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The Imperative of Administrative Efficacy vs the Stability of Procedural Guarantees for Parties: Selected Issues in the Context of Applying General Principles

Imperatyw sprawności postępowania administracyjnego vs stabilność gwarancji procesowych stron. Wybrane zagadnienia na tle praktyki stosowania zasad ogólnych

ABSTRACT

The article analyses the fundamental dilemma of contemporary administrative proceedings, in which the pursuit of greater efficacy of public administration bodies conflicts with the obligation to maintain the stability of procedural guarantees for the parties. The study focuses on the practice of applying selected general principles of the Administrative Procedure Code in the context of the ongoing digitisation of public administration. The authors adopt a praxeological understanding of

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efficacy, distinguishing it from the narrower concept of efficiency, which is justified by the constitutional approach to the functioning of public institutions. Particular attention is paid to the analysis of the relationship between the principle of promptness and simplicity of proceedings and other general principles, such as the principle of objective truth, active participation of the parties, and cooperation between authorities. The introduction of Article 14 § 1b of the Administrative Procedure Code, concerning the automation of case handling, is critically assessed, pointing to the risk of overinterpreting the provision in the direction of full automation of administrative decisions. The analysis shows that maintaining a balance between efficacy and procedural security requires the development of a new homeostasis that takes into account not only the directive of promptness but also the stability of procedural guarantees in an environment of digital procedural security and coherence between other principles of administrative proceedings.

Keywords: efficacy of administrative proceedings; procedural security; digitisation of public administration; general principles; automation; procedural guarantees

INTRODUCTION

Contemporary administrative proceedings are at a turning point where the ongoing digitisation and the pursuit of greater efficacy of public administration bodies clash with the fundamental need to ensure the certainty of procedural guarantees for the parties. There is a noticeable tendency for legislators to introduce elements of digitisation and other solutions aimed at simplifying and speeding up the handling of administrative matters into administrative procedures. Ultimately, such legislative measures are intended to contribute to the streamlining of the entire administrative process. At the same time, dilemmas inevitably arise in relation to the need to preserve the basic procedural guarantees of the parties. The normative objective of administrative proceedings is to create a system of rules that define the mode of operation of public administration bodies. However, this is not an end in itself. In the process of their subsumption, the principle of a democratic state ruled by law is to be embodied, within which, in accordance with the assumptions set out in Article 2 of the Polish Constitution of 1997,[1] the principle of social justice is to be realised. The latter can only be achieved in conditions where the legislator provides an adequate system of procedural guarantees that will protect the interests of the parties to the proceedings and ensure full implementation of the codified principle of the rule of law.[2]

This issue has become particularly relevant in the context of recent amendments to the Administrative Procedure Code. In 2017, the catalogue of guidelines for the principle of trust in public authorities was expanded to include new instruments,

[1] Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws 1997, no. 78, item 483, as amended).

[2] Article 6 of the Act of 14 June 1960 – Administrative Procedure Code (consolidated text, Journal of Laws 2024, item 572, as amended), hereinafter: APC.

such as the principles of proportionality, impartiality and equal treatment. Intensive efforts to digitise public administration (e.g. changes introduced in 2020 to the wording of Article 14 § 1b APC) have also contributed to the intensification of the discourse on the direction of the changes being introduced. This discourse raises the dilemma of whether the pursuit of simplification and acceleration in the handling of administrative matters and the development of administrative technological progress – at the current stage – actually serves to strengthen the position of the party in the proceedings or, on the contrary, leads to its weakening.

This article attempts to analyse the problem, focusing on the above-mentioned issue and taking into account the practice of applying selected general principles of administrative proceedings. Particular attention is paid to issues related to the legislator's efforts to ensure the efficacy of administrative proceedings and the digitisation of public administration, which constitute a group of factors influencing the shape of contemporary administrative proceedings. In order to achieve the intended research objective, a formal-dogmatic method and an analysis of court rulings were used. In addition, where necessary, a historical-legal method was used.

EFFICACY IN THE CONTEXT OF ADMINISTRATIVE PROCEEDINGS – ACCEPTED CONCEPTUAL SCOPE AND DETERMINANTS

It should be noted that, in the area of the research objective, the authors deliberately undertook to conduct their considerations in the context of the efficacy of administrative proceedings, and not merely their effectiveness. These concepts are sometimes used interchangeably in public debate, although they are not equivalent in scope and content.

In linguistic terms, the term "efficacy" means the quality of being "properly arranged, organised", "working well, functioning".[3] According to T. Kotarbiński, efficacy in praxeological terms is a superior and integrating concept, which in a universal sense constitutes "the general name of each of the practical values of action".[4] Referring to this concept and based on the views of W. Kieżun, it can be said that efficacy encompasses three dimensions: effectiveness (the degree to which the intended goal is achieved, i.e. the ratio of the actual result to the target result), profitability (a positive assessment of the results of an action in relation

[3] *Sprawny*, https://sjp.pwn.pl/slowniki/sprawny.html (access: 1.8.2025).

[4] See *Sprawność*, https://mfiles.pl/pl/index.php/Sprawność (access: 1.8.2025); M. Kisała, *Zasada efektywności w realizacji zadań publicznych przez jednostki samorządu terytorialnego*, "Roczniki Nauk Prawnych" 2015, vol. 25(1), pp. 153–154; K. *Szybkość, sprawność i efektywność postępowania cywilnego – zagadnienia podstawowe*, "Zeszyty Naukowe KUL" 2017, vol. 60(3), p. 10; W. Kieżun, *Tadeusz Kotarbiński – twórca idei dobrej pracy*, [in:] *Krytyczna teoria organizacji. Elementy filozofii i praktyki zarządzania*, eds. W. Gasparski, W. Kieżun, Warszawa 2020, pp. 70–72.

to the expenditure), and economy (optimal use of resources in achieving objectives).[5] Approaching the area of administrative law and administrative science, the scope of efficacy is defined more and more precisely through the prism of the obligation of proper administration. According to J. Zimmermann, the efficacy of administration should be linked to speed, effectiveness, efficiency and economy.[6] Sometimes efficacy is reduced to a principle that "introduces a normative obligation for authorities to act efficiently",[7] but its broad interpretation related to the organisation and operation (including the conduct of administrative proceedings) of the administration should always be borne in mind.

Effectiveness is a narrower concept, sometimes – as follows from the above views – equated with efficiency or – as reflected in the case law of the Constitutional Tribunal – with speed.[8] In management theory, efficiency is usually defined as "the ability to make optimal use of resources by maximising results at a given level of expenditure (results-oriented efficiency) or minimising expenditure at a given level of results (expenditure-oriented efficiency)".[9]

Thus, it can be concluded that efficacy as a praxeological category is a multidimensional, qualitative, process-oriented (concerning the manner of implementation of activities) and adaptive (taking into account the context and specificity of the activity) concept, while efficiency is an economic category that is rather one-dimensional (focusing mainly on the input-output relationship), quantitative (indicator-based), although sometimes, in legal terms, efficiency is one of the elements of efficacy.

The authors adopt a narrow understanding of the efficacy of administrative proceedings as a means of implementing the rationale for introducing specific legal institutions into the Administrative Procedure Code in the context of basic procedural principles, such as the promptness of proceedings, the principle of citizens' trust in the authority, or the principle of active participation of the parties in the proceedings. It should be noted that in this context, the concept of efficiency (in the broad sense) also arises, which means the ability of a developed administrative system to achieve its objectives with the optimal use of available resources, which

[5] W. Kieżun, *Sprawne zarządzanie organizacją*, Warszawa 1997, p. 18.

[6] J. Zimmermann, *Prawo administracyjne*, Warszawa 2012, p. 101.

[7] M. Kisała, *op. cit.*, pp. 154, 156; E. Olejniczak-Szałowska, *Zasada sprawności działań administracji (zasada efektywności)*, [in:] *Prawo administracyjne. Pojęcia, instytucje, zasady w teorii i orzecznictwie*, ed. M. Stahl, Warszawa 2009, pp. 179–180.

[8] See judgment of the Constitutional Tribunal of 11 August 2016 (K 39/16, OTK-A 2016, item 71), in which efficiency was reduced to the ability to resolve matters within a specified time frame, and thus depends on the time factor in the actions of the authority and its significance for the formation of legal relations.

[9] E. Rollnik-Sadowska, *Efektywność instytucji publicznych – przykład powiatowych urzędów pracy w Polsce. Pojęcie, determinanty, metodyka pomiaru*, Białystok 2019, p. 7.

would translate into the efficacy of operation and the quality of all public services provided. Although interesting from a research perspective, this understanding goes beyond the scope of this study. The article focuses on the pragmatics of applying administrative procedure rules, limiting the discussion to selected normative dilemmas. For this reason, the performance of two basic functions of administrative proceedings was considered key to determining efficacy, i.e. the protective function, consisting in providing the individual with adequate procedural guarantees, and the organisational function, aimed at the handling of cases by public administration bodies.

From a systemic point of view, it should be emphasised that in the preamble to the Polish Constitution, the legislator uses the term "efficacy" (not effectiveness) in conjunction with the attribute of reliability in the context of the functioning of public institutions. This directive is addressed to the legislator and sets out the constitutional criteria for assessing the regulations governing the system and procedures of public institutions.[10] This choice is undoubtedly intentional and well-considered, as efficacy as a praxeological concept better reflects the complexity of the functioning of public institutions, taking into account not only the economic dimension, but also quality, reliability and compliance with the law, capturing the subservient role of the public administration towards citizens. The concept of efficacy appears three times in the context of the Administrative Procedure Code. The legislator uses the following phrases: "efficacy of proceedings",[11] "improvement of the work [of the authority]",[12] "efficient mediation".[13] The above confirms both the semantic value of the concept of efficacy and the assumptions adopted by the authors. A different interpretation of the concept, by equating effectiveness with efficacy, or by rejecting the practice of conceptualisation in favour of effectiveness alone, would lead to conceptual reductionism or even the reification of administration. A narrowed field of vision would direct the cognitive process towards the "marketisation" of administration, subordinating procedural guarantees to economic criteria, thus

[10] Judgment of the Constitutional Tribunal of 11 August 2016, K 39/16, OTK-A 2016, item 71.

[11] In the course of proceedings, public administration bodies shall cooperate with each other to the extent necessary to thoroughly clarify the factual and legal circumstances of the case, taking into account the public interest and the legitimate interests of citizens, as well as the efficacy of the proceedings, using means appropriate to the nature, circumstances and complexity of the case (Article 7b APC).

[12] The subject of the request may include, in particular, matters related to improving organisation, strengthening the rule of law, streamlining work and preventing abuse, protecting property, and better meeting the needs of the population (Article 241 APC).

[13] The minister responsible for public administration shall determine, by way of a regulation, the amount of the mediator's remuneration for conducting the mediation proceedings and the mediator's expenses to be reimbursed, taking into account the type of case and the efficient conduct of the mediation, as well as the necessary expenses related to the conduct of the mediation (Article 263a APC).

generating a threat to the protective function of administrative proceedings. Such tendencies should be viewed with criticism.

EFFICACY AND OTHER PRINCIPLES OF ADMINISTRATIVE PROCEEDINGS

The aim of a rational legislator is to strike the right balance between ensuring fair and thorough proceedings, conducted with respect for the guarantees of active participation of its participants, while maintaining its efficacy.[14] Article 12 § 1 APC stipulates that public administration bodies should act thoroughly and quickly in a case, using the simplest possible means to resolve it. Simple cases that do not require the collection of evidence, information or explanations should be dealt with immediately (§ 2). In order to ensure that the principle of promptness of proceedings is observed, procedural guarantees of a preventive and repressive nature have been implemented in the Administrative Procedure Code.[15] The first group includes regulations that introduce indicative deadlines for handling cases, differentiated according to the nature of the case and its degree of complexity. Pursuant to Article 35 APC, cases should be dealt with without undue delay (§ 1),[16] cases requiring explanatory proceedings and cases within the framework of appeal proceedings – no later than within one month, and in the case of particularly complex cases – no later than within two months (§ 3). In addition to the provisions of the Administrative Procedure Code, there are *lex specialis* provisions which set other, modified deadlines, e.g. 14 days for considering an appeal in the event of a refusal to grant access to public information, or for higher authorities to consider reminders within 7 days for actions by public administration bodies. The group of repressive guarantees includes those which give the parties to the proceedings the right to submit a reminder and a complaint to the administrative court for inaction

[14] R. Kędziora, *Legal and Procedural Determinants of Efficient Acting of the Public Administration Authority in an Administrative Matter*, "Teka Komisji Prawniczej PAN. Oddział w Lublinie" 2019, vol. 12(1), pp. 108–109.

[15] Idem, *Przeciwdziałanie bezczynności organu administracji publicznej w postępowaniu administracyjnym*, "Biuletyn Stowarzyszenia Absolwentów i Przyjaciół Wydziału Prawa Katolickiego Uniwersytetu Lubelskiego" 2018, vol. 13(5), pp. 139–140; A. Adamiak, J. Borkowski, *Metodyka pracy sędziego w sprawach administracyjnych*, Warszawa 2009, p. 119.

[16] Article 35 § 1 APC corresponds to Article 12 § 2 APC concerning the immediate handling of simple matters, but the handling of matters without undue delay does not apply only to simple and routine matters. The term "without undue delay" is a specific designation of a deadline, without a specific unit of time, emphasising the relationship to the passage of time (a relatively designated deadline). See G. Łaszczyca, *Realność terminu załatwienia sprawy w ogólnym postępowaniu administracyjnym*, "Studia Prawnoustrojowe UWM" 2021, no. 54, p. 314; W.M. Hrynicki, *Reasons for Failing to Handle Administrative Cases on Time*, "Ius Novum" 2023, vol. 17(1), pp. 80–81.

or protracted proceedings[17] and which sanction the negligence of an administrative employee who has not dealt with a case within the time limit or has conducted proceedings for longer than was necessary to deal with the case.[18] The aforementioned legislative structure relating to the regulation of time limits for the examination of cases should be considered balanced. Another conclusion can be drawn from the point of view of their length as specified by law. Perhaps, given the increasing complexity of cases, this issue should be discussed. However, this issue deserves a separate study. For the purposes of this analysis, it should be noted that the time limits in the Administrative Procedure Code are intended as indicative, maximum, procedural (not substantive) time limits. This means that their expiry does not deprive the authority of the possibility of ruling on the case, without causing any substantive defect in the decision issued.[19] *Ergo*, the delay in issuing a decision does not in itself constitute grounds for overturning the authority's decision on the basis of formal legal objections. Nevertheless, in the event of inaction or delay in the proceedings, if damage arises that is causally related to the actions of the authority, there may be grounds for liability for damages. The provisions on sanctions for inaction or delay in proceedings by public administration authorities closely correspond to the obligation to inform the parties. In each case of failure to resolve a case within the time limit (even for reasons beyond the authority's control), the public administration authority is obliged to notify the parties, stating the reasons for the delay, indicating a new deadline for resolving the case and informing them of their right to lodge a reminder.[20] Furthermore, these reasons should be specified in detail, referring to the realities of the case in question, based on the applicable legal state of affairs. The reasons "dependent" on the authority, which unfortunately should not (despite their objective existence) constitute the basis for the authority's argumentation, are all those related to employee and organisational issues connected with the process of handling cases.[21]

However, it is difficult to resist the impression that these circumstances do influence the course of administrative proceedings. Technical and organisational

[17] Article 37 APC.

[18] That is organisational or disciplinary liability referred to in Article 38 APC.

[19] Judgment of the Supreme Administrative Court in Katowice of 7 May 1998, I SA/Ka 1215/96, LEX no. 35938; L. Klat-Wertelecka, *Bezczynność organu administracji publicznej w postępowaniu administracyjnym w dobie europeizacji prawa*, [in:] *Europeizacja polskiego prawa administracyjnego*, eds. Z. Janku, Z. Leoński, M. Szewczyk, M. Waligórski, K. Wojtczak, Wrocław 2005, p. 492.

[20] Article 36 APC.

[21] Judgment of the Voivodeship Administrative Court in Warsaw of 14 October 2016, IV SAB/Wa 229/16, LEX no. 2256286; judgment of the Supreme Administrative Court of 19 March 2019, I OSK 1459/17, LEX no. 2696675; judgment of the Supreme Administrative Court of 23 August 2019, I OSK 1471/18, LEX no. 2752000; judgment of the Voivodeship Administrative Court in Warsaw of 28 November 2019, VII SAB/Wa 180/19, LEX no. 2761251. See also G. Łaszczyca, *op. cit.*, pp. 327–328; W.M. Hrynicki, *op. cit.*, pp. 84–87.

components, although they do not negate normative sanctions, determine the directional directive relating to the pace of proceedings, so as not to lead – given the available human and organisational potential – to the relativisation of the basic objectives of administrative proceedings, which is to determine the rights and obligations of individuals in the public law sphere. Haste in proceedings is not synonymous with efficacy, let alone the principle of seeking objective truth, which must, in essence, assume thoroughness and comprehensiveness in considering all factual and legal circumstances relevant to the case.[22] The efficacy of administrative proceedings cannot therefore be considered solely in terms of the speed with which cases are dealt with, but must also take into account the quality of the decisions issued and the degree to which the rights of the parties to the proceedings are realised. The principle of promptness and simplicity of proceedings (Article 12 APC) is undoubtedly one of the most important instruments for ensuring the efficacy of administrative proceedings, but it is not the only one. This is related both to the conceptual meaning of the term "efficacy" and to the systemic interpretation, which requires the rules of administrative proceedings to be interpreted comprehensively and interactively, rather than in isolation.

One of the fundamental (even paramount) points of reference should be the principle of objective truth. In the course of proceedings, public administration bodies uphold the rule of law and, ex officio or at the request of the parties, take all necessary steps to thoroughly clarify the facts and resolve the case, taking into account the public interest and the legitimate interests of citizens (Article 7 APC). In this context, it is impossible not to mention also the principle of active participation of the parties in the proceedings (Article 10 APC) or the principle of persuasion (Article 11 APC). The administrative authority is obliged not only to allow the parties to comment on the evidence and materials collected and the requests submitted before issuing a decision, but also to explain to the parties the validity of the premises on which they base their decision, in order to ensure, as far as possible, that the parties comply with the decision without the need to apply coercive measures. Public administration authorities are also obliged to provide the parties with adequate and comprehensive information on the factual and legal circumstances that may affect the determination of their rights and obligations that are the subject of administrative proceedings (i.e. it becomes effective upon its initiation),[23] ensuring that the parties and other persons participating in the proceedings do not suffer damage due to ignorance of the law (Article 9 APC). It is precisely from the authority's obligation to seek the objective truth that it follows that it should exhaustively examine all the factual circumstances related to a specific case

[22] R. Kędziora, *Przeciwdziałanie…*, p. 146.

[23] Furthermore, there is a line of case law indicating that this obligation also covers the period before the proceedings are initiated and after they are concluded.

in order to create a true picture of it and obtain a basis for the correct application of the legal norm. This generates additional obligations in administrative proceedings on the part of the public administration body, which should provide the party with the necessary explanations and guidance. However, the authority cannot be reduced to the role of a representative providing legal assistance to the party, an advisor suggesting the optimal course of action, or an entity acting on behalf of the party if the party does not cooperate with the authority at all and its active participation is necessary. Although active participation in the proceedings is only a right (not an obligation) of the party, failure to prove certain facts may lead to unfavourable results for the party.[24] The rule that the burden of proving a fact rests with the person who derives legal consequences from that fact has not been excluded.[25] This rule should be understood to mean that the administrative authority is obliged to take action even if the party is passive, in order to clarify the factual circumstances of the case using all means of evidence available to it.[26] It should be concluded that meeting such requirements will not always be tantamount to covering all the factual circumstances that may only be known to the party within the scope of the authority's evidentiary initiative. Nevertheless, the reliable and thorough action of the authority constitutes the foundation of the proceedings.

The principle of objective truth is further developed in other provisions of the Administrative Procedure Code, which also guarantee its implementation. Article 77 APC stipulates that the public administration authority is obliged to collect and examine all evidence in an exhaustive manner. Only on the basis of all the evidence collected does the authority assess whether a given circumstance has been proven. It follows that the authority should determine ex officio what evidence is necessary for a full and proper clarification of the facts of the case on the basis of the criterion of relevance.[27] The determinant of "significant impact" on the outcome of the case is defined by substantive law. If the proceedings are initiated at the request of a party, the authority should, ex officio, clarify the actual content of the party's request in a manner that leaves no room for doubt and take further necessary procedural steps (including, in case of doubt as to the party's intentions, requesting clarification of its intentions). However, the authority may disregard a party's request that was not submitted during the taking of evidence if the request concerns circumstances already established by other evidence, unless they

[24] J. Borkowski, *Postępowanie zwykłe. Przedmiot postępowania zwykłego*, [in:] *System Prawa Administracyjnego*, vol. 9: *Prawo procesowe administracyjne*, eds. R. Hauser, Z. Niewiadomski, A. Wróbel, Warszawa 2011, p. 142.

[25] For example, see judgment of the Supreme Administrative Court in Warsaw of 16 February 1999, III SA 2322/98, LEX no. 38142.

[26] J. Borkowski, *Podstawowe zasady postępowania administracyjnego i sądowoadministracyjnego*, [in:] B. Adamiak, J. Borkowski, *Postępowanie administracyjne i sądowoadministracyjne*, Warszawa 2015, p. 39.

[27] Article 80 APC.

are relevant to the case. The authority should analyse all requests for taking evidence within the scope of its competence from the point of view of their relevance to the resolution of the case, verifying their usefulness for establishing the circumstances, taking into account, i.a., the principle of promptness and simplicity of proceedings. Such actions by the authority do not constitute a violation of the principle of seeking to establish the objective truth.[28] It appears that this type of guarantee for the authority is intended to provide a kind of balance protecting against procedural abuses by the parties to the proceedings (in the absence of a statutory system of preclusion of evidence).

It seems that the legislator recognises the importance of striking a balance between the efficacy of proceedings and other principles. In the authors' opinion, the introduction of the principle of cooperation between public administration authorities into the provisions of the Administrative Procedure Code in 2017 constitutes such an attempt. In the course of proceedings, public administration bodies were obliged to cooperate with each other to the extent necessary to thoroughly clarify the factual and legal circumstances of the case, taking into account the public interest and the legitimate interests of citizens, as well as the efficacy of proceedings, using means appropriate to the nature, circumstances and complexity of the case.[29] The legislator has elevated the requirement for cooperation between administrative bodies to the status of a general principle in connection with the need to clarify the factual and legal circumstances of a case, without formalising the methods of such cooperation, if this contributes to the faster resolution of the case.[30] This means that the requirement for cooperation goes significantly beyond the framework of cooperation specified in Article 15 of the Act of 17 February 2005 on the computerisation of the activities of entities performing public tasks.[31]

In the course of cooperation, public administration bodies are obliged to take into account "the public interest and the legitimate interests of citizens, as well as the efficacy of proceedings", which should be understood to mean that cooperation as an optimisation principle should, to the greatest extent and scale possible, serve the public interest and the legitimate interests of citizens and contribute to increased efficacy of proceedings, with the term "efficacy" being given the broadest possible

[28] For example, see judgment of the Supreme Administrative Court of 17 March 1986, III SA 1160/85, ONSA 1986, no. 1, item 19.

[29] Article 7b APC added by Article 1(2) of the Act of 7 April 2017 amending the Administrative Procedure Code and certain other acts (Journal of Laws 2017, item 935), amending the APC in this respect as of 1 June 2017.

[30] Judgment of the Supreme Administrative Court of 27 February 2018, II OSK 3116/17, LEX no. 2483486; judgment of the Supreme Administrative Court of 6 March 2024, I OSK 2544/20, LEX no. 3705474.

[31] Consolidated text, Journal of Laws 2024, item 1557, as amended.

meaning. It is therefore not only a question of speed as an operational value, but also of reliability and efficiency.[32]

The amendment to Article 14 APC introduced in 2021 should be considered a less successful attempt to combine efficacy and the application of new technologies.[33] The newly introduced Article 14 § 1b APC stipulates that cases may be handled using automatically generated documents bearing a qualified electronic seal of a public administration body. A literal interpretation of the provisions could have revolutionary effects in the area of law enforcement by public administration bodies, i.e. the automatic generation of every document, *ergo* the possibility of automating every administrative act, including administrative decisions (both related and discretionary). This raised the following questions: Under what conditions is an activity eligible for automation? Can an algorithm (a special application, robot)[34] unilaterally decide on the rights and obligations of the parties to the proceedings by making automated decisions? How will AI interpret vague concepts in the context of AI hallucinations and biased/discriminatory predispositions? Does the legislative change consisting in the addition of § 1b to Article 14 APC actually set a new course of action? For the first time, the legislator has decided to include in the Administrative Procedure Code a solution allowing for the automatic handling (and thus also by way of a decision) of individual administrative cases.[35] Given the many uncertainties surrounding the principle of the rule of law and the prospect of uncontrolled case handling by machines, even those that are perfectly programmed, it was undoubtedly necessary to deepen the interpretation of this provision by analysing its effects in the context of the efficacy of individual case handling and the implementation of administrative procedure rules. In the context of automated decision-making, it is doubtful whether the principle of objective truth, the principle of active participation of the parties in the proceedings and the principle of persuasion are ensured, given the limited evidence-gathering based on information provided by the party and known to the authority in the information space, and the

[32] See judgment of the Constitutional Tribunal of 11 August 2016, K 39/16, OTK-A 2016, item 71; judgment of the Supreme Administrative Court of 10 November 2021, III FSK 4168/21, LEX no. 3294685; A. Wróbel, [in:] M. Jaśkowska, M. Wilbrandt-Gotowicz, A. Wróbel, *Komentarz aktualizowany do Kodeksu postępowania administracyjnego*, LEX/el. 2025, commentary on Article 7b.

[33] Article 14 § 1b added by Article 61 (1) (b) of the Act of 18 November 2020 on electronic delivery (Journal of Laws 2020, item 2320) amending the APC in this respect as of 5 October 2021.

[34] On the subject of algorithm generation, see K. Izdebski, *Algorytmy w procesie podejmowania decyzji urzędowych*, "IT w Administracji" 2019, no. 9, pp. 24–25.

[35] G. Sibiga, *Zasada wykorzystania pism generowanych automatycznie do załatwienia indywidualnej sprawy administracyjnej (art. 14 § 1b k.p.a). Podstawa prawna czy zasada kierunkowa dla automatycznego podejmowania decyzji?*, "Monitor Prawniczy" 2023, no. 6 (suppl.), p. 11.

lack of a justification for the decision containing the factual and legal grounds on which the authority based its decision.[36]

In general, the idea of automating the administration process should be viewed positively and accepted as inevitable. It undoubtedly has a significant impact on the promptness of administrative proceedings. However, the authors of the draft amendment to the Administrative Procedure Code merely indicated that the change related to the use of a qualified electronic seal by a public administration body would enable "the automatic issuance of certificates and confirmations of activities carried out as part of online services".[37] The justification for the draft therefore clearly does not correspond to the wording of Article 14 § 1b APC. The content of the analysed provision does not in any way indicate that the scope of Article 14 § 1b APC is limited only to a specific group of factual activities. The use of the phrase "matters may be dealt with" creates a real risk of misinterpretation and of the provision being applied broadly.[38] There are legal grounds for the electronic circulation of internal documents, supporting the work of authority employees through ICT systems, identifying applicants and communicating with parties in administrative proceedings via ICT systems. However, there is no legal basis for the authority to use an algorithm in the process of applying the law and automating a legal action of a public administration authority that is a decision on a specific and individual case concerning the rights or obligations of an individual. Such action by the authority is not provided for in the provisions of substantive law.[39] From this point of view, the solution introduced in Article 14 § 1b APC should be critically assessed as too laconic, general (not containing any criteria for the authority's actions), and even misleading when applied only through linguistic interpretation.[40] Therefore, the prematurely introduced Article 14 § 1b APC can only be treated as a general

[36] For more on this topic, see *ibidem*, pp. 12–13; F. Geburczyk, *Automatyzacja załatwiania spraw w administracji samorządowej a gwarancje procesowe jednostek. Uwagi de lege ferenda w kontekście ogólnego rozporządzenia o ochronie danych (RODO)*, "Samorząd Terytorialny" 2021, no. 5, pp. 25–28.

[37] Polish Sejm, 9th term, Justification for the Government's Draft Bill on Electronic Delivery, document no. 239, https://www.sejm.gov.pl/sejm9.nsf/druk.xsp?nr=239 (access: 7.9.2025), p. 90.

[38] Z. Kmieciak, J. Wegner, [in:] *Kodeks postępowania administracyjnego. Komentarz*, eds. Z. Kmieciak, J. Wegner, M. Wojtuń, LEX/el. 2023, commentary on Article 14.

[39] J. Szyjewska-Bagińska, *Prawne aspekty automatyzacji przyznawania i wypłaty świadczeń przez Zakład Ubezpieczeń Społecznych*, "Praca i Zabezpieczenie Społeczne" 2022, no. 4, pp. 36–44; judgment of the Voivodeship Administrative Court in Opole of 4 April 2024, I SA/Op 169/24, LEX no. 3714183.

[40] I. Gontarz, *Automatyczny akt administracyjny – postulaty de lege ferenda w zakresie ogólnych ram prawnych*, [in:] *Skuteczność w prawie administracyjnym*, ed. C. Martysz, Warszawa 2022, pp. 72–73. It should be noted that Article 14 § 1b APC was treated as the basis for the decision during the consultation conference organised as part of the legislative process on 16–17 April 2019 in Warsaw, when considering the comments of the National Council of Legal Advisers. See Polish Sejm, 9th term, Draft Act on the Electronic Delivery of Documents and Amendments to Certain Other Acts,

guideline (referred to as a principle in the explanatory memorandum to the draft) requiring supplementation in substantive law, i.a. by changing the competences of public administration bodies and introducing, for those types of cases specifically identified by the legislator, a model of administrative proceedings whose rules will ensure the protection of the rights and legitimate interests of the parties.[41]

CONCLUSIONS *DE LEGE FERENDA*

In the context of the considerations presented above, it seems that only consistent adherence to the above-mentioned rules of procedure can contribute to building trust in public authorities within the meaning of Article 8 (1) APC, i.e. compliance with the principles of proportionality, impartiality and equal treatment, while maintaining the overriding principle of the rule of law and focusing on efficacy in administrative proceedings. The analysis also showed that contemporary administrative proceedings are at a turning point, where the imperative to achieve greater efficacy of public administration bodies clashes with the fundamental need to maintain the stability of procedural guarantees for the parties. In this context, the following conclusions can be drawn.

Firstly, it should be noted that the efficacy of proceedings is not synonymous with their speed. Public administration bodies should act thoroughly and quickly in a case, using the simplest possible means to resolve it, while respecting the other principles of administrative proceedings, the priority of which is not only to ensure the dynamism of the proceedings, but also to protect the rights of its participants.

Secondly, efficacy should take into account the need to create homeostasis in the administration's operations. This means the actual implementation of the promptness directive, but also ensuring the stability of procedural guarantees for the parties in an environment of procedural security. The latter should be understood as the consolidation of a system of guarantees ensuring that individuals can effectively protect their rights and interests in the course of administrative proceedings. This is a broad concept, which should cover both technical aspects (related to data and IT system security) and legal aspects (strictly related to procedural guarantees). The efficacy of administrative proceedings – understood as a praxeological category encompassing effectiveness, benefit and economy – is a more appropriate concept

no. UD462, https://orka.sejm.gov.pl/Druki9ka.nsf/0/D1349ADC36052E93C125850C003768C9/%24File/239.pdf (access: 7.9.2025), p. 286.

[41] G. Sibiga, *Zasada…*, p. 15; idem, *Stosowanie technik informatycznych w postępowaniu administracyjnym ogólnym*, Warszawa 2019, p. 43; M. Wilbrandt-Gotowicz, *Dylematy automatycznego podejmowania decyzji w postępowaniu administracyjnym – uwagi na tle art. 14 § 1b Kodeksu postępowania administracyjnego*, "Studia Prawnicze KUL" 2023, no. 3, p. 155.

than effectiveness in the context of the activities of public administration bodies. The choice of terminology is not purely semantic, but reflects the philosophy of administration as a public service. The concept of efficacy also requires proper contextual interpretation, which will ultimately lead to a balanced dynamic of administrative procedure development. The practice of applying general principles of administrative proceedings indicates the need to develop a new homeostasis between efficacy and procedural security.

Thirdly, the digitisation of administrative proceedings, although inevitable and intended to increase efficacy, creates new challenges for traditional procedural guarantees. The introduction of Article 14 § 1b APC is particularly problematic, as its laconic wording creates a risk of overinterpretation towards the full automation of administrative decisions. The current legal situation is characterised by fragmented regulations on automation and digitisation, which leads to legal uncertainty and the risk of violating the fundamental principles of administrative proceedings. Therefore, it is proposed to amend the wording of the indicated regulation (§ 1b) and introduce a new provision, e.g. "§ (…). Public administration bodies may use automatic data processing systems only for: 1) generating notifications, summonses and other letters of an informational nature; 2) issuing certificates confirming the facts recorded in public registers; 3) performing clerical and record-keeping activities. § (…). Automation does not apply to: 1) issuing administrative decisions determining the rights or obligations of the parties; 2) assessing evidence and making factual findings necessary for the proper resolution of a case. § (…). Each automatically generated document should contain information about this fact and the scope of automation, as well as an indication of the person responsible for supervising the system".

Regardless of the amendment to Article 14 § 1b APC relating to the scope and forms of automation, the Administrative Procedure Code should include regulations on the security of electronic communication, e.g. "§ (…). ICT systems used in administrative proceedings must ensure the integrity, authenticity, confidentiality and availability of the data processed. § 2. The public administration body is responsible for ensuring the continuity of proceedings, and in the event of a failure or instability of IT systems, it shall inform the parties of the reasons and the need to abandon electronic communication and use traditional forms of communication".

Ultimately, therefore, the challenge for modern legislators is to create a model of administrative proceedings which, while exploiting the potential of new technologies, simplicity and speed of operation for greater efficacy, will not lead to the erosion of the fundamental procedural guarantees that form the basis of a democratic state governed by the rule of law. Only such an approach will allow for the achievement of real synergy between the imperative of efficacy and the stability of the system of protection of individual rights in administrative proceedings.

REFERENCES

Literature

Adamiak A., Borkowski J., *Metodyka pracy sędziego w sprawach administracyjnych*, Warszawa 2009.

Borkowski J., *Podstawowe zasady postępowania administracyjnego i sądowoadministracyjnego*, [in:] B. Adamiak, J. Borkowski, *Postępowanie administracyjne i sądowoadministracyjne*, Warszawa 2015.

Borkowski J., *Postępowanie zwykłe. Przedmiot postępowania zwykłego*, [in:] *System Prawa Administracyjnego*, vol. 9: *Prawo procesowe administracyjne*, eds. R. Hauser, Z. Niewiadomski, A. Wróbel, Warszawa 2011.

Flaga-Gieruszyńska K., *Szybkość, sprawność i efektywność postępowania cywilnego – zagadnienia podstawowe*, "Zeszyty Naukowe KUL" 2017, vol. 60(3), **DOI: https://doi.org/10.31743/zn.2017.60.3.5-20**.

Geburczyk F., *Automatyzacja załatwiania spraw w administracji samorządowej a gwarancje procesowe jednostek. Uwagi de lege ferenda w kontekście ogólnego rozporządzenia o ochronie danych (RODO)*, "Samorząd Terytorialny" 2021, no. 5.

Gontarz I., *Automatyczny akt administracyjny – postulaty de lege ferenda w zakresie ogólnych ram prawnych*, [in:] *Skuteczność w prawie administracyjnym*, ed. C. Martysz, Warszawa 2022.

Hrynicki W.M., *Reasons for Failing to Handle Administrative Cases on Time*, "Ius Novum" 2023, vol. 17(1), **DOI: https://doi.org/10.2478/in-2023-0005**.

Izdebski K., *Algorytmy w procesie podejmowania decyzji urzędowych*, "IT w Administracji" 2019, no. 9.

Kędziora R., *Legal and Procedural Determinants of Efficient Acting of the Public Administration Authority in an Administrative Matter*, "Teka Komisji Prawniczej PAN. Oddział w Lublinie" 2019, vol. 12(1), **DOI: https://doi.org/10.32084/tekapr.2019.12.1-7**.

Kędziora R., *Przeciwdziałanie bezczynności organu administracji publicznej w postępowaniu administracyjnym*, "Biuletyn Stowarzyszenia Absolwentów i Przyjaciół Wydziału Prawa Katolickiego Uniwersytetu Lubelskiego" 2018, vol. 13(5), **DOI: https://doi.org/10.32084/bsawp.5086**.

Kieżun W., *Sprawne zarządzanie organizacją*, Warszawa 1997.

Kieżun W., *Tadeusz Kotarbiński – twórca idei dobrej pracy*, [in:] *Krytyczna teoria organizacji. Elementy filozofii i praktyki zarządzania*, eds. W. Gasparski, W. Kieżun, Warszawa 2020.

Kisała M., *Zasada efektywności w realizacji zadań publicznych przez jednostki samorządu terytorialnego*, "Roczniki Nauk Prawnych" 2015, vol. 25(1), **DOI: https://doi.org/10.18290/rnp.2015.25.1-8**.

Klat-Wertelecka L., *Bezczynność organu administracji publicznej w postępowaniu administracyjnym w dobie europeizacji prawa*, [in:] *Europeizacja polskiego prawa administracyjnego*, eds. Z. Janku, Z. Leoński, M. Szewczyk, M. Waligórski, K. Wojtczak, Wrocław 2005.

Kmieciak Z., Wegner J., [in:] *Kodeks postępowania administracyjnego. Komentarz*, eds. Z. Kmieciak, J. Wegner, M. Wojtuń, LEX/el. 2023.

Łaszczyca G., *Realność terminu załatwienia sprawy w ogólnym postępowaniu administracyjnym*, "Studia Prawnoustrojowe UWM" 2021, no. 54, **DOI: https://doi.org/10.31648/sp.6683.**

Olejniczak-Szałowska E., *Zasada sprawności działań administracji (zasada efektywności)*, [in:] *Prawo administracyjne. Pojęcia, instytucje, zasady w teorii i orzecznictwie*, ed. M. Stahl, Warszawa 2009.

Rollnik-Sadowska E., *Efektywność instytucji publicznych – przykład powiatowych urzędów pracy w Polsce. Pojęcie, determinanty, metodyka pomiaru*, Białystok 2019.

Sibiga G., *Stosowanie technik informatycznych w postępowaniu administracyjnym ogólnym*, Warszawa 2019.

Sibiga G., *Zasada wykorzystania pism generowanych automatycznie do załatwienia indywidualnej sprawy administracyjnej (art. 14 § 1b k.p.a). Podstawa prawna czy zasada kierunkowa dla automatycznego podejmowania decyzji?*, "Monitor Prawniczy" 2023, no. 6 (suppl.).

Szyjewska-Bagińska J., *Prawne aspekty automatyzacji przyznawania i wypłaty świadczeń przez Zakład Ubezpieczeń Społecznych*, "Praca i Zabezpieczenie Społeczne" 2022, no. 4, **DOI: https://doi.org/10.33226/0032-6186.2022.4.5.**

Wilbrandt-Gotowicz M., *Dylematy automatycznego podejmowania decyzji w postępowaniu administracyjnym – uwagi na tle art. 14 § 1b Kodeksu postępowania administracyjnego*, "Studia Prawnicze KUL" 2023, no. 3, **DOI: https://doi.org/10.31743/sp.14504**.

Wróbel A., [in:] M. Jaśkowska, M. Wilbrandt-Gotowicz, A. Wróbel, *Komentarz aktualizowany do Kodeksu postępowania administracyjnego*, LEX/el. 2025.

Zimmermann J., *Prawo administracyjne*, Warszawa 2012.

Online sources

Polish Sejm, 9th term, Draft Act on the Electronic Delivery of Documents and Amendments to Certain Other Acts, no. UD462, https://orka.sejm.gov.pl/Druki9ka.nsf/0/D1349ADC36052E93C125850C003768C9/%24File/239.pdf (access: 7.9.2025).

Polish Sejm, 9th term, Justification for the Government's Draft Bill on Electronic Delivery, document no. 239, https://www.sejm.gov.pl/sejm9.nsf/druk.xsp?nr=239 (access: 7.9.2025)

Sprawny, https://sjp.pwn.pl/slowniki/sprawny.html (access: 1.8.2025).

Sprawność, https://mfiles.pl/pl/index.php/Sprawność (access: 1.8.2025).

Legal acts

Act of 14 June 1960 – Administrative Procedure Code (consolidated text, Journal of Laws 2024, item 572, as amended).

Act of 17 February 2005 on the computerisation of the activities of entities performing public tasks (consolidated text, Journal of Laws 2024, item 1557, as amended).

Act of 7 April 2017 amending the Administrative Procedure Code and certain other acts (Journal of Laws 2017, item 935).

Act of 18 November 2020 on electronic delivery (Journal of Laws 2020, item 2320).

Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws 1997, no. 78, item 483, as amended).

Case law

Judgment of the Constitutional Tribunal of 11 August 2016, K 39/16, OTK-A 2016, item 71.

Judgment of the Supreme Administrative Court of 17 March 1986, III SA 1160/85, ONSA 1986, no. 1, item 19.

Judgment of the Supreme Administrative Court in Katowice of 7 May 1998, I SA/Ka 1215/96, LEX no. 35938.

Judgment of the Supreme Administrative Court in Warsaw of 16 February 1999, III SA 2322/98, LEX no. 38142.

Judgment of the Supreme Administrative Court of 27 February 2018, II OSK 3116/17, LEX no. 2483486.

Judgment of the Supreme Administrative Court of 19 March 2019, I OSK 1459/17, LEX no. 2696675.

Judgment of the Supreme Administrative Court of 23 August 2019, I OSK 1471/18, LEX no. 2752000.

Judgment of the Supreme Administrative Court of 10 November 2021, III FSK 4168/21, LEX no. 3294685.
Judgment of the Supreme Administrative Court of 6 March 2024, I OSK 2544/20, LEX no. 3705474.
Judgment of the Voivodeship Administrative Court in Opole of 4 April 2024, I SA/Op 169/24, LEX no. 3714183.
Judgment of the Voivodeship Administrative Court in Warsaw of 14 October 2016, IV SAB/Wa 229/16, LEX no. 2256286.
Judgment of the Voivodeship Administrative Court in Warsaw of 28 November 2019, VII SAB/Wa 180/19, LEX no. 2761251.

ABSTRAKT

W artykule przeprowadzono analizę fundamentalnego dylematu współczesnego postępowania administracyjnego, w którym dążenie do zwiększenia sprawności działania organów administracji publicznej styka się z obowiązkiem zachowania stabilności gwarancji procesowych stron. Badanie koncentruje się na praktyce stosowania wybranych zasad ogólnych Kodeksu postępowania administracyjnego w kontekście postępującej elektronizacji administracji publicznej. Autorzy przyjęli prakseologiczne rozumienie sprawności, odróżniając je od węższego pojęcia efektywności, co znajduje uzasadnienie w konstytucyjnym ujęciu działania instytucji publicznych. Szczególną uwagę poświęcono analizie relacji między zasadą szybkości i prostoty postępowania a innymi zasadami ogólnymi, takimi jak zasada prawdy obiektywnej, czynnego udziału strony oraz współdziałania organów. Krytycznej ocenie poddano wprowadzenie art. 14 § 1b k.p.a. dotyczącego automatyzacji załatwiania spraw, wskazując na ryzyko nadinterpretacji przepisu w kierunku pełnej automatyzacji decyzji administracyjnych. Przeprowadzona analiza wykazała, że zachowanie równowagi między sprawnością a bezpieczeństwem proceduralnym wymaga wypracowania nowej homeostazy, która uwzględnia nie tylko dyrektywę szybkości, ale także stabilność gwarancji procesowych w środowisku cyfrowego bezpieczeństwa proceduralnego oraz koherencję pomiędzy pozostałymi zasadami postępowania administracyjnego.

Słowa kluczowe: sprawność postępowania administracyjnego; bezpieczeństwo proceduralne; elektronizacja administracji publicznej; zasady ogólne; automatyzacja; gwarancje procesowe

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