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Paradigm Shift in the Application of Substantive Administrative Law in Connection with European Integration

Zmiana paradygmatu w stosowaniu prawa administracyjnego materialnego w związku z integracją europejską

Abstract: This paper examines the nature of the application of substantive administrative law in both *sensu stricto* and *sensu largo*. The acceleration of civilizational change associated with Poland's accession to the European Union has led to a growing significance – both in quantitative and qualitative terms – of the second model of law application, namely, the category of administrative cases resolved in this broader manner. Both senses of law application are analysed through the lens of the substantive model of law application, thus illustrating the differences between them and their implications for administrative court proceedings. These distinctions will be reflected in the content of complaints submitted to administrative courts, the applicable time limits for filing such complaints, and the content of judicial rulings, which take into account the legal character of these actions and the model of law application under which they are issued. The aim of the study will be to establish the similarities and differences between both models, and thus to demonstrate that the overlap of legislative changes with European integration was related only to the change in the legal form and the procedural simplification of the process of adjudicating in individual cases while

maintaining the essence of public subjective rights. The dogmatic-legal method was used in the study[1].

Keywords: application of law, administrative decision, other public administration act or action, complaint to administrative court

Streszczenie: Artykuł analizuje charakter stosowania materialnego prawa administracyjnego zarówno w ujęciu sensu stricto, jak i sensu largo. Przyspieszenie przemian cywilizacyjnych związanych z akcesją Polski do Unii Europejskiej doprowadziło do rosnącego znaczenia – zarówno ilościowego, jak i jakościowego – drugiego modelu stosowania prawa, tj. kategorii spraw administracyjnych rozstrzyganych w tym szerszym ujęciu. Oba sposoby stosowania prawa zostały przeanalizowane przez pryzmat materialnego modelu stosowania prawa, co pozwala na ukazanie różnic między nimi oraz ich konsekwencji dla postępowania przed sądami administracyjnymi. Różnice te znajdują odzwierciedlenie w treści skarg kierowanych do sądów administracyjnych, obowiązujących terminach ich wnoszenia oraz w treści orzeczeń sądowych, które uwzględniają charakter prawny danego działania oraz model stosowania prawa, w ramach którego zostało ono wydane. Celem opracowania jest ustalenie podobieństw i różnic między obiema koncepcjami, a tym samym wykazanie, że zbieżność zmian legislacyjnych z integracją europejską odnosiła się wyłącznie do zmiany formy prawnej i uproszczenia proceduralnego procesu rozstrzygania spraw indywidualnych, przy jednoczesnym zachowaniu istoty publicznych praw podmiotowych. W opracowaniu zastosowano metodę dogmatyczno-prawną.

Słowa kluczowe: stosowanie prawa, decyzja administracyjna, inny akt lub czynność z zakresu administracji publicznej, skarga do sądu administracyjnego

[1] I am omitting considerations on the research method and research methods in the field of administrative law. I made these issues the subject of detailed findings in the monograph: R. Stasikowski, *The regulatory function of public administration. A study on the science of administrative law and the science of administration*, Bydgoszcz–Katowice 2009, pp. 17 et seq.

Application of Administrative Law *Sensu Stricto*

The essence of the application of law *sensu stricto* lies in the authoritative establishment, through jurisdictional proceedings conducted – typically – on the basis of the provisions of the Code of Administrative Procedure, of a new individual-concrete norm by means of an administrative decision. This norm is derived from a general-abstract substantive legal norm, which defines in its hypothesis an abstract normative factual state, and in its disposition, assigns a right (or rights) or obligation (or obligations) to a generally designated addressee. The double concretisation inherent in the application of law involves, first, the creation of an individualised norm – addressed to a specific subject; and second, the formulation of a concretised norm – precisely defining the right(s) granted or obligation(s) imposed[2]. In this way, the application of law transforms a normative potentiality – regulated by law but not yet producing legal effects – into a new (i.e., previously non-existent) individualised and concretised norm within the current legal order, which now produces legal effects with respect to its addressees.

Approaching the phenomenon of the application of substantive law *sensu stricto* through the prism of the substantive model of the application of law[3], the duty of the relevant body is to make all sub-decisions distinguished in substantive terms – namely, validation, interpretation, evidentiary assessment, application of the law, and the choice of legal consequences – as well as the final decision.

The application of administrative law *sensu stricto* results in the establishment of an administrative-legal relationship, understood as a specific legal connection abstractly provided for in substantive law, which is actualised upon the occurrence of legally prescribed circumstances. These circumstances give rise to a legal situation in which the rights or obligations of one subject are linked, in a legally defined manner, to the

[2] For more, see: J. Wróblewski, *Sądowe stosowanie prawa*, Warsaw, 1988, p. 42 *et seq.*; idem, *Stosowanie prawa,* [in:] W. Lang, J. Wróblewski, Z. Zawadzki, *Teoria państwa i prawa*, Warsaw, 1986, p. 455 *et seq*.

[3] According to Wróblewski, the elements of the substantive decision-making model include: (a) determination of the validity and applicability of a specific legal provision; (b) interpretation of that provision to a degree sufficiently precise for the purposes of adjudication; (c) recognition of the facts of the case as proven and formulation of those facts in the language of the applicable substantive legal provision; (d) subsumption of the facts under the applicable provision; (e) determination of the legal consequences of the proven facts under the applicable provision; (f) issuance of the final legal decision, representing a binding determination of the legal consequences of the facts of the case. For more, see: J. Wróblewski, *Sądowe stosowanie prawa*, op. cit., pp. 43 et seq.

legal situation of another subject.[4] The process of applying substantive law *sensu stricto* concludes with the issuance of an administrative decision, as referred to in Article 3 § 2(1) of the Act of 30 August 2002 – Law on Proceedings Before Administrative Courts[5].

Application of Administrative Law *Sensu Largo*

The process of applying the law may also occur through the sovereign updating of rights or obligations designated by law via the issuance of a specific act or the taking of a specific action, as referred to in Article 3 § 2(4) of the Law on Proceedings Before Administrative Courts, outside of jurisdictional proceedings – that is, as the application of law *sensu largo*.

The application of law outside of jurisdictional proceedings, which takes place through the issuance of an act or the performance of an action[6], does not result in the establishment of a new individual-concrete norm from which specific rights or obligations of an individual subject would arise. Rather, these rights or obligations arise directly and fully from the provision of the law (or another normative act), while the issuance of an act or the performance of an action merely constitutes the assignment of a right or obligation, formulated unambiguously in the law, to a specific subject. Accordingly, the legal provision defines the potential right or obligation in a complete and exhaustive manner, meaning that the role of the administration is not to shape this sphere through its own discretion (e.g., by selecting a particular right or obligation, or by granting or denying a right through administrative discretion)[7]. Instead, the role of the administration is to concretise the substantive norm by recognising the occurrence of the normative state of facts and, as a consequence, assigning the right or obligation prescribed by the legal provision to a specific person. This is because a substantive norm does not produce self-executing legal effects. It is only the issued act or

[4] F. Longchamps, *O pojęciu stosunku prawnego w prawie administracyjnym*, *Acta Universitatis Wratislaviensis* 1964, *Prawo XII*, No. 19, pp. 45-47.

[5] Journal of Laws 2024.935, i.e., of June 6, 2024.

[6] Contra: Z. Kmieciak, *Glosa do uchwały składu siedmiu sędziów Naczelnego Sądu Administracyjnego z 4 lutego 2008 r. sygn. akt I OPS 3/07*, *OSP* 2008, No. 5, item 51, pp. 350-351.

[7] On the authoritative nature of acts or actions, see: J. Zimmermann, *Glosa do postanowienia NSA z dnia 24 marca 1998 r., II SA 1155/97, OSP* 1999, No. 9, item 164.

performed action that triggers these effects in a fully specified manner, in terms of scope, content, and with respect to an individual subject. From this, it must be inferred that such acts or actions are acts of authority[8]. At its core, the issue concerns whether certain rights or duties specified in administrative law can be supported directly – or only indirectly – by a legal provision[9]. T. Woś argues that the term "regarding" as used in Article 3 § 2(4) of the Law on Proceedings Before Administrative Courts cannot be interpreted to include an indirect connection between an act or action and a right or obligation specified by law. Consequently, the relevant act should establish, confirm, affirm, or deny a particular right or obligation. The scope of a complaint to an administrative court, therefore, excludes cases in which obligations arise directly from the provisions of the law and whose non-performance may lead to enforcement proceedings[10].

The process of applying substantive law *sensu largo* does not include the stage of choosing legal consequences. Meanwhile, the stage of making a final decision assumes the form of taking an act or performing an action, during which the act or action is evaluated through the lens of legal principles and rationality. The positive completion of this stage – comprising both systemic and non-systemic evaluations – leads to the issuance of an act or the performance of an action, which, in essence, corresponds to the final decision.

Unlike the application of administrative law *sensu stricto*, which results in the creation of a new norm within the existing legal order – namely, an individual-concrete norm – and thereby establishes an administrative relationship, the concretization of substantive law through the issuance of an act or the performance of an action gives rise to an administrative-legal situation. F. Longchamps understood this as the totality of meanings that the law has for a given subject, considering legal obligation and legal possibility as its elementary components[11].

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[8] Cf. ruling of the Supreme Administrative Court of March 24, 1998*, II SA 1155/97, ONSA* 1999, No. 2, item 51.

[9] J. Świątkiewicz, *Komentarz do ustawy o Naczelnym Sądzie Administracyjnym*, Warsaw, 1995, p. 53.

[10] T. Woś, [in:] *Postępowanie sądowoadministracyjne*, T. Woś, H. Knysiak-Molczyk, M. Romańska, Warsaw, 2004, p. 81; Contra: A. Mariański, *Skarga na brak informacji o stosowaniu prawa (art. 14 Ordynacji podatkowej). Glosa do postanowienia NSA z 2.12.1998 r., I SAB/Ka 16/98*, *Glosa* 1999, No. 11, p. 20; E. Łętowska, *Glosa do wyroku NSA z 14 grudnia 2002 r., II SA/Gd 4182/01*, *OSP* 2003, No. 10.

[11] F. Longchamps, *op. cit., pp. 45-47.*

Differences Between the Application of Administrative Law *Sensu Stricto* and *Sensu Largo* on Substantive Grounds

The essence of the material (substantive) point of view in the process of applying the law concerns the legal form by which a case is resolved and the scope of the administrative body's discretion in determining, on the basis of a substantive norm, the act of applying the law.

Only the process of applying the law within the framework of jurisdictional proceedings results in the issuance of an administrative decision that contains a new norm of conduct of an individual-concrete nature – that is, the application of the law *sensu strict* – which produces direct legal effects. Such a decision constitutes a formal expression of the body's intent, by which it establishes, orders, prohibits, or otherwise regulates the conduct of the addressee of the administrative decision[12].

If the concretization of a norm of substantive law occurs outside of jurisdictional proceedings – through the issuance of an act or the undertaking of actions referred to in Article 3 § 2(4) of the Law on Proceedings Before Administrative Courts – there is no establishment of a new individual-concrete norm from which specific rights or obligations of an individualized addressee would arise. Such rights or obligations arise entirely from the provisions of the law (or another normative act), while the issuance of an act or the taking of an action constitutes an authoritative and unilateral indication that a particular person is entitled to a right or burdened with an obligation that is comprehensively defined by the law. Since the determination of a potential right or obligation in a complete and comprehensive manner is made in the law itself[13], the concretisation of the substantive legal norm is only partial; it does not encompass the concretisation of the modality of the right – that is, the selection and assignment of the right or obligation. The act or action in question merely triggers the statutory legal effects with respect to an individual subject. The body's role is limited to declaring that a normative state of facts has occurred with respect to the individualised subject, to which the law attaches a particular legal status. The act or action thus affirms or

[12] See *ruling of the Supreme Administrative Court of December 3, 1990, II SA 740/90*; *ruling of the Supreme Administrative Court of May 24, 2022, III OSK 949/21* – www.cbosa.gov.pl.

[13] On the authoritative nature of acts or actions, see: J. Zimmermann, *Glosa do postanowienia NSA z dnia 24 marca 1998 r., II SA 1155/97, OSP* 1999, No. 9, item 164.

denies the existence of a specific right or obligation for the individualised subject[14], thereby creating the legal position of the addressee[15]. A positive act or action takes the legal form of a material-technical action, while a refusal takes the form of a negative decision, which is issued as part of a jurisdictional procedure.

It should be noted that there is a distinction between the issuance of the above-mentioned acts or actions and the issuance of a related administrative decision. In the latter case, the body is obligated to issue it and does not have the discretion to choose its course of action from among a statutory catalogue. The decision must determine the right or obligation of the individualised addressee. By contrast, the issuance of an act or the taking of an action does not, by its nature, involve determining the content of the right or obligation. Rather, it constitutes the performance of a material-technical act that produces indirect legal effects.

The application of administrative law *sensu stricto* gives rise to a new legal norm of an individual-concrete nature and establishes a new administrative relationship. The partial concretization of substantive law through the issuance of an act or the performance of an action referred to in Article 3 § 2(4) of the Law on Proceedings Before Administrative Courts results in the creation of an administrative-legal situation. In both cases, however, we are dealing with conventional actions of an administrative body that produce direct or indirect legal effects with respect to an individualized addressee. These legal effects are always a consequence of the occurrence of a normative, detailed factual situation as described in a substantive legal norm.

[14] This must be distinguished from situations in which certain obligations arise directly from legal provisions, and failure to comply results in enforcement proceedings. See: T. Woś, [in:] *Postępowanie sądowoadministracyjne*, T. Woś, H. Knysiak-Molczyk, M. Romańska, Warszawa 2004, p. 81; Contra: A. Mariański, *Skarga na brak informacji o stosowaniu prawa (art. 14 Ordynacji podatkowej). Glosa do postanowienia NSA z 2.12.1998 r., I SAB/Ka 16/98*, *Glosa* 1999, No. 11, p. 20; E. Łętowska, *Glosa do wyroku NSA z 14 grudnia 2002 r., II SA/Gd 4182/01*, *OSP* 2003, No. 10.

[15] J. Wróblewski, *Stosowanie prawa*, op. cit., p. 455.

Differences Between the Application of Administrative Law *Sensu Stricto* and *Sensu Largo* on Procedural-Legal Grounds

The subject of the application of administrative law is always an administrative case, understood as an individual case governed by substantive administrative law. Such a case may be resolved either by an administrative decision or by administrative silence (an administrative case *sensu stricto*, as referred to in Article 1, point 1 of the Code of Administrative Procedure), or by the issuance of an act or the performance of an action other than an administrative decision or resolution, within the scope of public administration and concerning rights or obligations arising from the law (an administrative case *sensu largo*). An administrative case *sensu stricto* is settled by means of an administrative decision, based on the norms of the Code of Administrative Procedure or other procedural norms applied in lieu of it. In contrast, the resolution of an administrative case *sensu largo* is conducted in a non-jurisdictional procedure, the course of which is governed in each instance by specific legal provisions applicable to acts or actions from a particular area of substantive law. It follows from Article 1 of the Code of Administrative Procedure that the Code does not regulate the procedural course for such cases.

This leads to the conclusion that the process of applying the law *sensu stricto* is governed by procedural norms set forth in the Code of Administrative Procedure (or, where applicable, the Tax Ordinance or other special jurisdictional provisions), whereas the application of the law *sensu largo* proceeds under separate regulations that govern the procedural course leading to the issuance of a specific act or the performance of an action. However, the fundamental principles of the Code of Administrative Procedure – expressing the core values of the legal system, such as the principle of objective truth and the principles of considering both the public interest and the legitimate interest of the individual – apply to non-jurisdictional proceedings in cases where no specific procedural regulations exist. In addition, extra-systemic values, arising from Articles 2 and 30 of the Constitution, must also be taken into account in the application of the law in both the strict and broad senses.

Differences Between the Application of Administrative Law *Sensu Stricto* and *Sensu Largo* on the Grounds of Administrative Court Proceedings

The application of substantive law *sensu stricto* concludes with the issuance of an administrative decision that resolves an administrative case by adjudicating it on the merits, either totally or partially, or otherwise terminates the case in a given instance, within the meaning of Article 104 §§ 1 and 2 of the Code of Administrative Procedure. From a procedural standpoint, an administrative decision must be issued in written form and contain the elements specified in Article 106 §§ 1-5 of the Code of Administrative Procedure. For such a decision to enter into legal circulation, it must be delivered to the parties in writing or by means of electronic communication, as specified in Article 109 § 1. It is subject to judicial review by an administrative court under Article 3 § 2(1) of the Law on Proceedings Before Administrative Courts. A complaint against an administrative decision must be submitted within 30 days from the date the decision is delivered to the complainant (Article 53 § 1). The adjudicatory powers of the court, should it uphold the complaint, are defined in Article 145 § 1 points 1–3 of the Law on Proceedings Before Administrative Courts, under which the court may set aside the decision in whole or in part, declare it invalid in whole or in part, or find that it was issued in violation of the law, if any of the grounds specified in the Code of Administrative Procedure or other relevant regulations are met. If the complaint is not upheld, the court shall dismiss it in whole or in part (Article 151 of the Law on Proceedings Before Administrative Courts).

The procedural correlative of acts or actions, in the context of administrative court proceedings, consists of acts or actions – other than decisions and rulings – arising from the scope of public administration and relating to rights or obligations under the law, as referred to in Article 3 § 2 item 4 of the Law on Proceedings Before Administrative Courts.

The criteria set forth in Article 3 § 2(4) of the Law on Proceedings Before Administrative Courts, while encompassing a broad and diverse range of administrative activities that are often difficult to define with precision, refer to acts or actions that possess the following characteristics:

a) they have a sovereign character, although they do not constitute a decision or order, as those are subject to review under Article 3 § 2 points 1-3 of the Law on Proceedings Before Administrative Courts;
b) they are undertaken in individual cases;
c) they are of a public-law nature, since only to this extent are the activities of the administration subject to judicial review by administrative courts;
d) they concern rights or obligations arising from a provision of law, meaning there must be a close and direct connection between the action (or omission) of an administrative body and the possibility for an entity – one not organizationally subordinate to the issuing body – to exercise a right or fulfill an obligation arising from a legal provision.[16]

Acts are more formalised in nature and serve to establish the individual legal effects of a particular substantive law norm. Like administrative decisions, they are subject to revocation if found to be unlawful. Such acts may take the form of a letter, a list, a certificate, an excerpt from a register, a determination in a letter specifying the amount of a fee, the result of a customs and tax inspection, a ruling of a medical commission, among others. From the perspective of the theory of legal forms of administrative action, these are considered material-technical actions. By contrast, so-called "actions" are carried out as ordinary factual acts, such as deleting data from a register, issuing a document (e.g., a passport or construction log), disbursing a benefit, performing a registration procedure, issuing vehicle license plates, or returning a driver's license. Such actions are nullified by removing the legal effects that were produced by the given act (Article 146 § 1 of the Law on Proceedings Before Administrative Courts).

In the literature, the acts and actions referred to in Article 3 § 2(4) of the Law on Proceedings Before Administrative Courts are not regarded as two distinct forms of administrative activity. J. Borkowski, analysing the previous legal regime (specifically Article 16(1)(4) of the now-repealed Act on the Supreme Administrative Court), argued that "the two

[16] Cf. resolutions of the panel of seven judges of the Supreme Administrative Court: of 4 February 2008, case no. I OPS 3/07, *ONSAiWSA* 2008, No. 2, item 21; of 3 September 2013, case no. I OPS 2/13, *ONSAiWSA* 2014, No. 1, item 2; of 16 December 2013, case no. II GPS 2/13, *ONSAiWSA* 2014, No. 6, item 88. See also: J. Starościak, *Prawne formy i metody działania administracji*, [in:] *System prawa administracyjnego*, Vol. III, Ossolineum, 1978, pp. 109-110.

terms must refer to individual material-technical actions that produce legal effects through factual conduct." According to him, these do not include civil law acts or actions – given that the provision concerns acts or actions of public administration, as indicated in Article 3 § 2(4) of the Law on Proceedings Before Administrative Courts – nor acts of a general nature, and certainly not administrative acts in the form of administrative decisions or rulings, as is clear from the linguistic interpretation of the provision[17]. Attempts to classify other types of rulings under this category – beyond those listed in Article 3 § 2 points 2–3 of the Law on Proceedings Before Administrative Courts – have been criticised in the academic literature[18] and were ultimately precluded by the amendment to Article 3 § 2(4) of this Law. Accordingly, the provision pertains to factual acts that produce indirect legal effects (material-technical actions), though these actions are of a rather heterogeneous character.

Such an act or action must first be issued and, in some cases, additionally entered into circulation through its delivery to the addressee, if the law provides for an appeal (Article 53 § 2 of the Law on Proceedings Before Administrative Courts). In such instances, the time limit for filing a complaint is 30 days from the date of delivery. In this respect, these acts or actions are procedurally similar to administrative decisions, which must always be issued and delivered to the party in writing. In the case of acts or actions for which the law does not provide legal remedies, the time limit for filing a complaint is also 30 days, but it is calculated from the day the complainant became aware of the issuance of the act or performance of the action. If the complaint is upheld, it results in either the annulment of the act or the declaration of ineffectiveness of the action (Article 146 § 1 of the Law on Proceedings Before Administrative Courts). The distinction lies in the nature of the legal effect: an *act* is intended to produce indirect legal effects, and thus, if unlawful, must be repealed to prevent it from continuing to generate such effects. *Actions*, on the other hand, are aimed at achieving a certain state of affairs in the

[17] J. Borkowski, *Podmiot uprawniony do wniesienia skargi do sądu administracyjnego w świetle ustawy o Naczelnym Sądzie Administracyjnym*, „*Samorząd Terytorialny*" 1997, No. 5, p. 7.

[18] M. Bogusz, *Pojęcie aktów lub czynności z zakresu administracji publicznej dotyczących przyznania, stwierdzenia albo uznania uprawnienia lub obowiązku wynikających z przepisów prawa w rozumieniu art. 16 ust. 1 pkt 4 ustawy o NSA*, „*Samorząd Terytorialny*" 2000, Nos. 1-2, p. 59. Contra: G. Łaszczyca, Cz. Martysz, A. Matan, *Inne akty lub czynności z zakresu administracji publicznej jako przedmiot skargi do sądu administracyjnego (art. 3 § 2 pkt 4 p.p.s.a.)*, [in:] *Podmioty administracji publicznej i prawne formy ich działania*, Toruń, 2005, pp. 366-367.

real world; therefore, when unlawful, they must be declared ineffective. This declaration signifies that the action, having been undertaken in violation of the law, cannot produce any effects in the realm of fact. This in turn leads to a ruling on the permissibility of continuing the action – i.e., whether it may be repeated, resumed, or further executed[19].

Obsolescence of the Principle of Presumption of Settlement in the Form of an Administrative Decision

The emergence, in the current legal framework, of acts or actions other than administrative decisions has necessitated a reassessment of the earlier judicial-administrative jurisprudence, which had established the need to adhere to the so-called presumption of resolving a case in the form of an administrative decision[20]. The scope of this presumption has evolved under the influence of scholarly commentary[21]. As has been pointed out, the presumption is not intended to displace other legal forms of administrative action in individual cases. Rather, it functions as a corrective interpretive mechanism aimed at addressing legislative errors and omissions. Its purpose is to enable not only the concretisation of an individual's right or obligation by an administrative authority but also to safeguard the individual's right to a fair trial.[22]

At present, this presumption is no longer applicable. It is now necessary, in each individual case, to determine whether the administrative matter is to be resolved by means of a decision or by another form of act or action.

[19] Z. Kmieciak, *Glosa do wyroku NSA z 29.7.2004 r., OSK 591/04, OSP 2005,* No. 4, item 50.
[20] Cf. Resolution of the Supreme Administrative Court of May 24, 2012, *ref. no. II GPS 1/12, ONSAiWSA* 2012, No. 4, item 62.
[21] Cf. R. Hauser, M. Wierzbowski (eds.), *Prawo o postępowaniu przed sądami administracyjnymi. Komentarz*, 3rd ed., Warsaw, 2015, pp. 53-55.
[22] J. Borkowski, in: B. Adamiak, J. Borkowski, *Kodeks postępowania administracyjnego*, Warsaw, 2013, p. 374.

Summary

The essence of the application of law *sensu stricto* lies in the authoritative expression of the will of the administrative authority and the establishment – through jurisdictional proceedings conducted, as a rule, on the basis of the provisions of the Code of Administrative Procedure – of a new individual-concrete norm in the form of an administrative decision. By virtue of such a decision, a legal bond is created between the body and its addressee. The body's competence extends to all sub-decisions (including validation decisions, interpretative decisions, evidentiary decisions, and the selection of legal consequences in cases involving administrative discretion) as well as to final decisions. The ultimate outcome is the performance of a legal act and the creation of a new administrative-legal relationship. If a complaint is upheld by the administrative court, this generally results in the removal of the body's legal act from legal circulation, thereby eliminating its legal consequences within the realm of legal obligations.

The application of the law outside of jurisdictional proceedings is carried out through the issuance of an act or the performance of an action, and is limited solely to the assignment of a subjective right or obligation, as formulated in a legal provision, to a specific subject. The role of the administrative authority in this context is reduced to the concretization of a substantive legal norm by merely recognizing that a normative state of facts has occurred and assigning the right or obligation established by law to a particular person. Therefore, the body's activity is confined to making a validation-interpretation decision, an evidentiary decision, and a subsumption decision. In such cases, the stage of determining legal consequences is absent, and at the final stage of the process, a different legal form – an act or action – replaces the decision. This form is issued without the sub-stage of evaluating its content against systemic or extra-systemic principles, since the content of the act or action is fully determined by the applicable substantive norm. The body merely assigns this predetermined content to the established facts, without exercising discretionary power in this respect. Therefore, the scope of the body's sovereign powers in the application of the law *sensu largo* is limited to the aforementioned partial decisions (i.e., validation-interpretation, evidentiary, and subsumption decisions). Acts take the form of material-technical actions that, as a rule, produce indirect legal effects. Actions,

by contrast, are factual operations that typically do not even generate indirect legal effects but instead result in changes in the external world through their execution. The effect of either an act or an action is the creation of an administrative-legal situation, meaning the complete legal position regulated by administrative law in terms of its effects. When a complaint against an act is upheld, the act is repealed – preventing it from producing indirect legal effects in the realm of obligations. When a complaint against an action is upheld, the action is declared ineffective – rendering it incapable of producing any effects in the realm of physical reality.

The analysis of the current state of the law also leads to the conclusion that there is a steady increase in the significance of the second model of law application, both in quantitative and qualitative terms. As a consequence, acts and actions have been made subject to judicial-administrative review, and distinct regulations have been introduced regarding the time limits for filing complaints, as well as the content of administrative court judgments concerning complaints aimed at subjecting another act or action of public administration to review. These regulations reflect the legal specificity of such acts and actions and the particular model of law application within which their issuance occurs.

Bibliography

Adamiak B., Borkowski J., *Kodeks postępowania administracyjnego*, Warsaw, 2013.

Bogusz M., *Pojęcie aktów lub czynności z zakresu administracji publicznej dotyczących przyznania, stwierdzenia albo uznania uprawnienia lub obowiązku wynikających z przepisów prawa w rozumieniu art. 16 ust. 1 pkt 4 ustawy o NSA*, „Samorząd Terytorialny" 2000, Nos. 1-2.

Borkowski J., *Podmiot uprawniony do wniesienia skargi do sądu administracyjnego w świetle ustawy o Naczelnym Sądzie Administracyjnym*, „Samorząd Terytorialny" 1997, No. 5.

Hauser R., Wierzbowski M. (eds.), *Prawo o postępowaniu przed sądami administracyjnymi. Komentarz*, 3rd ed., Warsaw, 2015.

Journal of Laws 2024.935, i.e., of June 6, 2024.

Kmieciak Z., *Glosa do uchwały składu siedmiu sędziów Naczelnego Sądu Administracyjnego z 4 lutego 2008 r. sygn. akt I OPS 3/07, OSP 2008*, No. 5, item 51.

Kmieciak Z., *Glosa do wyroku NSA z 29.7.2004 r.*, OSK 591/04, OSP 2005, No. 4, item 50.

Longchamps F., *O pojęciu stosunku prawnego w prawie administracyjnym*, "Acta Universitatis Wratislaviensis" 1964, Prawo XII, No. 19.

Łaszczyca G., Martysz Cz., Matan A., *Inne akty lub czynności z zakresu administracji publicznej jako przedmiot skargi do sądu administracyjnego (art. 3 § 2 pkt 4 p.p.s.a.)*, [in:] *Podmioty administracji publicznej i prawne formy ich działania*, Toruń, 2005.

Łętowska E., *Glosa do wyroku NSA z 14 grudnia 2002 r.*, II SA/Gd 4182/01, OSP 2003, No. 10.

Mariański A., *Skarga na brak informacji o stosowaniu prawa (art. 14 Ordynacji podatkowej). Glosa do postanowienia NSA z 2.12.1998 r., I SAB/Ka 16/98*, Glosa 1999, No. 11.

Starościak J., *Prawne formy i metody działania administracji*, [in:] *System prawa administracyjnego*, Vol. III, Ossolineum, 1978.

Świątkiewicz J., Komentarz do ustawy o Naczelnym Sądzie Administracyjnym, Warsaw, 1995.

Woś T., Knysiak-Molczyk H., Romańska M., *Postępowanie sądowoadministracyjne*, Warsaw, 2004.

Wróblewski J., *Sądowe stosowanie prawa*, Warsaw, 1988.

Wróblewski J., *Stosowanie prawa*, [in:] W. Lang, J. Wróblewski, Z. Zawadzki, Teoria państwa i prawa, Warsaw, 1986.

Zimmermann J., *Glosa do postanowienia NSA z dnia 24 marca 1998 r.*, II SA 1155/97, OSP 1999, No. 9, item 164.

Supreme Administrative Court judgments

Supreme Administrative Court of December 3, 1990, II SA 740/90; ruling of the Supreme Administrative Court of May 24, 2022, III OSK 949/21.

Supreme Administrative Court of March 24, 1998, II SA 1155/97, ONSA 1999, No. 2, item 51.

Supreme Administrative Court of 4 February 2008, case no. I OPS 3/07, ONSAiWSA 2008, No. 2, item 21.

Supreme Administrative Court of May 24, 2012, ref. no. II GPS 1/12, ONSAiWSA 2012, No. 4, item 62.

Supreme Administrative Court of 3 September 2013, case no. I OPS 2/13, ONSAiWSA 2014, No. 1, item 2.

Supreme Administrative Court of 16 December 2013, case no. II GPS 2/13, ONSAiWSA 2014, No. 6, item 88.