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THE SUBJECT MATTER OF RESPECTING THE TIME LIMIT TO FILE AN APPEAL BY A PARTY NOT RECOGNIZED BY THE AUTHORITY AS A PARTY IN ADMINISTRATIVE PROCEEDINGS

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Abstract. On 1 June 2017, following an amendment to the Code of Administrative Procedure, the possibility to file a statement on waiving the right to appeal was introduced. In consequence – as of the date of serving the public administration authority with the statement of waiver by the last of the parties to the proceedings – the decision becomes final and legally binding. However, it is assumed by legal scholars and commentators and in the established line of judicial decisions that the right to file an appeal against a decision issued in the course of administrative proceedings extends not only to the parties that participated in the proceedings and were served the decision, but also to an entity which was not considered a party by the first instance authority, provided that the entity meets the statutory criterion of obtaining the status of a party to proceedings. The time limit for filing an appeal by the non-participating entity runs from the date of serving or communicating orally the decision to the parties to the proceedings, and in case the decision was served on different dates to more than one party – from the last date of serving the decision. With regard to the legal effect of the waiver of appeal, whereby the first instance decision becomes final and binding, a question arises as to how the waiver affects the possibility to file an appeal, within the original time limit, by an entity which was not considered a party to proceedings by the authority. The paper seeks to answer this question.

Keywords: appeal, waiver of appeal, legal interest, subjective public right, party to proceedings

INTRODUCTION

Pursuant to Article 127(1) in connection to Article 15 of the Code of Administrative Procedure,[1] an appeal serves a party as ordinary means of appeal against an administrative decision issued in the course of administrative procedure by a first instance authority. Pursuant to Article 129(2) of the Code, an appeal should be submitted within fourteen days of the day the decision has been served upon a party, and if the decision has been communicated orally – of the day the decision has been communicated to the party.

However, is commonly assumed by legal scholars and commentators as well as in the established line of judicial decisions[2] that the right of appeal against

[1] Act of 14 June 1960, the Code of Administrative Procedure, Journal of Laws of 2020, item 2546 as amended [hereinafter: the Code].

[2] See judgment of the Supreme Administrative Court [hereinafter: SAC] of 13 July 1999, ref. no. IV SA 703/97, Lex no. 47299 and the judgment of the Voivodship Administrative Court [herein-

a decision applies not only to the parties to the procedure who have received the decision, but also to the entity who was not considered a party by the first instance authority, should the entity meet the statutory criteria for acquiring the status of a party to the procedure [Adamiak and Borkowski 2017, 695–96; Wróbel and Jaśkowska 2018, 827–28].

The period for filing an appeal begins to run as of the moment the decision issued by the first instance authority is served or communicated orally to the parties involved. In the case of an entity that was not considered a party to the proceedings by the authority, but that meets the statutory criterion for obtaining the status of a party, the time limit for filing an appeal is counted from the date of serving or the date of communication to the party that took part in the proceedings, and in the case when the decision was served on more than one party on different dates – from the last date of serving [Adamiak and Borkowski 2017, 695–96; Glibowski 2017, 963][3].

As a result of the amendment to the Code, which entered into force on 1 June 2017,[4] the institution of a waiver of the right to file an appeal was incorporated in the Code provisions.

Pursuant to Article 127a(1) of the Code, during the period provided for submitting of an appeal, the party may waive his right of appeal against the decision issued by the public administration authority. In turn, the provision of Article 127a(2), in connection with Article 16(1) and 16(3) of the Code, declares that as of the date of serving the public administration authority with a statement on waiving the right of appeal by the last party of the parties to the proceedings, the decision becomes final and legally binding.[5]

The research matter addressed in this paper, in the aspect of the already mentioned legal effects of a declaration of the waiver of the right to file an appeal refers to the issue of how the relevant filing of the waiver by the party who was effectively served with the decision as last – assuming that other parties that were served the decision also submitted such a declaration within a time limit or the time limit for filing an appeal expired, affects the right to file this legal measure within the original time limit of the entity which was not considered a party by the authority, and which believes that it should be granted such a status and therefore intends to exercise this right.

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after: VAC] in Warsaw of 11 September 2008, ref. no. I SA/Wa 417/08 and VAC in Olsztyn of 10 May 2011, ref. no. II SA/Ol 30/11, Central Database of Administrative Court Decisions [hereinafter: CBOSA], orzeczenia.nsa.gov.pl [accessed: 13.03.2021].

[3] See judgment of the SAC of 13 July 1999, ref. no. IV SA 703/97, Lex no. 47299 and the judgment of the VAC in Warsaw of 11 September 2008, ref. no. I SA/Wa 417/08 and VAC in Olsztyn of 10 May 2011, ref. no. II SA/Ol 30/11, CBOSA.

[4] Act of 7 April 2017 amending the Act – The Code of Administrative Procedure and some other acts, Journal of Laws, item 935 [hereinafter: Amending Act].

[5] Pursuant to Article 16(1) of the Code, decisions which are not appealable in the administrative course of instance or which are not subject to review, shall be final. In turn, pursuant to Article 16(3) of the Code, final decisions that are not appealable to the court shall be legally binding.

The research methodology adopted includes an analysis of the normative material of the Polish law. In particular, it covers selected institutions of the general Polish administrative procedure, regulated by the Code. The research was conducted by means of an analysis of regulations in force. The structure of the research includes analytical reflections on the question of the status of parties in the proceedings that were not included by the authority conducting the proceedings in the scope of entities of the proceedings.

The purpose of this study is to formulate general conclusions as a voice in the discussion on the status of parties that were for no reason left out of the scope of the proceedings in question in the context of a legal basis and principles of application of the institution of a waiver of the right to file an appeal.

1. THE STATUS OF A PARTY IN THE ASPECT OF AN ENTITY THAT WAS DEPRIVED OF THIS STATUS WITHOUT A JUSTIFIED CAUSE

Legal scholars and commentators assume that the definition of a "party" has been laid down in Article 28 of the Code [Matan 2007, 261], which provides that a party is each person whose legal interest or duty are the subject matter of the proceedings or who requests the authority's action, due to his legal interest or duty [Wróbel and Jaśkowska 2018, 274–75]. In this context, it should be assumed that the basic element of the legitimation structure of proceedings adopted by the legislator is the notion of "legal interest" [Przybysz 2017, 137; Adamiak and Borkowski 2017, 230–31].

Identification of attributes of the notion of "legal interest" – with respect to the provisions of Article 28 of the Code – constitutes the achievements of Polish administrative law. This is due to the fact that the discussed notion, with regard to the Code and other acts, has not been clarified by the legislator. Regardless of different approaches presented, legal scholarship agrees that "legal interest" occurs when there is an objective and direct connection between the situation of a given entity and the substantive law norm being the source of this interest. Concurrently, it is emphasized that legal interest must be "one's own," "personal," "individual" interest of the given entity and must be "real," i.e. exist in the present and be directly related to the subject matter of administrative proceedings within the scope of which the authority is competent to pass an administrative act [Zimmermann 1967, 443; Kmiecik 2013, 19–35; Szustakiewicz 2013, 139–42; Turek 2011, 989–92].[6]

In reference to the above, legal interest is interest which is protected by the law, whereby the protection understood as the possibility to request the authority to take specific actions to ensure that the interest is enforced or to remove a threat to the interest [Zimmermann 1997, 609]. In consequence, on the grounds of admi-

[6] Cf. resolution of the SAC represented by 7 judges of 22 September 2014, ref. no. II GPS 1/14, and judgments of the SAC of 5 April 2012, ref. no. II OSK 113/11; of 17 March 2016, ref. no. II OSK 1793/14; of 18 July 2018, ref. no. I OSK 2230/16, CBOSA.

nistrative procedure, legal interest is tantamount to, i.a., the possibility of an individual – or, in exceptional cases, a collective entity – to draw benefits in the form of procedural protection, which stems from a legally binding norm which connects the entity's situation with the competence of public administration authority [Duda 2008, 108].

However, administrative proceedings may be conducted with the participation of more than one party, and the broader subjective scope is associated with the institution of co-participation. There are two forms of co-participation: substantive and formal [Kędziora 2014, 459–60]. Substantive co-participation boils down to a situation where in a given case, the same in terms of substance and conducted as part of the same proceedings, a decision awarded shapes the legal situation of many entities at the same time. Therefore, the said substantive bond must be grounded in specific provisions of substantive administrative law. In turn, formal co-participation refers to the multiplicity of parties in a few separate administrative cases which are only formally jointly conducted in one procedure. Such cases are only formally identical in terms of substance, which results from the same factual and legal status.[7]

There are situations under substantive co-participation where two or more parties have a shared legal interest in the case. However, there may be parties in cases conducted according to the principle of substantive co-participation whose interests are conflicting. The conflicting interest is most often expressed in a situation where one of the parties requests initiation of proceedings to obtain a specific right, and the authority, in the course of deciding in the case, must act so that it does not violate the legal interest of other persons who – given the said interest and to ensure its due protection – enjoy the status of a party to the proceedings in this procedure [Stankiewicz 2018, 607].

Sometimes the dichotomous classification of parties is adopted by legal scholars and commentators and decision-making authorities to separate the categories of parties in the proceedings. The first category is formed by parties with the so-called main rights (directly interested), which usually include entities that requested initiation of proceedings to have rights granted to them. The second category are parties with the so-called reflective rights (indirectly interested), that is those whose rights or obligations somehow reflect from the main right which is to be the subject matter of ruling in a given case [Matan 2007, 287; Knysiak–Molczyk 2007, 266].

To specify the basis of participation in administrative proceedings of the so-called indirectly interested parties it is pointed out that their legal interest results from the so-called reflective right. The essence of this right consists in the fact that the subjective right exercised by the entitled entity may violate legal norms that are not irrelevant for the interests of a third party which substantiates the in-

[7] See judgments of the VAC in Bydgoszcz of 14 September 2010, ref. no. II SA/Bd 575/10 and ref. no. II SA/Bd 576/10 and of 21 September 2010, ref. no. II SA/Bd 678/10 and ref. no. II SA/Bd 679/10 CBOSA.

terest of this party in providing them with legal protection. Therefore, the legal interest resulting from the reflective right does not by itself shape the right to administrative proceedings, but is a basis for participation in proceedings conducted *ex officio* as a result of a request to have one's public subjective right exercised, or proceedings initiated as a result of a request from an individual who holds a legal interest based on a norm of substantive law. A reflective legal interest of a third party, similar to a legal interest of the addressee of rights and obligations resulting from the decision, must be grounded in provisions of the substantive law in force [Matan 2007, 281–87; Maciołek 1992, 11; Kledzik 2018, 172–73].[8]

It must be emphasized that the legal interest – in the context of regulations of Article 28, Article 61(4) and Article 61a of the Code – is an objective category and the administrative authority each time at the preliminary stage of the proceedings is obliged to analyse the subjective scope of proceedings and establish the circle of entities which will be entitled to be the party in the proceedings.

Another form of procedural protection of legal interests, both of parties directly or indirectly interested, is the right to appeal against a non-final decision of the first instance authority issued in the course of administrative proceedings to an authority of higher level.[9] This right is – in a democratic state of law – a subjective public right which, concurrently, shows that the principle of two-tiered administrative process is adhered to [Zimmermann 1996, 184–85].

Nevertheless, practice shows – in the context of prerequisites of the subjective scope of individual categories of rights, at the same time determined by their subject matter, relevant substantive law regulations and procedural regulations for i.a. initiation mode – that it is the parties classified as indirectly interested that are often groundlessly left out in a given procedure, and often are clearly denied the status of a party at the stage of proceedings conducted by the first instance authority.

Therefore – with regard to the notion of legal interest as a structural component that is the basis for the objective category of a party to the proceedings – an entity which has not been recognized as a party by the authority, also has the right to appeal against a decision, which is an expression of subjective public rights provided that the entity demonstrates that the case concerns the entity's legal interest, pursuant to Article 28 of the Code or specific provisions [Adamiak and Borkowski 2017, 695–96]. However, it is important here whether the fact that the entity not recognized as a party has a legal interest means that this right is granted autonomously or whether this right is relative (dependent) and is associated with the right to file an appeal that is enjoyed by the entity who was served the decision

[8] An example of proceedings in which indirectly interested parties participate next to directly interested parties by operation of law are those cases that address investment processes, especially with regard to: environmental determinants of implementation of projects that may have an impact on the environment, conditions for land development and public purpose investments, as well as construction permits.

[9] Cf. judgment of the VAC in Białystok of 13 December 2015, ref. no. II SA/Bk 570/16, CBOSA.

as last. The reference point for this discussion is the institution of the waiver of the right to file an appeal referred to in the introduction, in particular the legal effects of such a statement.

2. THE EFFECTS OF SUBMITTING A WAIVER OF THE RIGHT TO APPEAL

With reference to the provisions of Article 127a(1) and (2) of the Code, in the scope of the issues of the nature of the right to file an appeal by a party that is not considered a party (as discussed in the last part of the section above), the basic question that needs to be answered is whether the submission by all parties to given proceedings or by the party who was served the decision as last of a declaration of a waiver of the right to appeal before the expiry of the time limit for its submission by an entity considered a party by the authority, and being the last party to be served the decision – in a situation when the time limit for appeal has already expired for other entities considered parties, who were served the decision – may result in shortening of the time limit, and thus, deprive the entity that has a legal interest in the case and that was not granted the status of a party in the proceedings by the first instance court of the right to file an appeal.

In the light of the above, it is first and foremost worth noting that as pointed out in the Explanatory Memorandum to the Code Amendment Bill, which introduced to the CAP the institution of a waiver of the right of appeal, the latter measure takes into account the economy of proceedings, whilst emphasizing that Article 78 of the Polish Constitution[10] does not prevent the application of statutory instruments that allow persons entitled to file the appeal to waive the right of appeal in order to shorten the course of the instance and obtain a binding decision in a shorter time. Moreover, as underlined in the Memorandum, the statement on waiving the right to appeal cannot be effectively withdrawn. The Memorandum asserts that if the waiver has been correctly filed, as of the moment it is served to the authority by the party (in case of multilateral proceedings – by all parties involved), it shall be deemed irrefutable.[11]

At this point, the standpoints expressed by legal scholars and commentators and in the established line of judicial decisions of administrative courts pertaining to the essence and legal effect of the waiver of the right of appeal. Namely, the legal commentary provides that within the scope of the instrument of the waiver of the right to appeal, the linguistic interpretation corresponds with the pro-con-

[10] The provision of Article 78 of the Polish Constitution of 2 April 1997 (Journal of Laws No. 78, item 483 as amended) provides that each party has the right to appeal against judgments and decisions made at first instance, and exceptions to this principle and the procedure for appeals shall be specified by the statute.

[11] Explanatory Memorandum to the Draft Act of 7 April 2017 amending the Act – the Code of Civil Procedure and some other acts, Sejm printed matter VIII.1183, p. 57–58, https://www.sejm.gov.pl/Sejm8.nsf/druk.xsp?nr=1183 [accessed: 13.03.2021].

stitutional interpretation – an interpretative method that falls into the categories of systematic and purposive interpretation of law – and also the effects of scholarly interpretation that refers to the nature and significance of the structure of subjective public rights. It is demonstrated that the waiver of the right of appeal – understood as endowment of a public law entity with the right to eliminate the right from the legal sphere of a specific entity, thereby making it the entity which, in the legal system, has no right to file an appeal – would be tantamount to approving the entity's capacity of depriving the legal norm of its effects from which this right, as all subjective public rights, arises. However, no one is able to "waive," i.e. relinquish or renounce the effects of a legal norm. Here, it is emphasized that the "waiver of the right to appeal" may be constituted solely as intentional relinquishment of the subjective right. From the perspective of subjective rights of the qualifying person, waiver of the right to appeal is a structure linked directly to the procedural category of withdrawal of appeal as set out in Article 137 of the Code. However, while withdrawal of appeal is a demonstration of intentional relinquishment of the right to appeal after this legal measure was taken, the "waiver of the right to appeal" is a statement of no intention to exercise this right, i.e. expresses the absence of intention to take a legal remedy against the decision of the first instance authority. Therefore, in contrast to the withdrawal of appeal, a waiver is a demonstration of intent manifested without the "technicality" of filing an appeal [Jakimowicz 2018, 52].

The view presented above is also consistent with the approach of the present-day judicial decisions, which suggests that it is necessary for the authority to refrain from assessing the effectiveness of the waiver of the right to appeal until the end of the time limit set for filing an appeal by the entity which filed the waiver.[12]

It must be stated that sensible, uncontested views on the subject were expressed by legal scholars and commentators long before the instrument of a waiver of appeal was formally incorporated into Article 127a of the Code. It was argued that in order to protect individual and societal interests, it is reasonable to allow the party the freedom to withdraw an action, i.e. to waive the appeal through a later action, i.e. an appeal lodged within the period specified [Adamiak 1980, 134–36]. It was also argued that the entity – with regard to his procedural rights – may not exercise the right to appeal, but it must be recognized as an inalienable right of the party. Concurrently, it was underlined that relinquishing a legal interest or duty based on substantive law, in particular from the perspective of this law, is out of question. On the procedural plane, this must mean that waivers of appeal submitted by parties – although they may be considered a demonstration of standpoint, and they may also be seen by the parties as beneficial since they would expedite the finalization and enforceability of the decision – may not have any legal

[12] Cf. Judgments of the VAC in Wrocław of 26 September 2018, ref. no. IV SA/Wr 328/18, of the VAC in Bydgoszcz of 14 December 2018, ref. no. II SA/Bd 1173/18 and of 11 June 2019, ref. no. II SA/Bd 252/19, and the judgment of VAC in Cracow of 29 April 2019, ref. no. III SA/Kr 168/19, CBOSA.

effects. Hence, the period for filing an appeal continues to run and the party may still exercise his right [Zimmermann 1986, 85].

In turn, after the measure of the waiver of appeal was incorporated into Article 127a of the Code, the view was expressed that there are no rational grounds today for not admitting the withdrawal of a procedural action in the form of a statement on waiving the right to appeal through a later action, i.e. an appeal lodged within the time limit set. It has been pointed out that this view, corresponding with the opinion on the ineffectiveness of waiving "the right to file an appeal," supports the above assertion that "the waiver of the right to file an appeal" may be solely understood as a demonstration of the intention not to exercise the subjective right, which can be withdrawn at any time within the statutory time limit for filing an appeal [Zimmermann 2017, 15].

In the context of the views presented by legal commentators, another approach claims that since the "waiver of the right to file an appeal" is, in its very essence, a statement expressing the intention not to exercise the right to appeal, which does not annihilate this right, it must be assumed that the 14-day time limit for filing an appeal specified in the statute is supposed to ensure that the party is given time to consider and reconsider its decision as to whether or not exercise the right. It is thus a statutory period which also serves the function of reassurance, which is inextricably linked to the essence of a formal subjective public right. It must be emphasized that the provisions of neither the Code, nor any other acts, provide grounds for shortening or extending the time limit by anyone, thereby reflecting the principle embedded in the nature of statutory time limits for procedural actions, and also determining the interpretation of Article 127a(2) of the Code [Jakimowicz 2018, 52].[13]

In view of the above, attention is due to the position expressed in the judicial decision, that a waiver of the right to appeal by the only party that has been served the first instance decision does not make the decision of the first instance authority final and binding as of the date of filing the waiver, and that an appeal submitted by an entity not considered a party to the proceedings in the first instance is inadmissible. Subsequently, it has been clarified that, in fact, pursuant to Article 127a(1) of the Code, during the time limit for appeal, the party may waive his right of appeal by filing a notice of appeal with the public administration authority which issued the decision. However, in the context of Article 127a(2) of the Code, it is beyond any doubt that since the right of appeal can be waived only by a party entitled to appeal, it is inadmissible for the effects of the waiver to affect the procedural rights of the parties which have not filed such a waiver. The circumstance of the time limit for filing an appeal for the party ignored by the first instance authority is connected with the time limit for serving the decision to the party to the proceedings points to the absence of connection between the waiver of the right

[13] The opinion of Jakimowicz was fully approved by the VAC in Rzeszów, cf. judgment of 28 August 2019, ref. no II SA/Rz 702/19, CBOSA.

to appeal of the participating party and the right to appeal of the non-participating party. Since the non-participating party also has the right to appeal (any entity that demonstrates his legal interest in the case in the understanding of Article 28 of the Code), then it is the only party that can exercise this right. Statements of waivers of other parties cannot result in depriving the non-participating party of his fundamental procedural right.

CONCLUSIONS

The analysis of the content of the views of legal scholars and commentators and of judicial decisions on legal effects of a waiver of the right to appeal, in particular the circumstance of filing a statement of waiver by the party who was served the decision of the lack of previous effective filing of an appeal by other parties – as laid down in Article 127a(2) of the Code – demonstrates that the latter circumstance does not stop the running of the time limit for filing an appeal by an entity which was deprived of the chance to participate in the proceedings, despite the party having a legal interest and wishing to protect his interest through appellate proceedings.

This position should be considered appropriate and convincing. If another approach was to be accepted, in practice, it could lead to stripping the entities not recognized as parties to the proceedings in the first instance of the right to file an appeal, and concurrently, it could provide basis for conscious abuse of the instrument of a waiver of appeal.

The right to lodge an appeal is a subjective public right, the loss of which cannot be rectified by other legal measures, in particular, by measures connected with the initiation of extraordinary administrative proceedings.

The conditions for applying the appellate procedure and the reopening procedure clearly demonstrates that – despite the legal interest held by the entity – the appellate procedure is undoubtedly more beneficial for the entity that was left out in the first-instance proceedings. Therefore, one cannot accept the interpretation of provisions of Articles 127a(1) and 127a(2) of the Code with reference to Article 6, Article 7, Article 10, Article 15, Article 77, Article 127, Article 129(2) of the Code, that in cases in which the parties might have conflicting interests, determined by the provisions of substantive law, the procedural action of an entity, considered a party to the proceedings by the authority, may result in significant limitation of major procedural rights of other entities, which may have legal interests in the case. Such an interpretation is tainted with the risk of accepting a practice of filing a statement on waiving the right to appeal already on the day of being served the decision, which would deprive other entities of the possibility, if need be, to file an ordinary appeal. In fact, for such entities it would mean that the only way to verify the contested decision would be through the more strenuous extraordinary procedure.

In consequence, the appellate procedure and the reopening procedure cannot be reasonably treated as ensuring equal protection of interests to the party which, in its opinion, was left out during the identification of the subject matter of the proceedings, despite having a legal interest in the matter.

It is worth noting here that if an appeal is submitted by a non-participating entity within 14 days of the day when the first instance decision was last served – irrespective of appeal waivers having been filed by all parties to the proceedings – the question that should be determined by the higher-level body during the appellate process is whether the appellant has legal interest in the matter, as this is the perquisite for being attributed the status of a party to proceedings. This circumstance determines whether it will be possible to deem whether – irrespective of the fact that the original time limit for appeal has been kept – the entity has the procedural legitimacy to file a legal action.[14]

This manner of interpretation of Article 127a and Article 129 in connection with Article 28 of the Code may naturally raise doubts in the question of validity and effectiveness of the application of the institution of a waiver of the right to file an appeal. Such a position may mean that the authorities would each time have to assume that there might be a person left out of given proceedings, who then as an effect might file a relevant appeal. In consequence, this might affect the speed of proceedings and the legal certainty in establishing how binding a given ruling is and to what extent the decision itself or another act are final. Therefore, it would be justifiable to consider a re-modelling of the institution of the waiver of the right of appeal, at least in terms of its objective scope. Such changes could be made by including application of this institution in specific provisions included in legislative acts that fall under substantive law. Particular emphasis should be given to exclusion of application of the institution of a waiver of the right to file an appeal in proceedings in which indirectly interested parties occur (especially were the authority awards the status of the party to individual entities on the basis of its own independent assessment of the meeting of statutory criteria that determine having the legal interest in the case). In turn, in the long run it would also be reasonable to introduce regulations in the Code that would differentiate the categories of parties of administrative proceedings, including recognition of the classification into directly and indirectly interested parties, which has essential practical importance.

[14] The view that the filing of a waiver of the right to appeal within the statutory time limit by all entities which enjoyed the status of a party does not result in depriving the entity that was not recognized as a party of the right to appeal was expressed by the Local Government Board of Appeal in Gorzów Wielkopolski in a decision of 2 March 2020, No. SKO.Go/450-KP/1237/19 (unpublished), on which the author had the honour to be the chairman of the adjudicating panel and the rapporteur. The standpoint of the Board on the matter in question was approved by the VAC in Gorzów Wielkopolski, and next, by the SAC as part of the judicial review of the legality of the said decision. Cf. judgment in Gorzów Wielkopolski of 30 June 2020, ref. no. II SA/Go 211/20 and judgment of the SAC of 2 December 2020, ref. no. II OSK 2878/20, CBOSA.

REFERENCES

Adamiak, Barbara. 1980. *Odwołanie w polskim systemie postępowania administracyjnego*. Wrocław: Wydawnictwo Uniwersytetu Wrocławskiego.

Adamiak, Barbara, and Janusz Borkowski. 2017. *Kodeks postępowania administracyjnego. Komentarz*. 15th edition. Warsaw: C.H. Beck.

Duda, Andrzej S. 2008. *Interes prawny w polskim prawie administracyjnym*. Warsaw: C.H. Beck.

Glibowski, Krzysztof. 2017. In *Kodeks postępowania administracyjnego. Komentarz*, edited by Roman Hauser, and Marek Wierzbowski, 4th edition, 963. Warsaw: C.H. Beck.

Jakimowicz, Wojciech. 2018. "O normatywnej konstrukcji zrzeczenia się prawa do wniesienia odwołania od decyzji administracyjnej." *Przegląd Prawa Publicznego* 9:52.

Kędziora, Robert. 2014. *Kodeks postępowania administracyjnego. Komentarz*. Warsaw: C.H. Beck.

Kledzik, Przemysław. 2018. *Prawne uwarunkowania stwierdzenia nieważności decyzji w ogólnym postępowaniu administracyjnym*. Wrocław: Presscom.

Kmiecik, Zbigniew R. 2013. "Interes prawny stron w postępowaniu administracyjnym." *Państwo i Prawo* 1:19–35.

Knysiak–Molczyk, Hanna. 2007. "Glosa do wyroku NSA z dnia 6 czerwca 2006 roku, II GSK 59/06." *Orzecznictwo Sądów Polskich* 4, no. 42:266.

Maciołek, Magdalena. 1992. "O publicznym prawie podmiotowym." *Samorząd Terytorialny* 1–2:11.

Matan, Andrzej. 2007. In Grzegorz Łaszczyca, Czesław Martysz, and Andrzej Matan, *Kodeks postępowania administracyjnego. Komentarz*. Vol. 1: *Komentarz do art. 1-103*, 2nd edition, 261. Warsaw: Lex Wolters Kluwer Business.

Przybysz, Piotr. 2017. *Kodeks postępowania administracyjnego. Komentarz*. 12th edition. Warsaw: Wolters Kluwer.

Stankiewicz, Rafał. 2018. In *Kodeks postępowania administracyjnego. Komentarz*, edited by Roman Hauser, and Marek Wierzbowski, 5th edition, 607. Warsaw: C.H. Beck.

Szustakiewicz, Przemysław. 2013. "Pojęcia interesu prawnego w Kodeksie postępowania administracyjnego." *Prawo i Środowisko*. 3:139–42.

Turek, Jan. 2011. "Strona w postępowaniu gabinetowym (na przykładzie postępowania w sprawie nadania stopnia lub tytułu naukowego) – cz. I." *Monitor Prawniczy* 18:989–92.

Wróbel, Andrzej, and Małgorzata Jaśkowska. 2018. *Kodeks postępowania administracyjnego. Komentarz*. 7th edition. Warsaw: Wolters Kluwer.

Zimmermann, Marian. 1967. "Z rozważań nad postępowaniem jurysdykcyjnym i pojęciem strony w kodeksie postępowania administracyjnego." In *Księga pamiątkowa ku czci Kamila Stefki*, 443. Warsaw–Wrocław: Państwowe Wydawnictwo Naukowe.

Zimmermann, Jan. 1986. *Administracyjny tok instancji*. Cracow: Wydawnictwo Uniwersytetu Jagiellońskiego.

Zimmermann, Jan. 1996. *Polska jurysdykcja administracyjna*. Warsaw: Wydawnictwo Prawnicze.

Zimmermann, Jan. 1997. "Konstrukcja interesu prawnego w sferze działań Naczelnego Sądu Administracyjnego." In *Gospodarka, administracja, samorząd*, edited by Henryk Olszewski, and Bożena Popowska, 609. Poznań: Printer.

Zimmermann, Jan. 2017. "Kilka refleksji o nowelizacji kodeksu postępowania administracyjnego." *Państwo i Prawo* 8:15.