

The Legal Aspects of Reducing the Bureaucracy of the Court Administration

Wojciech Piątek*

* Wojciech Piątek, Dr. hab., Professor at the Adam Mickiewicz University in Poznań, Head of Department of the Administrative and Judicial Administrative Procedure. (e-mail: wojciech.piatek@amu.edu.pl)

Abstract: The article deals with questions of the bureaucratic organisation of courts, or in other words, how the court administration can affect, or is able to affect judicial autonomy, professionalism, the court's decision making and overall the effectiveness of court functioning. The purpose of this paper is to analyse legal means of reducing the court's bureaucracy.

Keywords: court administration; administrative supervision; judicial autonomy; administrative law

1. Introduction

Nowadays we expect from public administration a high level of efficiency and professionalism.¹ The right to a fair and objective hearing is an element of the guarantee which creates a standard of "good administration".² Public authority should determine a dispute not from a domineering position towards private entities, but above all using conciliation methods. An administrative authority should be a partner for a private entity and not an opponent. An acceptable model of bureaucracy is based on a dialogue between parties of a dispute and finding a possible solution for all of them. Therefore, a significant attention is paid to explanations of administrative decisions, which should be not only understandable, but also convincing for individuals.

The above-mentioned expectations are addressed also to court authorities and their administration. Opinions about courts and their activities are formulated not only on the basis of issued judgments but also on personal contacts with the court staff. Though the lack of the court's action or an excessive length of proceedings is frequently caused by parties of a dispute,³ expectations towards quick settlement of a case are currently becoming more intensive. A significant role is played by general rules in which courts are in contact with society.⁴ This tendency is clearly seen from the court perspective, where time limits in proceedings are under strict control and explorations in various statistics.⁵ Contemporary judges are evaluated not only from a content-related perspective, lawfully issued judgments, but also from effectively undertaken procedural activities.

The purpose of this paper is to analyse legal means of reducing the court's bureaucracy, understood from a negative side, as a phenomenon which limits the court's efficiency and professionalism.⁶ The term "bureaucracy" is derived from the French language and means a centralised organisation system in which the authority is associated with the office.⁷ In some explanations it is understood as a separate entity from the citizens state power, or

even as officials making harmful decisions for society⁸ or even soulless adherence to regulations in dealing with official matters.⁹ The reasons for such understanding of “bureaucracy” have both a structural and procedural nature. Creating a proper shape of these two regulation spheres can lead to the reduction of the negatively perceived bureaucracy.

However, exercising of these tools must respect the nature of court administration which is linked with structural courts independence and judicial autonomy. Striving to achieve a high level of efficiency in the administration of justice cannot violate those requirements. Therefore, in the first part of this paper a special attention will be paid to the nature of court administration. These reflections make it possible to analyse legitimate ways of reducing bureaucracy in court administration in the second and third part of this paper.

2. The Nature of Court Administration

Taking into consideration the nature of court administration, it is necessary to point out the subject “administration”, which has a central meaning for the science of administrative law. Following the achievements of the German science, administration is defined as a state activity that is neither legislation nor the justice system.¹⁰ In addition to the negative definition, which is the starting point for consideration of differences between three state authorities, numerous positive definitions of administration are formulated, which emphasise the characteristic position and structure of the administering entities,¹¹ the participation of the human factor¹² and the objectives of the administration’s activities.¹³ Public administration is defined as all organisational and executive activities aimed at realising the common good by various entities, including not necessarily state-owned ones, related to the basis and form of activity under the statute, remaining under social control.¹⁴

Court administration on the one hand should be treated as a part of a whole public administration, which creates a huge organism necessary to perform obligations by all kinds of public power, legislative, executive and judicial. Administration in courts performs service functions for effective functioning of these public institutions. The duties of court administration include all tasks to ensure the proper functioning of the courts, both from the personal and material side. These duties are: matters of employment of judges and court clerks, all employee and training matters, maintenance of court buildings and providing substantive support in adjudicating.¹⁵ Court administration is financed by the whole state. Therefore, two other branches of state power have the right to know where are the positive and negative sides of their activity in order to solve problems and avoid negative tendencies in the future.

The above-mentioned activities of the court administration play a significant role also for providing legal protection for the citizens, who turn to court clerks with requests for information about pending cases or even advices on how to solve their problems and technical issues connected with the court’s functioning. Personal contact with court employees could have a crucial importance in making opinions about the level of court professionalism. An engagement in the work of court clerks, their knowledge and experience, may deeply affect the efficiency of court activity.

On the other hand, this administration is created to perform special obligations joined with tasks of a judicial power. The court administration also plays a crucial role in the service for judges and their judicial function. Court administrations and judges create a separate judicial power which is responsible for solving disputes between individuals. A lack of one of these spheres, also judicial and administrative, will make court activity impossible.

Courts are appointed to solve disputes between private entities or state on the basis of facts and binding legal regulation.¹⁶ Court administration is not a part of public administration which belongs to the executive power. Though court administration is not directly engaged in solving those disputes, its activity is linked to adjudication functions because it helps judges to be more efficient and professional. The boundary between judicial and administrative activities is difficult to stress. The whole activity of this administration is focused on solving disputes and exercising justice. Without performing this function, the existence of court administration would be unnecessary. Inefficiency of court administration can, in a straight way, lead to inefficiency of the whole court, and above all the judicial functions.

Therefore, the nature of court administration is twofold. On the one hand, it is an administrative organism, designed for special tasks. The administrative organism must be guided by professionals who ensure a high level of efficiency and professionalism of this administration. In some cases it is necessary to engage judges in performing administrative functions because this group of well-educated and experienced clerks is the most appropriate group to perform these duties towards other judges. It is questionable to what extent the responsibility for functioning of this administration should derive from court or the executive power? This question is connected with the second nature of court administration, namely the special tasks performed by this branch of the public power.

The other and more general question, which may be formulated now, is connected with a group of competences, above all the supervision nature, which these two branches of power, especially the executive power, should be equipped with in order to make an activity of court administration effective and professional. The preliminary answer to this question is: the executive power should affect the judiciary only in exceptional cases, also in the area of court administration, when the judiciary fails to cope with maintaining the high level of effectiveness of judicial protection. Any interference by the executive with the operation of the judiciary threatens the independence of judges and separateness of the court system from other authorities.

3. Two Different Models of Supervision over Court Administration

In Poland there are two ways of performing supervision over the court administration. The first pattern is typical for ordinary courts, where a significant influence over the court administration is assigned to the Minister of Justice. In this pattern the responsibility for functioning this administration is taken over by an authority which is a part of the executive power. The second model is typical for administrative courts which create

a separate judicial branch from ordinary courts. The supervision competences are entrusted to the President of the Supreme Administrative Court (hereinafter SAC).

Focusing on the first model, according to Article 9 of the law on the system of common courts,¹⁷ the Minister of Justice supervises the common courts in order to ensure appropriate technical, organisational and financial conditions (external supervision). Besides the Minister, each President of the common court also fulfils internal supervision over courts, ensuring the proper functioning of the internal office of the court (internal supervision).¹⁸ Presidents of common courts – district, regional and appeal are appointed by the Minister of Justice.¹⁹ Because of this competence, the Minister of Justice has a crucial influence not only on external, but also on internal supervision. Additionally, in regional and in appellate courts, there are appointed managers²⁰ of the courts who have competences in the court's finances. Their position is independent from the competences of the courts' presidents and they are subordinated directly to the Ministry of Justice.

The President of district, regional and appellate court may be dismissed by the Minister of Justice not only in case of neglecting his or her obligations but also when effectiveness of his or her activities in the field of administrative supervision or organisation of work in court is in opinion of the Minister unsatisfactory.²¹ The Minister of Justice has crucial competences in the area of supervision over common courts. He assesses the efficiency of court administration and can change the president of the court if he estimates that the court could work more effectively. The other court institutions such as general assembly of judges of each court or the board of the courts can only formulate opinions to the Minister, which are not binding for him in the process of appointing the president of the court.

The second pattern of the supervision is typical for administrative courts, which create a separate branch of systems of judiciary in Poland. All competences over court administration in this system are submitted to the President of the Supreme Administrative Court, who exercises the hierarchical supervision over the administrative activity in this branch of courts.²² The reason for adopting this solution is a basic function of administrative courts, which perform control over the public administration. Therefore, the executive power should not have any influence on a public body that controls his or her activity.²³ In this solution a responsibility for functioning of the court administration is focused only on the judicial power. The Minister of Justice has no competence to issue some of the orders and to create the structure of the administrative court's administration. The President of the SAC has also the power of minister competent for matters of public finance in relation to the implementation of the budget of administrative courts.²⁴ This branch of courts has guaranteed a financial independence from the executive power. That guarantee has a crucial importance in assessing the level of court and judge independence from other state authorities.

In the second model, the President of the SAC performs administrative tasks towards the whole administrative judiciary. These obligations are fulfilled by special agencies inside the Supreme Administrative Court (the Chancellery of the President of the SAC and the Judicial Decisions Bureau) and by the Presidents of voivodeship administrative courts who in administrative competences are subordinated to the President of the SAC. The President of the SAC exercises hierarchical supervision over the administrative activity of the admin-

istrative courts.²⁵ He establishes the principles of clerical work in administrative courts.²⁶ The president of the voivodeship administrative court manages the court, represents it in external relations and performs activities of judicial administration.²⁷ The president and vice-president in the voivodeship administrative court may be removed from the office during the term of office in the event of gross dereliction of official duty.²⁸ This condition is more strictly regulated than the similar, above-mentioned competence of the Minister of Justice. The President of the SAC cannot remove the President of the voivodeship administrative court in case of inefficiency of the court administration. Gross dereliction of the official duty must be connected with a strong negative effect of the president's duties. As a result, a judicial activity of the court must be seriously neglected.

The second model should be treated as a proof, that it is possible to create a special administrative mechanism inside the judiciary. Although it is not free from the disadvantages associated with a strong position of the President of the SAC,²⁹ court administration to be effective, does not need special supervision measures performed by members of other branches of state power. The effectiveness of the court administration is not strictly connected with an entity which fulfils supervisory functions, but with the engagement of court clerks and real supervision measures which make the court activity more effective. If the main supervisory competencies are located in a member of the judicial power, it is possible to equip this entity with a stronger power, and with less threat that it is incompatible with the principle of judge independence.

For this reason, the solution, which is present in the administrative court system, does not threaten the effectiveness of the administrative judiciary. It guarantees more stability and independence from other branches of state power, above all the executive power. The system of administrative courts is less addicted to political changes. The President of the SAC is appointed by the President of the Republic of Poland from among two candidates presented by the General Assembly of Judges of the SAC for the term of six years.³⁰ Over the past six years in Poland there have been five Ministers of Justice. Therefore, in literature the model of supervision over administrative courts is treated as a modelled regulation in the competence sphere between the executive and judicial powers.

4. Ways to Reduce the Court's Bureaucracy

4.1. Supervision over the court's administration

The first mechanism, which could be feasible to reduce bureaucracy of court administration, is connected with supervision measures. The concept of supervision is widely recognisable in administrative law and not that well known in the judiciary. While adopting supervision measures, a supervisor cannot only control the supervised entity but also apply measures which aim to achieve a concrete goal.³¹ A characteristic feature of the term "supervision" is an interference with a supervised entity, which has no choice to reject orders issued by the supervising entity. Because of existing relations between these two entities, the second of them takes responsibility for functioning of the first one.

The question, which should be stated at this moment, is connected with the possibility of using supervision measures developed in the science of administrative law into exploration of the judicial power. There is no doubt that supervision measures cannot interfere with the judicial independence. Where is located the source of the court's activity which must be free from internal and external influences? Where are the boundaries of the supervision over court administration? The Polish Constitutional Court approving supervision competences of the Minister of Justice over courts has stated that supervision over the administrative activities of courts should not include organising proceedings in concrete cases, such as appointing terms for concrete procedural activities, summoning witnesses and experts.³² This statement does not give a concrete answer about the activity which is linked with jurisprudence and cannot be embraced by the administrative supervision. It is rather a proof, that determination of the border between judicial and administrative functions of courts is not entirely possible.

Apart from the doubts connected with establishing the limits of admissibility of administrative supervision, these measures cannot interfere with the process of adjudicating. A judge must be free from pressure in solving court disputes. This requirement can be understood in a narrow and wider sense. Focusing on court administration, the proper functioning of it could strengthen the level of the judge independence and make fulfilling of the jurisdictional duties easier. A judge equipped with the assistance of a secretary clerk and assistant who can help him/or her in searching jurisprudence, can solve more cases, perhaps in a more content-related way. It does not mean, that all the judge's connections with court administration have an impact on the judge's independence. They are connected with the judge's obligations and therefore, each kind of interference in this area of activity must find serious reasons. Competence to perform surveillance measures should have their basis in the law.

Coming back to the surveillance measures over court administration, within the scope of measures over administrative activities of voivodeship administrative courts, the President of the SAC may order an inspection or general inspections in the court.³³ A general inspection embraces all forms of the court activities, such as the burden of judges in relation to the influence and number of settled cases and the state of arrears, efficiency of court proceedings, including preparation of meetings, performance of proceedings, including timely preparation of justifications and performance after the decision has become final, and the level of uniformity of judgments in the court visited against the background of the case law of other administrative courts. The inspection is aimed at examining a specific problem in the field of the functioning of a voivodeship administrative court or its specific organisational unit, as well as examining the supervisory activities of the president, vice president and chairman of the department, as well as assessing the efficiency and timeliness of business activities performed by particular judges.

Among many surveillance measures over court administration in ordinary judiciary, the Minister of Justice performs external administrative supervision: assesses annual information on the activities of courts, determines general directions of internal administrative supervision performed by presidents of appellate courts, controls the performance of supervisory duties by the presidents of appellate courts and issues relevant regulations.

The Minister of Justice may turn to the President of the Court of Appeal in writing if he finds any deficiencies in the field of court administration, internal administrative supervision or other administrative activities and demand the removal of its consequences.³⁴ The President of the Court of Appeal, to whom the attention is addressed, may submit a written objection to the Minister of Justice within fourteen days from the day of returning the attention. As a result of this objection, a dispute is passed to the National Council for the Judiciary.³⁵ Attention can be combined with a reduction of the functional additive to the extent corresponding to the seriousness of the infringement, ranging from 15% to 50% of the allowance, for a period from one month to six months. If the remark is set aside, the supplement is adjusted to the previous height.³⁶

The manager of a court directs the court's administrative activity to ensure appropriate technical, organisational and property conditions for the functioning of the court. The competences of this subject in the area of court administration are more developed in comparison with the competences of the president of the court, because they are focused on all the matters which are connected with financing. The manager of the court, who is appointed by the Minister of Justice³⁷ performs all conditions which are important for the technical functioning of the court, from financial conditions for court administration employees, to the organisational aspects of their work.³⁸

4.2. Procedural ways

Besides the structural measures, procedural solutions could also make the functioning of court administration more effective and bureaucracy less burdensome. One of the solutions is to improve electronic communication with parties of the proceeding during a court process. Serving letters by using electronic means of communication³⁹ makes this process between the court administration and a party of proceeding less time consuming and bureaucratic. This method of serving official documents is much cheaper and therefore more convenient for the budget of court administration. Hopefully this form of communication will become more popular in the nearest future and embrace not only serving documents, but the whole access to the courts documents during proceedings in each case.

The process of serving documents during a court procedure could be burdensome for the court administration because of the large amount of parties in a certain proceeding. The legislator should take this inconvenience into consideration and substitute the traditional model of serving documents. Besides new electronic forms, there are also other possibilities, such as general announcement. This form is known for the Polish legislator in special areas of administrative law.⁴⁰ If this special provision was adopted in specific cases and a person who participated in an administrative proceeding has not lodged a complaint, and the outcome of the court proceeding concerns his or her legal interests, shall be a participant in that proceeding if the person files a request to join the proceeding before the commencement of the hearing.⁴¹ This regulation is another example of how a legislator can create regulations regarding the serving of the documents taking into consideration an

engagement of a court clerk and the necessity to inform the people who are really interested in taking part in certain proceedings.

Another regulation, which makes an activity of court administration more effective, are time limits regulated in law. They are addressed not only to the parties of a dispute, but some of them are binding for judges and court administration. Though their expiry does not make court activities invalid, these terms have a disciplinary significance. Judges as state clerks should not violate deadlines which are addressed to them. These limits oblige judges and court clerks to more intensive and effective activity, especially when in the contact with parties of the proceeding. Individuals, who know these terms, can expect an active behaviour from the court's side and plan their own activity in the future.

An example of this kind of terms is connected with the obligation of a judge to prepare a written explanation of an issued judgment. According to the regulation of proceedings before administrative courts,⁴² the judge is obliged to prepare written reasons of the issued judgment within fourteen days from the day of filing the request. In a complicated case, the president of the court may extend the time limit for a fixed period of time but not longer than thirty days.⁴³ Though this term has only a disciplinary nature, in practice it is treated seriously, because of the negative consequences for the judge and court administration connected with supervision measures performed by the President of the SAC. These are also restrictive for the judge during applying for a better position in a higher court. Violation of the deadline may also lead to disciplinary proceedings.

Another tool, which is convenient for reducing bureaucracy, is connected with the organisation of public trials. A general rule in this area is that a court may adjourn the proceedings before administrative courts only for a good cause, regardless of a concurrent motion of the parties.⁴⁴ The trial shall be adjourned only in two cases. Firstly, if the court has found impropriety in notification of either party or if absence of the party or its agent has been caused by extraordinary circumstances or other impediments known to the court which may not be overcome, unless the other party or its agent seeks the hearing of the case in their absence.⁴⁵ Secondly, if the court has decided to notify of the pending court proceedings those persons which have not yet participated in the case in the capacity of a party.⁴⁶ Besides these circumstances, the Law on proceedings before administrative courts regulates premises when the proceedings shall be suspended.⁴⁷ Upon a concurrent motion of the parties the court may, but not shall suspend the proceedings. One of the basic principles of the proceeding before administrative courts is the principle of the speed in the proceeding. It means that an administrative court should undertake actions aimed at quick settlement of the case and should try to decide it at the first meeting.⁴⁸ A well-organised conduct of the proceeding is conducive to limitation of the bureaucracy of the proceeding and evolution of a positive image of the system of administrative justice.

5. Conclusions

Court administration from a subjective point of view is a part of the whole public administration. It should be organised in a way, which will correspond with current expectations formulated in modern societies. Administration should be in a dialogue with

private entities, explaining reasons for an undertaken activity, which should be foreseeable and legal. Only in that way the activity of courts has a chance to be understandable for society and can create a high level of trust in courts.

Special tasks of court administration do not mean that the measures, which will lead to ensuring more efficiency in its activity, could not be undertaken by the executive power. This does not mean that the executive power in exercising competencies in supervision over court administration can interfere with the judicial independence. Fulfilling tasks of court administration by the court's presidents is free from this threat and in reality is not less effective. Focusing on supervision competencies in court institutions could also be an answer to a problematic distinction between judicial and non-judicial activities performed by the court administration.

The sphere of judicial independence should be evaluated in a broader sense. An effective functioning of court administration can positively affect this independence. Therefore, each interference in an administrative activity of courts should find serious reasons and statutory basis. Supervision over court administration could also be performed by the court authorities. This solution is less controversial, especially in states with a shorter tradition of democracy and a lower level of law culture.

In the process of reducing unnecessary court bureaucracy a significant role is awarded to procedural measures. Court procedure can make their activity less burdensome, when high procedural instruments would be created only in the circumstances, where it is really necessary to issue a fair judgment. Regulations connected with delivery of court letters and special terminations in court proceedings could reduce this bureaucracy in a significant way.

6. Summary

The analysis in this paper is focused on measures which can help to reduce bureaucracy in court administration. Courts are organisms of the third power of a state. They have their own administration which helps them fulfil their obligations. Bureaucracy, perceived negative as a creature who limits a court's efficiency and professionalism could be liquidated in two ways. The first one is linked with supervision measures and the second one with procedural measures. The analysed functions play complementary rules in making court activity more effective.

References

- 1 Efficiency and acceptance for activities taken by public administration are regarded as the main concepts for functioning of their departments. See more in Jan Philipp Schaefer, *Die Umgestaltung des Verwaltungsrechts*, 189 (Tübingen, Mohr Siebeck, 2015). Professionalism is a tool which makes an acceptance more advanced and grounded.
- 2 According to Article 41 paragraph 2 of the Charter of Fundamental Rights of the European Union (*Official Journal of the EU*, 2012 C 326/391), a right to good administration includes three components: firstly, the right of every person to be heard, before any individual measure which would affect him or her adversely is taken, secondly, the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy and thirdly, the obligation of the administration to give reasons for its decisions.
- 3 One of the reasons is abusing of procedural rights by individuals who take part in court proceedings. Some of the parties are interested not in finishing a procedure, but in a continuation. Adopting this strategy, they will avoid connected negative consequences which can be created by a final judgment. See Wojciech Piątek, *Rozpoznanie sprawy przez sąd administracyjny bez nieuzasadnionej zwłoki*, 53, in *RPEiS*, vol. 79, no. 2 (2017). <https://doi.org/10.14746/rpeis.2017.79.2.5>
- 4 This phenomenon is clearly seen in judicial reasoning. The more arguments a judge considers in the reasoning, the more the chance of socially sensitive, problem-oriented and open-minded decision making. See Marcin Matczak, Mátýás Bencze, Zdenek Kühn, *EU Law and Central European Judges: Administrative Judiciaries in the Czech Republic, Hungary and Poland Ten Years after Accession*, 70, in Michal Bobek (ed.), *Central European Judges Under the European Influence* (Oxford, Hart Publishing, 2015).
- 5 See the statistics available on a website of the Polish Supreme Administrative Court, www.nsa.gov.pl/sprawozdania-roczne.php (accessed 8 August 2018).
- 6 This negative association has accompanied this concept from the beginning of its functioning in science. See more in Schaefer, *supra* n. 1, at 139–140.
- 7 Antonina Kłoskowska, *Biurokracja*, 67, in *Encyklopedia socjologii* (T. I. Warszawa, Oficyna Naukowa, 1998). According to this explanation, bureaucracy comes from two French words, *bureau* – office and *kratos* – authority.
- 8 Władysław Kopaliński, *Słownik wyrazów obcych i zwrotów obcojęzycznych*, 130 (Warszawa, Oficyna Wydawnicza RYTM, 1975).
- 9 Mirosław Bańko (ed.), *Wielki słownik wyrazów obcych*, 163 (Warszawa, Wydawnictwo Naukowe PWN, 2003); Elżbieta Sobol (ed.), *Słownik wyrazów obcych*, 131 (Warszawa, Wydawnictwo Naukowe PWN, 1997).
- 10 Otto Mayer, *Deutsches Verwaltungsrecht*, Band I, 7 (Leipzig, Duncker und Humblot, 1895).
- 11 Zygmunt Rybicki, *Pojęcie i zakres administracji państwowej*, 10–11, in Zygmunt Rybicki, Stanisław Piątek, *Zarys prawa administracyjnego i nauki administracji* (Warszawa, Oficyna Wydawnicza RYTM, 1984); Jan Boć (ed.), *Prawo administracyjne*, 9 (Wrocław, Wydawnictwo Kolonia Limited, 1994).
- 12 Maurycy Jaroszyński, *Przedmiot i zakres prawa administracyjnego*, 33, in Maurycy Jaroszyński, Marian Zimmermann, Waław Brzeziński, *Polskie prawo administracyjne. Część ogólna* (Warszawa, Oficyna Wydawnicza RYTM, 1956).
- 13 Particularly Zbigniew Leoński pointed out that each administration affects people and social relations. See Zbigniew Leoński, *Zarys prawa administracyjnego*, 23 (Warszawa, Wydawnictwo Naukowe PWN, 2004). The purposeful nature of the administration's activities, including the manifestation of its own initiative and imaginations, is strongly emphasised by Ochendowski, Izdebski, Kulesza and Wyrzykowski. See Eugeniusz Ochendowski, *Prawo administracyjne. Część ogólna*, 23–24 (Toruń, Comer, 2001); Hubert Izdebski, Michał Kulesza, *Administracja publiczna. Zagadnienia ogólne*, 79 (Warszawa, Liber, 1999).
- 14 Zygmunt Niewiadomski, *Pojęcie administracji publicznej*, 58, in Roman Hauser, Zygmunt Niewiadomski, Andrzej Wróbel (eds.), *System prawa administracyjnego*, t. 1 (Warszawa, C. H. Beck, 2010).
- 15 Fabian Wittreck, *Die verwaltung der dritten Gewalt*, 16–17 (Tübingen, Mohr Siebeck, 2006).

- 16 Stanisław Włodyka, *Ustrój organów ochrony prawnej*, 48–49 (Warszawa, PWN, 1975).
- 17 The Law on the System of Common Courts from 27 July 2001, *Journal of Law*, no. 23 (2018) as amended, hereinafter LSC.
- 18 Article 9a paragraph 1 LSC.
- 19 Article 23–25 LSC.
- 20 According to Article 32 paragraph 1 LSC, a director is appointed by the Minister of Justice.
- 21 Article 27 paragraph 1 LSC.
- 22 Article 12 of the Act of 25 July 2002, Law on the System of Administrative Courts, *Journal of Law*, no. 2188 (2017) as amended, hereinafter LSA.
- 23 Wojciech Piątek, Andrzej Skoczylas, Geneza, rozwój i model sądownictwa administracyjnego w Polsce, 69, in Roman Hauser, Zygmunt Niewiadomski, Andrzej Wróbel (eds.), *System Prawa Administracyjnego*, Tom 10. Sądowna kontrola administracji publicznej (Warszawa, C. H. Beck, 2016).
- 24 Article 14 § 2 LSA.
- 25 Article 12 LSA.
- 26 Article 11 LSA.
- 27 Article 20 § 1 LSA.
- 28 Article 21a § 1 LSA.
- 29 According to Kosař, the independence of the judiciary and the independence of individual judges are two different things. When the competences of presidents are too strong, judges may become dependent on them. See David Kosař, Politics of Judicial Independence and Judicial Accountability in Czechia: Bargaining in the Shadow of the Law between Court Presidents and the Ministry of Justice, 98, in *European Constitutional Law Review*, vol. 13, no. 1 (2017). <https://doi.org/10.1017/S1574019616000419>
- 30 Article 44 § 1 LSA.
- 31 Jan Zimmermann, *Prawo administracyjne*, 234–235 (Warszawa, Wolters Kluwer, 2018).
- 32 Judgment of the Constitutional Court of the Republic of Poland from 15 January 2009, K 45/07, OTK-A 2009/1/3.
- 33 Article 22 § 2 of the Act of 25 July 2002 LSA.
- 34 Article 37ga paragraph 1 LSC.
- 35 Article 37ga paragraph 2–3 LSC.
- 36 Article 37ga paragraph 4 LSC.
- 37 Article 32 paragraph 1 LSC.
- 38 Article 31a paragraph 1 LSC.
- 39 See Article 74a § 1 the Act of 30 August 2002, Law on proceedings before administrative courts, *Journal of Law*, no. 1302 (2018) as amended, hereinafter LPAC.
- 40 In case of real estate with an unsettled legal status, if within 2 months there are no persons who prove that they are entitled to property rights to the real estate, the decision on expropriation is subject to a public announcement. See Article 118a § 2 of the Act on real estate management.
- 41 Article 33 § 1a the Act of 30 August 2002 LPAC.
- 42 Article 141 § 2 the Act of 30 August 2002 LPAC.
- 43 Article 141 paragraph 2a the Act of 30 August 2002 LPAC.
- 44 Article 99 the Act of 30 August 2002 LPAC.
- 45 Article 109 the Act of 30 August 2002 LPAC.
- 46 Article 110 the Act of 30 August 2002 LPAC.
- 47 Article 123–126 the Act of 30 August 2002 LPAC.
- 48 Article 7 the Act of 30 August 2002 LPAC.