

MAIN REASONS FOR THE RULING OF THE PROVINCIAL ADMINISTRATIVE COURT

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Abstract. The article discusses the essence and function of the main reasons for the decision of the provincial administrative court, also known as oral grounds of the decision. The text analyses their role in the process of issuing and announcing the judgment, the procedural, communicative and legal consequences of their submission after the announcement of the operative part of the judgment. Issues related to the procedural significance of the main reasons for the decision, shaping their content by voting and the conditions for communicating them at the court session were discussed. Arguments were also presented in favor of the thesis that the court is not bound by the oral grounds of the judgment when preparing the written reasoning.

Keywords: reasoning; main reasons for the decision; oral reasons for the judgment.

INTRODUCTION

The administration of justice by administrative courts is undoubtedly the domain of state activity that is supposed to guarantee the protection of the rights and freedoms of individuals in their relations with public authorities [Trzciński 2008, 127-39]. By issuing a judgment, an administrative court decides an administrative case, i.e., it decides whether a party was right to accuse an authority of violating the law. Administrative courts exercise judicial power in a fundamentally different way from ordinary courts and military courts. Although an administrative court judgment resolves a dispute arising based on law, it does not do so by directly shaping the content of the relationship between public authorities and individuals. In the request initiating administrative court proceedings, the party does not request the proper shaping of the administrative-legal relationship between it and the public authority, but rather a review of whether this relationship has been shaped in accordance with the law. The essence of the administration of justice by administrative courts is therefore to verify whether, in its relations with individuals, another segment of power – the executive power – is complying

with the constitutionally proclaimed requirement to act based on and within the limits of the law [Kobak 2024, 28-29].

1. ORAL GROUNDS FOR THE JUDGMENT IN THE CONTEXT OF ITS ISSUANCE AND ANNOUNCEMENT

An administrative court judgment has a dual nature: on the one hand, it is an emanation of judicial power, an expression of an authoritative decision determining the consequences of a formulated assessment on the legality of public administration, and on the other, it is the result of the implementation of a *sui generis* public service that the state provides to individuals as part of the realization of the fundamental principle of a democratic state governed by the rule of law. The development and maintenance of the state as a common good require an efficient judicial system based on democratic values, capable of fairly resolving legal disputes.

The announcement of the provincial administrative court's judgment is the first moment when the parties learn how the court has decided the administrative case. The ceremonial nature of this procedural act is intended to lend it a solemnity commensurate with the majesty of state authority, which *ratione imperii* imposes on the parties its assessment of the legality of the public administration action challenged by the complaint. The reading of the judgment takes place in an atmosphere of solemnity and dignity of the court, which is intended to reflect the supremacy of the state in the administration of justice. However, it should be realized that the judicial power, like other state powers, is representative in nature and is exercised on behalf of and for the benefit of the Nation. The administration of justice by administrative courts is therefore not autotelic, but remains closely linked to the servant function of the state, which directs all its actions towards the realization of the common good. From the perspective of the constitutional function assigned to administrative courts, the issuance and announcement of a judgment is the administration of justice through the official and solemn documentation and disclosure of the results of the legality review of the contested action of the public administration. From the individual's point of view, the issuance and announcement of a judgment is the realization of the constitutional right to a court, which is to guarantee protection when their rights and freedoms in relation to the state are violated. For the individual, the issuance and announcement of a judgment is therefore important primarily in the context of the representative and service function that the administrative court is to perform for them. The fact that this court also operates within the framework of state authority is of secondary importance, as it does not in itself guarantee the correctness of the decision, but only its respect in legal transactions. The individual, therefore, expects the administrative

court, within the scope of its jurisdiction, to hear their case and issue a fair judgment in an open, impartial, and independent manner, without undue delay. The right to an administrative court is therefore not limited to the mere issuance of a judgment, but also to the fact that the decision contained therein is fair and thus ends the dispute in a manner consistent with the law.

According to accepted assumptions, the announcement of the judgment only fulfills that element of the right to a court that relates to obtaining a decision in an administrative court case. However, based on the content of the judgment read out, it is not possible to determine whether the decision contained therein is fair. The moment when a party learns of the content of the decision may, of course, evoke positive or negative emotions. However, these will always be solely the result of compensating for the tension caused by expectations regarding the final decision of the court on the merits of the complaint. In other words, at the moment the judgment is announced, the party may be satisfied with the court's decision because it is in line with its expectations, and not because it is fair. Attributing justice to a judgment requires an assessment, which is, by definition, the result of a rationalization process. However, it is only possible to rationalize an administrative court judgment once the court has disclosed the reasons for its decision as stated in the operative part of the judgment. The reasons for the decision should be understood as the premises that legitimize it, i.e., the elements of fact and law that, in the final syllogism, made it possible to decide whether the controlled action of the public administration violates the law to an extent that justifies harmful judicial interference by the court [Wojciechowski 2015; Morawski 2000, 151ff]. In the standard formula, the factual grounds for an administrative court judgment refer to a specific past event consisting of an action by a public administration body (the factual basis of the judgment). In turn, the legal grounds consist of legal norms constituting the basis for the review of the contested action of the public administration and legal norms determining the formula of the decision appropriate to the results of this review (legal basis of the judgment).

The possibility of rationalizing an administrative court ruling and formulating an assessment of the fairness of the decision contained therein arises when the presiding judge or rapporteur presents the main reasons for the decision, as defined in case law¹ and literature [Dauter-Kozłowska and Dauter 2023; Chróścielewski 2018; Federczyk 2013; Polanowski 2018; Bartosiewicz 2023, 42-43; Kowalski 2018, 27] also as "oral grounds for the judgment." It is at this point that a kind of conversion of the court's adjudicative activity from the formula *ratione imperii* to *imperio rationis* takes

¹ Judgments of the Supreme Administrative Court: of November 6, 2024, ref. no. I GSK 1063/24, of June 11, 2024, ref. no. III OSK 1459/23, of May 25, 2021, ref. no. II OSK 2456/18, of November 22, 2016, ref. no. II GSK 1048/15; of February 8, 2008, ref. no. II OSK 2039/06.

place. Stating the fundamental reasons for the decision implies that the judgment of the administrative court becomes intersubjective (cognizable) and discursive. It is not merely an act of power *sic volo sic iubeo* (I want it, I command it), but becomes a decision whose premises are transparent, verifiable, and subject to evaluation.

The content of Article 139(3) of the Act of August 30, 2002, Law on proceedings before administrative courts² clearly states that the oral presentation of the main reasons for the decision takes place after the judgment has been announced. It is therefore a procedurally autonomous act in the sense that it does not fall within the scope of the pronouncement of the judgment, although without it the pronouncement cannot be made [Adamiak 2020]. For this reason, it is so important that, when presenting the facts of the case, the reporting judge should limit himself to stating the relevant facts and allegations of the complaint (Article 106(1) LPAC), excluding their legal assessment. It is unacceptable for an administrative court or individual members of the adjudicating panel to conduct and publish (even partially) an assessment of the case during a legal hearing, as this reveals the grounds for the judgment before it is made and announced. Both the announcement of the judgment and the oral reasons for the decision are made at a public hearing, which is not, however, a trial. The trial is closed by the presiding judge when the case has been sufficiently clarified (Article 113(1) in conjunction with Article 133(1) LPAC). The oral reasons for the decision are given by the reporting judge, although, pursuant to Article 139(3) LPAC, this may also be done by the presiding judge.³ Unlike in criminal and civil proceedings, the obligation to state the main reasons for the decision is not waived, even if neither the parties nor the public are present at the pronouncement of the judgment.

2. VOTING ON THE MAIN REASONS FOR THE DECISION

Pursuant to the provisions of Article 137(1) LPAC, the judges' deliberation "includes discussion, voting on the ruling to be made and the main reasons for the decision, as well as writing down the operative part of the judgment." As follows from the above, the fundamental reasons for the decision are the subject of judicial deliberation and are put to a vote on the same terms as the ruling itself. Their publication after the judgment has been announced cannot, therefore, be regarded as a presentation of the personal views of the judge-rapporteur [Dauter 2009]. The oral grounds for the

² Journal of Laws of 2024, item 935 as amended [hereinafter: LPAC].

³ Under criminal procedure, any member of the adjudicating panel may give oral reasons for the judgment – see Article 418(3) of the Act of June 6, 1997, the Code of Criminal Procedure, Journal of Laws of 2025, item 46 as amended.

decision reveal the arguments that, in the court's opinion, were decisive for the decision in the case. They should therefore be agreed upon during the discussion or vote. The result of the vote on the main reasons for the decision does not have to be unanimous. It should be assumed that in a situation where the judges unanimously accepted the content of the decision, it is unacceptable to submit a dissenting opinion solely on the grounds of its reasoning⁴ (which does not preclude the lack of acclamation during the vote itself). A situation in which a dissenting opinion on the decision has been submitted may be problematic. It is not clear whether a judge submitting a *dissenting opinion* should vote on the fundamental reasons for the decision with which he or she disagrees. However, excluding him or her from the vote could lead to a *sui generis* procedural stalemate in which the other judges would take different positions on the fundamental reasons for the decision. The content of the fundamental reasons for the decision should be agreed to the extent that it is possible to vote on them by a majority, regardless of any dissenting opinion on the decision itself. A judge who has submitted a dissenting opinion on the decision will not share the reasons on which it is based. In such a situation, it seems understandable to vote against the main reasons for the judgment. However, it should be realized that voting on the main reasons for the decision is not a re-vote on the decision itself. It takes place when the content of the judgment has already been decided. The role of the adjudicating panel is to agree on what arguments should be presented to those present in the courtroom in order to demonstrate its correctness (fairness, accuracy, etc.). For this reason, it cannot be ruled out that, despite the submission of a dissenting opinion, the fundamental reasons for the decision will be accepted unanimously. In this configuration, the judge who has submitted a dissenting opinion will be guided by responsibility and pragmatism, expressing his or her position on how to convey the reasons for the judgment to the parties, even though he or she disagrees with it. Submitting a dissenting opinion does not mean that the judge does not participate in the judgment, and the responsibility for announcing it and giving oral reasons is not waived. The only ruling in the case is the one that was voted on during the deliberations, and each of the judges participating in its issuance is responsible for ensuring that the reasons given after its announcement legitimize it to the highest possible degree. The dissenting opinion prepared pursuant to Article 137(2) LPAC⁵ is not a competing (alternative) decision in an administrative court case issued by the

⁴ Article 137(2) LPAC allows for the submission of a dissenting opinion only from the justification.

⁵ And para. 55(6) of the Internal Rules of Procedure of Provincial Administrative Courts – Regulation of the President of the Republic of Poland of August 5, 2015, Journal of Laws of 2024, item 779.

member of the adjudicating panel who submitted it. It is merely a procedural form of disclosure of arguments intended to demonstrate the incorrectness of the judgment issued, a place for substantive debate with the decision contained therein. For these reasons, the active participation of the judge who submitted the dissenting opinion in agreeing on the fundamental reasons for the ruling seems not so much desirable as necessary.

3. CONTENT OF THE ESSENTIAL GROUNDS FOR THE DECISION

The semantic construction of this concept is of fundamental importance for determining the scope of the substantive reasons for the administrative court's judgment. It should be noted that the legislator does not require an explanation of what the court has done, as this is clear from the content of the judgment. The statement of the essential reasons for the decision is intended to reveal why the court made the decision contained in the judgment, and not to translate its content into another language. The reason for the decision is its cause, the rationale that justifies it, and demonstrates its accuracy. This approach to the issue in question determines that the oral grounds for the decision should demonstrate that the administrative court has correctly performed its constitutional function. When stating the main reasons for the decision, the judge should construct his argument in such a way as to demonstrate that the review of the legality of the contested public administration action was carried out in accordance with the normative paradigm.

In its oral reasoning, the court should not refer to the facts of the case, as these have already been presented to the parties in the report after the case was called for hearing. Referring to the facts of the case only makes sense if individual elements are correlated with the court's review. The judge presenting the oral grounds may refer to specific facts, either in the context of assessing the validity of the allegations or positions of the parties presented in the course of the proceedings, or in relation to the violations of law found. Regardless of the configuration, reference to specific facts should always relate to the result of the court's review, as reflected in the judgment. By definition, reference to the facts of the case will be more specific when the complaint is found to be well-founded. In such a situation, the main reasons for the decision will be associated with specific violations of the law that justified its acceptance. Depending on the subject matter of the appeal, the oral grounds should make it possible to determine which provisions were violated, what the violation consisted of, and why it is so significant (if such a gradation is provided for in the provisions of the Code of Administrative Procedure) that the court could not dismiss the complaint. It is methodologically correct to present the main reasons for the decision in such a way that the violations of law that are decisive, i.e., that independently determine

the necessity to uphold the complaint, are referred to first. Violations of law that are of an accessory nature, i.e., cannot be classified as grounds for upholding the complaint, may be stated in the final part of the grounds, although it does not seem wrong if they are omitted. The main reasons for the decision to uphold the complaint can only be those violations of law that justify such action. Other violations of law that the court points out "incidentally" do not constitute grounds for upholding the complaint and therefore are not the reason for the decision issued. For similar reasons, it must be assumed that the oral grounds for a judgment upholding the complaint should, as a rule, not include those allegations of the complaint which the court did not share. An allegation that has been negatively verified by the court cannot be a reason for upholding the complaint. The presentation of the grounds for upholding the complaint should focus more on the violations of law that justify such a decision than on the positions of the parties. Of course, it is left to the discretion of the court to decide whether and to what extent to refer to the allegations and positions of the parties to the proceedings. It is because the court's scope of action integrates the obligation to present the most important reasons for a judgment negatively assessing the contested activity of public administration with the function of persuasion, which cannot be fully achieved without referring to the positions of the parties that, in their opinion, were relevant to the case. However, it cannot be overlooked that if the complaint is upheld, the provincial administrative court draws up the grounds for the judgment *ex officio* and may fully address those allegations and positions of the parties to the proceedings which did not affect the content of the judgment. When presenting the main reasons for the decision, it may be indicated that detailed references to the allegations and positions of the parties will be included in the written justification.

If the complaint is dismissed, the oral grounds for the judgment are of a different nature. In such a procedural arrangement, the court does not, by definition, have precise coordinates shaping the content of the decision. The structure of the statement revealing the fundamental reasons for the ruling should focus more on the allegations of the complaint. While a ruling upholding the complaint is closely correlated with the very defectiveness of the contested public administration action, a judgment dismissing the complaint – at least in the perception of the entity that filed it – much more clearly expresses the groundlessness of the allegations made therein. It is justified insofar as, in the case of dismissal of the complaint, it is generally difficult to give the fundamental reasons for the decision. In the court's opinion, the entirety of the normative conditions of the contested public administration action, both at the systemic and procedural and substantive levels, does not raise any objections. Therefore, it is not possible to identify

any clear points of reference that could be considered fundamental to the decision formulated in the operative part of the judgment. If a complaint lodged with a provincial administrative court is drafted in a manner that does not allow for the identification of specific violations of the law, but rather expresses a general sense of dissatisfaction or injustice, the oral grounds should refer in general terms to those elements of the authority's action which, in accordance with the accepted standard of review, demonstrate its compliance with the law. In this regard, the experience and intuition of the judges of the adjudicating panel undoubtedly have a significant role to play, as they allow them to ascertain (especially during the hearing) whether the complainant disagrees with the factual findings made by the authority, is questioning the correctness of its actions in another area, or considers the decision itself to be unfair. In the oral grounds, emphasis should be placed on those issues that the party considers important. If, on the other hand, the complaint contains allegations and specifies the violations of law attributed to the authority, the oral grounds for the decision should primarily explain why the court did not share them. It applies both to a situation where the authority did not act as described in the complaint – its activity was different – and to a situation where the authority did act as alleged in the complaint, but there are no grounds for assuming that this was unlawful.

If the complaint is dismissed, the essential reasons for the decision play another important procedural role. They may convince the parties that it is not advisable to lodge a cassation complaint and, in the foreground, that there is no need to submit a request for a statement of reasons for the judgment. From the court's perspective, this possibility is undoubtedly an "advantage."

The legislator has profiled the scope of the oral grounds for the decision by giving them the characteristic of "fundamentality." Despite different initial intuitions, it is not at all easy to define the meaning of the term "fundamental reasons for the decision." A specific violation of the law that obliged the court to uphold the complaint can be treated as a reason for the decision. On this assumption, only the most serious, fundamental violations that are "sufficient" to uphold the complaint will be considered essential reasons for the decision. It would give the court room for a particular kind of assessment, based on which it would select from among the violations of law giving rise to the complaint, i.e., those that are the reason for the decision, those which, in its opinion, are the most serious. The only criterion for selecting the reason for the decision, which would be disclosed in the oral grounds, would be the gravity of the violation of the law, understood as the intensity of its correlation with the normatively determined grounds for upholding the complaint (the provisions of the Code of Administrative Procedure). However, this understanding of the fundamental reasons for the decision

would not work in the event of the complaint being dismissed. It is impossible to select the arguments that “most” justify the dismissal of the complaint.

In the second approach, the “fundamentality” of the reasons for the decision can be referred to not to the violation of the law, but to the argumentation itself, which is intended to demonstrate that violation. On this assumption, when presenting the oral grounds for the judgment, the provincial administrative court should disclose all violations of the law that justify the adopted direction of the decision (if the complaint is upheld), except that the argumentation itself legitimizing each of the assessments of the illegality of the authority’s action should be limited to key issues. In the same way, the court would present the main reasons for dismissing the complaint, but only in relation to the allegations raised in the complaint. This understanding of the “fundamentality” of the reasons for the decision correlates with the conclusions presented in the doctrine that the oral grounds for the judgment are a kind of summary of the written justification [Hyżorek 2020, 72], the so-called “weakened justification” [Wróblewski 1988, 297-298].

The need to rationalize the actions of the provincial administrative court is sufficient to assume that none of the presented approaches to the “essentially” of oral grounds for a judgment should have exclusivity in the process of applying Article 139(3) LPAC. It seems reasonable to assume that the essential reasons for the decision disclosed after the judgment has been announced do not have to cover every violation of law found by the court that gave rise to the complaint, just as it does not have to refer to each of the allegations raised in the complaint. Nor is it necessary to always present, in the oral grounds, a complete legal argumentation of the court’s assessments as to the merits of the complaint. The content of the main reasons for the decision should be the result of the court’s consideration of how best to demonstrate the correctness of the judgment in the circumstances of the specific case. The conditions for achieving this objective cannot be confined to any matrix concept that sets out a rigid framework for the operation of a provincial administrative court.

4. THE MAIN REASONS FOR THE DECISION IN TERMS OF COMMUNICATION

Presenting the main reasons for the decision is undoubtedly a process of communication. It requires the creation of a message, its transmission, reception, and interpretation [Adams and Galanes 2008, 63ff]. Optimizing the impact of the judicial act of presenting the grounds for a judgment requires taking into account some complex factors, which are often situational in nature and require *ad hoc* adaptation.

The judge delivering the main reasons for the decision cannot be merely an issuer of information; he or she is a representative of state authority who communicates directly with the individual to convey the reasons behind a particular decision in a dispute to which that individual is a party. This directness of interaction between the court and the persons present in the courtroom during the delivery of the oral reasons means that the subject of reception is not only what the court communicates, but also how it does so. There is therefore no doubt that, in functional terms, the presentation of the grounds for a judgment cannot be limited solely to the disclosure of information, without reference to all the factors that determine its proper reception [Rzeszutko 2003, *passim*; Gmerek 2019, *passim*; Najda, Rutkowska, and Rutkowski 2021, *passim*].

Undoubtedly, the starting point for the correct presentation of the main reasons for the decision is their prior proper preparation. Before announcing the judgment, the reporting judge should prepare to present the oral grounds for the decision. It should be remembered that communication during the announcement of the judgment and the presentation of the oral grounds for the decision is symbolic in nature. The symbol that reaches those present at the hearing is not only words, but also gestures, sounds, objects, and actions [Świerczyńska-Głownia 2019, 15-16]. Several factors influence the overall perception and assessment of the administrative court's actions, including the examination and resolution of specific cases. A positive perception of the court's actions is conditioned by complex feelings, shaped by nuances that are often only slightly or not at all related to its substantive activities. A judge presenting the oral grounds for a decision should speak without haste, clearly, calmly, and in a manner that reveals a focus on the audience. It is necessary to use language whose level of complexity is adequate to the audience's perception capabilities. A party appearing on its own should not be explained legal complexities that it is unable to understand. The message sent by the judge presenting the main reasons for the decision should enable the audience to familiarize themselves with the reasons behind the decision, regardless of whether the party agrees with them or not. The dignity of the administrative court, built up by the aura of the courtroom, the official attire of the judges, and the state emblem, should be consistent with the formula for communicating the main reasons for the decision. Therefore, the judge presenting the oral grounds for the judgment should speak with dignity, with respect for those present, without impatience, adapting the dynamics and style of speech to the perceptual potential of the audience. It cannot be overlooked that the image of the court is influenced by the behavior of all judges, not just the one presenting the main reasons for the decision. The other judges should express concentration and commitment at that time.

A special kind of communication process takes place when the reasons for a decision that is of wider public interest are presented, as evidenced by the presence of a large audience or media. In such a situation, the purpose of the oral reasons – apart from those already mentioned above – is to present the court's position on socially sensitive issues, even if they were not strongly related to the decision itself. Omitting them will certainly not be well received by the public and will additionally create a sense of the court being “detached” from “ordinary people.” In any case, it is necessary to sense and understand the need that has arisen in the public sphere to disclose the reasons that guided the administrative court in deciding cases that attract public attention.

5. BINDING FORCE OF THE FUNDAMENTAL REASONS FOR THE DECISION

One must agree with the views formulated in the doctrine that the oral grounds for the judgment constitute an announcement, an introduction to the reasoning that the court will present in its written justification [Rzucidło 2020, 50-52]. Therefore, by definition, there should be consistency between the written justification and the oral grounds for the decision. An important issue, which the legislator has not explicitly resolved, is whether the lack of such consistency should be classified as a violation of the law that could have a significant impact on the outcome of the case. On the one hand, it must be taken into account that if, when issuing a judgment, judges vote on the main reasons for the decision and then, after the judgment has been issued, these reasons are changed, it cannot be ruled out that the result of the vote on these “new” reasons would be different. On the other hand, however, it cannot be ignored that the reasoning for the judgment, which gives reasons for the decision other than those disclosed in the oral grounds (as a rule)⁶ is signed by all members of the adjudicating panel, and therefore it is reached by consensus, which allows us to assume that the judges would have voted in favor of these new grounds for the decision.

As can be seen from the above, in an idealized paradigmatic approach, the justification of a provincial administrative court's judgment does not create post-factual reasons to rationalize the decision expressed in its content. The opposite assumption would mean that at the time of issuing the judgment, the court acts to some extent without reflection, relying on unidentifiable criteria for examining and deciding the case or on *sui generis* intuition [Patryk

⁶ This refers to the situation of submitting a dissenting opinion from the justification referred to in Article 137(2) LPAC and para. 55(5) and (6) of the Internal Rules of Procedure of Provincial Administrative Courts.

2023, *passim*; Brożek 2024, 27-76]. However, it must also be admitted that after issuing the judgment and stating the main reasons for the decision, the provincial administrative court changed its mind as to the reasons (arguments) that should be disclosed in the justification in order to rationalize the judgment properly. In this scenario, at the time of issuing the judgment, the court has reasons for the decision it has made. However, at the time of drafting the justification, it concludes that other arguments better demonstrate the correctness of the decision that it did not initially consider or did not attribute fundamental importance to. It is an important issue because it relates to the effects of inconsistency between the essential reasons (oral grounds) for the decision and the written justification of the judgment. On the other hand, *de lege lata*, it has little practical value in the absence of procedural tools allowing for the recording of the oral grounds for the judgment of the provincial administrative court and, consequently, for their comparison with the content of its written justification. Despite this inconvenience, the issue is worth considering.

Pursuant to Article 144 LPAC, the court is bound by the judgment issued from “the moment of its announcement.”⁷ The moment the judgment is announced, a binding effect arises, which in procedural terms means that it is not possible to interfere with its content and the legal effects it produces outside the procedures provided for this purpose. There is no doubt that the announcement of the judgment marks the initial moment of binding by its content. However, it is not so obvious whether it determines the scope of this binding effect. The question is whether, at the moment of pronouncement of the judgment, the scope of the binding effect becomes “stable,” i.e., it is not modified as a result of an action after the pronouncement, such as the oral presentation of the main reasons for the decision. The answer to this question is affirmative. The binding nature of the judgment does not extend to the main reasons for the decision given after its announcement [Piątek 2024, 170; Romańska 2010, 32]. As follows from Article 139(3) LPAC, the announcement of the judgment consists in reading out its operative part, and only after this announcement does the reporting judge give the main reasons for the decision orally. The announcement of the judgment and the giving of the main reasons for the decision are two autonomous procedural acts. The court is bound by the judgment issued at the moment of its announcement, and therefore even before the main reasons for the decision contained therein are given. The scope of the provincial administrative court’s binding nature of the judgment cannot, therefore, include the main reasons for the decision given after its announcement. The above conclusions are confirmed by the content of Article 137(2), last sentence, LPAC in conjunction with para. 55(5) and (6) of the Internal Rules of Procedure

⁷ Or signing the sentence when it was issued in a closed session.

of Provincial Administrative Courts. It follows from the above provisions that a judge may submit a dissenting opinion to the justification. It should be assumed that he cannot submit a dissenting opinion to the justification at the stage of signing the judgment, although there are also opposing views in this regard [Dauter 2018]. Accepting the position that a judge may submit a dissenting opinion at the stage of signing the judgment would be equivalent to accepting that the “justification” is the fundamental grounds for the decision put to the vote. A dissenting opinion would therefore include arguments that not only have not yet been communicated to the parties after the judgment has been announced, but above all have not been recorded in the procedural form appropriate for the reasoning of the judgment.

Furthermore, submitting a dissenting opinion from the justification – the fundamental reasons for the decision – would mean that they are binding on the part of the panel that voted for them, which would be contrary to Article 144 LPAC. If this were not the case, an unacceptable situation could arise in which the arguments in the dissenting opinion would coincide in substance with the arguments in the justification of the judgment, because during its preparation, the reasons for the decision would be modified. For reasons that need no explanation, such an arrangement is unacceptable. The above conclusions are confirmed by para. 55(6) of the Internal Rules of Procedure of Provincial Administrative Courts, which states that the time limit for drafting a dissenting opinion separate from the justification begins at the moment of its signing and the inclusion of an appropriate note next to the signature. The provisions of the aforementioned rules do not provide for a separate deadline for preparing a separate opinion to the justification in the event of its submission at the time of signing the judgment.

During deliberations, judges may not be unanimous as to the fundamental reasons for the decision, but at this stage, they do not have the procedural instruments to reveal this by submitting a dissenting opinion.

In summary, a dissenting opinion to the justification of a judgment concerns only the justification that has already been drafted and submitted for signature to the other members of the adjudicating panel. There is no procedural isomorphism between the substantive grounds for the decision and the written justification of the judgment – they are not equivalent and synonymous procedural acts. The substantive grounds for the decision given orally are not binding within the meaning of Article 144 LPAC. Assuming the hypothetical correctness of the opposite assumption, it should be assumed that in each case of inconsistency between the written justification of the judgment and the main reasons for the decision contained therein, there would be a violation of Article 144 in conjunction with Article 139(3) LPAC. When considering the validity of a cassation appeal based on these provisions, the Supreme Administrative Court would have to decide whether their violation

could have had a significant impact on the outcome of the case within the meaning of Article 174(2) LPAC. The scope of verification in relation to such an objection would have to be limited solely to establishing inconsistency between the written justification and the fundamental reasons for the decision given after the announcement. However, it could not refer to the substantive “competitiveness” of the reasons disclosed in the justification and the oral grounds. In other words, when examining a cassation objection alleging inconsistency between the oral grounds of the judgment and its written justification, the Supreme Administrative Court would not be entitled to compare the substantive strength of the arguments rationalizing the judgment issued, given in both of these sources. Within the limits of this allegation, the Supreme Administrative Court would not be able to consider which of the arguments – those given in the oral grounds or those disclosed in the written justification – correctly (better) rationalize the judgment issued. In such a situation, the Supreme Administrative Court would rule beyond the limits of the cassation appeal. On the one hand, it would verify the legal assessments formulated by the provincial administrative court without any objections questioning their validity, referring only to the mere fact of the potential inconsistency of the oral grounds with the written justification.

On the other hand, by assessing the merits of the decision revealed in the oral grounds, it would refer to legal assessments whose source does not have the proper legitimacy. It cannot be overlooked that the formal opening of the possibility of lodging a cassation appeal against a judgment of a provincial administrative court takes place only when its written justification has been drawn up and delivered. The effectiveness of cassation allegations is assessed by the Supreme Administrative Court from the perspective of the content of the written justification of the judgment, excluding those cases in which the formal correctness of the judgment itself is questioned.⁸ However, it is not possible to formulate effective cassation allegations questioning the correctness of the oral grounds for the judgment. Their positive verification by the Supreme Administrative Court is excluded by definition.

For the reasons set out above, the admissibility of raising a cassation objection pointing to an inconsistency between the written justification of the judgment and the oral grounds for the decision seems debatable. Its positive verification, *per se*, cannot determine the necessity to overturn the judgment of the provincial administrative court within the framework of appellate review. This is because it is an issue that requires a different field of analysis.

⁸ The judgments of the Supreme Administrative Court of June 11, 2024, ref. no. III OSK 1459/23, and November 6, 2024, ref. no. I GSK 1063/24, explicitly state that the basis for formulating the grounds for a cassation appeal is a written statement of reasons, not oral grounds. The issue of inconsistency between the two sources does not affect the procedural rights of the parties.

It does not concern whether the inconsistency between the oral grounds for the judgment and its written justification translates into a defect in the decision, but whether this defect must result in the cassation appeal being upheld.

Next, attention should be drawn to the difficulties in establishing a normative basis for an allegation of inconsistency between the written justification of the judgment and the fundamental reasons for the decision. There is no legal provision that *explicitly* requires this. As stated above, the provincial administrative court is not bound by the oral grounds for the decision pursuant to Article 144 LPAC. The obligation to include them in the written justification of the judgment cannot be derived from the provisions of Article 141(4) LPAC. The only legal basis that could be considered as the structural substrate for such an objection is Article 137(1) in conjunction with Article 139(3) LPAC, which requires that the main reasons for the decision be put to a vote and then made public orally after the judgment has been announced. Interpreting the aforementioned provisions concerning constitutional axiology, it would be possible to create directives under which the provincial administrative court, as a public authority, should act in a manner that inspires trust and is therefore obliged not to deviate from the reasons for the decision contained in the judgment adopted at the time of its announcement. However, such a solution is questionable, as it would constitute a functional and purposeful supplement to the content of Article 144 LPAC, which the legislator did not envisage at the stage of drafting the law. It should also be added that it would only appear to have a protective value. In the absence of the parties and the public at the hearing at which the judgment is announced, it would be virtually impossible to verify the consistency of the fundamental reasons for the decision with the arguments in the grounds for the judgment. In such a situation, the only mechanism that could indirectly protect the interests of the parties would be a dissenting opinion submitted by a judge who disagrees with the new reasoning of the decision.

CONCLUSION

The above comments confirm that there are no convincing arguments in favor of the thesis that the oral grounds for the decision bind the provincial administrative court. Of course, the model procedural arrangement should be that the oral grounds for the decision are consistent with the written justification prepared subsequently. Assuming that the basic function of the justification is to rationalize the judgment, i.e., to present arguments demonstrating its correctness, it cannot be ruled out that after stating the main reasons for the decision, the court will change the arguments in the written justification that are supposed to legitimize the decision. The ideal assumption is that the departure from the oral grounds for the judgment

is always the result of the court's desire to issue a decision that best fulfills the constitutional right to a fair judgment resolving the individual's case. It is therefore, by definition, an expression of the court's search for a formula to rationalize the effects of the legality review of public administration activities revealed in the judgment, the effects of the legality control of public administration, which will best demonstrate their validity. The admissibility of departing from the oral grounds for the judgment should therefore be profiled not in terms of a violation of the law, but in terms of the fulfillment of the guarantee function of the constitutional right to a court.

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