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# Justification of Decisions According to Polish and European Standards

**Abstract:** The article analyzes the obligation to justify administrative decisions in the context of European legal standards and their implementation in Poland. The justification is presented as a foundation of the rule of law, ensuring transparency, accountability and protection of individual rights. Reference is made to Recommendation CM/Rec(2007)7, the European Code of Good Administrative Practice, jurisprudence and ReNEUAL principles. The Polish legal system, especially the Code of Administrative Procedure and Administrative Court Procedures, aligns itself with these norms. The article emphasizes the importance of justification for trust in administration and points out exceptions, such as in security cases. It also discusses the role of EU law and the challenges of technology, artificial intelligence systems and data protection.

**Keywords:** standards for justifying decisions, European Union law, European standards for administrative law, international law, good administration

## Introduction

The justification of decisions and judgments is an essential element of the legal system and is key to upholding the rule of law and ensuring transparency, justice and the protection of individual rights. In the European context, various acts and legal instruments emphasize and regulate the importance of justifying decisions. The legal system is a complex structure comprising legal norms and institutions that regulate social behaviour and relations between individuals. It uses legal instrumentalization, that is, the right to create and implement strategies to achieve certain goals.<sup>1</sup> It is based on established norms and guidelines established by judicial authorities, which are often referred to as legal standards.<sup>2</sup> There will also be arguments that these standards are necessary to guarantee protection of the rights of individuals and to ensure fairness regarding any decisions made by public authorities. Given the importance of legal standards, this article also aims to raise awareness and boost understanding of their role in the current legal order. In lexicographic studies, the

<sup>1</sup> Sławomira Wronkowska, "Kilka tez o instrumentalizacji prawa i ochronie przed nią," *Przegląd Prawa i Administracji* 110, no. 3 (2017): 107–10, <https://doi.org/10.19195/0137-1134.110.8>.

<sup>2</sup> Wronkowska, "Kilka tez o instrumentalizacji prawa i ochronie przed nią," 107–10.

word “standard” is identified with the average standard, type, pattern, model, also with the product corresponding to established characteristics regarding its quality, weight, measure and composition.<sup>3</sup>

## 1. The Standard of Justification in Decision-Making Under European Legal Norms

In order to fully understand how the obligation to justify decisions functions within the European legal framework, it is necessary to examine both the concept of legal standards and their normative sources. This analysis requires consideration of the theoretical foundations, international regulations, and the practical implications for national legal systems. The following section explores the nature of legal standards and the role they play in shaping administrative and judicial decision-making processes.

The justification of decisions and judgments is an essential element of the legal system and is key to upholding the rule of law and ensuring transparency, justice and the protection of individual rights. In the European context, various acts and legal instruments emphasize and regulate the importance of justifying decisions. The legal system is a complex structure comprising legal norms and institutions that regulate social behaviour and relations between individuals. It uses legal instrumentalization, that is, the right to create and implement strategies to achieve certain goals.<sup>4</sup> It is based on established norms and guidelines established by judicial authorities, which are often referred to as legal standards.<sup>5</sup> There will also be arguments that these standards are necessary to guarantee the protection of the rights of individuals and to ensure fairness regarding any decisions made by public authorities. Given the importance of legal standards, this article also aims to raise awareness and boost understanding of their role in the current legal order. In lexicographic studies, the word “standard” is identified with the average standard, type, pattern, model, also with the product corresponding to established characteristics regarding its quality, weight, measure and composition.<sup>6</sup>

The thesis of this article is that the Polish legislator meets the European standard for introducing an obligation to justify decisions. In addition, it will show why they are necessary in the current legal system. The requirements for justifying decisions that are imposed by European legal standards will be analysed in detail, and why they should be observed by adjudicating bodies and public institutions.

<sup>3</sup> Małgorzata Jaśkowska, *Standardy współczesnej administracji i prawa administracyjnego* (Wolters Kluwer Polska, 2019), 9.

<sup>4</sup> Wronkowska, “Kilka tez o instrumentalizacji prawa i ochronie przed nią,” 107–10.

<sup>5</sup> Wronkowska, “Kilka tez o instrumentalizacji prawa i ochronie przed nią,” 107–10.

<sup>6</sup> Jaśkowska, *Standardy współczesnej administracji i prawa administracyjnego*, 9.

The publication also aims to show that these standards help maintain transparency and fairness in decision-making, which is crucial for the rule of law, since the rule of law is not just about creating new regulations or sanctions, but also about adhering to certain standards that ensure that the processes are transparent, predictable and equitable.<sup>7</sup>

In this context, the standard can be described as a benchmark that serves to regulate the practice of law in general and is placed between a specific ruling and an abstractly existing provision.<sup>8</sup> The standard, which stems from international law and relates to the obligation to shape procedure in decision-making, is the need to provide reasons for decisions. The procedural fairness standard covers all stages of national legal procedures that apply to a particular case.<sup>9</sup>

It is also important to approach the issue of an administrative decision as a unilateral act issued by an authority based on applicable law. This is because it resolves issues concerning the rights and obligations of citizens, which involve the responsibility of the public administration body that issues it. For this, the decision itself is an individual, authoritative and unilateral administrative act. In the context of certain European and international acts, the concept of decision may have a broader meaning, including acts of a general nature.<sup>10</sup>

The principle of justifying decisions is a fundamental element of fair and equitable proceedings under international law. Among other things, it imposes an obligation on international bodies and institutions and states. The justification of decisions helps to ensure transparency, fairness and control in decision-making processes, and thus enables parties or interested parties to receive a clear, consistent and detailed explanation of why a decision was made. The criterion for assessing the national standard of legal protection is the European convention (Strasbourg) or treaty (Luxembourg) standard. Poland, being a member of the Council of Europe and the European Union (EU), is obliged to respect these standards. Belonging to the European legal culture obliges the national legislator to respect the standards and concepts of human rights protection, established by the international community; moreover, the standards related to administrative proceedings—especially in the field of justification of decisions—should be considered today as a component of the set of human rights.<sup>11</sup>

Meanwhile, in the context of new technologies, artificial intelligence and the protection of personal data, European standards for justifying decisions take on

<sup>7</sup> Jeremy Waldron, "Positivism and Legality: Hart's Equivocal Response to Fuller," *NYU Law Review* 83, no. 4 (2008): 1137.

<sup>8</sup> Mariola Źak, "Pojęcie standardu prawnego w sieciowym systemie prawa," *Przegląd Prawa Publicznego*, no. 1 (2019): 8.

<sup>9</sup> Źak, "Pojęcie standardu prawnego w sieciowym systemie prawa," 8.

<sup>10</sup> "Decyzja administracyjna—odwołanie, skarga," Wolters Kluwer, <https://www.wolterskluwer.com/pl-pl/solutions/lex/administracja/prawo/decyzja-administracyjna>, accessed 23 November 2024.

<sup>11</sup> Źak, "Pojęcie standardu prawnego w sieciowym systemie prawa," 17.

particular importance. Technological developments, including the automation of decision-making processes, require clear and transparent justification of administrative and judicial decisions to ensure the transparency of artificial intelligence-based systems and the protection of individual rights. The obligation to justify decisions around data protection is crucial to ensure compliance with the General Data Protection Regulation, which requires decisions based on profiling or algorithms to be understandable and capable of being challenged. Thus, European standards in this area supply the framework not only for the rule of law, but also for the ethical and responsible use of new technologies in the legal system.

## 2. Sources of Standards Related to the Conduct of Administrative Proceedings

The sources of law that establish standards related to the conduct of administrative proceedings derive from international law and domestic law, among other sources. They are examined by analysing the concept of the right to good administration, which is an important element of European administrative law. This aspect of the law underscores the existence of several different principles, covering material, organizational and procedural aspects. It is worth noting that the current Recommendation CM/Rec(2007)7 of the Committee of Ministers of the Council of Europe is devoted entirely to "good administration."<sup>12</sup> In this recommendation, we find many already-known principles, but also new regulations.<sup>13</sup> From our perspective, the right to good administration is important, which will be addressed later in the article.

In the context of this recommendation, one of the most important aspects is the requirement to justify each individual administrative decision. This standard applies broadly to the justification of actions taken by the administration, which is based on the belief that the administration acts deliberately. According to the provisions of the Code of Administrative Procedure, every individual administrative decision must be justified, at least in matters that affect the rights of individuals. It is worth emphasizing that this justification is significant because it allows understanding the basis of the decisions made.<sup>14</sup>

The basic principle expressed in Recommendation CM/Rec(2007)7 is the rule of law, which dictates that public administration bodies act in accordance with

<sup>12</sup> Recommendation CM/Rec(2007)7 of the Committee of Ministers to member states on good administration, adopted by the Committee of Ministers on 20 June 2007 (consolidated text Council of Europe: Committee of Ministers), hereinafter: Recommendation CM/Rec(2007)7.

<sup>13</sup> Grzegorz Krawiec, "Europejskie standardy związane z przebiegiem postępowania administracyjnego," *Roczniki Administracji i Prawa*, no. 1 (2011): 70.

<sup>14</sup> Marcin Princ, *Standardy dobrej administracji w prawie administracyjnym* (Wydawnictwo Naukowe Uniwersytetu im. Adama Mickiewicza, 2016), 263.

the law.<sup>15</sup> This means that the administration cannot take arbitrary action, even if acting within its discretion.<sup>16</sup> In this respect, the law includes both domestic and international laws, as well as general rules for organization, operation and activities.<sup>17</sup>

The CM/Rec(2007)7 Recommendation also includes the principle of equality, stating that individuals in the same situation should be treated with equal rights and principles.<sup>18</sup> No form of discrimination, whether based on gender, ethnicity, religion or other aspects, is acceptable.<sup>19</sup> Most importantly from our perspective, differences in treatment must be objectively justified.<sup>20</sup>

Another principle expressed in Recommendation CM/Rec(2007)7 is that of impartiality.<sup>21</sup> This principle states that it is required to act objectively, considering only those circumstances relevant to the consideration.<sup>22</sup>

The guidelines indicated are central elements of general principles that have long existed both in the jurisprudence of the courts and in documents such as the European Code of Good Administrative Practice<sup>23</sup> and other legislation. At the same time, these principles apply at every stage of the administrative process, including during investigation procedures.<sup>24</sup>

Justification of decisions is a legal standard in many European laws and venues, both nationally and internationally, as also evidenced by the European Court of Justice (ECJ). The ECJ's jurisprudence often emphasizes the importance of justifying decisions made by European institutions and national authorities in the context of European Union law. According to the ECJ, member states should have an effective judicial review of the legitimacy of decisions, as their justification is crucial in the context of human rights and providing protection to the individual from the arbitrariness of administrative bodies' decisions. Thus, it can be said that there are common standards valued at both the national and European levels, and adherence to these principles is the basis for the functioning of a democratic state under the rule of law.<sup>25</sup>

The European Convention on Human Rights (ECHR) is an international convention that was adopted by the Council of Europe in 1950, which is also a key

<sup>15</sup> Art. 2 para. 1, Recommendation CM/Rec(2007)7.

<sup>16</sup> Art. 2 para. 1, Recommendation CM/Rec(2007)7.

<sup>17</sup> Art. 2 para. 2, Recommendation CM/Rec(2007)7.

<sup>18</sup> Art. 3 para. 1, Recommendation CM/Rec(2007)7.

<sup>19</sup> Art. 3 para. 2, Recommendation CM/Rec(2007)7.

<sup>20</sup> Krawiec, "Europejskie standardy związane z przebiegiem postępowania administracyjnego," 70.

<sup>21</sup> Art. 4, Recommendation CM/Rec(2007)7.

<sup>22</sup> Art. 4, para. 2, Recommendation CM/Rec(2007)7.

<sup>23</sup> European Ombudsman, The European Code of Good Administrative Behaviour (European Union, 2015), <https://www.ombudsman.europa.eu/en/document/en/3510>, accessed 23 November 2024, hereinafter: GAC.

<sup>24</sup> Krawiec, "Europejskie standardy związane z przebiegiem postępowania administracyjnego," 71.

<sup>25</sup> Court of Justice of the European Union (CJEU), press release no. 70/13, Luxembourg, 4 June 2013, Judgment in Case C-300/11 ZZ v. Secretary of State for the Home Department: The essence of the reasons for a decision refusing entry into a Member State must be disclosed to the person concerned, <https://curia.europa.eu/jcms/upload/docs/application/pdf/2013-06/cp130070en.pdf>, accessed 11 November 2024.

element in shaping administrative procedure. The Convention, being the document that regulates the protection of human rights and fundamental freedoms in Europe, established the European Court of Human Rights (ECtHR), which was established under the Convention.<sup>26</sup>

The Convention imposes an obligation on signatories to bring their national laws and practices into line with the norms and standards set forth in the ECHR. In practice, this means that member states must ensure the protection of rights and freedoms such as the right to life, freedom from torture, freedom of expression, freedom of religion, the right to a fair trial and many others.<sup>27</sup> The ECtHR, which operates under the ECHR, is authorized to hear complaints from individuals or organizations that believe their rights under the Convention have been violated by a member state. The Court can issue judgments in such cases and recommend compensation to aggrieved parties.<sup>28</sup>

In this way, the ECHR plays an important role in shaping procedures and standards for the protection of human rights in Europe, and in the enforcement of these rights at the international level. Member States of the Council of Europe have pledged to abide by the Convention and its rulings, which is an important part of the European system of human rights protection.<sup>29</sup>

A particularly relevant document is the Code of Good Administration, established by the European Parliament on 6 September 2001. The Code applies to the officials of EU institutions, but the literature points out that it can also be regarded as a set of standards useful outside the EU for assessing the performance of the administration.<sup>30</sup> Therefore, there is no contraindication to finding these standards useful in defining the duties of the “Polish” administration. This has the effect of bringing administrative law, including even the daily interactions of the citizen with administrative bodies, into line with the requirements of the EU. The principles contained in this Code have both substantive and procedural aspects.<sup>31</sup>

The model rules of administrative procedure developed by academics and practitioners as part of the ReNEUAL European Union Administrative Law Research Network are also a significant source of law. The indicated model rules are intended to reinforce the general principles of European Union law and codify best practices identified in EU law and national legal orders.<sup>32</sup>

<sup>26</sup> European Court of Human Rights, European Convention on Human Rights, [https://www.echr.coe.int/documents/d/echr/convention\\_eng](https://www.echr.coe.int/documents/d/echr/convention_eng), accessed 23 November 2024.

<sup>27</sup> Art. 1–3, 6, 9–10, ECHR.

<sup>28</sup> Chapter II, ECHR.

<sup>29</sup> Art. 59, ECHR.

<sup>30</sup> Krawiec, “Europejskie standardy związane z przebiegiem postępowania administracyjnego,” 70.

<sup>31</sup> Krawiec, “Europejskie standardy związane z przebiegiem postępowania administracyjnego,” 71.

<sup>32</sup> Paul Craig, “Introduction to the ReNEUAL Model Rules / Book I—General Provisions,” in *ReNEUAL Model Rules on EU Administrative Procedure*, ed. Herwig C.H. Hofmann et al. (Research Network on EU Administrative Law, 2014), 3.

ReNEUAL's model regulations are not standards of administrative law in the sense of traditional legal acts. Rather, they are guidelines and models of conduct that can be used as models or inspiration for the creation of specific regulations and administrative acts. They do not contain a specific right to justify decisions but suggest principles that can be taken into account when issuing administrative decisions.<sup>33</sup>

In summary, ReNEUAL's model regulations are not standards identical to traditional administrative law, but are a tool for creating specific administrative regulations. They do not explicitly include the right to justify decisions but promote general principles and best practices in administrative proceedings in the European Union.<sup>34</sup>

The resolutions and recommendations of the Council of Europe, which will be discussed later in this article, should also be mentioned as a source of law. In the context of the principle of the right to good administration, contained in Article 41 of the Treaty on European Union, we can infer that the European Union attaches great importance to ensuring transparency, fairness and accountability in administrative processes. This right is fundamental to the democratic values that underpin the structure of the EU. They enable citizens living in the Union to participate in decisions that directly affect their lives.

Under Article 41, every citizen of the Union has the right to have his or her case heard impartially and fairly by the Union's institutions, bodies and agencies within a reasonable time. This right includes several key aspects, such as<sup>35</sup>:

1) The right to be heard: Every citizen has the right to be heard before individual measures are taken that may adversely affect him or her. This means that a person has the right to express his or her position and arguments on an issue before a decision is made;

2) The right to access his case file: every person has the right to access the documents and files of his case, but this right must be exercised with respect for the legitimate interests of confidentiality and professional and commercial confidentiality;

The duty of the administration to justify its decisions: the EU administration has an obligation to justify its decisions. This means that under EU law, the justification of decisions is as important as a party's active participation in the proceedings and access to documents—that is, justification has been placed among the foundations of good administration.<sup>36</sup>

All major European laws provide for the obligation to justify decisions, and consequently, it is placed very high in the hierarchy, which means that states should provide for such an obligation explicitly in their procedural laws.

<sup>33</sup> Craig, "Introduction to the ReNEUAL Model Rules," 3.

<sup>34</sup> Craig, "Introduction to the ReNEUAL Model Rules," 3.

<sup>35</sup> Charter of Fundamental Rights of the European Union (OJ C 326, 26.10.2012, pp. 391–407).

<sup>36</sup> Charter of Fundamental Rights of the European Union.

### 3. The Relevance of European Standards of Administrative Law for the Polish Legal System

The standards of European administrative law are fundamental to shaping the Polish legal system and ensuring the protection of citizens' rights and interests. In terms of Polish jurisprudence, the Supreme Administrative Court plays a key role in enforcing these standards. This is the highest judicial protection body within the structure of administrative courts in Poland, performing the function of adjudicating administrative cases, and ensures that the actions of the public administration are in accordance with the law and the principles of a democratic state under the rule of law. In exercising control over the actions of the administration, it is also concerned with the reasonable time for processing cases, compliance with the principle of fair procedure, but also with the effective protection of individual rights.<sup>37</sup>

When discussing the legislative process and the evolution of administrative law in Poland, it is worth mentioning European standards. Being a member of the Council of Europe, Poland is obliged to adapt its administrative law to international standards and the recommendations contained in the recommendations of the Committee of Ministers of the Council of Europe. This is an important part of Poland's integration into Europe and allows for consistency in laws and administrative procedures between member countries of the Council of Europe.<sup>38</sup>

In the already notorious case between the Republic of Poland and the EU on interim measures, the European Court of Justice unequivocally assessed that, in accordance with existing case-law, there is a principle of primacy, where it is the law of the Union that takes precedence over the law of the Member States.<sup>39</sup> This therefore presupposes that national authorities are obliged to meet the effectiveness of the Union's legal norms in their entirety, and the state cannot affect the effectiveness of these norms, within its territory.<sup>40</sup> As indicated, the fact that a national constitutional court rules in a particular way and invokes national laws in doing so cannot affect the CJEU's assessment because of the aforementioned principle of primacy.<sup>41</sup>

<sup>37</sup> Zbigniew Kmiecik, "Europejskie standardy prawa i postępowania administracyjnego a ustalenia orzecznictwa Naczelnego Sądu Administracyjnego," *Ruch Prawniczy, Ekonomiczny i Socjologiczny* 60, no. 1 (1998): 54.

<sup>38</sup> Kmiecik, "Europejskie standardy prawa i postępowania administracyjnego a ustalenia orzecznictwa Naczelnego Sądu Administracyjnego," 52.

<sup>39</sup> Order of the Court of Justice of October 27, 2021, C-204/21 R, LEX no. 3246811.

<sup>40</sup> Order of the Court of Justice of October 27, 2021, C-204/21 R.

<sup>41</sup> Order of the Court of Justice of October 27, 2021, C-204/21 R.

## 4. European Model of Decision Justification vs. Polish Model

The rationale for a decision in European law can be found in the aforementioned sources, which are Recommendation CM/Rec(2007)7, GAC, ECJ rulings, ReNEUAL model regulations or the Treaty on European Union.<sup>42</sup> According to him, each decision should be individual and include a justification that shows the expediency of the administration's action, at least in matters concerning the rights of individuals.<sup>43</sup> In addition, this is part of the fulfillment of the rule of law, which will directly show that public administration bodies take actions that are well thought out and provided for by law.<sup>44</sup>

It is also important to highlight the principles of good administration that affect the model for justifying decisions. Recommendation CM/Rec(2007)7 indicates the rule of law, the principle of equality, the principle of impartiality or the principle of proportionality. The Code of Good Administration consists of 27 articles, 24 of which relate directly to the organization of administration. There we can find such principles as the prohibition of abuse of power,<sup>45</sup> the principle of objectivity,<sup>46</sup> the principle of fairness<sup>47</sup> and the principle of courtesy,<sup>48</sup> the right to be heard and to make statements<sup>49</sup> and the obligation to justify decisions,<sup>50</sup> the principle of the rule of law,<sup>51</sup> the principle of non-discrimination,<sup>52</sup> the principle of proportionality<sup>53</sup> and the principle of impartiality and independence.<sup>54</sup> It also contains provisions on such aspects as the language of the letter,<sup>55</sup> the relevant time limits during the decision,<sup>56</sup> notification of the decision,<sup>57</sup> and the possibilities of appeal.<sup>58</sup>

<sup>42</sup> Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union Consolidated version of the Treaty on European Union Consolidated version of the Treaty on the Functioning of the European Union Protocols Annexes to the Treaty on the Functioning of the European Union Declarations annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007 Tables of equivalences (OJ C 202, 7.6.2016, pp. 1–388).

<sup>43</sup> Princ, *Standardy dobrej administracji w prawie administracyjnym*, 263.

<sup>44</sup> Art. 2, para. 1, Recommendation CM/Rec(2007)7.

<sup>45</sup> Art. 7, GAC.

<sup>46</sup> Art. 9, GAC.

<sup>47</sup> Art. 11, GAC.

<sup>48</sup> Art. 12, GAC.

<sup>49</sup> Art. 16, GAC.

<sup>50</sup> Art. 18, GAC.

<sup>51</sup> Art. 4, GAC.

<sup>52</sup> Art. 5, GAC.

<sup>53</sup> Art. 6, GAC.

<sup>54</sup> Art. 8, GAC.

<sup>55</sup> According to Article 13 of the GAC, there is a rule to answer letters in the language of the citizen.

<sup>56</sup> Art. 17, GAC.

<sup>57</sup> Art. 20, GAC.

<sup>58</sup> Art. 19, GAC.

In the context of the ECJ's jurisprudence, it is worth noting the landmark judgment in Case C-222/86 *Heylens and Others*, in which the Court ruled that every administrative decision, especially one that affects the rights of an individual, must contain a statement of reasons that allows it to be understood and possibly challenged. The case concerned the recognition of professional qualifications, yet its significance goes beyond this specific matter, since it sets the standard for transparency and predictability of public administration action in the European Union. The judgment is also significant for Poland, as it indicates the obligation not only to justify decisions formally, but also substantively, in order to protect the rights of the individual and allow for an effective appeal. Similarly, the jurisprudence of the ECtHR emphasizes the importance of the right to a fair trial and openness of administrative proceedings, which is reflected in Article 6 of the ECHR.<sup>59</sup>

The Polish model of justifying decisions is clearly in alignment with European standards and recommendations contained in the recommendations of the Committee of Ministers of the Council of Europe.<sup>60</sup> We can find national regulations in the Code of Administrative Procedure or the Law<sup>61</sup> or the Law on Proceedings before Administrative Courts.<sup>62</sup>

The fact that the decision must contain a statement of reasons is also specified in the legislation.<sup>63</sup> It must include the facts considered by the authority as proven, an indication of the evidence considered in the case and the reasons for the evidence that was not taken into account and the legal basis on which it was based.<sup>64</sup> Polish jurisprudence emphasizes the fact that the decision and justification must be consistent,<sup>65</sup> and explain the reasoning of the authority and the reasons for the application of specific provisions.<sup>66</sup>

In shaping the standards of justifying administrative decisions in Poland, the case law of the Supreme Administrative Court and lower administrative courts plays a significant role. These courts have repeatedly emphasized that a decision's justification must not only be complete and logical but also allow the party involved to understand the legal and factual basis of the ruling. For example, in its judgment of 15 March 2012 (Case No. II GSK 59/11), the Supreme Administrative Court stated that the justification cannot simply refer to statutory provisions but must also ex-

<sup>59</sup> Judgment of the Court of Justice of October 15, 1987, 222/86, LEX no. 129587.

<sup>60</sup> Hereafter: CFR.

<sup>61</sup> Ustawa z dnia 14 czerwca 1960 r.—Kodeks postępowania administracyjnego (consolidated text Journal of Laws of 2024, item 572 as amended), hereinafter: KPA.

<sup>62</sup> Ustawa z dnia 30 sierpnia 2002 r.—Prawo o postępowaniu przed sądami administracyjnymi (consolidated text Journal of Laws of 2024, item 935 as amended), hereinafter: PPSA.

<sup>63</sup> Art. 107 § 1 Pt. 6, KPA.

<sup>64</sup> Art. 107 § 3, KPA.

<sup>65</sup> Judgment of the Provincial Administrative Court in Cracow of October 24, 2023, III SA/Kr 706/23, LEX no. 3622832.

<sup>66</sup> Judgment of the Provincial Administrative Court in Poznań of October 21, 2023, II SA/Po 368/22, LEX no. 3429267.

plain why specific legal norms were applied in a given case.<sup>67</sup> Similarly, judgments by the Voivodeship Administrative Courts often highlight that deficiencies in the justification constitute a significant violation of procedural law, which may lead to the annulment of an administrative decision. This approach strengthens procedural guarantees for citizens and enhances the transparency of public administration actions.<sup>68</sup>

The issue of justification in proceedings before an administrative court is repeatedly indicated in the administrative legislation. It appears here, among other reasons, for the application for the initiation of proceedings,<sup>69</sup> the reasons for the contested decision<sup>70</sup> or, finally, with the reasons for the judgment.<sup>71</sup> In jurisprudence, making it possible for all parties to understand the law, the courts state that there is a need to justify acts of public administration (here: regarding post-inspection orders)<sup>72</sup> or a fair analysis of the doubts raised by the complainant.<sup>73</sup>

National legislation also indicates the possibility of not justifying the decision. It is indicated that there is no need to justify a decision in which a party's request has been granted in full.<sup>74</sup> In addition, there is a possibility to waive the justification when in other temporary provisions such a possibility arises due to the interests of state security or public order.<sup>75</sup> Case-law indicates that despite the authority's reference to the interests of state security, the decision must contain a description of the factual and legal situation, and an evaluation and reasoning for refusal.<sup>76</sup>

Enforcement of the standards of the law is supervised by the Supreme Administrative Court, which resolves complaints concerning the decisions of the provincial administrative courts and clarifies the provisions about which there are discrepancies and doubts.<sup>77</sup> It must be clear from the appealed decision why a particular decision was refused, and that sometimes the authorities are not able to give a detailed justification due to "proprietary" documents.<sup>78</sup> The decision must not be implicit in the reasons and is one of the most important components of the decision.<sup>79</sup>

<sup>67</sup> Decision of the Supreme Administrative Court of January 28, 2011, II GSK 59/11, LEX no. 952852.

<sup>68</sup> Kmiecik, "Europejskie standardy prawa i postępowania administracyjnego a ustalenia orzecznictwa Naczelnego Sądu Administracyjnego."

<sup>69</sup> Art. 64 § 2, PPSA.

<sup>70</sup> Art. 54 § 2a, PPSA.

<sup>71</sup> Art. 141, PPSA.

<sup>72</sup> Judgment of the Provincial Administrative Court in Białystok of November 22, 2017, II SA/Bk 587/17, LEX no. 2404113.

<sup>73</sup> Judgment of the Provincial Administrative Court in Białystok of September 15, 2023, I SA/Bk 227/23, LEX no. 3612638.

<sup>74</sup> Art. 107 § 4, KPA.

<sup>75</sup> Art. 107 § 5, KPA.

<sup>76</sup> Judgment of the Provincial Administrative Court in Warsaw of April 28, 2022, VII SA/Wa 160/22, LEX no. 3360493.

<sup>77</sup> Art. 15, PPSA.

<sup>78</sup> Judgment of the Supreme Administrative Court of January 18, 2022, II OSK 1042/21, LEX no. 3288444 and Judgment of the Supreme Administrative Court of July 7, 2021, II OSK 3089/2, LEX no. 2002652.

<sup>79</sup> Judgment of the Supreme Administrative Court of January 18, 2022—Łódź Branch Center of July 18, 2019, I OSK 327/19, LEX no. 2778936.

Polish jurisprudence indicates that the Constitutional Court's invocation of the right to good administration, by referring to European sources of law, establishes that this right is a civil right that has its support in the Charter of Fundamental Rights,<sup>80</sup> in accordance with the judgment of the Constitutional Court of February 18, 2003, ref. K 24/02, OTK-A 2003/2/11, as well as in Recommendation CM/Rec(2007)7.<sup>81</sup> Also important is the reference in the justification to the Constitution of the Republic of Poland and the inherent and inalienable dignity of the human being, and the fact that its protection is the duty of public authorities.<sup>82</sup> By the above fact, it becomes the highest value due to every human being, which can be expressed by the authorities as the right to a fair trial.<sup>83</sup> Thus, it can be deduced that the justification of any rationale during the proceedings and decisions by the authority is a direct factor in maintaining the rule of law, which is contained in a fair trial.

One should also bear in mind the important judgment for Polish jurisprudence issued by the Supreme Administrative Court, which clearly indicates that the CJEU's jurisprudence has an overriding position to the administrative judiciary in Poland, and that Poland, as a member of the EU, must comply with its regulations.<sup>84</sup>

In the context of the growing use of new technologies in public administration, the issue of automatic generation of justifications for administrative decisions, especially using artificial intelligence tools, requires special attention. This process raises significant legal and ethical concerns, primarily with regard to the principle of transparency and the right to obtain an understandable justification for decisions that directly affect an individual's rights. According to Article 22 of the GDPR, an individual has the right not to be subject to a decision based solely on automated processing, including profiling, if it produces legal effects on him or similarly significantly affects him. The introduction of such solutions in public administration therefore requires not only strict adherence to EU regulations, but also ensuring that every decision—even if algorithm-assisted—has a rationale that is clear, understandable and contestable. Otherwise, basic standards of the rule of law, including the right to effective judicial protection, may be violated.<sup>85</sup>

<sup>80</sup> Art. 41, CFR.

<sup>81</sup> Judgment of the Provincial Administrative Court in Wroclaw of July 25, 2023, I SAB/Wr 140/23, LEX no. 3601828.

<sup>82</sup> Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r. (consolidated text Journal of Laws of 2024, item 483 as amended).

<sup>83</sup> Judgment of the Provincial Administrative Court in Wroclaw of July 25, 2023, I SAB/Wr 140/23, LEX no. 3601828.

<sup>84</sup> Judgment of the Supreme Administrative Court of November 4, 2021, III FSK 4104/21, LEX no. 3309434.

<sup>85</sup> Sandra Wachter et al., "Why a Right to Explanation of Automated Decision-Making Does Not Exist in the General Data Protection Regulation," *International Data Privacy Law* 7, no. 2 (2017): 76–99, <https://doi.org/10.1093/idpl/ixp005>.

## Summary

The article discusses the key aspects related to the obligation to justify administrative decisions in European and national law, particularly in the context of Poland. According to the case-law of the European Court of Justice, the justification of administrative decisions is a fundamental element of the right to effective judicial protection, ensuring transparency, fairness, and accountability in public administration. This highlights the necessity of adhering to the principles of good administration, such as the right to be heard, the right to access case files, and the obligation to justify decisions.

The European Convention on Human Rights also imposes on member states the obligation to protect individual rights, including the right to a fair trial, which in practice means that every administrative decision should include a justification that allows it to be understood and potentially challenged. Documents such as the Code of Good Administration and the ReNEUAL model regulations play an important role in setting guidelines for transparent and fair administrative procedures.

In the Polish legal system, the obligation to justify administrative decisions is derived from both national and European norms. Administrative courts, particularly the Supreme Administrative Court, play a crucial role in ensuring that administrative decisions are justified and comply with the law. As a member of the European Union and the Council of Europe, Poland is obligated to align its administrative law with international standards, which promotes consistency in laws and administrative procedures across member states.

The article also discusses the growing role of technology, particularly artificial intelligence (AI), in public administration. The use of AI in decision-making poses significant legal and ethical challenges, primarily concerning transparency and the right to obtain a clear justification for decisions affecting individual rights. The application of such technologies in public administration must comply with EU regulations, ensuring that every decision, even if assisted by algorithms, is well-reasoned, understandable, and contestable. Otherwise, basic rule of law standards, including the right to effective judicial protection, may be violated.

In conclusion, the justification of administrative decisions is crucial for maintaining the principles of the rule of law and ensuring fairness in public administration. Both European and national law impose a duty on public administration to be transparent and accountable, and administrative courts play a vital role in ensuring compliance with these principles.

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