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KOMITET REDAKCYJNY
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Andrzej Gomułowicz (zastępca redaktora naczelnego), Bogusław Gruszczyński, Roman
Hauser, Andrzej Kisielewicz, Małgorzata Sawicka-Jezierczuk (sekretarz redakcji), Andrzej
Skoczylas, Janusz Trzciniński (redaktor naczelny), Maria Wiśniewska, Andrzej Wróbel

Korekta: *Justyna Woldańska*

ADRES REDAKCJI
Naczelny Sąd Administracyjny
00-011 Warszawa, ul. G.P. Boduena 3/5
tel. 22 826-74-88, fax 22 826-74-54, e-mail: msawicka@nsa.gov.pl

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SPIS TREŚCI

STUDIA I ARTYKUŁY

Prof. dr hab. Roman Hauser (Uniwersytet im. Adama Mickiewicza w Poznaniu)

Prof. dr hab. Andrzej Skoczylas (Uniwersytet im. Adama Mickiewicza w Poznaniu)

Dr Wojciech Piątek (adiunkt, Uniwersytet im. Adama Mickiewicza w Poznaniu)

Środki odwoławcze w postępowaniu sądowoadministracyjnym w świetle ustawy nowelizującej z dnia 9 kwietnia 2015 r. – analiza najistotniejszych zmian	9
Summary	21

Prof. dr hab. Wojciech Chróścielewski (Uniwersytet Łódzki)

Opłaty od środków zaskarżenia – propozycje zmiany przepisów dotyczących opłat i kosztów postępowania administracyjnego	22
Summary	36

Prof. dr hab. Robert Stefanicki (Uniwersytet Wrocławski)

Status uchodźcy w orzecznictwie polskich sądów administracyjnych (ze szczególnym uwzględnieniem wyroku NSA z 24 lutego 2011 r.)	37
Summary	50

Dr Agnieszka Wilk-Ilewicz (adiunkt, Politechnika Warszawska)

Decyzja o środowiskowych uwarunkowaniach realizacji przedsięwzięcia według wymogów prawa Unii Europejskiej	52
Summary	79

ORZECZNICTWO

I. Trybunał Sprawiedliwości Unii Europejskiej (wybór i opracowanie: Andrzej Wróbel, Piotr Wróbel)	
Odesłanie prejudycjalne – Artykuł 267 TFUE – Postępowanie wпадkowe w sprawie kontroli zgodności z konstytucją – Badanie zgodności ustawy krajowej zarówno z prawem Unii Europejskiej, jak i z konstytucją danego państwa członkowskiego – Uprawnienie sądu krajowego do wystąpienia do Trybunału Sprawiedliwości o wydanie orzeczenia w trybie prejudycjalnym – Uregulowanie krajowe przewidujące nałożenie podatku od wykorzystania paliw jądrowych – Dyrektywy 2003/96/WE i 2008/118/WE – Artykuł 107 TFUE – Artykuły 93, 191 i 192 EWEA – Wyrok TSUE z dnia 4 czerwca 2015 r. w sprawie C-5/14 <i>Kernkraftwerke Lippe-Ems GmbH przeciwko Hauptzollamt Osnabrück</i>	81
II. Europejski Trybunał Praw Człowieka (wybór i opracowanie: Agnieszka Wilk-Ilewicz)	
Doręczenie a prawo do sądu – Wyrok ETPC z dnia 21 maja 2015 r. w sprawie <i>Zavodnik przeciwko Słowenii</i> (skarga nr 53723/13)	87

III. Trybunał Konstytucyjny (wybór: <i>Irena Chojnacka</i> , opracowanie: <i>Mieszko Nowicki</i>) Wyrok TK z dnia 10 lutego 2015 r. (sygn. akt P 10/11) [dot. ochrony praw nabytych i ochrony interesów w toku]	90
IV. Sąd Najwyższy (wybór i opracowanie: <i>Dawid Miąsik</i>) Uchwała SN z dnia 8 października 2014 r. (sygn. akt III SZP 2/14) [dot. dopuszczalności drogi sądowej w sprawach zainicjowanych wniesieniem odwołania od decyzji Prezesa Urzędu Regulacji Energetyki]	95
V. Naczelny Sąd Administracyjny i wojewódzkie sądy administracyjne	
A. Orzecznictwo Naczelnego Sądu Administracyjnego (wybór: <i>Stefan Babiarz</i> , opracowanie: <i>Marcin Wiącek</i>) Uchwała składu siedmiu sędziów NSA z dnia 26 czerwca 2014 r. (sygn. akt I OPS 14/13) [dot. zatwierdzenia organizacji ruchu przez organ jednostki samorządu terytorialnego]	102
B. Orzecznictwo wojewódzkich sądów administracyjnych (wybór: <i>Bogusław Gruszczyński</i> , opracowanie: <i>Marcin Wiącek</i>)	
1. Wyrok WSA w Szczecinie z dnia 14 marca 2013 r. (sygn. akt II SA/Sz 936/12) [dot. legitymacji członków spółki wodnej do wniesienia skargi do wojewódzkiego sądu administracyjnego]	112
2. Wyrok WSA w Lublinie z dnia 13 lutego 2014 r. (sygn. akt II SAB/Lu 651/13) [dot. bezczynności polegającej na nieudzielaniu informacji publicznej]	115
3. Wyrok WSA w Gdańsku z dnia 26 lutego 2014 r. (sygn. akt I SA/Gd 1363/13) [dot. zakazu nadużycia uprawnienia do odliczania VAT]	116
4. Wyrok WSA w Gdańsku z dnia 17 września 2014 r. (sygn. akt II SA/Gd 263/14) [dot. ustalenia opłaty legalizacyjnej w stosunku do kilku inwestorów]	122
5. Wyrok WSA w Gliwicach z dnia 9 grudnia 2014 r. (sygn. akt I SA/Gl 739/14) [dot. zwolnienia kościelnych jednostek organizacyjnych od podatku dochodowego od osób prawnych]	126
6. Wyrok WSA w Szczecinie z dnia 17 grudnia 2014 r. (sygn. akt I SA/Sz 732/14) [dot. momentu powstania wierzytelności z tytułu opłaty planistycznej]	128
VI. Glosy	
<i>Dr Krzysztof Gruszecki (radca prawny)</i> Głosa do wyroku Naczelnego Sądu Administracyjnego z dnia 6 lutego 2014 r. (sygn. akt II OSK 2136/12) [dot. dopuszczenia metody szacunkowej w ustalaniu wysokości opłaty za zanieczyszczenie powietrza; nadania kierunku interpretacyjnego przepisom ustawy przez zasadę „zanieczyszczający płaci”]	133
<i>Dr Mirosława Laszuk (adiunkt, Politechnika Białostocka)</i> Głosa do wyroku Naczelnego Sądu Administracyjnego z dnia 27 września 2011 r. (sygn. akt I GSK 480/10) [dot. skutków braku właściwej publikacji unijnych aktów prawnych w obszarze prawa celnego]	141

SĄDOWNICTWO ADMINISTRACYJNE W EUROPIE

<i>Sędzia Veslava Ruskan (Naczelny Sąd Administracyjny Litwy)</i> <i>Dr Piotr Pietrasz (adiunkt, Uniwersytet w Białymstoku)</i> Zastosowanie technologii komunikacyjnych i informacyjnych w postępowaniu przed sądami administracyjnymi na Litwie	149
--	-----

KRONIKA

Kalendarium sądownictwa administracyjnego (maj – czerwiec 2015 r.)	
(opracował <i>Przemysław Florjanowicz-Błachut</i>)	167
Uzupełnienie Kroniki (marzec–kwiecień 2015 r.)	184

BIBLIOGRAFIA

Publikacje z zakresu postępowania administracyjnego i sądownictwa administracyjnego	
(maj – czerwiec 2015 r.) (opracowała <i>Marta Jaszczukowa</i>)	185

TABLE OF CONTENTS

STUDIES AND ARTICLES

Professor Roman Hauser, PhD (Adam Mickiewicz University in Poznań)

Professor Andrzej Skoczylas, PhD (Adam Mickiewicz University in Poznań)

Wojciech Piątek, PhD (assistant professor, Adam Mickiewicz University in Poznań)

Means of appeal in administrative court proceedings in the light of the amending act of 9 April 2015 – analysis of the most important amendments	9
Summary	21

Professor Wojciech Chróścielewski, PhD (University of Łódź)

Fees for means of review – proposals for amendments to provisions on fees and costs of administrative proceedings	22
Summary	36

Professor Robert Stefanicki, PhD (University of Wrocław)

Refugee status in the case-law of Polish administrative courts (with particular reference to the judgment of the Supreme Administrative Court of 24 February 2011, II OSK 557/10)	37
Summary	50

Agnieszka Wilk-Ilewicz, PhD (assistant professor, Warsaw University of Technology)

Environmental decision for an undertaking according to the requirements of the European Union	52
Summary	79

JUDICIAL DECISIONS

I. The Court of Justice of the European Union (selected and prepared by Andrzej Wróbel, Piotr Wróbel)	
Reference for a preliminary ruling – Article 267 TFEU – Interlocutory procedure for review of constitutionality – Examination of whether a national law complies with both EU law and with the Constitution of the Member State concerned	
– Discretion enjoyed by a national court to refer questions to the Court of Justice for a preliminary ruling – National legislation levying a duty on the use of nuclear fuel – Directives 2003/96/EC and 2008/118/EC – Article 107 TFEU	
– Articles 93 EA, 191 EA and 192 EA	
Judgment of the Court of Justice of the European Union of 4 June 2015 in the case C-5/14 <i>Kernkraftwerke Lippe-Ems GmbH v Hauptzollamt Osnabrück</i>	81

II. The European Court of Human Rights (selected and prepared by <i>Agnieszka Wilk-Ilewicz</i>)	
Service and the right to court	
Judgment of the European Court of Human Rights of 21 May 2015 in the case <i>Zavodnik v Slovenia</i> , application no. 53723/13	87
III. The Constitutional Tribunal (selected by <i>Irena Chojnacka</i> , prepared by <i>Mieszko Nowicki</i>)	
Judgment of the Constitutional Tribunal of 10 February 2015 (files no. P 10/11)	
[the protection of rights acquired and pending interests]	90
IV. The Supreme Court (selected and prepared by <i>Dawid Miąsik</i>)	
Resolution of the Supreme Court of 8 October 2014 (files no. III SZP 2/14)	
[the applicability of court proceedings in cases initiated by challenging the decision of the President of the Energy Regulation Office]	95
V. The Supreme Administrative Court and voivodeship administrative courts	
A. Judicial decisions of the Supreme Administrative Court (selected by <i>Stefan Babiarz</i> , prepared by <i>Marcin Wiącek</i>)	
Resolution of a panel of seven judges of the Supreme Administrative Court of 26 June 2014 (files no. I OPS 14/13) [the approval of traffic organization by a body of a local government unit]	102
B. Judicial decisions of voivodeship administrative courts (selected by <i>Bogusław Gruszczyński</i> , prepared by <i>Marcin Wiącek</i>)	
1. Judgment of the Voivodeship Administrative Court in Szczecin of 14 March 2013 (files no. II SA/Sz 936/12) [the authorization of the members of a water company to file a complaint with the voivodeship administrative court]	112
2. Judgment of the Voivodeship Administrative Court in Lublin of 13 February 2014 (files no. II SAB/Lu 651/13) [the idleness consisting in failing to provide public information]	115
3. Judgment of the Voivodeship Administrative Court in Gdańsk of 26 February 2014 (files no. I SA/Gd 1363/13) [the prohibition of abusing the right to deduct VAT]	116
4. Judgment of the Voivodeship Administrative Court in Gdańsk of 17 September 2014 (files no. II SA/Gd 263/14) [the determination of the legalization fee with regard to several investors]	122
5. Judgment of the Voivodeship Administrative Court in Gliwice of 9 December 2014 (files no. I SA/Gl 739/14) [the exemption of church organization units from corporate income tax]	126
6. Judgment of the Voivodeship Administrative Court in Szczecin of 17 December 2014 (files no. I SA/Sz 732/14) [the date of liability on account of the planning fee]	128
VI. Glosses	
<i>Krzysztof Gruszecki, PhD (legal advisor)</i>	
Gloss to the judgment of the Supreme Administrative Court of 6 February 2014 (files no. II OSK 2136/12) [the applicability of estimates in the determination of the air pollution fee and the effect of the application of the principle “the polluter pays” to the interpretation of statutory regulations]	133
<i>Mirosława Laszuk, PhD (assistant professor, Białystok University of Technology)</i>	
Gloss to the judgment of the Supreme Administrative Court of 27 September 2011 (files no. I GSK 480/10) [the effect of the lack of appropriate publication of EU legal acts in the field of customs duty law]	141

ADMINISTRATIVE JUSTICE IN EUROPE

Judge Veslava Ruskan (Lithuanian Supreme Administrative Court)

Piotr Pietrasz, PhD (assistant professor, University in Białystok)

Application of communication and information technologies in proceedings before administrative courts in Lithuania	149
---	------------

CHRONICLE

Schedule of events in the administrative jurisdiction (May–June 2015) (prepared by <i>Przemysław Florjanowicz-Błachut</i>)	167
Supplement of the chronicle (March–April 2015)	184

BIBLIOGRAPHY

Publications in the area of administrative and court-administrative proceedings (May–June 2015) (prepared by <i>Marta Jaszcukowa</i>)	185
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Summary

of the article: **Means of appeal in administrative court proceedings in the light of the amending act of 9 April 2015 – analysis of the most important amendments**

By the Act of 9 April 2015 amending the Law on Proceedings before Administrative Courts, administrative court proceedings have been comprehensively amended, including almost all process institutions, including means of appeal. The changes made included both issues concerning the conditions for the admissibility of means of appeal, the course of proceedings resulting from filing them and the rulings. The article discusses the most important changes in this area relating to the modification of the mode of challenging some of the provisions of the court of first instance ending the proceedings in a given case, the introduction of a special regulation concerning the time limit for filing a cassation appeal in case of appointing an attorney for the plaintiff under aid law, the relative devolutive effect of the cassation complaint and broadening the powers of the Supreme Administrative Court to include the right to alter decisions of courts of lower instance. It is hoped that the discussed amendments will actually help to facilitate, simplify and improve the existing shape of proceedings before administrative courts.

Summary

of the article: **Fees for means of review – proposals for amendments to provisions on fees and costs of administrative proceedings**

The provisions of section IX of the Code of administrative procedure regulate the issue of charges relating to administrative proceedings – fees and costs of proceedings. The fees include primarily the stamp duty, which has to be paid for applications initiating the proceedings. In most cases, the stamp duty does not exceed a few dozen of zlotys. In turn, costs of proceedings are to defray expenses connected with the proceedings. Such costs are most often borne by the authority that conducts the proceedings, whereas a party to the proceedings covers them only if they arose as a result of its fault, if they were incurred in its interest or at its request. The parties do not pay any fees for means of review brought in administrative proceedings and do not bear the costs of their examination. Therefore, they may block proceedings by bringing entirely groundless judicial remedies, both ordinary and extraordinary, without incurring any expenses, as is often done in practice.

The author proposes amendments to provisions governing such charges. The main element in the proposal is the introduction of a fee for the means of review, ranging from 20 to 100 zlotys, depending on the type of the means of review. Such a fee would be returned if the judicial remedy was granted. The author also suggests that parties that file petitions for the reopening of proceedings or for annulment of a decision have compulsory legal representation. These two extraordinary judicial remedies relate to decisions that have a qualified legal defect. Therefore, legal expertise is necessary when drawing them up. The dissatisfaction of a party with a given decision is not a sufficient ground for bringing such a remedy. Moreover, should the petition for the reopening of proceedings or for annulment of a decision filed by a party turn out to be clearly groundless, the party would be charged with the lump-sum costs of the examination of such petitions.

The proposals are aimed at reducing different forms of challenging administrative decisions solely on grounds of jealousy or willingness to extend the proceedings. Their implementation could diminish the number of extraordinary judicial remedies brought and, in consequence, the number of complaints lodged with administrative courts.

Summary

of the article: **Refugee status in the case-law of Polish administrative courts (with particular reference to the judgment of the Supreme Administrative Court of 24 February 2011, II OSK 557/10)**

The protection of refugees is based both on standards arising from international law and on national regulations, including especially those concerning procedures and systemic issues. The principle of the procedural autonomy of the European Union Member States is not absolute, as international protection should be ensured while respecting the principles of equivalence and effectiveness. The decision-making practice of both public administration bodies and administrative courts must, too, be without prejudice to these principles. The Court of Justice found that as far as a national system, having the aforementioned characteristics, is concerned, it is for a national court of a Member State to ensure that the fundamental rights of applicants, including the right to be heard, are respected in each of these procedures – in both procedural and substantive terms. In matters discussed in this article, it is the Supreme Administrative Court that fulfils a specific role in terms of monitoring the appropriateness of administrative and administrative court proceedings. The selected issues presented in the article relate to the procedural aspects of processing asylum applications, which are closely linked to substantive law. The focus of the considerations presented in the article is on the message of the judgment of the Supreme Administrative Court of 24 February 2011, which is directional and in line with the case-law of international courts. The axiological and praxeological aspects of the international protection of refugees are highly important. Behind the positive law, understood as a coherent set of rules governing the rights and obligations of the beneficiaries of law, is an assumption that there is a stronger and stable structure of rules of diverse nature. Behind formal requirements there are often dramas of refugees, which must not be overlooked by authorities that decide whether or not to grant protection. Therefore, attentiveness to the complexity of matters being the subject of the regulation is essential. Of course, it is also necessary not to lose sight of the public interest in terms of efficient prevention of misuse of procedures.

Summary

of the article: **Environmental decision for an undertaking according to the requirements of the European Union**

The environmental decision has a special place in the environmental law. Not only does it specify the direct and indirect impact of the planned project on the natural environment, social environment, including health and living conditions of people, on material assets and cultural monuments; it primarily shows the interrelationship between these elements and the possibilities and ways of preventing and mitigating the negative impact on the environment. The environmental decision ensures the determination of the actual impact of projects on the natural and social environment, also during operation, and allows optional adjustment of the measures to mitigate the negative effects. The purpose of the environmental decision is to achieve one of the objectives of the EU in the area of environmental protection and quality of life and to cause that the effects of the project on the environment be assessed for the sake of a better quality of life by improving environmental conditions.

In Polish administrative courts in matters related to environmental protection, the parties most frequently challenge settlements by administrative bodies regarding environmental decisions. The scope of complaints raised by the applicants appears to be relatively easy to determine. And so, the parties doubt about the question of addressees of the environmental decisions, the possible legal successors and the status of environmental organizations in the proceedings (including issues related to the right of action of an ordinary association). In addition, frequently the basis of challenge is the very EIA report. It is not uncommon that administrative courts pay attention to the mistakes made by the authors of the reports, unnoticed during the administrative procedure, concerning, e.g., non-compliance of the report with the information sheet, the lack of reliable description of the analyzed variants of the project and finally the problem of the division of the project into a number of smaller ones. Bearing in mind the recurring problems in cases decided by administrative courts as regards environmental protection, this study presents in an orderly manner the rulings of the Court of Justice of the European Union and the rulings of Polish administrative courts in this regard.