

Piotr Janiak
Faculty of Law, Administration and Economy
Institute of Administrative Sciences
Department of Administrative Proceedings
and Administrative Judiciary

Abstract of the doctoral dissertation

"The concept of participants in administrative court proceedings"

The institution of participation in administrative court proceedings has a rich normative tradition in the Polish legal system. Despite this, it still raises many theoretical and legal doubts that are directly reflected in the practice of applying the law, causing inconsistencies in the jurisprudence of administrative courts.

The term "participant in administrative court proceedings" is not uniformly perceived in the doctrine. Among the possible approaches to it, the matter under considerations was the participants of the proceedings *sensu stricto*, which are set out in the article 33 of the Law on Proceedings before Administrative Courts. The scope of this concept includes two groups of entities: 1) persons whose legal interests will be affected by the outcome of the court proceedings, 2) social organizations interested in participating in the proceedings due to their statutory objectives.

With regard to the first of them, the legislator envisages two conditions for participation in administrative court proceedings: a substantive condition (related to the criterion of legal interest) and a formal premise (relating to the participation of these entities or their absence in administrative proceedings). Findings about which individuals should be assigned a legal interest in administrative court proceedings initiated on the initiative of another entity cannot be made *in abstracto*. This requires considerations made separately for each of the legal forms of action of public administration authorities subject to the jurisdiction of an administrative court. A characteristic feature of these activities is that they often affect the legal sphere not only of their direct addressee, but also of other entities.

At the same time, it should be noted that the criterion of legal interest is closely related to the capability to file complaints, which allows us to conclude that the procedural position of a participant in administrative court proceedings may be obtained only by the entity that had a capacity to file complaints.

Proceedings before an administrative court may be conducted in two subjective configurations: in the classical system and in the extended system. The first of them limits the participation in the trial before the court to two of its parties, i.e. the complainant and the authority of public administration.

The extension of this arrangement to include other entities defending their own legal interest in court proceedings has an impact on the course of the proceedings, the procedural position of the complainant and, above all, on the stability of the legal protection granted to him. The participants in the proceedings have the right to lodge a cassation complaint against the judgment of the court of first instance. Bearing in mind the constitutional right of an individual to a court referred to in Art. 45 paragraph 1 of the Constitution of the Republic of Poland the possibility of assigning procedural rights in court proceedings to entities other than the complainant should be approached with caution. The basic function of judicial and administrative control is, however, the protection of the subjective rights of an individual who applies to the court with a demand to grant it.

The key issue when it comes to the formal premise of the participation of participants in the proceedings in the trial is the recognition of what meaning the legislator gives to the term "administrative procedure" in the content of Art. 33 of the Law on Proceedings before Administrative Courts. This term is not unequivocally understood in the legal literature and judicial decisions. Simplifying this issue a bit, there are two basic approaches to it. In a narrow sense (*sensu stricto*), administrative proceedings are proceedings before competent public administration authorities in individual matters to be determined by the way of administrative decisions. In broad terms (*sensu largo*), this term also includes the activities of public administration authorities in non-decision forms. Determining the content of this concept in the standards of Art. 33 p.p.s.a. of the Law on Proceedings before Administrative Courts based on each of the presented meanings, it could lead to unacceptable practical consequences. A narrow formulation could deprive the direct addressees of decisions of administrative authorities from legal protection in a situation where the proceedings before the court would be initiated by one of the institutional entities, e.g. a prosecutor questioning the legality of the decision issued in administrative enforcement proceedings. The second approach also does not seem to be acceptable, as it would increase the risk of proceedings under conditions of nullity, in particular when the subject of the court's assessment were normative acts addressed to a wide range of addressees, e.g. the local land use plan. Hence, it was necessary to develop a solution that would constitute an indirect approach, minimizing each of the indicated risks.

As already mentioned, a social organization participating in court proceedings in the case of another person is also considered a participant in the proceedings before the administrative court. When establishing the criteria for the participation of a social organization in court proceedings, one cannot limit oneself solely to the analysis of Art. 33 § 2 of the Law on Proceedings before Administrative Courts, but they should also be sought in other provisions of the Procedural Act, as well as in the Constitution of the Republic of Poland.

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Próti Jamial