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**REFERRAL VERSUS SERVICE OF AN
ADMINISTRATIVE DECISION TO A NON-PARTY
TO THE CASE. CONSIDERATIONS AGAINST THE
BACKGROUND OF THE ADMINISTRATIVE COURTS'
CASE LAW**

Abstract

The main purpose of the article is to highlight the differences between the concepts of referral and service of an administrative decision to a non-party of an administrative proceeding. In this context, it is particularly important to analyse the case law of the administrative courts, mainly the recent ones, and the views of the doctrine. The main issues relating to both concepts concerning the party of an administrative proceeding have been indicated. The article also concerns the service of a decision to a deceased person. The consequences of an improper service of an administrative decision have been discussed as well.

KEYWORDS

administrative decision, party to administrative proceedings, referral of a decision, service of a decision, annulment of a decision

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decyzja administracyjna, strona postępowania administracyjnego, przekazanie decyzji, doręczenie decyzji, stwierdzenie nieważności decyzji

1. INTRODUCTION. THE CONCEPT OF A PARTY IN ADMINISTRATIVE PROCEEDINGS

A party in administrative proceedings is a key concept that continues to be a source of deliberation and dispute in doctrine and case law. Given the relationship of the subject of this paper to the concept referred to, it is necessary to discuss the key issues concerning the party and to highlight the elements of this concept that will be important to indicate the differences between addressing and serving a decision to a person who is not a party to the case.

A party is one of the participants in the administrative process, in which it owns certain rights. At the same time, according to the principle of active participation of a party in administrative proceedings, the public administration body is obliged to ensure this active participation of a party at each stage of the proceedings, in accordance with the content of Article 10 of the Code of Administrative Procedure (hereinafter: CAP).¹ The body conducting the proceedings should therefore, first of all, find and notify of the commencement of the proceedings all entities that have the status of a party to the proceedings (Article 61 § 4 of the CAP), and then enable them to actively participate in all activities in the proceedings. This obligation also entails informing the party in good time about the procedural activities taking place.² Importantly, when a party has appointed a representative in the case, this obligation must be fulfilled with regard to the representative, who should be informed and allowed to participate in all procedural activities.³ It remains a truism, however, that where a party's attorney or legal representative is present in administrative proceedings, that party does not become a party to the proceedings. This will be significant in the context of examples of misdirected decisions. It is also an important fact that a party is not obliged to exercise the right of active participation and thus to take part in the pending proceedings. A public administration body is obliged to provide an

¹ Act of 14 June 1960 Code of Administrative Procedure, i.e. OJ 2021.735 as amended, hereinafter: CAP.

² Judgment of the SAC of 12 September 2000, III SA 1082/00, LEX no 47981.

³ Judgment of the SAC of 27 May 1998, I SA/Kr 827/97, LEX no. 33615.

opportunity for a party to exercise its right, but it is not entitled to require a party to exercise that right.⁴

A party in administrative proceedings is, according to Article 28 of the CAP, anyone whose legal interest or obligation is affected by the proceedings or who demands an action of the authority on account of his/her legal interest or obligation.⁵ This distinction refers to parties in proceedings initiated *ex officio* or at the request of a party. A. Wróbel points out that a party is a concept occurring on the grounds of procedural law and does not belong to the category of substantive law.⁶ Establishing and finding all parties in the proceedings is the duty of the public administration body. It needs to be emphasised that in the context of the discussed issue of directing a decision to a person who is not a party to the case, which is one of the prerequisites for declaring a decision invalid regulated in Article 156 § 1(4) of the CAP, a party is, as indicated by the Supreme Administrative Court (hereinafter: SAC) in 1999, “not only a party to ordinary proceedings concluded with a questioned decision, but also anyone whose legal interest or obligation may be affected by the consequences of declaring a decision invalid. This is a consequence of the supervisory authority recognising a new case in relation to the one settled by the contested decision, and therefore the way is then opened for all parties to these proceedings to verify such a decision”.⁷ Similarly, in 2010 the SAC stressed that “there does not always have to be an identity between the subjects in ordinary proceedings and in proceedings whose subject is the annulment of a decision, nevertheless it is the subject of the decision under review that determines the circle of subjects who are parties to both ordinary proceedings and proceedings conducted under the so-called nullity procedure”.⁸ Therefore, it should be indicated after B. Adamiak, that in proceedings for the annulment of a decision, a party is “everyone whose legal interest or duty is affected by the administrative decision which he or she demands to verify or which is subject to verification in proceedings initiated *ex officio*”.⁹ It will, therefore, not only be a party to the main proceedings, but also all those whose legal interest or obliga-

⁴ Judgment of the SAC of 7 May 1999, I SA/Wr 48/97, LEX no. 37244; judgment of the SAC of 1 July 1999, IV SA 595/99, LEX no. 47888.

⁵ As the SAC pointed out: “The attribute of party is not demonstrated (...) by a person who bases his/her participation in administrative proceedings on the need to protect or satisfy the public interest. This type of action may be taken within the institution of complaints and motions”. Judgment of the NSA of 27 September 1999 IV SA 1285/98, LEX no. 47898.

⁶ A. Wróbel in: M. Jaskowska, M. Wilbrandt-Gotowicz, A. Wróbel, *Komentarz aktualizowany do Kodeksu postępowania administracyjnego*, LEX/el. 2022, Art. 28; cf. the judgment of the Voivodship Administrative Court (hereinafter: VAC) in Gliwice of 9 July 2020, III SA/GI 61/20, LEX no. 3052541.

⁷ Judgment of the SAC of 1 December 1999, IV SA 2520/98, LEX No 48669.

⁸ Judgment of the SAC of 23 September 2010, II OSK 1399/09, Lex no. 746509.

⁹ B. Adamiak, *Przedmiot postępowania w sprawie stwierdzenia nieważności decyzji administracyjnej*, “Państwo i Prawo” 2001, No. 8, p. 29.

tion is affected by the consequences of the annulment of the decision. In doing so, they do not have to be among those involved in the earlier main proceedings.

In view of the above, the key to determining whether a decision has been addressed to a person who is not a party to the case is to identify the subject about whose rights or obligations, due to his/her legal interest or duty, should have been adjudicated and decided upon in the administrative decision. P. Przybysz rightly emphasises that the decisive factor is whose rights and obligations were adjudicated upon. “The content of the ruling determines to whom a given ruling is addressed”.¹⁰

The above considerations are important in order to achieve the aim of this study, i.e. to determine the differences between the institutions of addressing and serving an administrative decision to a non-party in a case. Thanks to the references to examples from the doctrine and, above all, to the jurisprudence of administrative courts, including the most recent one, the key elements determining the occurrence of the premise of Article 156 § 1 point 4 of the CAP will be indicated.

2. REFERRAL OF A DECISION TO A NON-PARTY IN A CASE

Defining the referral of a decision to a given subject is essential for the subsequent distinction of this concept from the service of a decision. Addressing a decision can be understood as a ruling on the rights and obligations of a given entity. As indicated by the NSA, addressing a decision to a subject means “a situation in which the rights and obligations of a designated entity are determined by a decision”.¹¹ Similarly, the Voivodship Administrative Court (hereinafter: VAC) in Warsaw ruled that it is: “the imposition of obligations on a particular person or the granting of certain rights”.¹² In other words, a referral can be equated with indicating a specific entity as an addressee of a decision contained in an issued administrative decision whose legal interest or obligation is affected by a given administrative act. It is, therefore, incorrect to say that referral and service of a decision can be conflated. The delivery of a decision will only be “the performance of an action related to the implementation of the obligation to deliver the decision to the parties”.¹³

¹⁰ P. Przybysz, *Kodeks postępowania administracyjnego. Komentarz aktualizowany*, LEX/el. 2022, Art. 156; cf. the judgment of the SAC of 25 August 2010, II OSK 1324/09, LEX no. 737703.

¹¹ Judgment of the SAC of 14 June .2012, II OSK 484/11, LEX No 1252085; judgment of the SAC of 22.11.2018, I OSK 4034/18, LEX No. 2587930; judgment of the SAC of 5 November 2021, I OSK 3135/19, LEX No. 3279085.

¹² Judgment of the VAC in Warsaw of 1 June 2017, VII SA/Wa 2214/16, LEX no. 2314374.

¹³ Judgment of the SAC of 21 January 2020, I OSK 1407/18, LEX no. 2977002.

The essence of directing a decision to a specific entity is crucial for establishing the premise for the annulment of a decision under Article 156 § 1 point 4 of the CAP. This premise occurs when the decision on rights and obligations contained in an administrative decision concerns a person who is not a party to the case. The decision thus determines the rights and obligations of a subject other than the one who has a legal interest in the case.¹⁴

In analysing the above considerations, it is worth pointing out some examples given in the literature and case law that may be considered as directing a decision to a non-party to the case. Reference is made, *inter alia*, to:¹⁵

- 1) the designation as an addressee of the decision of a person with a function in the organisational structure of the entity concerned, instead of the entity that was a party to the proceedings (e.g. the president of the cooperative rather than the cooperative itself);
- 2) ruling on the rights and obligations of the authority and not the legal entity that was a party to the proceedings;
- 3) addressing a decision to a person who is not a party to the proceedings, which, however, does not lead to the possibility of annulling an administrative decision when the proceedings have been conducted against a competent entity and this is apparent from the case file;¹⁶
- 4) referring the decision to the legal representative or agent of the party.¹⁷

On the other hand, an incomplete or incorrect indication of the addressee of the decision cannot be considered as addressing the decision to a person who is not a party. These errors should be considered as possible to be supplemented or corrected by rectification (Articles 111-113 of the CAP).

An exceptional case, which is only worth signalling, is that of addressing a decision to a deceased person. In the jurisprudence of the administrative courts, the view is well established that a decision on the rights and obligations of a deceased person constitutes a gross violation of the law within the meaning of Article 156 § 1(2) of the CAP. This is connected with the cessation of a natural person's legal capacity upon his/her death.¹⁸ It is not possible to initiate or conduct

¹⁴ Judgment of the SAC of 5 March 2013, II OSK 2079/11, LEX no. 1305541; judgment of the VAC in Poznań of 7 December 2021, IV SA/Po 891/21, LEX no. 3286504.

¹⁵ P. Przybysz, *op. cit.*, Art. 156; cf. M. Michalik, *Strona w postępowaniu w sprawie stwierdzenia nieważności decyzji administracyjnej*, "Roczniki Administracji i Prawa" 2014, n. 14, No. 2, p. 173.

¹⁶ Cf. judgment of the SAP of 19 January 2007, I OSK 350/06, LEX no. 291195; judgment of the SAP of 24 May 2007, II GSK 400/06, LEX no. 351135; judgment of the VAC in Gdańsk of 30 September 2021, III SA/Gd 629/21, LEX no. 3240683; judgment of the VAC in Łódź of 16 April 2021, II SA/Łd 54/21, LEX no 3185171.

¹⁷ Cf. judgment of the VAC in Gdańsk of 30 September 2021, III SA/Gd 629/21, LEX no. 3240683.

¹⁸ Judgment of the SAP of 8 October 2015, I OSK 29/14, LEX No. 1985886; judgment of the SAP of 30 November 2016, I OSK 132/15, LEX No. 2177589; judgment of the SAP of 18 May 2020,

administrative proceedings in relation to such a person or to conclude them by issuing an administrative decision in which their rights and obligations are decided.¹⁹ The fact that the public administration body that conducts administrative proceedings in the case²⁰ did not know about the party's death is also irrelevant. It should be expected that the authority at any stage of the proceedings will be able to establish the circle of entities that have a legal interest in the administrative case.²¹ In addition, addressing a decision to a deceased person is a qualified defect that is not subject to convalidation.²² In the above context, it is worth adding, following the SAP, that "it is a gross violation of the law to impose obligations or grant rights to a deceased person by an administrative decision and not to deliver the decision to a deceased person who is not the addressee of the decision".²³

At the same time, the jurisprudence is of the opinion that a gross violation of law does not take place, if apart from the deceased person, also other entities were parties to the given proceedings, or legal successors took the place of the deceased person.²⁴ This may be the case when it results from the settlement of an administrative decision that the addressee of the decision may also be an heir of the party, who also participated in the proceedings or stepped in the place of the party even before the decision in the case was issued. It should be borne in mind, however, that pursuant to the wording of Article 30 § 4 of the CAP, this may take place only in cases involving transferable and inheritable rights. Additionally, improper findings of the authority made after the death of a party depriving the successors of active participation in the proceedings could constitute grounds for resumption of the proceedings pursuant to Article 145 § 1 item 4 of the CAP.²⁵

II OSK 2341/19, LEX No. 3052256; judgment of the SAP of 18 June 2020, I OSK 2193/19, LEX No. 3052013.

¹⁹ P. Przybysz, *op.cit.*, article 156.

²⁰ Judgment of the VAC in Warsaw of 8 January 2013, I SA/Wa 1316/12, LEX no. 1274146; judgment of the VAC in Warsaw of 31 January 2018, IV SA/Wa 2498/17, LEX no. 2744177; judgment of the VAC in Gliwice of 21 January 2022, II SA/Gl 659/21, LEX no. 3302951; judgment of the VAC in Gliwice of 24 March 2022, II SA/Gl 1604/21, LEX no. 3331281; cf. T. Brzezicki, Ł. Przystupa, *Konsekwencje skierowania decyzji o warunkach zabudowy i zagospodarowania terenu do osoby zmarłej niebędącej inwestorem*, "Studia Prawnoustrojowe" 2021, No. 54, pp. 82-84.

²¹ Judgment of the SAC of 22 January 2014, I OSK 708/12, LEX no. 1452172.

²² Judgment of the SAC of 22 January 2014, I OSK 708/12, LEX no. 1452172; judgment of the SAC of 17 March 2022, I OSK 987/21, LEX no. 3329880; judgment of the VAC in Gliwice of 24 March 2022, II SA/Gl 1604/21, LEX no. 3331281.

²³ Judgment of the SAC of 18 May 2020, II OSK 2341/19, LEX no. 3052256.

²⁴ Judgment of the SAC of 18 December 2020, I OSK 1589/19, LEX No 3121809; judgment of the SAC of 18 June 2020, I OSK 2193/19, LEX No 3052013; judgment of the SAC of 18 June 2020, I OSK 2193/19, LEX No. 3052013; judgment of the WSA in Szczecin of 10 October 2019, II SA/Sz 595/19, LEX No. 2742321.

²⁵ T. Brzezicki, Ł. Przystupa, *op. cit.*, pp. 86-87.

3. NOTIFICATION OF A DECISION TO A PERSON WHO IS NOT A PARTY TO THE CASE

Addressing a decision to a person who is not a party to the proceedings must be clearly distinguished from the service of a decision, understood as the delivery to a party of the original signed act issued by an administrative authority.²⁶ This will also be defined as the externalisation of the decision issued by the public administration body.²⁷ At the same time, there is no doubt that both referral and delivery of an administrative decision should be distinguished from its issuance, which consists in drawing up and signing the decision (in written or electronic form) in accordance with the elements required by the provisions of the CAP.²⁸

As a rule, the decision is delivered to the parties in writing (or in the form of an electronic document), however, as stipulated in Article 109 § 2 of the CAP, in the cases listed in Article 14 § 2 of the CAP, the decision may be announced to the parties orally. This refers to situations in which the interest of the party argues in favour of such a solution and the legal provision does not prevent it. The content and significant motives of such a settlement should be recorded by an employee of the administrative body in the file in the form of a protocol or a note signed by the party. The delivery itself is very important, both from the point of view of the party to the proceedings and the public administration body. The issued administrative act produces procedural effects from the date of delivery or announcement to the party. Therefore, the authority is bound by the issued decision from that moment (Article 110 § 1 of the CAP). From the date of delivery of the administrative decision to the party, the time limits for lodging appeal measures start to run (respectively: Article 129 § 2 of the CAP or Article 53 § 1 of the CAP²⁹).

The condition for declaring a decision invalid under Article 156 § 1(4) of the CAP does not occur when the decision contained in an administrative decision

²⁶ Order of the SAC of 8 May 2014, II GSK 987/14, LEX no. 1467684; judgment of the VAC in Warsaw of 8 June 2018, VI SAB/Wa 62/17, LEX no. 2557270; to the contrary: judgment of the Supreme Court of 12 December 2003, III RN 135/03, LEX no. 116127 (critically reviewed. See P. Kardasz, *Komentarz do art. 109 k.p.a.*, (in:) *Kodeks postępowania administracyjnego. Komentarz do art. 61–126*, M. Karpiuk, P. Krzykowski, A. Skóra (eds.), Olsztyn 2020, p. 313). At the same time, it is stated that failure to deliver the original decision prevents service from being considered effective. Judgment of the SAC of 5 February 2020, I OSK 753/19, LEX no. 2825341. The correct delivery (or announcement) of a decision concludes the decision-making process and settles the case within the meaning of Article 104 of the CAP. The issuance, announcement and delivery of an administrative decision are three separate procedural acts. See E. Frankiewicz, *Wydanie a doręczenie decyzji administracyjnej*, "Państwo i Prawo" 2002, No. 2, pp. 72, 79-80; also: judgment of the VAC in Rzeszów of 28 November 2012, II SA/Rz 895/12, LEX no. 1596490.

²⁷ P. Kardasz, *op. cit.*, pp. 310-311.

²⁸ *Ibidem*.

²⁹ Act of 30 August 2002. Law on proceedings before administrative courts, i.e. Journal of Laws of 2022, item 329 as amended.

is correct, addressed to a competent person who is a party, and the decision has been delivered to a person who is not a party to the proceedings. The institution of service is procedural in nature and cannot affect the validity of an administrative decision. This was also indicated by the NSA in a 2013 judgment, emphasising that “the invalidity of proceedings will, therefore, not occur in a situation where the administrative body has resolved by a decision the rights and obligations of a party to the proceedings, however, it has delivered the decision to another entity not having a legal interest. This is due to the fact that the issue of service of a decision (its introduction into legal circulation) is exclusively procedural in nature. In view of the above, the erroneous determination of the circle of entities to whom the decision is delivered may be considered only in the context of a violation by the administrative body of Article 109 § 1 and 2 of the CAP”.³⁰

In this context, it would be necessary to analyse the effects of the delivery of an administrative decision, as well as the delivery of this act to a person who was not a party to the proceedings. First of all, pursuant to the content of Article 109 § 1 and § 2 of the CAP, the moment of delivery (in exceptional cases of announcement) of an administrative decision to a party is at the same time the moment when the decision is introduced into legal circulation.³¹ According to the content of Article 110 § 1 of the CAP, a decision is binding for the public administration body which issued it.³² This is to ensure that the authority does not make any arbitrary changes to the issued decision without informing the party. Supplementation or rectification may take place under the procedure of rectification of the decision.³³ However, the decision may be repealed or changed only under the procedure of appealing against the decision by the party.³⁴ In the case of binding a delivered decision by a party to administrative proceedings, it is worth noting the presence of two views. In doctrine and case law, the position is present that a party is bound by an administrative decision, just like a public administration body, from the moment of its delivery or announcement.³⁵ This effect is connected

³⁰ Judgment of the Supreme Administrative Court of 5 March 2013, II OSK 2079/11, LEX No. 1305541; cf. judgment of the Supreme Administrative Court of 25 August 2010, II OSK 1324/09, LEX No. 737703; judgment of the Supreme Administrative Court of 15 September 2011, II OSK 1347/10, LEX No. 1069001; judgment of the Supreme Administrative Court of 5 March 2013, II OSK 2079/11, LEX No. 1305541.

³¹ Judgment of the WSA in Białystok of 26 September 2019, II SAB/Bk 65/19, LEX No. 2726104; judgment of the WSA in Warsaw of 15 May 2018, VI SA/Wa, LEX No. 2557583.

³² Whether the decision is correct or defective is irrelevant to the question of whether the authority is bound by the decision. A Wróbel (in:) M. Jaskowska, M. Wilbrandt-Gotowicz, A. Wróbel, *op.cit.*, Art. 110.

³³ Judgment of the WSA in Łódź of 5 February 2008, II SA/Łd 1024/07, LEX No. 510950; judgment of the NSA of 6 February 2019, I OSK 4102/18, LEX No. 2630307.

³⁴ P. Przybysz, *op.cit.*, Article 110.

³⁵ B. Adamiak, J. Borkowski, *Postępowanie administracyjne i sądownoadministracyjne*, Warsaw 2018, p. 319; judgment of the NSA of 6 March 2018, I OSK 2523/17, LEX no. 2475470; judgment of the WSA in Warsaw of 27 March 2018, I SA/Wa 1769/17, LEX no. 2560488.

with the possibility for a party to challenge a served administrative decision.³⁶ On the other hand, it is pointed out that the binding of a party to a served administrative decision occurs only at the moment when the decision becomes final.³⁷

The effect of a defective delivery of an administrative decision which was, however, addressed to the correct entity will not invalidate that decision. Here, nevertheless, it would also be appropriate to analyse several cases appearing in the decisions of the administrative courts. Firstly, when an administrative decision has not been delivered to the party's own hands, who has not had an opportunity to become acquainted with the act in due time, but the delivery may be deemed effective within the meaning of the provisions of the CAP (e.g. delivery against a receipt to an adult household member – Article 43, or double advice letter – Article 44 of the CAP). In such a situation, defects in the service of the decision may affect the assessment of whether the party has observed the time limit for lodging an appeal, which, however, in the case of making it probable that the party is not at fault in the failure to do so, may be a premise for the application of the institution of reinstatement of the time limit. Still, incorrect delivery may not lead to a finding that an appeal is inadmissible by the party.³⁸ It should be emphasised, however, that in the above situation, the service must be deemed effective and the presumption under Article 44 of the CAP cannot be rebutted.³⁹

Secondly, it is necessary to consider the case in which the service cannot be considered effective and the party has the right to request the resumption of proceedings pursuant to Article 145 § 1(4) of the CAP. A case in which a party requested the service of a decision in electronic form, which was not taken into account by the authority, may be cited here. As the SAP pointed out: “an attempt to serve a decision in a traditional manner, i.e. by post, in a situation where the addressee requested service in electronic form, results in the fact that, in the absence of a receipt, the authority cannot invoke the fiction of service (...). The authority has no possibility to waive the electronic delivery indicated by the party”.⁴⁰ The SAP also points out that “deprivation of a party's participation in the proceedings is also deprivation of participation in decisive actions, and therefore includes cases where a party has not been served with a decision”.⁴¹ The running of the time limit for requesting the resumption of proceedings, pursuant to Article 148 § 2 of the CAP, begins on the date on which a party becomes aware of the

³⁶ Judgment of the WSA in Warsaw of 28 February 2020, I SA/Wa 1615/19, LEX no. 3085548.

³⁷ A. Krawczyk (in:) *Kodeks postępowania administracyjnego. Komentarz*, W. Chróścielewska (ed.), Z. Kmiecik, Warsaw 2019, Art. 110, LEX; judgment of the WSA in Szczecin of 10 May 2019, II SA/Sz 1224/18, LEX no. 2676568.

³⁸ Judgment of the SAC of 8 May 2009, ref. II OSK 700/08, LEX no. 547178; judgment of the SAC of 1 September 2015, ref. II OSK 691/15, LEX no. 1987301; judgment of the VAC in Gdańsk of 16 January 2018, I SA/Gd 1541/17, LEX no. 2432622.

³⁹ Judgment of the VAC in Gliwice of 10 June 2020, II SA/Gl 1376/19, LEX no. 3022957.

⁴⁰ Judgment of the SAC of 17 December 2020, I OSK 1685/20, LEX no. 3115336.

⁴¹ Judgment of the SAC of 27 April 2020, I OSK 144/19, LEX nr 3030683.

existence of a given decision, not the proceedings themselves, regardless of the source of this information.⁴²

Finally, a situation should be indicated in which the service was erroneous due to the infringement of Article 40(2) of the CAP by delivering a letter to a party instead of his/her representative or proxy appointed in the case. The thesis presented by the SAP in 1998 that in such a situation service cannot be deemed effective⁴³ and remains up-to-date. Similar statements can be found in more recent judgments, where the ineffectiveness of delivery of a letter to a party by omission of his/her representative or proxy is unequivocally expressed.⁴⁴ P. Przybysz indicates that the mere delivery of a decision to a party is only informative.⁴⁵ B. Kwiatek⁴⁶ and A. Wróbel⁴⁷ claim similarly, and this view should be agreed with. For the sake of completeness, however, the judgments of the SAP, which adopt a different view on the issue in question, deserve attention and citation.⁴⁸

4. SUMMARY

Summarising the above considerations, it should be pointed out that in the context of distinguishing directing a decision to a person who is not a party to the administrative proceedings from improper delivery, it is of key importance to determine the subject whose legal interest or obligation is affected by the proceedings, in accordance with Article 28 of the CAP. The interpretation of the circumstance leading to the annulment of a decision due to the prerequisite of Article 156 § 1(4) of the CAP cannot be considered in the context of improper delivery of an administrative decision if the addressee of the decision is determined correctly. The administrative courts take a uniform standpoint in this respect, both in older and more recent judgments. The cited views of the VAC and SAC on the issues of delivery of a decision to a person who is not a party to the case, omission of a par-

⁴² Judgment of the SAC of 9 May 2018, II OSK 2628/17, LEX no. 2493240; judgment of the SAC of 18 July 2012, I OSK 1025/11, LEX no. 1405616; judgment of the SAC of 5 September 2017, II OSK 2807/15, LEX no. 2365408.

⁴³ Judgment of the SAC in Warsaw of 26 March 1998, II SA 157/98, LEX No. 41938.

⁴⁴ Judgment of the SAC of 23 February 2022, II OSK 2883/20, LEX no. 3333569; judgment of the SAC of 10 November 2017, I OSK 259/17, LEX no. 2464473;

⁴⁵ P. Przybysz, *op.cit.*, Article 40.

⁴⁶ B. Kwiatek (in:) *Kodeks postępowania administracyjnego. Komentarz do art. 1-60. tom I*, M. Karpiuk, P. Krzykowski, A. Skóra (eds.), Olsztyn 2020, Art. 40.

⁴⁷ A. Wróbel, in M. Jaskowska, M. Wilbrandt-Gotowicz, A. Wróbel, *op. cit.*, Art. 40.

⁴⁸ See Judgment of the Supreme Administrative Court of 26 August 2021, II OSK 18/21, LEX No. 3231973; Judgment of the Supreme Administrative Court of 26 September 2018, II OSK 125/18, LEX No. 2737931; Judgment of the Supreme Administrative Court of 17 October 2017, II GSK 4055/16, LEX No. 2404367.

ty's representative or proxy, as well as binding a party to a decision delivered, indicate divergences and non-uniformity of the jurisprudence lines. This leads to the conclusion that although these issues have been repeatedly addressed by representatives of the doctrine and administrative courts, there are still numerous and unexplained doubts which often need to be assessed *ad casum*.

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