Public participation in dealing with cases in administrative procedure - reflections on the basis of the Polish legal system

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Abstract

In 2017 the Polish Code of Administrative Procedure was amended. As a result of the introduced changes, regulations regarding public participation in dealing with individual cases subject to settlement by way of decision were significantly extended. As a general rule, the authorities have been obliged to strive for amicable settlement of disputes whose nature allows it. In order to implement the above principle, apart from the institution of amicable agreement already applicable in Polish system, the possibility of conducting mediation between the parties to the proceedings, as well as between the party and the authority was introduced. Such solution is already applied in some legal orders and is gaining more and more importance in the countries of the EU. The objective of these regulations was to extend public participation in the administrative governance. The article presents an analysis and evaluation of solutions adopted in Polish law in the context of general and universal problems of purposefulness, scope and forms of public participation in authoritative resolution of disputes, which as a rule is the domain of the state.

Keywords: *administrative procedure, public participation, mediation, Polish legal system.*

JEL Classification: K23, K40

1. Introduction

Research issues undertaken within the framework of this study refer to the matter of public participation in dealing with individual cases which are decided by way of administrative decision. The adopted research methodology includes an analysis of the normative material of Polish law concerning the Polish general administrative procedure, including the amendments introduced as of 1 June 2017, conducted on the basis of a dogmatic and legal method and, additionally, a historical method. The research structure includes analytical considerations in the following subjects: legal character of the Polish general administrative procedure, participation in dealing with individual cases in the context of the characteristics of administrative decisions, as well as the general principle of an administrative proceeding - amicable settlement of contentious issues. A particularly meticulous analysis concerned the closely related to that principle – institution of mediation,

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newly introduced to the Polish administrative procedure. Considerations conducted in the course of individual parts of the study, including *de lege lata* and *de lege ferenda* conclusions, end with a summary, in which the norms introduced in Poland aimed at extending the scope and forms of public participation in dealing with matters in administrative proceedings were assessed. The result of the study was formulation of the general conclusions that would constitute an argument in the discussion on the pertinence of changes in administrative procedures aimed at increasing public participation in administrative governance.

2. Polish general administrative procedure

Administrative proceedings are classified in Poland as part of administrative procedural law, which contains norms determining the procedure aimed at implementation of the regulations of constitutional and substantive administrative law. According to the definition adopted in the doctrine, the administrative procedure includes a series of procedural steps, regulated by procedural law, taken by the administrative bodies and other entities in order to resolve the administrative matter by way of decision, as well as a series of procedural steps taken to verify the administrative decision[3]. In the area of administrative proceedings, general administrative proceedings and special proceedings are distinguished. The division of administrative proceedings into "general" and "special" allows to differentiate between administrative proceedings of a basic and general nature, which are generally applied in all individual cases dealt with by way of decision regardless of their subject. These are classified as general administrative proceedings. Administrative proceedings classified as "special" apply when a given act of substantive administrative law or a separate, specific act of procedural law clearly indicates the case or its scope to which the procedure regulated by such act will be applicable[4]. An instance of an act that envisages application of the special administrative procedure is the Act - Tax Ordinance, which - adequately to its title - applies to matters related to tax law[5]. In contrast, administrative proceedings of a general nature are normalized in Poland by the provisions of the Code of Administrative Procedure (CAP)[6] and this normative act, due to the broad scope of its application, will be the object of further considerations.

[3] Barbara Adamiak [in:] Barbara Adamiak, Janusz Borkowski (eds.), *Polskie postępowanie administracyjne i sądowoadministracyjne*, Wolters Kluwer, Warsaw 2011, p. 102.

[4] See: Przemysław Kledzik, *Postępowanie przed Prezesem Urzędu Komunikacji Elektronicznej*, [in:] Henryk Babis, Kinga Flaga-Gieruszyńska (eds.), *Rynek usług telekomunikacyjnych*, Wolters Kluwer, Warsaw 2011, p. 259.

[5] See. Art. 1 and 2 of the Act of August 29, 1997. Tax Ordinance (Journal of Laws of 2017, item 201, as amended).

[6] The Act of June 14, 1960. The Code of Administrative Procedure (Journal of Laws of 2017, item 1257, as amended).

3. Participation in dealing with individual cases in the context of the characteristics of administrative decisions

According to the content of art. 1 (1) and (2) of CAP, the Code of Administrative Procedure regulates the proceedings before public administration bodies in individual cases which are decided by way of administrative decision or settled tacitly.

It is argued in the doctrine that regarding the different categories of administrative acts, the administrative decision constitutes their qualified form[7]. This particular place results from the legal nature of the decision, designated both in the provisions of the procedural administrative law, as well as in the constitution of the Republic of Poland itself[8]. Pursuant to the definition of an administrative decision in a substantive sense, it is an act issued on the basis of generally applicable administrative law and constituting an authoritative and unilateral ruling shaping the legal situation of an individual who is not subordinated to the administrative body either by granting or refusing to grant him / her rights, imposing obligations or finding the existence of a legal right or duty in the sphere of administrative law, which is authoritative in the possibility of applying an enforcement order[9]. For many years, the authoritative and unilateral character of a decision has been considered as its essential feature determining the essence[10] of this legal form of action[11]. Regarding the characteristics of an administrative proceeding, it was pointed out that it is constructed as an inquisitorial proceeding, i.e. one in which the body conducting it has a superior position over the party and determines the scope of its rights and obligations[12].

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[7] Andrzej Matan [in:] Grzegorz Łaszczyca, CzesławMartysz, Andrzej Matan (eds.), *Kodeks postępowania administracyjnego. Komentarz*, Wolters Kluwer, Warsaw 2012, vol. 2, p. 14.

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

[9] See. Resolution of the Supreme Court of 5 February 1988, III AZP 1/88, OSPiKA 1989, item 3, item 59. See also: W. Dawidowicz, *Polskie prawo administracyjne*, Państwowe Wydawnictwo Naukowe, Warsaw 1978, p. 46

[10] See Wacław Dawidowicz, *Postępowanie administracyjne. Zarys wykładu*, Wydawnictwo Naukowe PWN,, Warsaw 1983, pp. 100-101, J. Starościak [in:] Emanuel Iserzon, Jerzy Starościak (eds.), *Kodeks postępowania administracyjnego. Komentarz, teksty, wzory i formularze*, Warsaw 1970 r., p. 12 and 197-201. See also the judgment of the Supreme Administrative Court of 15 January 1982, II SA 752/82 and the judgment of the Provincial Administrative Court in Rzeszów of 6 December 2016, II SA / Rz 387/16, source: Central Database of Decisions of Administrative Courts: sądenia.nsa.gov.pl

[11] Regarding the legal forms of the adminis2017tration in Poland, see Jerzy Starościak, *Prawne formy działania administracji*, Warsaw 1959, p. 10, Marian Masternak, *O pojęciu form działania administracji*, [in:] J. Filipek (ed.), *Jednostka w demokratycznym państwie prawa*, Bielsko Biała, 2003, p. 403-409, Jerzy Starościak, *Prawo administracyjne*, Warsaw 1975, p. 226, Ewa Olejniczak-Szałowska, [in:] Małgorzata Stahl (ed.), *Prawo administracyjne. Pojęcia, instytucje, zasady w teorii i orzecznictwie*, Warsaw 2004, p. 377.

[12] Ludwik Żukowski, Robert Sawuła, *Postępowanie administracyjne i postępowanie przed Naczelnym Sądem Administracyjnym*, Wydawnictwa Prawnicze PWN, Warsaw 2002, p. 55.

In the context of the hitherto adopted normative solutions of the Polish administrative procedure, including those that form the basis for unilateral and authoritative settlement of cases - at the stage of legislative work, an assessment was established that excessive formalism and rigorously perceived authoritativeness in the settlement of administrative cases result in incomplete following in administrative proceedings the principles of citizens' trust in state bodies and of persuasion. Therefore, a significant part of final decisions in such proceedings is contested [13]. In the context of the above position, the Polish legislator, by virtue of the Act of April 7, 2017, which entered into force on June 1, 2017 [14], amended the provisions of the CAP with the aim, among others, of introducing solutions that would contribute to a more partnership-based approach of administration towards citizens through the use of methods of amicable resolution of disputed matters, in particular in the field of a new legal institution - mediation. As a justification of the draft law, it was explained that mediation, as a non-confrontational way to settle a case with the participation of an impartial, neutral subject (mediator) is an expression of shaping legal relations not only with active but also participatory involvement of parties to the proceedings[15].

4. The general principle of amicable resolution of disputed matters

With reference to the amendments introduced in the CAP aimed at public participation in the administrative authority, the amendment to art. 13 CAP, placed in Chapter II of Section I of this Act entitled "General principles" should be indicated in particular. It should be noted that the very fact of separating the general rules in an individual and one of the initial chapters of the CAP indicates that the legislator not only gave them a normative character, but also clearly stated that these are legal norms constituting the basic (guiding) rules of proceedings regulated in the CAP. In the aforementioned art. 13 CAP, the legislator formulated a general rule, which in the justification of the draft of an amendment to the CAP, was defined as the principle of amicable settlement of disputed issues[16].

In art. 13 § 1 and 2 of the CAP two basic institutions have been specified, allowing, to a certain extent, to respect the will of the parties referring to the form of administrative-legal relationship establishment, i.e. amicable settlement and mediation, however these institutions do not preclude the body from undertaking other types of activities aimed at amicable settlement of the case or resolving disputed matters[17]. It should be stressed that according to the cited principle, bodies conducting the proceedings are currently required to strive in cases whose nature

[13] See justification of the draft act amending the act - Code of Administrative Procedure and some other acts. Sejm print 1183, p. 4, source: sejm.gov.pl

[14] Act of 7 April 2017 amending the act - Code of Administrative Procedure and some other acts (Journal of Laws of 2017, item 935).

[15] Justification of the draft act. Sejm print 1183, p. 17, source: sejm.gov.pl.

[16] Ibidem, p. 18, source: sejm.gov.pl.

[17] Piotr Przybysz, *Kodeks postępowania administracyjnego. Komentarz aktualizowany,* Wolters Kluwer, Warszawa 2018, Lex/el.2018.

allows it, to achieve an amicable resolution of contentious issues and to determine rights and obligations being the subject of proceedings in particular by undertaking actions that would induce the parties to reach an amicable settlement, in cases which involve parties with conflicting interests, as well as those necessary to carry out mediation (Article 13 § 1 of the CAP). In addition, public administration bodies - under Article 13 § 2 CAP – are under a legal obligation to take all steps justified at a given stage of the proceedings to enable mediation or amicable settlement, in particular under an obligation to provide explanations about the possibilities and benefits of an amicable settlement.

It should be noted that administrative settlement is not a new institution as the administrative procedure is regarded - it has been introduced to the general administrative procedure since 1 September 1980[18]. The same amendment act of the CAP of 1980 also introduced the general principle of persuading parties with conflicting interests to reach an amicable settlement, which remained almost unchanged until June 1, 2017. Therefore, it can be inferred that before the amendment of 2017, the CAP had already contained a regulation, which could be classified as belonging to the sphere of public participation. In practice, however, this institution was of marginal application. Hence, the justification to the draft amendment to the act of the CAP of 2017 contained the already mentioned opinion on excessive formalism and rigorous perception of authoritativeness in the process of applying the law. It therefore seems that the main remedy in the legislator's assumption of this criticised practice of conducting administrative proceedings, which would result in an increase in public participation in dealing with individual cases, is the institution of mediation.

5. The essence and principles of mediation in the Polish Code of Administrative Procedure

Under Article 96a § 1 of the CAP, mediation may be carried out in the course of administrative proceedings if the nature of the case allows it. The doctrine states that it should be a contentious issue or at least with contentious elements[19]. It does not, however, imply that mediation is permissible only in cases in which the parties with conflicting interests are involved, although undoubtedly the institution of mediation is predisposed to this type of cases. The above is shown by both the mediation goal specified by the legislator and the catalogue of entities that can participate in mediation.

Under Article 96a § 3 of the CAP, the purpose of mediation is to clarify and consider the factual and legal circumstances of the case and make arrangements for

[18] On the basis of Article 11 of Act of 31 January 1980 on the Supreme Administrative Court and amending the act - Code of Administrative Procedure (Journal of Laws from 1980, No. 4 item 8, as amended).

[19] Marek Wierzbowski, Marek Szubiakowski, Aleksandra Wiktorowska (eds.), *Postępowanie administracyjne - ogólne, podatkowe, egzekucyjne i przed sądami administracyjnymi*, C.H. Beck, Warszawa 2017, p. 139.

its resolution within the limits of the applicable law, including by issuing a decision or reaching an amicable settlement. It should be assumed, therefore, that mediation does not have to be oriented towards determining the way of settling the matter. Participants in mediation, within the scope of the mediation goal they have established, may confine themselves to explaining the facts of the case, determining the legal norm that should apply in the case or interpreting its content.

Regarding the subjective scope, the provision of Article 96a § 4 of the CAP provides that parties to mediation may be a) parties to a given proceeding, or b) a party or parties to a given proceeding and the authority conducting it. It should be noted that the legislator, assumed a voluntary character as the basic principle of mediation. In the context of the voluntary character of mediation for its participants and in connection with the obligation of public administration bodies imposed in Article 13 CAP to strive, in cases where their nature allows it, for an amicable settlement of the case, doubts may arise as to whether the body conducting the proceedings is free to consent to mediation with its participation. The confirmation and concretization of the above mentioned obligation can be seen in Article 96b § 1 of the CAP, which stipulates that the public administration body, ex officio or at the request of a party, notifies the parties about the possibility of conducting mediation. The legislator decided that such a notification should contain an instruction on the principles of conducting mediation and incurring its costs (Article 96b § 4 of the CAP). Furthermore, in the notification on the possibility of conducting mediation, the public administration body is obliged to request the parties to express their consent to mediation and to select a mediator (Article 96b § 3 of the CAP) within fourteen days from the date of delivery of the notification, however the parties have an option of appointing a mediator themselves in the request for mediation (Article. 96b § 2 of the CAP).

Under Article 96d § 1 of the CAP, if mediation participants agree to carry out mediation, the public administration body is obliged to issue an order (procedural decision) referring the matter to mediation. In such a case, the body addressing a case for mediation is obliged to adjourn it for up to two months, however upon a mutual request of mediation participants or for other serious reasons, this period may be extended, but not longer than until one month (Article 96e § 1 and 2 the CAP). In such an order the authority is required to appoint the mediator selected by mediation participants, however, if mediation participants do not make their selection, the body itself appoints a mediator of its choice, having the appropriate knowledge and skills in conducting mediation in cases of a given type.

As the requirements for mediators are concerned, the CAP stipulates that a mediator may be a natural person who has full legal capacity and uses public rights, in particular a mediator entered on the list of permanent mediators or a list of institutions and persons authorized to conduct mediation proceedings,

supervised by the president of a regional court[20], or on a list kept by a non-governmental organization or university, about which information was forwarded to the president of a district court (Article 96f § 1 of the CAP). However, if the mediation participant is to be the administrative body conducting the proceedings, then the mediator may only be a person entered in the one of the above mentioned lists. At the same time, the Act stipulates that a mediator may not be an employee of a public administration body before which the proceeding has been instigated. Furthermore, under Article 96g § 1 of the CAP, mediator should maintain impartiality while conducting mediation and immediately disclose circumstances that could raise doubts as to his / her impartiality, including the circumstances referred to in Article 24 § 1 and 2 of the CAP i.e. the basis for a mandatory exclusion by force of law of an employee of the entity conducting proceedings from participation in the case. Under Article 96g § 2 of the CAP, the mediator refuses to mediate in case of doubts as to his / her impartiality and immediately reports such fact to the mediation participants and to the relevant administrative body.

Mediator's impartiality should be recognized as another principle of mediation proceedings. Therefore, the right to choose a mediator was given to the parties themselves, who can indicate the mediator at the stage of submitting the mediation request. In the case of a multiplicity of parties to the proceedings, if they do not agree on the mediator jointly, the right to indicate him / her passes to the administrative body conducting the proceeding. In such a case, the question arises if the body may appoint a mediator indicated by one of the parties, and not accepted by another party or parties to the proceedings. CAP regulations do not forbid this in principle, but such solution would most likely entail resignation from mediation of opposing parties, which would at the same time undermine the meaning of the institution of mediation and in effect violate the principle of deepening citizens' trust in state bodies - formulated in art. 8 § 1 of the CAP.

As it has already been pointed out, when appointing a mediator instead of the parties, the body must indicate a person with appropriate knowledge and skills in conducting mediation in cases of a given type, but excluding its employees. The question arises if it may indicate as the mediator an employee of another public body of the same functional jurisdiction, but a different territorial jurisdiction or maybe also an employee of another body of higher level to the body conducting the proceedings, in cases of a given type. In the light of the CAP provisions, both options seem acceptable, however from the point of view of implementing the general principle of administrative procedure, i.e. the principle of deepening citizens' trust in state bodies, it would be worth to consider pertinence of appointing as a mediator an employee of another body, in particular of a higher-level body.

[20] Regional courts form part of common courts in Poland. Common courts exercise the administration of justice in the scope not belonging to administrative courts, military courts and the Supreme Court. See Article 1 § 1 and 2 of the Act of 27 July 2001 Law on the System of Common Courts (Journal of Laws of 2018, item 23, as amended).

With respect to mediators appointed by the parties themselves, the act does not impose any requirements in terms of their qualifications. The only condition they must fulfil is to possess full legal capacity and enjoy full public rights. Unfortunately, this entails a risk that due to the lack of knowledge and experience of the mediator in matters of a given type, proposals put forward by them, and approved by the parties to the proceedings, as to how to settle a case, may not be subsequently approved by the administrative body due to their non-compliance with the law. Such risk results from art. 96n § 1 of the CAP, which provides that if, as an effect of mediation, arrangements are made to settle a case within the limits of the applicable law, the public administration body will deal with the case in accordance with these arrangements.

There is also a lot of concern about the mode of choosing a mediator in a case in which participants of the mediation would be an administrative body and a party or parties to the proceedings. First, in the above-mentioned art. 96b § 2 of the CAP, the legislator allowed only the parties to appoint a mediator. Therefore, the question arises if the mediation participant is an administrative body, will it not have such right? The already mentioned art. 96b § 3 of the CAP, in turn, stipulates that a mediator selected by mediation participants is indicated in an order to refer the case to mediation. In that case the question is whether the body is limited only to accepting or denying the mediator indicated by the party? Doubts also arise as to whether the body may - in the aspect of the principle of voluntary character of the mediation - opt out of mediation due to the lack of consent for the mediator proposed by the party, while at the same time he is obliged to seek mediation under art. 13 CAP. Finally, the question remains whether in the absence of mutual acceptance of the mediator by the administrative body and the party - as mediation participants - the right to appoint a mediator will pass to the body, under the provisions of art. 96d § 2 of the CAP. As one can see, the CAP regulations are unfortunately not precise and unambiguous in this respect, which may cause difficulties in the practice of applying the law, thus discouraging parties and authorities from mediation institutions.

Under art. 96l § 1 of the CAP, the mediator is entitled to remuneration and reimbursement of expenses related to mediation, unless he agreed to conduct mediation without remuneration. Art. 96l § 2 of the the CAP, stipulates at the same time that the costs of remuneration and reimbursement of expenses related to conducting mediation are covered by the public administration body, and in matters in which a settlement may be concluded - parties in equal parts, unless they decide otherwise[21]. Another principle of mediation proceedings is therefore that in general it is the administrative body that bears the costs of mediation proceedings.

[21] The amount of mediator's remuneration for conducting mediation proceedings in administrative matters initiated upon request of a public administration body and mediator expenses subject to reimbursement are specified in the Regulation of the Minister of Internal Affairs and Administration of 2 June 2017 on remuneration amount and reimbursable expenses of mediator in administrative proceedings (Journal of Laws of 2017 item 1088), issued on the basis of art. 263a of the CAP.

What is important, the parties pay only for the costs of remuneration and reimbursement of expenses related to conducting mediation in cases in which a settlement may be concluded. In practice, the number of categories of cases in which an amicable settlement may be reached in Poland, due to their subject matter, is low. The vast majority of administrative proceedings in which parties with conflicting interests are involved must end with an administrative decision, and the settlement is inadmissible, although mediation will now be allowed. Thus, with a few exceptions, the legislator imposed the obligation to bear mediation costs on the body conducting the proceedings. In the view of the draft law designers, not paying additional mediation costs by the party shall ensure general availability of this form of administrative dispute resolution and may contribute to the promotion of mediation as part of the administrative procedure[22]. At the same time, no funds were secured in the state budget to finance costs of mediation by public administration bodies. It constitutes a serious problem, since in this situation, it seems doubtful that administration bodies - in particular at the level of local self-government units independent of government administration, financing themselves with their own budget resources, will become propagators of mediation institution on a large scale.

The last of the principles on which the mediation procedure was based is a principle that can be defined as the principle of relative confidentiality. Under the wording of art. 96j § 1 and 2 of the CAP, mediation is not public, and the mediator, participants of mediation and other persons involved in mediation are obliged to keep secret all facts that they learned in connection with mediation, unless mediators decide otherwise. In addition, in Chapter 4 of Section I of the CAP entitled "Evidence" - in art. 83 § 4 – it has been stipulated that a mediator cannot be heard as a witness as to the facts which he learned in connection with mediation, unless mediation participants release him from the obligation to keep the mediation secret. In the context of the above-mentioned regulation, it should be recognized that the obligation of confidentiality will apply to the administrative body in a situation where it will not be a participant in mediation only in a limited scope - the secret will probably not apply to facts with respect to which representative findings have been made, sufficient to determine the manner in which the case will be resolved. The question may, however, be asked whether the findings regarding facts should be kept secret in a situation in which, in the course of mediation, it is impossible to make arrangements approved by the parties in order to settle the matter. The doubt is whether in such a situation none of the parties in the mediation proceedings conducted by the administrative body shall be allowed to rely on the facts known to them, which have already been raised in the course of mediation? It seems difficult to consider it appropriate that mediation should restrict the parties in terms of protecting their legal interests. In addition, it should also be taken into consideration that the guiding principle of the Polish administrative procedure, formulated in art. 7 of the CAP, is the principle of substantive truth, under which,

[22] Justification of the draft act. Sejm print 1183, p. 42, source: sejm.gov.pl.

during the course of the proceedings, public administration bodies, ex officio or at the request of the parties, shall take all necessary steps to clarify the facts of a case and to resolve it.

6. Conclusion

Taking into consideration the legal regulations presented above, the institution of mediation in the Polish administrative procedure, based on the principles of voluntariness, impartiality, confidentiality and bearing the costs of mediation, and taking into account the rules governing the mechanism of appointing a mediator, serious doubts may arise with regard to realization of promotion of forms of public participation in administrative rulemaking and of increase in the number of matters settled in this way. It seems that there are no solutions that would encourage - apart from the formal duty - the administration to promote the institution of mediation. For parties, the use of the institution of mediation may, in practice, result in the extension of proceedings in the event of failure to elaborate arrangements accepted by all parties. What is more, with the multiplicity of parties, mediation may often not be applied due to its voluntary nature, since the occurrence of disagreement of at least one of many parties precludes the possibility of mediation. In addition, a practical problem might arise due to the lack of mediators prepared to participate in matters related to specific areas of substantive administrative law.

As regards forms of public participation, the CAP regulates two of them, i.e. amicable settlement and mediation, however, as stated above, these institutions do not exclude other types of actions undertaken by administrative bodies, aiming at amicable settlement of a case or resolving disputable issues. However, a question arises with regard to the types of these activities and their procedural significance, in particular in the absence of relevant legal regulations. In the draft amendment to the CAP prepared by the team appointed by decision of the President of the Supreme Administrative Court for developing the concept of modification of the administrative procedure[23], an introduction of a section regulating the institution of an administrative agreement was assumed. At the stage of legislative works, however, the introduction of general regulations in the above-mentioned scope was abandoned. While the institution of agreement that can replace a decision is reflected in the Polish legal order under the regulation of the Act on public roads, this case concerns only the possibility of using the form of a civil law agreement, instead of the form of a decision, and above all to a very limited extent[24]. What is

[23] Decision of the President of the Supreme Administrative Court no. 8 of October 10, 2012.

[24] Under art. 22 ust. 1 and 2c of the Act of 21 March 1985 on public roads (Journal of Laws of 2017, item 2222 as amended) within the limits of cities with poviat rights, advertising boards and advertising devices may be placed on land over which the road administration exercises free permanent management of land in the road lane, based on a payable civil law contract in cases justified by functional reasons, in particular when such boards or devices are placed on stoplights or landscaping facilities.

more, these regulations are characterized by a lack of legislative precision, which in practice creates a number of doubts as to the rules and the mode of their application. However, in the face of the said lack of regulation in the CAP of the institution of an administrative agreement, it should be assumed that in the area of forms of public participation, the use of an administrative agreement will not be permitted.

Consequently, in the scope of other types of actions aimed at amicable settlement of a case or resolving contentious issues, only those that will be accessory to the institution of amicable settlement and mediation can be included. Thus, the scope of forms of public participation in dealing with administrative matters in the Polish administrative procedure should be considered as objectively limited. The above-mentioned legal analysis of the indicated forms also proves that the number of instances of their application may also be limited in practice. Perhaps, therefore, the analysed institutions of public participation will soon require modifications or their extension. However, in this respect, the future seems positively fostered by the fact that the Polish legislator already notices a need to move away from the model of the inquisitorial proceedings and to place greater emphasis on the implementation of the principle of deepening trust in state organs.

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