

NACZELNY SĄD ADMINISTRACYJNY

ZESZYTY NAUKOWE

Sądownictwa

_____ Administracyjnego _____

dwumiesięcznik

rok XVII nr 6 (99)/2021

Warszawa 2021

WYDAWCA
Naczelny Sąd Administracyjny

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Warszawa 2021

ISSN 1734-803X
Nr indeksu 204358

Liczba punktów za publikację wynosi 20.

Wersją podstawową (referencyjną) czasopisma jest wersja papierowa.



Wolters Kluwer Polska Sp. z o.o.
01-208 Warszawa, ul. Przyokopowa 33
www.wolterskluwer.pl

Dyrektor Działu Publikacji Periodycznych: Klaudia Szawłowska-Milczarek
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Szczegółowe informacje o prenumeracie czasopism można uzyskać
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Skład i łamanie: Andytex, Warszawa
Druk ukończono w grudniu 2021 roku. Nakład 1000 egz.

SPIS TREŚCI

Table of contents	6
-------------------------	---

STUDIA I MATERIAŁY

<i>Prof. dr hab. Wojciech Jakimowicz (Uniwersytet Jagielloński w Krakowie)</i>	
Przestrzeń jurysdykcji administracyjnej	9
Summary	25
<i>Sędzia NSA Dariusz Dudra (Naczelny Sąd Administracyjny)</i>	
Zagadnienie wysokości wpisu sądowego oraz kosztów zastępstwa procesowego na tle postanowienia organu egzekucyjnego o obciążeniu wierzyciela kosztami egzekucyjnymi	26
Summary	40
<i>Dr Jakub Szremski (Uniwersytet Wrocławski)</i>	
Inne uzasadnione przyczyny jako przesłanka odmowy wszczęcia ogólnego postępowania administracyjnego	41
Summary	52
<i>Mgr Kamil Krauschar (członek Regionalnej Izby Obrachunkowej w Warszawie)</i>	
Wymiar stawek opłat w systemie gospodarowania odpadami komunalnymi oraz determinanty cenotwórcze tych opłat w świetle orzecznictwa sądów administracyjnych	54
Summary	74
<i>Mgr Przemysław Iżycki (doktorant, Uniwersytet Warszawski; asystent sędziego, Naczelny Sąd Administracyjny)</i>	
O wymogu podpisania pisma wniesionego do sądu administracyjnego w formie dokumentu elektronicznego	75
Summary	85

ORZECZNICTWO

I. Trybunał Sprawiedliwości Unii Europejskiej (wybór i opracowanie: prof. Andrzej Wróbel, dr Piotr Wróbel)	
Odesłanie prejudycjalne – Artykuły 34 i 36 TFUE – Swobodny przepływ towarów – Środki o skutku równoważnym z ograniczeniami ilościowymi – Produkty lecznicze stosowane u ludzi – Import równoległy produktów leczniczych – Przepisy państwa członkowskiego przewidujące wygaśnięcie z mocy prawa pozwolenia na import równoległy po upływie roku od wygaśnięcia pozwolenia na dopuszczenie do obrotu referencyjnego produktu leczniczego – Ochrona zdrowia i życia ludzi – Proporcjonalność – Dyrektywa 2001/83/WE – Nadzór nad bezpieczeństwem farmakoterapii Wyrok TS z dnia 25 listopada 2021 r. w sprawie C-488/20 <i>Delfarma</i> , ECLI:EU:C:2021:956	87

II.	Europejski Trybunał Praw Człowieka (wybór i opracowanie: <i>dr Agnieszka Wilk-Ilewicz</i>) Nadmierna ingerencja w prawo do życia prywatnego w związku z budową autostrady i jej wpływem na życie okolicznych mieszkańców Wyrok ETPC z dnia 14 października 2021 r. w sprawie <i>Kapa i inni przeciwko Polsce</i> (skargi nr 75031/13 i trzy inne)	101
III.	Trybunał Konstytucyjny (wybór: <i>mgr Irena Chojnacka</i> , opracowanie: <i>mgr Mieszko Nowicki</i>) Wyrok TK z dnia 30 czerwca 2021 r. (sygn. akt SK 37/19) [dot. zwrotu nieruchomości wyłączonej na podstawie specustawy drogowej]	106
IV.	Sąd Najwyższy (wybór i opracowanie: <i>dr Michalina Szpyrka</i>) Wyrok SN z dnia 26 lutego 2021 r. (sygn. akt I CSKP 107/21) [dot. zakresu zobowiązania sprawcy do naprawienia wyrządzonej przez niego szkody; pojęcia „adekwatny związek przyczynowy”]	111
V.	Naczelny Sąd Administracyjny i wojewódzkie sądy administracyjne (opracowanie: <i>dr hab. Marcin Wiącek prof. UW</i>) A. Orzecznictwo Naczelnego Sądu Administracyjnego 1. Uchwała składu siedmiu sędziów NSA z dnia 24 maja 2021 r. (sygn. akt I FPS 1/21) [dot. dopuszczalności badania przez sąd administracyjny przesłanek wszczęcia przez organ podatkowy postępowania karnego] 2. Uchwała składu siedmiu sędziów NSA z dnia 8 listopada 2021 r. (sygn. akt I OPS 2/21) [dot. prawa do świadczenia z pomocy społecznej osoby zobowiązanej do zwrotu zaległości wobec funduszu alimentacyjnego] B. Orzecznictwo wojewódzkich sądów administracyjnych 1. Wyrok WSA w Opolu z dnia 19 grudnia 2019 r. (sygn. akt II SA/Op 395/19) [dot. wyrejestrowania skradzionego pojazdu] 2. Wyrok WSA w Opolu z dnia 28 stycznia 2020 r. (sygn. akt II SA/Op 432/19) [dot. interesu prawnego w uzyskaniu danych z rejestru mieszkańców] 3. Wyrok WSA w Białymstoku z dnia 2 grudnia 2020 r. (sygn. akt I SA/Bk 659/20) [dot. „rażącego naruszenia prawa” jako przesłanki stwierdzenia nieważności decyzji podatkowej]	118 124 129 132 135
VI.	Głosy <i>Prof. dr hab. Hubert Izdebski (SWPS Uniwersytet Humanistycznospołeczny w Warszawie)</i> Głos do wyroku Naczelnego Sądu Administracyjnego z dnia 6 maja 2021 r. (sygn. akt II GOK 2/18) [dot. uchwały Krajowej Rady Sądownictwa z 28 sierpnia 2018 r. nr 330/2018 w przedmiocie przedstawienia (nieprzedstawienia) wniosków o powołanie do pełnienia urzędu na stanowisku sędziego Sądu Najwyższego w Izbie Cywilnej] Summary	140 154
	<i>Dr hab. Przemysław Szustakiewicz (profesor Uczelni Łazarskiego w Warszawie)</i> Głos do wyroku Naczelnego Sądu Administracyjnego z dnia 26 maja 2020 r. (sygn. akt I OSK 1533/19) [dot. przetwarzania sensytywnych danych osobowych przez sądy w ramach sprawowania wymiaru sprawiedliwości] Summary	155 162

SĄDOWNICTWO ADMINISTRACYJNE NA ŚWIECIE

<i>Mgr Piotr Ostrowski (Uniwersytet im. Adama Mickiewicza w Poznaniu)</i> O sposobach zwiększania efektywności sądownictwa administracyjnego na przykładzie rozwiązań przyjmowanych we Francji	165
Summary	182

KRONIKA

Kalendarium sądownictwa administracyjnego (wrzesień–październik 2021 r.) (opracowała dr hab. Anna Rossmannith)	185
---	-----

BIBLIOGRAFIA

I. Recenzje

Joanna Wegner, <i>Instytucja milczącego załatwienia sprawy przez administrację publiczną</i> , Wolters Kluwer Polska, Warszawa 2021, stron 352 (rec. Janusz Drachal, sędzia NSA w st. spocz.)	195
---	-----

II. Publikacje z zakresu postępowania administracyjnego i sądowoadministracyjnego

(wrzesień–październik 2021 r.) (opracowała mgr Marta Jaszcukowa)	198
Sprostowanie	203

TABLE OF CONTENTS

STUDIES AND PAPERS

<i>Prof. dr hab. Wojciech Jakimowicz (Jagiellonian University in Kraków)</i>	
Sphere of administrative jurisdiction	9
Summary	25
<i>Dariusz Dudra, judge of the Supreme Administrative Court (Supreme Administrative Court)</i>	
The question of the amount of the court fee and the costs of representation in the context of the decision of the enforcement authority to charge the creditor with the enforcement costs	26
Summary	40
<i>Dr Jakub Szremski (University of Wrocław)</i>	
Other justified grounds as a prerequisite for applying the institution of refusal to initiate a jurisdictional administrative procedure	41
Summary	52
<i>Mgr Kamil Krauschar (member of the Regional Chamber of Auditors)</i>	
Rates of fees in the municipal waste management system and their price-forming determinants in the light of the case-law of administrative courts	54
Summary	74
<i>Mgr Przemysław Iżycki (doctoral candidate, University of Warsaw, judge assistant, Supreme Administrative Court)</i>	
On the requirement to sign a letter submitted to an administrative court in the form of an electronic document	75
Summary	85

CASE-LAW REFERENCES

I. Court of Justice of the European Union (selected and edited by: <i>prof. Andrzej Wróbel, dr Piotr Wróbel</i>)	
Reference for a preliminary ruling – Articles 34 and 36 TFEU – Free movement of goods – Measures having effect equivalent to quantitative restrictions – Medicinal products for human use – Parallel imports of medicinal products – Legislation of a Member State providing for the legal expiry of a parallel importation authorisation one year after the marketing authorisation of the reference medicinal product has expired – Protection of health and life of humans – Proportionality – Directive 2001/83/EC – Pharmacovigilance Judgment of the CJEU of 25 November 2021, C-488/20, Delfarma, ECLI:EU:C:2021:956	87
II. European Court of Human Rights (selected and edited by: <i>dr Agnieszka Wilk-Ilewicz</i>)	
Excessive interference with the right to private life in connection with the construction of a motorway and its impact on the lives of local residents	

ECtHR judgment of 14 October 2021 in case <i>Kapa and Others v. Poland</i> (Applications Nos. 75031/13 and three others)	101
III. Constitutional Tribunal (selected by: <i>mgr Irena Chojnacka</i> , edited by: <i>mgr Mieszko Nowicki</i>)	
Judgment of the Constitutional Tribunal of 30 June 2021 (Case File No. SK 37/19) [concerning the return of properties expropriated without purpose]	106
IV. Supreme Court (selected and edited by: <i>dr Michalina Szpyrka</i>)	
Judgment of the Supreme Court of 26 February 2021 (Case File No. I CSKP 107/21) [concerning the scope of the obligation of the perpetrator to remedy the damage they have caused and an analysis of the concept of adequate causation]	111
V. Supreme Administrative Court and voivodship administrative courts (edited by: <i>dr hab. Marcin Wiącek</i> , Professor at the University of Warsaw)	
A. Case-law of the Supreme Administrative Court	
1. Resolution of the Supreme Administrative Court of 24 May 2021 (Case File No. I FPS 1/21) [concerning admissibility of examination by an administrative court of prerequisites for initiation of criminal proceedings by a tax authority]	118
2. Resolution of the Supreme Administrative Court of 8 November 2021 (Case File No. I OPS 2/21) [concerning the right to social welfare benefits of a person obliged to repay arrears to the child maintenance fund]	124
B. Case-law of voivodship administrative courts	
1. Judgement of the Voivodship Administrative Court in Opole of 19 December 2019 (Case File No. II SA/Op 395/19) [concerning the deregistration of a stolen vehicle] ...	129
2. Judgment of the Voivodship Administrative Court in Opole of 28 January 2020 (Case File No. II SA/Op 432/19) [concerning the legal interest in obtaining data from the population register]	132
3. Judgment of the Voivodship Administrative Court in Białystok of 2 December 2020 (Case File No. I SA/Bk 659/20) [concerning 'gross violation of law' as a prerequisite for the declaration of invalidity of a tax decision]	135
VI. Notes	
<i>Prof. Hubert Izdebski (SWPS University of Social Sciences and Humanities in Warsaw)</i>	
Note to the judgment of the Supreme Administrative Court of 6 May 2021 (Case File No. II GOK 2/18) [concerning the resolution of the National Council of the Judiciary of 28 August 2018 No. 330/2018 on the presentation (non-presentation) of applications for appointment to the office of judge of the Supreme Court in the Civil Chamber]	140
Summary	154
<i>Dr hab. Przemysław Szustakiewicz (Professor at Łazarski University in Warsaw)</i>	
Note to the judgment of the Supreme Administrative Court of 26 May 2020 (Case File No. I OSK 1533/19) [concerning the processing of sensitive personal data by courts in connection with their judicial capacity]	155
Summary	162
ADMINISTRATIVE COURTS WORLDWIDE	
<i>Mgr Piotr Ostrowski (Adam Mickiewicz University in Poznań)</i>	
How to increase the efficiency of administrative justice on the example of solutions adopted in France	165
Summary	182

CHRONICLES

Chronicles of administrative judiciary (September – October 2021) (<i>edited by: dr hab. Anna Rossmannith</i>)	185
---	-----

FURTHER REFERENCES

I. Reviews

Joanna Wegner, <i>Instytucja milczącego załatwienia sprawy przez administrację publiczną</i> [Silent settlement of a matter by the public administration], Wolters Kluwer, Warszawa 2021, pages 352 (review by <i>Janusz Drachal, retired judge of the Supreme Administrative Court</i>)	195
---	-----

II. List of publications on administrative proceedings and court administrative proceedings (September – October 2021) (<i>compiled by mgr Marta Jaszcukowa</i>)	198
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Summary

of the article: **Sphere of administrative jurisdiction**

The article refers to the characteristics of administrative jurisdiction made by J. Zimmermann and to the broadly understood category of administrative jurisdiction that he has distinguished. Assuming that the essence of jurisdiction is “creating law in an individual form”, the study attempts to define the legal space of administrative jurisdiction with reference to the specificity and types of administrative law norms. The substantive legal determination of the space of administrative jurisdiction was diagnosed and the resulting consequences were presented.

Keywords: administrative jurisdiction, jurisdictional proceedings, individual administrative case, right of access to public information

Summary

of the article: **The question of the amount of the court fee and the costs of representation in the context of the decision of the enforcement authority to charge the creditor with the enforcement costs**

The present elaboration concerns two disputable issues in the case-law of the Supreme Administrative Court, namely the amount of the court fee in a complaint against a decision charging the creditor with enforcement costs and the legal representation costs adjudged in favour of the parties to the proceedings in such cases. According to the present author, the court fee for such a complaint should be a fixed fee and, consequently, the costs of legal representation adjudged in favour of parties represented by professional legal representatives (e.g. attorneys at law) in cases concerning the charging of the creditor with the costs of enforcement proceedings should be determined on the basis of § 14(1)(1)(c) of the Regulation of 2015 on fees for attorneys at law, i.e. 'in another case – PLN 480.' The view relating to the court fee is persuaded by the service and enforcement nature of enforcement proceedings, the ancillary nature of the costs of enforcement proceedings, the social, economic and axiological context considered in the process of interpreting a legal norm, as well as universally applicable principles in the form of generally accepted rules of justice and fairness, the preferences of the legislator concerning the amount of the court fee, and the constitutional right to a court indicating that court fees should not be excessively high. While the position concerning the costs of legal representation is persuaded by the aim to maintain the coherence of the legal system, the co-application of provisions regulating the amount of court fees before administrative courts and fees for the activities of attorneys at law, the rule prohibiting interpretations leading to contradictions and the rule prohibiting homonymous interpretations. The term 'pecuniary receivable' referred to in § 1 of the Regulation of 2003 on the amount of the court fee in proceedings before administrative courts and in § 14(1)(a) of the Regulation on fees for attorneys at law should have the same normative meaning. Therefore, decisions made in administrative, enforcement and precautionary proceedings should be excluded from the scope of this concept, regardless of the subject matter of the contested act.

Keywords: enforcement costs, creditor, creditor's burden, fixed fee, proportional fee, fees for acts, costs of legal representation, pecuniary receivable, decision made in enforcement proceedings, nature of cases

Summary

of the article: **Other justified grounds as a prerequisite for applying the institution of refusal to initiate a jurisdictional administrative procedure**

One of the grounds for refusal to initiate jurisdictional administrative proceedings is the condition of “other legitimate grounds”. The application of this institution is extremely troublesome for adjudicating bodies. It is not transparent and specific, thus leaving the authority a great deal of freedom in its application. The catalog of examples of reasons for such a refusal is helpful – developed by the doctrine and jurisprudence. However, it is necessary for the legislator to clarify the scope of the condition of “other justified reasons” so that the administrative bodies know when it should be applied. It should be emphasized that this form of denial of access to the administrative process path should be exceptional. Abuse of it by adjudicating organs deprives an individual of his constitutional right resulting from the principle of a democratic state ruled by law – the right to settle the matter through a legally regulated procedure.

Keywords: other justifiable reasons; refusal to initiate administrative proceedings; ground for refusal to initiate administrative proceedings

Summary

of the article: **Rates of fees in the municipal waste management system and their price-forming determinants in the light of the case-law of administrative courts**

The publication contains legal and financial issues related to the fulfillment of municipal waste management tasks by the commune, and also refers to the shaping of the amount of public levies – the amount of fees charged ultimately to the recipients of this system. The aim of the article is to answer the theses put forward in the publication, among others: whether the commune has autonomy in the field of municipal waste management in the light of applicable law, or whether the legal and financial instrument of determining the rates of fees for municipal waste management has a direct impact on the price determinants of these floss? Moreover, what legal and specific criteria entitle the decision-making body of the commune to determine the level of the fee rates? The discussion of the presented issue is a comprehensive approximation of the issues related to the estimation of fees for municipal waste management, and thus provides the basis for determining their correct amount by the commune. The publication is an attempt to correctly interpret the law in the calculation of fees in the municipal waste management system.

Keywords: commune, calculation, fees, municipal waste, management

Summary

of the article: **On the requirement to sign a letter submitted to an administrative court in the form of an electronic document**

The aim of the article is to present the problem of the formal requirement of signing a pleading in a proceeding before an administrative court, filed via the ePUAP platform. According to the paper, unclear rules of signing these letters caused a divergence in jurisdiction as to whether signing a pleading with an electronic signature is equivalent to signing a complaint to a provincial administrative court attached to the pleading. In the author's opinion, this question should be answered in the negative, because signing only the cover letter does not legitimise the applicant's will to lodge a complaint of a certain content to a court. Nevertheless, the principles of: protection of trust and assistance to parties require that the administrative court, while calling for signing a complaint with the above mentioned deficiency, should instruct the party that attaching to the signed cover letter in ePUAP an unsigned attachment containing a complaint does not fulfil the requirement of signing this legal measure.

Keywords: signing of the complaint, electronic signature, formal requirement

Summary

of the **Note to the judgment of the Supreme Administrative Court of 26 May 2021 (Case File No. II GOK 2/18)**

The High Administrative Court quashed, in its judgment of 3 May, 2021, the decision of the National Council of the Judiciary no. 330/2018 of 28 August, 2018 relating to presentation (non-presentation) of its motions for appointment to hold the office of judge of the Supreme Court in the Civil Chamber – insofar as the National Council decided to present to the President of the Republic its motion for appointment of seven persons to hold the office of judge in the Supreme Court. The High Administrative Court quashed also the above said decision with respect to the complainant who had not been presented, and decided about discontinuation of respective proceedings of the Council. The judgment triggered off the series of similar judgments concerning decisions of the National Council of the Judiciary in the matters of motions for appointment to the office of judge in all Chambers of the Supreme Court. It has to be regarded as an important link in the series of decisions of Polish courts of law, of the Court of Justice of the European Union (which answered the legal questions having been addressed to in the case in question by the High Administrative Court) as well as of the European Court of Human Rights. Those judicial decisions have been caused by legislative changes in the field of the judiciary, made since 2015, and supported through decisions of the politically dependent Constitutional Tribunal. The High Administrative Court attributed great importance to the principle of primacy of the EU law as it is meant by the Court of Justice of the EU and as it was meant before 2015 by the Constitutional Tribunal. The series of the judgments of the High Administrative Court in question as well as the respective European judicial decisions provoked a frontal attack of the Constitutional Tribunal on that way of comprehension of the principle of primacy.

Keywords: High Administrative Court, National Council of the Judiciary, appointment to hold the office of the judge of the Supreme Court, Constitution of the Republic of Poland, primacy of the law of the European Union, judicial independence

Summary

of the **Note to the Judgment of the Supreme Administrative Court of 26 May 2020 (Case File No I OSK 1533/19)**

The note deals with the judgment of the Supreme Administrative Court on the application of the provisions of the no-longer-applicable Act of 29 August 1997 on the protection of personal data as regards the processing of personal data by the courts as part of the exercise of the administration of justice and its relevance to the current legal situation after the entry into force of the provisions of Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC. Under the previous state of law, it was indicated that the national data protection authority was not a body controlling or supervising the correctness of the application of substantive and procedural law in matters falling within the jurisdiction of the courts, whose decisions were subject to review at court or otherwise specified by the relevant procedures. However, the existence of a basis for the processing of data as part of the examination of an application for exemption from court costs means that the data protection authority had no basis for issuing a decision ordering the restoration of the lawful state of affairs, since there had been no breach of the provisions on the protection of personal data and, moreover, the courts are entitled to process sensitive data when exercising their judicial capacity. The provisions of the GDPR have reinforced this position, as Article 55(3) specifies that national supervisory authorities shall not be competent to supervise the processing of personal data by courts, but only in their judicial capacity. Furthermore, the wording of Article 9(2)(f) GDPR explicitly indicates that courts may process sensitive data as part of their judicial capacity. This provision means that courts, in the context of all proceedings aimed at resolving a dispute pending before them, are entitled to process sensitive data.

Keywords: judiciary, personal data protection, Regulation 2016/679 of the European Parliament and of the Council, repeal of Directive 95/46/EC, access to case files, controlling compliance with protection of personal data

Summary

of the article: **How to increase the efficiency of administrative justice on the example of solutions adopted in France**

This paper deals with the changes that took place at the end of the second decade of the 21st century in the French administrative judiciary and which aimed at increasing its efficiency. The author commences with presenting a reform of the law in the field of developing and increasing the importance of mediation process, redefining the role of honorary judges and creating the post of *juriste-assistant*, as well as extending the powers of courts in certain categories of cases. This picture is then supplemented with a description of far-reaching modifications in the editing of administrative court rulings, which was initiated by the Council of State for a similar purpose. The author presents the genesis of these solutions and the role of the Council of State in their implementation. This allows him to draw conclusions regarding the risk of failure of reforms of the law on proceedings before administrative courts.

Keywords: France, law reform, efficiency of administrative judiciary