

JOURNAL OF MODERN SCIENCE

SPECIAL ISSUE

3 / 57 / 2024

www.jomswsge.com



DOI: doi.org/10.13166/jms/191114

MARTA GRZESZCZUK

WSEI University in Lublin, Poland

ORCID iD: orcid.org/0000-0002-7688-4231

ARTUR GRZESIAK

WSEI University in Lublin, Poland

ORCID iD: orcid.org/0009-0001-3691-1194

**PUBLIC ADMINISTRATION – LEGAL
REGULATIONS AND ITS DIVISION
AND ORGANIZATION**

**ADMINISTRACJA PUBLICZNA –
REGULACJE PRAWNE ORAZ JEJ
PODZIAŁ I ORGANIZACJA**

SUMMARY

In etymological terms, administration refers to activities performed in a permanent manner, aimed at achieving various goals and results. The Latin phrases *ministrō* and *ministrāre* mean: *to serve*, *to perform* and *to manage*, while the phrase *minister* refers to a person serving and performing. The use of the preposition *ad* should be interpreted in this context as directed activity – the equivalent of the Polish prefix *do*, and therefore the expression *ad ministro* can be described as *directing* and *governing*. The science of administrative law, just like the science of administration, provides that certain properties can be assigned to administration without defining it. It is such a complex phenomenon in itself that defining it is very difficult or even impossible. The same applies to individual forms of administration. Legal regulations were analyzed, including systemic ones related to the place, role and organization of public administration in Poland.

STRESZCZENIE

Administracja pod względem etymologicznym dotyczy działalności wykonywanej w sposób trwały, kierunkowanej na osiągnięcie różnych celów i rezultatów. Łacińskie zwroty *ministrō* i *ministrāre* oznaczają: *służyć*, *wykonywać* i *zarządzać*, natomiast zwrot *minister* odnosi się do osoby służącej i wykonującej. Wykorzystanie przyimka *ad* należy interpretować w tym kontekście jako działalność ukierunkowaną – odpowiednik polskiego przedrostka *do*, a co za tym idzie wyrażenie *ad ministro* można opisać jako 'kierowanie i „*rzędzenie*. Nauka prawa administracyjnego, tak samo jak nauka administracji przewiduje, że administracji można przypisać pewne właściwości, bez definiowania jej. Jest ona sama w sobie na tyle złożonym zjawiskiem, że zdefiniowanie jej jest bardzo trudno, a nawet niemożliwe. To samo dotyczy poszczególnych form administracji. Analizie poddano regulacje prawne, w tym systemowe związane z miejscem, rolą oraz organizacją administracji publicznej w Polsce.

KEYWORDS: *public administration, administrative law, legal standards, administrative procedures, Code of Administrative Procedure, New Public Management, public organization.*

SŁOWA KLUCZOWE: *administracja publiczna, prawo administracyjne, normy prawne, procedury administracyjne, Kodeks Postępowania Administracyjnego, New Public Management, organizacja publiczna.*

INTRODUCTION

In etymological terms, administration refers to activities performed in a permanent manner, aimed at achieving various goals and results. The Latin phrases *ministrō* and *ministrāre* mean: *to serve*, *to perform* and *to manage*, while the phrase *minister* refers to a person serving and performing. The use of the preposition *ad* should be interpreted in this context as directed activity – the equivalent of the Polish prefix *do*, and therefore the expression *ad ministro* can be described as *directing* and *governing*. The science of administrative law, just like the science of administration, provides that certain properties can be assigned to administration without defining it. It is such a complex phenomenon in itself that defining it is very difficult or even impossible. The same applies to individual forms of administration. J. Zimmermann presented a proposal that instead of formulating a uniform and complete definition of public administration, we should try to describe it using its characteristic features (Zimmerman, 2022).

However, several existing types of classifications of this concept can be used to define administration. For example, according to negative-objective definitions, administration is separate from the judiciary and legislative power – administration as a state activity remaining outside legislation and the judiciary (justice). The purpose of state activity in this aspect focuses on the public interest. However, according to the negative-subjective approach, administration means the activities of public bodies that are not legislative and judicial bodies. The positive and objective nature of administration is taken into account in definitions that emphasize activities aimed at implementing public tasks, the purpose and activities assigned to public administration or those that define and constitute public administration. Administration in a positive sense may mean purposeful, practical, planned, direct, controlled, authoritative, regulating, lasting, law-based, organizing or managerial activity, the aim of which is the implementation of public tasks (the state, social self-government entities, public entities requiring protection of public interests, specified by statute) (Izdebski, Kulesza, 2008).

The subjective aspect is based on the assumption that administration is handled by administrative bodies. A special criterion for defining administration takes into account the fact that it is the activity of the state, as a result of which administrative legal relations are created, i.e. a mutual system of behavior

between two entities, regulated by the norms of administrative law. One of the entities of the relationship is always a public administration body, and the other may be a citizen, a company, a state-owned enterprise, an administrative institution and any other entity qualified as a subject of administrative rights or obligations. The entity that decides on the content of rights and obligations is the administrative body (Wołowiec, 2021).

Turning to the concept of public administration, there are definitions indicating that these are organizational and executive activities, actions and undertakings carried out for the implementation of the public interest by various entities, bodies and institutions on the basis of the Act and in the forms specified by law. At the same time, it is a system composed of people, organized for the purpose of constant and systematic implementation of the common good, directed towards the future, as a public mission consisting mainly (though not exclusively) in the current implementation of laws, equipped for this purpose with state power and material and technical means. The definition formulated by Jan Boc defines public administration as the state's satisfaction of the needs of citizens (collective and individual), resulting from the coexistence of people in communities, by means of bodies subordinated to the state and local government bodies (Błaś, Boć, Jeżewski, 2003).

LAW ANALYSIS OF SUBJECT AND OBJECT APPROACH TO PUBLIC ADMINISTRATION

The subjective elements of administration include the existence of dependent state and local government bodies. The objective element is meeting the collective needs of citizens. By definition, subject-subject definitions (mixed definitions) define public administration both through entities – public administration bodies, and activities carried out by these entities of an administrative nature on the basis of acts and in forms consistent with those specified by law. This type of definition is preferred because it treats public administration as a whole from an organizational, functional and legal point of view (Wołowiec, Szybowski, Bogacki, 2019).

Definitions of a positive nature in subjective terms are based on organizational structures separated in the state, established to achieve specific goals of the nature of public tasks. From an objective perspective, public administration is characterized by certain features that can be highlighted on the basis of activities undertaken in pursuit of public goals. Formal definitions of public administration present it as a team of people employed in the organizational structures of the state or local government (administrative organization).

Public administration from the subjective (organizational) perspective comprises all administration entities, i.e. administrative bodies and other entities assigned to perform tasks in the field of public administration. In this sense, administration is an organization consisting of many organizational units gathered around bodies whose competences are determined by statute. Therefore, a closed organizational system is created that deals with public or state tasks (or both at the same time). The elements of the subjective definition of public administration include: the administrative apparatus, administrative bodies, administrative competences, pendency of administrative entities, creation and hierarchization of administrative entities and impersonality (Wołowiec, Szybowski, Prokopowicz, 2019).

Public administration in the objective (material) approach means the activities of the state, the subject of which are administrative matters. The activities of public administration are therefore administrative, and the task of performing these activities rests with competent entities. The objectivity of public administration may be determined by the action of the government administration in the name and on the account of the state, and of the local government administration in its own name and on the individual account. Public administration is based on established law and within the limits provided for by law. While residents (society) can do anything that is not prohibited by law, the administration only does what the law allows (Wołowiec, Reśko, 2012). In the civil law sphere, the above-mentioned limitation on administrative activities does not apply. Public administration has a monopolistic character because it is the only host in the appropriate category of matters, acting within the competences entrusted by law. It also operates within the structures of administration, its bodies, institutions, units – and not natural persons. An authoritative nature also characterizes public administration. This means that

he may use coercive measures, but only when and within the limits permitted by law. Public administration has a management structure and operates on the principle of subordination. At the same time, it is a monopolist within the competences conferred by law, as the exclusive host for specific matters. category of cases. It works continuously and stably. It has professional staff and can take action on its own initiative (Wołowiec, Bogacki, 2021).

In the definition of public administration formulated by J. Boć, there is a balance of subjective and objective nature. A separate element of this definition is functionality, i.e. the functional approach to administration. Most similar definitions (mixed) indicate the features, activities, goals or tasks of administration (objective approach to public administration), taking into account the existence of bodies and other entities with assigned functions of public administration (subjective approach to administration). In the opinion of J. Boć, the subject of public administration are *tasks adopted by the state and carried out to meet the collective and individual needs of citizens resulting from the coexistence of people in society*. The activities, tasks and goals of public administration simultaneously serve the needs of people and communities, the system of values, and the benefits of the individual and the community (public interest). The implementation of the public interest should take into account both the interest of the individual, closely correlated with the interest of the broader community, and determine the scope of permissible interference of public administration in social and economic relations and the ways of taking into account individual interest within the public interest. Public administration bodies must therefore strive to ensure that the shaping of social relations and the situation of an individual takes into account the interests of community members, which is also expressed in the multiplication of benefits and the dissemination of common goods, which are the embodiment of universal humanistic values, because there are no projects of the state and local governments that are not ultimately aimed at people. Human good should be the primary goal of administration activities (Chaba, 2018).

The features characterizing public administration, e.g. acting on behalf of the state, acting in the public interest and individual interest, acting on the basis and within the limits of the law and administrative authority, appear regularly, hence the essence of public administration can be characterized

on their basis. State (public) administration is distinguished by a number of features that shape its general concept and characterize its place within the state organization. The features of administration indicated by J. Łętowski include (Lipowicz, Mędrzycki, Szmigiero, 2010):

- acting in the name and on behalf of the state – the state authority stands behind the decisions made by the administration; the administration is also obliged to repair any damage resulting from its own actions,
- political nature, because actions are assessed from a political point of view – public administration functions in the service of the state, which usually does not remain politically neutral,
- acting on the basis of the law and within the limits provided for by the law – performing only those activities that the law allows,
- activity not based on making a profit, although in fact some administrative services may require payment of a fee, which should be subject to legal provisions,
- uniform and general nature of the organization. Its actions concern all citizens and other entities equally. Moreover, the system of administrative bodies creates a separate, comprehensive and uniform organization,
- monopolistic nature, i.e. operating within the competences conferred by law, usually as the exclusive entity in the appropriate category of matters.
- impersonal nature; administration structures are created by bodies, institutions and units, and not by natural persons (groups of people) performing their functions,
- authoritative character and the related possibility of using coercive measures (when and within the limits permitted by law) in a situation when he/she considers that it is not possible to achieve the goal in another way,
- acting on the principle of management and subordination; in courts, the obligation to subordinate to superior bodies does not actually exist (there is only executive supervision); in administration, subordination to the management of superior bodies is the rule, and decision-making *freedom* from their orders is an exceptional situation that must clearly result from the situation provided for by law,
- having professional staff,

- operating in a stable and uninterrupted manner – a way of functioning resulting from the fact that the administration maintains and shapes the functioning, order and security of the state,
- acting at the request of citizens and on their own initiative, which distinguishes the administration from the courts, which act only on request. The administration is not neutral towards the state, it only carries out its obligations and is legally responsible for their implementation (Klimek, Regulski, 2019).

REASERCH METHODOLOGY

The research methods used in the legal sciences are related to their problematics and the functions performed. In the literature of legal theory, it is indicated that within the legal sciences we distinguish dogmatic, socio-technical and theoretical problematics. Dogmatic problematic concerns the identification of legal norms belonging to a given system of law. Sociotechnical problematics in the legal sciences is related to the impact of law making and the corresponding application of the law on certain social effects. The theoretical problematics of legal science concerns the formulation of claims about the applicable law. From this scope arises the methodological problematics of legal science, dealing with the description of methods, ways of solving particular problems or formulating directives on how to solve these problems.

In special areas of law it is necessary to recognize the need to undertake multidisciplinary and interdisciplinary research. Thus, in the work – analysing the legal regulations related to public administration – traditional research methods used in the scientific study of law (generally in the social sciences) were applied:

1. linguistic analysis (formal-dogmatic and linguistic-logical analysis of the regulation of public administration, taking into account the judgments of administrative courts and guidelines of tax authorities);
2. economic analysis of the law of public administration;

3. comparative method (showing the issues of legal and organizational regulations in the field of general public administration in Poland, taking into account court decisions).

FUNCTIONS OF PUBLIC ADMINISTRATION

The activities of public administration and its bodies include the performance of specific functions. In the literature on the subject, it is assumed that the functions of administrative law are a derivative of those functions performed by the state that relate to the exercise of executive power. Functions also concern values (Chaba, 2018).

There are several main functions of public administration. One of them is the order and regulation function. According to A. Chelmoński and T. Kocowski, regulation in the operation of administration consists in limiting the use of components of production processes, trade in goods, provision of services and freedom of activity of economic entities. The state uses this function to introduce restrictions, e.g. in the sale and provision of services, which is intended to serve the public interest (Chelmoński, Kocowski 1985). Regulation in a narrow sense concerns the introduction of administrative and legal regulations that are intended to replace or supplement civil law. Extending the concept, it can be indicated that it means the application of legal regulations in areas not previously regulated by the state and state bodies. Administrative law regulation may take the form of restrictions on the rights and freedoms of citizens to ensure and protect public security and order, as well as to protect the morality, health and freedom of other people. Administrative law regulation may only concern aspects permitted by key normative acts. In the case of Poland, these are: the Constitution, other laws and international agreements ratified by Poland. Rationing is related to the exercise of power and ownership rights that the state has. According to M. Krawczyk: *every regulatory action (restricting economic freedom) is assumed to have an element of authority, regardless of the form assigned by law* (Krawczyk, 2013).

The regulatory function may be related to the protection of public order and peace, as well as the safety of life, health and property, and is usually positive in

nature. However, this function is sometimes combined with the police function and the exercise of police supervision, which is intended to restore the state of balance in a specific system of social or economic relations, maintain and protect order and public security, or eliminate threats to human health and life. The rationing function is associated with the conscious shaping of socio-economic relations aimed at achieving certain goals, by limiting the freedom of citizens in various spheres, e.g. in trade, production, etc. The rationing function and the police function may, in effect, limit the independence of entrepreneurs, while at the same time the scope of state interference in the area of civil liberties. The function of public administration as a regulator of economic development is manifested by the use of police and regulatory instruments, i.e. permits, quotas, customs duties and state participation in the management of the national economy. The regulation function may therefore also be referred to as the licensing function and concern the supervision authority's regulation of the access of entities and capital to activities on the capital market, and, as a result, eliminate from the market entities that are suspected of potentially violating the stability of the functioning of the entire market (Kulicki, 2010).

The control and supervision function itself gives the state the ability to control and supervise citizens. Economic supervision aims to ensure compliance with the law by economic participants. In order to increase the effectiveness of impact on the economy, the competences of supervisory authorities related to the implementation of the regulatory function should be supplemented by the regulatory function. The implementation of the regulatory function should be carefully analyzed, justified and used only in an exceptional and subsidiary manner. This feature can be used for purposes such as (Mulawa, 2013):

- ensuring the security of the state and protection of its important interests,
- preventing violations of public order and security,
- protection of the public interest,
- protection of the basic interests and goods of individual members of society.

Therefore, rationing serves to ensure the efficiency of the economy on a micro scale, the fair and socially acceptable allocation of financial resources

in conditions of income disproportion and the achievement of a balanced functioning of the economy. The regulation function is used to set limits on the freedom to undertake and perform various types of activities, e.g. business activities. This function becomes an expression of state interference in freedom. However, in this respect, the principle of proportionality should be remembered, i.e. limiting economic freedom should have the smallest possible scope and be as least burdensome for citizens as possible, while at the same time becoming a sufficient means to achieve specific goals (Kulicki, 2010a).

Another function of public administration is the provision of public services. In general terms, as part of this function, public administration bodies meet social needs. A public service serves the public interest and achieves higher goals. Public services can be defined as public goods from which it is impossible to exclude anyone from using them. These are goods that, regardless of the number of users, have a specific value that is not violated by subsequent users (Kožuch, Kožuch, 2011, s. 34).

Public services can be divided into public administrative services of a social nature and public administrative services of a technical nature. Administrative services are related to performing administrative activities. They may constitute a stand-alone service or be part of another service category. Let's include:

1. issuing documents that are not administrative decisions at the client's request;
2. entering data into registers (e.g. car registration, business registration);
3. issuing permits and decisions under the Code of Administrative Procedure, i.e. as part of the protection of social interest,
4. issuing permits and licenses to regulate state-controlled activities;
5. services that generate income for the administration, such as tax regulation or social security contributions.

Social services are related to ensuring access to education, health care, access to culture, ensuring public safety provided by individual services, housing, assistance and social care.

Public services of a technical nature include services related to the provision of appropriate infrastructure and its efficient functioning (road network, water supply, sewage system, waste management, energy, public green areas) (Kulicki, 2011).

For example, in the transport and logistics industry, key services in this area are related to transport services and transport infrastructure, waste management, transport regulation and environmental protection. The basis for the functioning of public services is normative, and an important feature of public services is its continuity and durability. High-quality public services should be characterized by effectiveness and reliability, peer-to-peer processes, the possibility of consultation on public matters, reliable information, timely execution and accessibility. (Wołowiec, 2021).

The organizing function of public administration and its bodies consists in independent activities of a creative nature, distinguished, for example, by creativity. This function is visible when obtaining EU funds for the development of municipalities or cities.

Using the executive function, the administration carries out its tasks based on the implementation of regulations. The forecasting and planning function of public authorities means that its powers and obligations also include, among others: forecasting on issues such as population growth, environmental pollution, etc. (Lipowicz, Mędrzycki, Szmigiero, 2010).

STRUCTURE AND ORGANIZATION OF PUBLIC ADMINISTRATION

When discussing the existing possibilities of classifying public administration, it can first be pointed out that one of the divisions is directly related to the way of defining public administration discussed at the beginning of the chapter. In this way, three approaches to public administration are distinguished. The first is the organizational (subject) approach, i.e. all administration entities: bodies and other entities performing specific functions in the field of public administration.

Public administration from a material (objective) perspective is characterized by the activity of the state, the subject of which are administrative matters, i.e. tasks and competences within the scope of executive power. Public administration in formal terms means the full spectrum of activities performed

by administrative entities. It is not taken into account in this case whether the activity is of an administrative nature or not.

The division of administration can also be presented in another way. Namely, public administration brings together various types of administrations that operate in the field of public affairs. Three main groups of entities creating public administration are: state administration, government administration and local government administration. Local government administration (municipal, district and voivodeship) are the bodies of each local government unit that deal with the implementation of public tasks within the local jurisdiction in order to meet the needs of people living in the area of operation of a given organizational unit. The government, i.e. central administration, consists of the Prime Minister, the Council of Ministers, ministers and central government administration bodies. It is additionally supplemented by representatives of local administration, i.e. the voivode and services operating regionally. Government administration bodies at the central level cover the entire territory of the country, while local government administration bodies operate only in a strictly defined territory (Wołowicz, Wolak, 2009).

A separate group of entities constituting public administration constitutes the state administration, which is not subordinate to the government. Its representatives include, among others: The President of the Republic of Poland, the Supreme Audit Office, the National Broadcasting Council, the Ombudsman, the National Council of the Judiciary and the National Bank of Poland. Public administration is a designation for structures, activities and people in all types of administration. Government administration deals with public matters of national importance, while the task of local government administration is matters of local or regional importance. The addressees of public interests are mostly not individual persons, but only generic ones. The tasks of public administration are continuous. In organizational (subject) terms, public administration covers all entities, bodies and offices (Regulski, 2010).

ENTITIES AND BODIES OF PUBLIC ADMINISTRATION

In public administration, the organizational units are: public administration entities, administering bodies (administrative entities) and offices of administering entities.

Public administration entities may appear in legal and administrative transactions as recipients of separate rights and obligations of public administration. Public administration entities include institutions established to perform state administrative functions. This is the so-called administrative apparatus of the state. The main division of public administration entities includes: state administration entities and local government entities. State administration entities include government administration bodies and their administrative offices. These are: supreme authorities (Council of Ministers, Prime Minister, ministers), central authorities (e.g. Chief Police Commander), local authorities (voivode and e.g. education superintendent) and local non-united administration authorities (e.g. head of the tax office, director of the maritime office). State administration bodies also include non-governmental administration bodies (e.g. PUODO, KRRiT, PIP bodies), but they are subordinated to the Sejm (Stachl, 2011).

Local government entities include: local government units (commune, district and voivodeship) and professional self-governments (e.g. legal advisors' self-government, medical self-government). Public administration entities sometimes also include public administrative establishments, special purpose funds, agencies, public utility companies, companies and foundations under public law. Municipal auxiliary units, such as uniformed formations (municipal guards), have a sub-basic or supplementary character. However, other administrative entities include institutions that do not belong to the structure of the administrative apparatus and perform the so-called tasks assigned in the field of public administration. These include, for example: social organizations, religious associations, private enterprises and natural persons. The administering entity, i.e. the public administration body together with the administrative body in the strict sense, implements the granted competences of the public administration entity, but taking into account that it acts on its own behalf. The administering entity is staffed by the holder of the body. The offices of the administering entities constitute

the auxiliary apparatus of the administering entities. According to the Code of Administrative Procedure, public administration bodies are: ministers, central government administration bodies, voivodes, other local government administration bodies acting on their behalf or on their own behalf (combined and non-combined) and the bodies of local government units. Local government administration bodies carry out tasks assigned to them as their own or as commissioned tasks. Government administration bodies deal with state tasks that have not been transferred to local governments (Zimmermann, 2020).

THE PRESIDENT OF THE REPUBLIC OF POLAND AND HIS COMPETENCIES

The Constitution of the Republic of Poland of April 2, 1997, as an act of written law, has the highest legal force and establishes the main principles of the state system and the supreme authorities, defines the competences of these bodies and their mutual dependencies. The constitution contains the basic rights, freedoms and obligations of individuals. The constitution is distinguished by a special procedure for adopting and making corrections to its content. Procedures not used when adopting other normative acts (ordinary acts) apply. The constitution has gained special legal force and at the same time has greater durability compared to ordinary laws (Mulawa, 2013).

When establishing the relations between the authorities, the division of competences was taken into account, the scope of authority was limited, and the possibility of mutual control, cooperation of the authorities, but also obstruction and blocking of activities was taken into account. The constitutional principle of separation of powers, together with other principles of the parliamentary system of government, were the basis for determining the political position of the President of the Republic of Poland among state bodies. The President, together with the Council of Ministers, is in the area of dual executive power. Executive power does not mean simply *executing* the law, applying laws and issuing legal acts based on statutory authorizations. It also means taking actions consisting in (Wojciszko, 2012):

- striving for the development of the state,

- strengthening the authority of state power,
- guaranteeing freedom and civil rights,
- control of economic processes,
- solving social problems,
- implementation of the legal order (through separate tasks in relation to the judiciary and local government).

Policy activities are undertaken to implement designated tasks and protect desired values. There are opinions in the literature that the executive function, as a group of activities, can be divided into several components. The first element is the governing function, i.e. conducting policy and managing state affairs. A separate function is to manage and set goals or directions for implementing the provisions contained in laws for administrative bodies. The administrative function in the strict sense means issuing decisions on the basis of relevant acts. The function of the state is understood as the directions of activity that are a consequence of the goals and tasks fulfilled by the state. Art. 10 of the Constitution is of fundamental importance for determining the position of the president. Article 10 and art. 126 of the Constitution. Article 10 establishes a system in the Republic of Poland based on the division and balance of legislative power, executive power and judicial power. According to the Constitutional Tribunal, the requirement to separate powers means that each of the three powers should be assigned competences materially corresponding to their essence – each of the three powers should maintain a certain minimum of competences, ensuring the preservation of this essence.

The political system of the Republic of Poland was not established according to the idea suggesting full separation of each of the powers. The concept of separation of powers was adopted, meaning the inhibition and balance of three powers. The President gained executive powers specified in the Constitution and field laws. Executive power in the country is actually exercised by the Council of Ministers, but the actual constitutional mechanisms provide the president with the legal ability to influence the content of the work of the Council of Ministers by using the power to veto acts of parliament. Thanks to this competence, the President can also indirectly influence the manner and content of the government's work. Legislative initiative remains one of the most

important elements of implementing the country's policy. If a specific project does not gain the approval of the President, he may refuse to sign the act. Such a move will certainly hamper the government's work. Remaining an organ of the dual executive does not reflect the full characteristics of the political position of the President in the state, because executive powers constitute only part of his constitutional properties. In art. 126 of the Constitution of the Republic of Poland presents the basic political functions of the president. As indicated in the following paragraphs. mentioned article President of the Republic of Poland:

- remains the most important representative of the country and guarantor of the continuity of state power,
- ensures compliance with the Constitution, guards the sovereignty and security of the state as well as the inviolability and indivisibility of its territory,
- performs its tasks in accordance with the principles of the Constitution and laws.

The President represents the country in the international arena, especially in contacts with other states, associations of states and international organizations, i.e. the European Union, the UN, NATO, etc., in situations where national or international law requires him to do so, but also when they require it. applicable diplomatic customs.

According to the provisions adopted by the authors of the Constitution at the stage of its creation, the president should not engage in the process of implementing current state policy. The president's position is similar to that of an arbitrator who ensures the balancing of powers, the efficient functioning of state power and the uninterrupted continuity of state institutions.

The president has executive powers, which he exercises as an organ of executive power. Competences of a political arbitration nature enable him to resolve conflicts in the state, including: between parliament and government. The role of the president in ensuring the conditions for the normal functioning of the state results largely from the president's function as a guarantor of the continuity of state power. Article 133 of the Constitution positions the President as the representative of the state *in external (international) relations*, which is an example of the classic function of the head of state. Therefore, it has the power

to ratify and terminate international agreements, of which it notifies the Sejm and the Senate, appoints and dismisses plenipotentiary representatives of the Republic of Poland in other countries and international organizations, accepts letters of credentials and recalls of diplomatic representatives of other countries accredited to it and international organizations.

In representing Poland and creating foreign policy, the President cooperates with the Prime Minister and the Minister of Foreign Affairs. The obligation to cooperate covers both the President, the Prime Minister and the Minister of Foreign Affairs, who should jointly determine and implement the most important foreign policy issues. An important function of the president is undoubtedly to guard the sovereignty and security of the state as well as the inviolability and indivisibility of its territory. The president remains the guarantor of the sovereignty and security of the state (the existence of the state). The political position of the president is also determined by the principle of incompatibilitas, which states that certain public functions cannot be combined. In the light of Art. 132 of the Constitution, the president cannot hold any other office or perform a public function that is not related to holding the office of head of state. It places the president above current political activities, which may in some situations reduce the prestige and seriousness of this office, and also prevents excessive concentration of power in the hands of one person.

THE POWERS OF THE PRESIDENT OF THE REPUBLIC OF POLAND ON THE EXAMPLE OF SELECTED STRATEGIC AREAS

One of the main strategic areas within which the President of the Republic of Poland has been granted a number of competences is the security and defense of the state. This results from the previously presented article. 126 section 2 of the Constitution of the Republic of Poland, which generally defines the President as *the guardian of state sovereignty and security as well as the inviolability and indivisibility of its territory*. General competences in the area of defense oblige the President to analyze and assess possible threats and to initiate legally permissible actions to counteract these threats. More details

regarding the president's role in the aspect of country security are included in the Act of March 11, 2022 on the defense of the homeland (Journal of Laws, item 655). As stated in Art. 24 of the Act, the President:

- submits recommendations for the national security strategy to the Council of Ministers (Ministry of Ministers) before the Council of Ministers starts work on its draft,
- approves the national security strategy, at the request of the President of the Prime Minister,
- provides the Council of Ministers with recommendations for the country's defense preparations,
- issues the Political and Strategic Defense Directive of the Republic of Poland and other implementing documents for the national security strategy, at the request of the President of the Prime Minister,
- approves, at the request of the President of the Prime Minister, plans for national, cyclical (organized at least every 4 years) defense system exercises, organized with the participation of the highest state authorities, and directs their course,
- decides, at the request of the Prime Minister, to introduce or change the state of defense readiness of the state,
- issues a decision, when required by the defense of the state, at the request of the Prime Minister, on the date of commencement of the war period in the territory of the Republic of Poland, and decides in the same manner on the date on which the war period ends,
- manages the defense of the state, in cooperation with the Prime Minister, upon the appointment of the Supreme Commander of the Armed Forces and his taking over command,
- may ask all public authorities, central and local government administration, entrepreneurs, managers of other organizational units and social organizations for information relevant to the security and defense of the state,
- initiates and patronizes projects aimed at shaping patriotic and defensive attitudes in society.

The President approves and issues documents that are important in planning and implementing projects in the area of national security policy and activities aimed at improving the state's defense system. Pursuant to Art. 136 of the Constitution, depending on the nature and degree of the external threat to the state, the President may order, at the request of the Prime Minister, mobilization (general or partial) and the use of the Armed Forces to defend the country. The important competence of the President also results from Art. 234 of the Constitution, which states that: If during martial law the Sejm cannot convene, the President of the Republic, at the request of the Council of Ministers, issues regulations with the force of law to the extent and within the limits specified in Art. 228 section 3–5. These regulations are subject to approval by the Sejm at the next session. The president plays a very important role in the national security system because he has been granted special powers of both the legislative and executive powers, which he can use in a specific situation and at a specific time. Moreover, pursuant to the provisions of the Constitution, the President of the Republic of Poland, in the field of state security:

- grants, at the request of the Minister of National Defense, military ranks specified in laws (Article 134, section 5);
- in the event of an external threat to the state, an armed attack on the territory of the Republic of Poland or when international agreements provide for an obligation to jointly defend against aggression – at the request of the Council of Ministers – may introduce martial law on part or all of the territory of the state (Article 229);
- in the event of a threat to the constitutional system of the state, the security of citizens or public order, it may introduce a state of emergency in part or the entire territory of the state for a specified period of time, but not longer than 90 days (Article 230, paragraph 1).

According to art. 11 section 1 of the Act of 21 June 2002 on the state of emergency during its duration, the President of the Republic of Poland, at the request of the Prime Minister, may decide to use units and subunits of the Armed Forces of the Republic of Poland to restore the normal functioning of the state if the forces and means used so far have been exhausted. .

CONCLUSIONS

The word *administration* comes from the Latin words *ministerare* – service, to serve, *ad ministro* – to direct, to rule. Public administration consists of three groups of entities:

- local government administration (municipal, district and voivodeship). The bodies of each local government unit carry out public tasks within their local jurisdiction in order to meet the needs of people living in the area of operation of a given organizational unit.
- government administration – central (Prime Minister, Council of Ministers, ministers and central government administration bodies) and local (voivode and services operating regionally). Central government administration bodies cover the entire territory of the country, while local government administration bodies operate only in a strictly defined territory.
- state administration, not subordinate to the government, e.g.: the President of the Republic of Poland, the Supreme Audit Office, the National Broadcasting Council, the Ombudsman, the National Council of the Judiciary or the National Bank of Poland.

The functions of public administration include:

- order and regulation function related to the protection of public order and peace as well as safety, in particular life, health and property (e.g. Highway Code),
- providing function, i.e. providing public services. As part of this function, public administration bodies meet social needs, e.g. by maintaining hospitals,
- the function of a regulator of economic development, manifested by the use of police and regulatory instruments in the form of permits, quotas, customs duties, as well as the state's participation in the management of the national economy,
- an organizing function, within which administrative bodies undertake creative, independent and creative activities, e.g. when municipal officials try to obtain EU funds,

- executive function, consisting in implementing regulations,
- control and supervisory function, within which the state controls and supervises citizens, e.g. associations,
- a forecasting and planning function, thanks to which public authorities formulate, for example, forecasts of the increase in environmental pollution.

The principle of legalism is one of the basic political principles that permeates public administration and thus determines its operation. In accordance with this principle, it is possible to bind public administration by law, as well as to define its tasks and competences, which is important in the sphere of creating and protecting state security. The provision of Art. 7 of the Constitution of the Republic of Poland obliges the authorities public to act on the basis and within the limits of the law. This approach to the principle of legalism, which implies the principle of binding public administration by law, has only a formal character. Therefore, it should be read taking into account other constitutional provisions, especially Art. 2. This approach is necessary for the activities of public administration to be consistent with the nature of a democratic state of law and civil society. The fundamental importance of the principle of legalism is that it eliminates arbitrariness and arbitrariness in the relations between public authorities and citizens.

REFERENCES

- Błaś, A., Boć, J., Jeżewski, J. (2003). *Administracja Publiczna*, Kolonia Limited, Poznań.
- Chaba, D. (2018). *Reglamentacja jako funkcja państwa*, Wydawnictwo Uniwersytetu Jagiellońskiego, Kraków.
- Chełmoński, A., Kocowski, T. (1985). *Reglamentacja działalności (problemy prawne)*, [w:] *Instytucje prawne zarządzania państwowymi organizacjami gospodarczymi*, K. Podgórski (red.), Uniwersytet Śląski, Katowice.
- Izdebski, H., Kulesza, M. (1999). *Administracja publiczna zagadnienia ogólne*, LIBER, Warszawa.
- Klimek, M., Reguś J. (2019). Współtwórca samorządu terytorialnego III Rzeczypospolitej, *Annales Universitatis Paedagogicae Cracoviensis, Studia Politologica* nr 23, 7-19.
- Krawczyk, M. (2013). Ograniczenia swobody prowadzenia działalności gospodarczej w kontekście władztwa administracyjnego, [w:] J. Kostrubiec, P. Szczeńsiak, M. Zdyb (red.), *Prawno-administracyjne ograniczenia podejmowania i prowadzenia działalności gospodarczej*, Studenckie Koło Naukowe Pracowników UMCS, Lublin.
- Kulicki, J. (2011). Pracownicy administracji danin publicznych (opis i analiza obowiązujących unormowań prawnych), *Analizy BAS*, Nr 22(66), 1-7.
- Kulicki, J. (2010). Administracja danin publicznych (skarbowe) w różnych ustrojach gospodarczych, *Analizy BAS*, Nr 8(33), 1-6.
- Kulicki, J. (2010). Prawne podstawy budowy modelu administracji danin publicznych, *Analizy BAS*, Nr 5(30), 1-9.
- Lipowicz, I., Mędrzycki, R., Szmigiero, M. (2010). *Prawo administracyjne w pytaniach i odpowiedziach*, LexisNexis, Warszawa.
- Mulawa, M. (2013). Problematyka koncesji jako najbardziej uciążliwej formy ingerencji w wolność gospodarczą, [w:] J. Kostrubiec, P. Szczeńsiak, M. Zdyb (red.), *Prawno-administracyjne ograniczenia podejmowania i prowadzenia działalności gospodarczej*, Studenckie Koło Naukowe Pracowników UMCS, Lublin.
- Reguś, J. (2010). Samorząd a model państwa, *INFOS BAS*, nr 10(80), 1-9.
- Stahl, M. (2011). *Zagadnienia ogólne* [w:] *System Prawa Administracyjnego*. Tom VI. Podmioty administrujące, red. R. Hauser, A. Wróbel, Z. Niewiadomski, LexisNexis, Warszawa.
- Wojciszko, M. (2012). Pozycja ustrojowa wybranych organów państwa w kontekście realizacji przez nie zadań w obszarze obronności, *Zeszyty Naukowe WSOWL* Nr 1, 11-19.
- Wołowicz, T., Szybowski, D., Prokopowicz D. (2019). Methods of development network analysis as a tool improving efficient organization management, *International Journal of New Economics and Social Sciences (IJONESS)*, no 9(1), 229-249.

- Wołowiec, T., Bogacki, S. (2021). Human resource management & resource planning in a public organization, *International Journal of New Economics and Social Sciences* № 2(10), 95-108.
- Wołowiec, T., Szybowski, D., Bogacki, S. (2019). The concept of CSR as elements of building economic and social relations with the external environment of the organization (outline of the problem), *International Journal of New Economics and Social Sciences* № 2 (10) 2019, 95-114.
- Wołowiec, T., Wolak, K. (2009). *Podstawy finansów publicznych i prawa finansowego*. Wyższa Szkoła Biznesu – NLU, Nowy Sącz.
- Wołowiec T. (2021). *Finanse publiczne*. Podręcznik, Innovatio Press, Lublin.
- Wołowiec, T. (2021). The law regulations of individual debt ratio in the time of the covid-19 pandemic, *Teka Komisji Prawniczej PAN Oddział w Lublinie*, vol. XIV, no. 1, 515-527.
- Wołowiec, T., Reško, D. (2012). Analiza stosunków pracy pracowników samorządowych – metody i formy restrukturyzacji zatrudnienia, *Samorząd Terytorialny*, Nr 9, 48-64.
- Zimmermann, J. 2022. *Prawo administracyjne*, Wolters Kluwer, Warszawa.