with data kept up-to-date. Assessments are made according to the files, and all the obligations are included in one payment precept, and constitute a uniform money obligation payable in 4 instalments a year. Beside taxes the obligation includes such dues as insurance fees, payments for electrification or melioration works performed by state organs for benefit of a given farm, instalments for lands conveyed by the state, etc. For the whole obligation is unanimously responsible the owner and his family jointly with him running a farm. The execution order of November 15th 1965 (Official Journal No. 47 item 297) extends the system of embracing different dues into one money obligation on farms within towns and settlements.

6. LAW DATED 10th DECEMBER, 1965 ON WATER SUPPLIES FOR AGRICULTURE
AND COUNTRIES

(J. of L, No. 51, item 314)

Advanced electrification of the countryside and melioration works has made possible general action for solving the third of main problems involved as a consequence of ageold underdevelopment of the countryside, i.e. overcoming difficulties connected with water supply.

The law of 1960 on water supplies was not adapted to particular demands of the countryside, and it comprised only general enactments on the subject providing for the aid of the state for countryside the inhabitants of which had already some means for this purpose. Such adjustment — in consequence of impossibility to comminute financial supports of the state — was to be regarded as transient one since it was not conducive to the turning point in this domain, favoring wealthier areas and keeping the conditions unchanged in the regions which could not develop because of, among other causes, insufficient water supply.

As soon as more state support could have been effected, the necessity of establishing legal basis for planned action aiming at helping run the hurdles in the countryside has proved essential. Consequently, in the law of 1960 very few enactments relating to the country problems were cancelled, and the whole problem of supplying agriculture with water was regulated by the new statute.

The law enacts:

Supplying agriculture and countryside with water lies within the state activity. The scope of this activity is construction and exploitation of the appropriate facilities for providing drinking water, water for housekeeping use and for fire safety, as well construction of the gutters. The state builds fundamental devices (wells, waterpipes) not to be charged for; partly fundamental ones (e.g. countryside water conduits) — 40% of costs involved are covered by the users in form of long-term instalments; and finally, individual services are fully payable (e.g. joining particular farm to water-works), instalments to be paid with no interest.

Inhabitants of those places in which the appropriate works are carried on are charged with personal and material contributions the value of which is estimated and then checked off from dues to be paid in favour of the state for water supply construction works performed.

Decision making to undertake the works rests with the presidium of district national council. In order to obtain particular services or particular facilities to be arranged, an application of at least one half of all realty owners (or their organization, e.g. agricultural society or water company) in a given village is required. Under assent of

the presidium of district people's council such organization — may itself undertake works for constructing a given facility; the organization takes the advantage of the state's support, as well as of obligatory contributions of the real estates owners. The state gives also his support for building wells and other facilities that supply individual farms with water.

Maintenance of fundamental facilities as well as the ones named partly fundamental lies with presidiums of hamlet people's councils or the mentioned organizations; on the other hand, for particular facilities take care the users.

For water taken from facilities of common use payments are chargeable as enacted by the Ministers' Council decree of March 1st 1966. (Official Journal, No. 9, item 57).

7. LAW OF 12th NOVEMBER, 1965 ON CHANGING THE LAW ON RETIREMENT PENSION FOR MEMBERS OF AGRICULTURAL PRODUCTION CO-OPERATION SOCIETIES AND FOR THEIR FAMILIES AND HOUSEHOLD

(J. of L., No. 51, item 316)

Laws in existence so far have provided the retirement pension for all members of agricultural production co-operative societies only for invalidism due to an accident in work or professional illness. On the other hand, for more extensive benefits (old-age pension, family allowances) have been entitled only members of the co-operative societies concerned with the vegetable and animal production as well.

Now, the mentioned rights are extended on members of other co-operative societies. Pensions for their members are lower by 30% since they have more profit from their parcels of land where they manage raising on their own account.

8. LAW OF 10th DECEMBER, 1965 ON CHANGING THE DECREE ON CERTAIN TAXES AND CROSS-COUNTRY PAYMENTS

(J. of L., No. 46, item 289)

Principal change consists in creating a basis for transit taxes for transport effected in Poland by means of foreign motor vehicles. Introduction of the charges is justified by their collection in many countries from Polish carrier by land. Flexible formulation of the act renders possible to depart from collection of the charges upon mutual agreement.

9. LAW DATED 21st APRIL, 1966 ON PATENT ATTORNEYS

(J. of L., No. 14, item 86)

This law replaced the law of 1958, binding up till now, that constituted -a basis for activity of few patent attorneys that run their own offices.

Such circumstances were not advantageous for development of ingenuity and patent protection since the attorneys operated in detachment from scientific institutions, research organizations, and industry, the natural realm of invention. Moreover, activity of the attorneys confined to reporting inventions, patterns, and trade marks. Facing the in-

creasing needs in consequence of rapid development of technology, the new bill has been resolved introducing two principal changes.

First, the scope of the attorneys activity includes now giving advice; technical and legal assistance in questions concerning protection of inventions useful and ornamental patterns, and trade marks; taking all the necessary steps for protection; and finally, stimulation of inventive skill, as well as safeguard of inventors interest.

Secondly, attorneys as men of learned profession are replaced by patent service that includes attorneys employed in socialized establishments.

The attorney must have proper qualifications proved by an exam passed in the Patent Office, and his name should be entered onto the list of patent attorneys. In case of discontinuation of the attorney's employment, his rights are being suspended until he starts a new job as an attorney in other socialized establishment.

According to the statute, possibility to take advantage of the attorneys' services in establishments that employ them is provided for all physical and juridical persons inhabiting or having a seat in Poland, and also for any organizations of socialized economy that do not employ an attorney.

There are not a subject of change enactments of the Invention Law of 1962 concerning the rights of the creators of inventive projects for the support of state organs, trade unions, and social organizations. There also remain unchanged the rights of trade unions, technical associations, and other social organizations for approaching a unit of national economy in the interest of an inventor as regards the use of inventive projects.

Regulation of the questions concerning the payable representation of foreign persons the statute entrusts with the Minis Leis' Council. Representation of native persons in questions concerning transactions with foreign countries rests with the establishments authorized by the Minister of Foreign Trade.

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