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REASONS FOR FAILING TO HANDLE ADMINISTRATIVE CASES ON TIME

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Abstract

The article deals with the issue of administrative authorities' justification of a failure to meet deadlines for handling cases in general administrative proceedings, tax proceedings and simplified complaint proceedings. To that end, the author uses the dogmatic-legal method, performs a critical analysis of the literature on the subject matter and interprets the relevant judgments of administrative courts. The aim of the article is to draw attention to the importance of correct, exhaustive and true justification of the reasons why administrative bodies procrastinate and set new deadlines for handling administrative cases.

The research area has been divided into two main parts, i.e. the analysis of the correct indication of the reasons for a delay and the diagnosis of incorrect justifications for failures to handle cases on time. The author emphasises that the reasons for a failure to deal with an administrative case on time should reflect the facts concerning the case as accurately as possible, especially when a given reason is an element of an evidence-based proceeding. Criticism was levelled at reasons not related to the course of proceedings, such as staffing problems of the authority and the multitude of cases, as well as reasons stated in too general terms, such as the complicated nature of a matter. In conclusion, the author proves that precise indication of reasons for failures to handle a case within the time limits sticks to the principle of striving for objective truth and influences the general assessment of administrative bodies.

Keywords: time limits for handling cases, reasons for failing to deal with a case within a set time limit, general administrative proceeding, tax proceeding, simplified complaint proceeding

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EFFICIENCY AND PUNCTUALITY OF HANDLING ADMINISTRATIVE CASES: GENERAL OBSERVATIONS

Efficiency and punctuality of handling cases in public administration, as a typical system of communicating vessels,[1] is one of the most important elements of its functioning. Contemporary clients of public administration bodies are usually interested in the possibly fastest and most efficient handling of their cases, although sometimes slow and even lengthy functioning of an institution is in the interest of a client (e.g. in case of the statute of limitations concerning tax liabilities). Efficient and fast handling of cases is, from the clients' point of view, equally important as a favourable resolution of the matter.

Efficiency, speed and punctuality of the functioning of administration is important in case of performing general tasks and in resolving individual cases subject to administrative decisions. It proves itself in case of the implementation of the principle of administration efficiency,[2] through which general efficiency of the performance of public tasks is perceived. It has not changed for years, because citizens assess the entire state based on general opinions as well as individual experience, in particular in the areas concerning the fulfilment of social needs, personal problems, law and order, culture of administrative work and officials' ethics.[3] The assessment of the state as such, its economic, political and social system[4] and the assessment of the government in the minds of the majority of ordinary citizens is shaped under the influence of the impressions that those citizens get when they come into direct contact with people who, in their eyes, are representatives of the state authority and implementers of the state policy.[5] Thus, what is important for the relations between citizens and administrative bodies is the atmosphere created inter alia by an official's personal involvement,[6] which determines positive assessment of the state machinery functioning through the prism of efficiency and punctuality of the performance of tasks.

However, for the purpose of analysing punctuality of handling administrative cases and reasons for failures to handle them on time, based on the present research, it should be assumed that an administrative case is a set of legal and physical circumstances aimed at using a norm of substantive administrative law by granting a particular entitlement or imposing a particular obligation on a party to an administrative proceeding. Thus, an administrative case should be understood as a definite type of an administrative proceeding conducted in relation to an individual entity in the area of a definite subject matter. An administrative case within the

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1 Knosala, E., *Prawne układy sterowania w administracji publicznej*, Wydawnictwo Uniwersytetu Śląskiego, Katowice, 1998, p. 11.

2 For more see: Zimmermann, J., *Prawo administracyjne*, Wolters Kluwer, Warszawa, 2010, p. 92.

3 See Jełowicki, M., *Nauka administracji. Zagadnienia wybrane*, PWN, Warszawa, 1987, p. 145 et seq.

4 For more see: Zacharko, L. (ed.), *Organizacja prawna administracji publicznej*, Wydawnictwo Uniwersytetu Śląskiego, Katowice, 2013, passim.

5 Kowalewski, S., *Nauka administracji*, PWN, Łódź, 1971, p. 91.

6 Knosala, E., *Rozważania z teorii nauki administracji*, Śląskie Wydawnictwa Naukowe, Tychy, 2004, p. 89.

substantive meaning is composed of subjective and objective elements.[7] Such a case should be handled either by reaching an agreement or by unilateral resolution by an administrative body.[8] In the analysis of an administrative case punctuality, it is also necessary to remember about a complaint proceeding (by means of appealing in accordance with Article 237 § 4 Code of Administrative Procedure[9]), which ends with a technical act in the form of a notification.[10]

Bearing in mind a dogmatic legal method and a critical analysis of secondary sources, as well as an analysis of numerous judgments of administrative courts, one should interpret and draw conclusions concerning time limits and reasons for failing to meet them in general administrative proceedings, tax proceedings and simplified complaint proceedings in order to draw attention to the significance of the correct, exhaustive and true justification of the reasons why administrative bodies procrastinate and set new deadlines for handling administrative cases, as well as to supplement courts' opinions. The analysis does not cover the issue of punctuality of performing tasks imposed on public administration that are not connected with administrative proceedings, because it should always be done without delay and there are no provisions stipulating strict deadlines in such cases. The efficiency of public administration bodies' functioning is an indicator of the efficiency of the functioning of the state.

BINDING TIME LIMITS FOR ADMINISTRATIVE PROCEEDINGS

The expeditiousness of administrative proceedings is in the interest of a citizen as well as in the social interest.[11] Appeals are made to save people's time and means because both administrative bodies and parties to a proceeding incur the costs of it.[12] The provisions regulating general administrative proceedings as well as those concerning tax proceedings[13] oblige public administrative bodies to act insightfully and promptly, using the simplest possible measures leading to the resolution of a case (Article 12 § 1 CAP and Article 125 § 1 TL).

The principle of expeditiousness and simplicity of an administrative proceeding is especially significant not only from the point of view of the general social perception of the efficiency of public authorities' functioning but first of all due to the protection of an individual against the lengthiness of a proceeding and

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[7] The Supreme Administrative Court judgment of 19.01.2017, I FSK 925/15 (https://orzeczenia.nsa.gov.pl/doc/812F52A7D1, accessed on 7.02.2022).

[8] Jendrośka, J., *Ogólne postępowanie administracyjne i sądowoadministracyjne*, Kolonia Limited, Wrocław, 2005, p. 87.

[9] Act of 14 June 1960: Code of Administrative Procedure (consolidated text, Journal of Laws of 2022, item 2000), hereinafter referred to as "CAP".

[10] For more see: Hrynicki, W.M., *Skargi, wnioski, petycje i inne interwencje obywatelskie*, Wolters Kluwer, Warszawa, 2022, passim.

[11] Ochendowski, E., *Postępowanie administracyjne i sądowoadministracyjne*, Dom Organizatora TNOiK, Toruń, 2000, p. 100.

[12] Służewski, J., in: Służewski, J. (ed.), *Polskie prawo administracyjne*, PWN, Warszawa, 1992, p. 230.

[13] Act of 29 August 1997: Tax Law (consolidated text, Journal of Laws of 2021, item 1540, as amended), hereinafter referred to as "TL".

procrastination of the issue of a resolving decision. Delayed handling of a case may prove to be aimless, result in a loss to an individual, or cause that the issued decision is deprived of value it might have had if it had been issued on time.[14]

The conduction of a proceeding lengthily undermines an individual's trust in the state and law, as well as the authority of the state institutions.[15] However, the principle of proceeding expeditiousness cannot result in the abandoning of handling a case in a respectful, insightful, lawful and objectively honest way in accordance with the principle of the parties' active participation in a proceeding. The competition between those principles must be subordinated to the principle of rationality. The principle of trust is believed to be a fastener that links all general rules of a proceeding,[16] and proceeding expeditiousness cannot justify breaching other principles and public decency.[17]

The legislator laid down some general time limits for handling cases in Code of Administrative Procedure and Tax Law. They are as follows:

– promptness (Article 35 § 2 CAP and Article 139 § 2 TL) and lack of unnecessary delay (Article 35 § 1 CAP and Article. 139 § 1 TL, and Article 237 § 1 CAP),
– basic time limit of one month (Article 35 § 3 CAP and Article 139 § 1 TL, and Article 237 § 1 CAP),
– two-month time limit for especially complex cases or in tax appeal proceedings (Article 35 § 3 CAP and Article 139 § 1 and § 3 TL),
– three-month time limit for cases in which there was a trial or a party filed a motion to resolve a matter concerning a tax appeal proceeding in the form of a trial (Article 139 § 3 TL).

The differentiation of time limits for handling cases results from the use of criteria based on the different nature of cases and the level of their complexity.[18] They are maximum limits,[19] which is highlighted in judgments of administrative courts and which the phrase "not later than" used by the legislator indicates, and an administration body should not carry out a proceeding in the way postponing its conclusion until the end of the time limit.

Promptness and a lack of unnecessary delay constitute relatively determined administrative time limits.[20] Cases that should be promptly handled include ones

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[14] Golęba, A., in: Knysiak-Sudyka, H. (ed.), *Kodeks postępowania administracyjnego. Komentarz*, Wolters Kluwer, Warszawa, 2019, p. 358.

[15] See Kotulska, M., 'Czas a postępowanie administracyjne', in: Niczyporuk, J. (ed.), *Kodyfikacja postępowania administracyjnego na 50-lecie K.P.A.*, Wydawnictwo WSPA, Lublin, 2010, pp. 424–425.

[16] Cf. Skrenty, Ż., 'Zaufanie obywateli do organów władzy publicznej w świetle orzecznictwa sądowego i poglądów doktryny', *Studia Lubuskie*, 2013, No. IX, pp. 97–112.

[17] Dzwonkowski, H., Dzwonkowski, M., in: Dzwonkowski, H. (ed.), *Ordynacja podatkowa. Komentarz,* C.H. Beck, Warszawa, 2020, p. 890.

[18] Kędziora, R., *Kodeks postępowania administracyjnego. Komentarz*, C.H. Beck, Warszawa, 2017, p. 262.

[19] E.g. judgment of the Voivodeship Administrative Court in Wrocław of 7.06.2022, II SAB/Wr 1562/21 (https://orzeczenia.nsa.gov.pl/doc/90A2ADC1EF, accessed on 7.02.2022).

[20] Wiktorowska, A., in: Wierzbowski, M., Szubiakowski, M., Wiktorowska, A. (ed.), *Postępowanie administracyjne – ogólne, podatkowe, egzekucyjne i przed sądami administracyjnymi*, C.H. Beck, Warszawa, 2004, p. 70.

the actual and legal state of which may be at once reliably established the moment a proceeding is initiated based on the existing evidence, however, it does not concern only simple and routine cases.[21] Acting without unnecessary delay means a ban on groundless retention of cases and refraining from initiating proceedings, and an obligation to conduct proceedings without unnecessary pauses and lengthiness.[22] Both conditions (promptness and a lack of unnecessary delay) do not mean that a case should be dealt with immediately.[23] The identical phrases "without unnecessary delay" used in Article 35 § 1 and Article 237 § 1 CAP with regard to a simplified complaint proceeding should be interpreted in the same way.[24]

Promptness in a tax proceeding determines the method of dealing with a case and, as a rule, does not allow whatever delay in handling a case,[25] thus, whatever stoppage (even substantiated). On the other hand, the phrase "without unnecessary delay" concerns a tax evidence proceeding and means in fact that it is admissible to postpone the handling of a case, extend the time limit, but only if it is justified and necessary.[26] Nevertheless, from the point of view of the present considerations, the differentiation presented is not significant, and promptness and a lack of unnecessary delay should be classified as a type of time limit that obliges an administrative body to act as quickly as possible, eliminating whatever stoppages, pauses, postponing, and at the same time does not eliminate the obligation to be thorough and earnest.

The maximum one-month time limit for a general administrative proceeding is set for cases requiring the conduction of an explanatory proceeding and cases dealt with in an appeal proceeding (Article 35 § 3 CAP). Also simplified proceedings (Article 35 § 3a CAP) and complaint cases (Article 237 § 1 CAP) should be conducted within this time limit. In tax proceedings, only cases requiring the conduction of an evidence proceeding and ones before the first instance bodies (Article 139 § 1 TL) should be handled within the maximum one-month time limit.

On the other hand, especially complex case in a general administrative proceeding (Article 35 § 3 CAP) as well as in a tax proceeding (Article 139 § 1 TL) are dealt with within the maximum two-month time limit. The assessment of the level of a case complexity is within the competence of the body conducting a proceeding, which has the best view of the actual as well as legal state of the case. What may determine the especially complex nature of a case is, for example, a number of parties to the proceeding, a complex nature of the rights or obligations shaped by an administrative decision, difficulties in establishing the legal state in which

[21] Adamiak, B., Borkowski, J., *Kodeks postępowania administracyjnego. Komentarz*, C.H. Beck, Warszawa, 2017, p. 285.

[22] Orzechowski, R., in: Borkowski, J., Jendrośka, J., Orzechowski, R., Zieliński, A. (ed.), *Kodeks postępowania administracyjnego. Komentarz*, Wydawnictwo Prawnicze, Warszawa, 1989, p. 128.

[23] Cf. Przybysz, P., *Kodeks postępowania administracyjnego. Komentarz*, Wolters Kluwer, Warszawa, 2017, p. 186.

[24] Kledzik, P., *Postępowanie administracyjne w sprawie skarg i wniosków*, Pressom, Wrocław, 2012, p. 76.

[25] Dzwonkowski, H., Damaz, M., in: Dzwonkowski, H. (ed.), *Ordynacja podatkowa. Komentarz,* C.H. Beck, Warszawa, 2020, p. 949.

[26] Szymański, T., in: Mariański, A. (ed.), *Ordynacja podatkowa. Komentarz*, C.H. Beck, Warszawa, 2021, p. 741.

a legal relationship under assessment in an administrative proceeding was shaped.[27] Moreover, cases in tax appeal proceedings are dealt with within the maximum two-month time limit, and ones that are especially complex in this proceeding are dealt with within the maximum three-month time limit.

REAL REASONS FOR FAILURES TO HANDLE CASES PUNCTUALLY (WITHIN THE SET TIME LIMIT)

Failure to handle an administrative (tax/complaint) case within the set time limit should be incidental in nature and should be justified well. It cannot be assumed that the legislator introduced deadlines that cannot be met, because it would mean that the legislator was irrational. Groundless procrastination of a case may have a negative influence on the rights and obligations of the parties to a proceeding. The authorities' obligation to deal with a case prevents the so-called silence of the authorities in an administrative proceeding, which may have a negative influence on the parties' interests equal to a refusal decision.[28] Finally, a failure to handle a case punctually may violate the provisions of the law or be justified by the existence of other legal norms.

An unjustified failure to handle a case within a given time limit may lead to an administrative body's inaction or its lengthy functioning. While inaction is relatively easy to identify because it constitutes a failure to handle a case within the time limit laid down in a legal provision or set by an administrative body (Article 37 § 1(1) CAP and Article 140 TL), the lengthiness of a proceeding is highly evaluative in nature and occurs when a proceeding is carried out longer than necessary to resolve a case (Article 37 § 1(2) CAP). The Supreme Administrative Court stated that a proceeding conducted lengthily is one carried out in an inefficient way by means of performing superficial activities causing that formally an administrative body is not inactive, and also by increasing the number of the evidence proceeding activities over the amount that is necessary based on the nature of a case.[29] The Voivodeship Administrative Court in Wrocław, added that a proceeding conducted this way should be assessed as negligent[30] and lengthy provided that there are unjustified pauses between an administrative body's particular activities leading to considerable and unacceptable, from the point of view of procedural economics,

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[27] Kędziora, R., *Kodeks…*, op. cit., p. 263.

[28] Klonowiecki, W., *Strona w postępowaniu administracyjnym*, Towarzystwo Naukowe KUL, Lublin, 1938, p. 74.

[29] The Supreme Administrative Court judgment of 27.08.2013, II OSK 549/13 (https://orzeczenia.nsa.gov.pl/doc/E547CC06DB); the Supreme Administrative Court judgment of 21.11.2017, I FSK 2223/15 (https://orzeczenia.nsa.gov.pl/doc/05EBE610DC); similarly judgment of the Voivodeship Administrative Court in Szczecin of 2.06.2022, II SAB/Sz 43/22 (https://orzeczenia.nsa.gov.pl/doc/83E8E5F1), the judgment of the Voivodeship Administrative Court in Gdańsk of 2.06.2022, III SAB/Gd 11/22 (https://orzeczenia.nsa.gov.pl/doc/571620D84C, accessed on 7.02.2022).

[30] Judgment of the Voivodeship Administrative Court in Wrocław of 31.05.2022, IV SAB/Wr 43/22 (https://orzeczenia.nsa.gov.pl/doc/3824E47B, accessed on 7.02.2022).

lengthening of the proceeding period.[31] In literature, it is also highlighted that the lengthy conduction of proceedings should be understood as their inefficiency, performance of activities after a long lapse of time, or performing superficial activities that let an administrative body show it is formally not inactive.[32]

Thus, the necessity of properly justifying a failure to handle an administrative case within the time limit seems to be extremely important, and rich administrative courts' judgments in this area support a conclusion that the problem is significant from the point of view of public administration bodies' practice.[33] However, the multiplicity of court judgments requires systemising and developing. The right justification of a failure to handle a case within a set time limit also results from the principle concerning the need to inform a party to a proceeding about significant actual and legal circumstances of a case (Article 9 CAP and Article 121 § 2 TL), as well as the principle of acting in a way that lets people have confidence in public authorities' bodies (Article 8 § 1 CAP and Article 121 § 1 TL).[34] Failing to stick to these principles may result in inaction or lengthiness of proceedings.

Based on the above considerations, it is necessary to assume that:

(1) in spite of the lack of a clear obligation, the reasons for failing to meet a deadline for handling a case should be provided as precisely as possible and be really related to the circumstances of a given case;
(2) the reasons that are not related to the circumstances of a given case should not be recognised as the factors justifying a failure to handle a case within the obligatory time limit;
(3) the reasons that to some extent are related to the circumstances of a given case but are expressed in a too general way should not be recognised as the factors justifying a failure to handle a case within the set time limit, either.

In the first area of the considerations, it should be emphasised that the factors justifying a delay in handling a case should be strictly related to a given case. In other words, the reasons for failing to meet a deadline for handling a case should be substantiated by the circumstances of this particular case (they should be set in the reality of a given case). Indication of those obstacles should be detailed, thorough, exhaustive and clear to a party to the proceeding. An administrative body

[31] Judgment of the Voivodeship Administrative Court in Wrocław of 26.05.2022, IV SAB/Wr 295/22 (https://orzeczenia.nsa.gov.pl/doc/7F13897932, accessed on 7.02.2022).

[32] Tarno, J.P., *Prawo o postępowaniu przed sądami administracyjnymi. Komentarz*, Wydawnictwo LexisNexis, Warszawa, 2012, p. 44; similarly Dzwonkowski, H., Damaz, M., in: Dzwonkowski, H. (ed.), *Ordynacja podatkowa. Komentarz*, C.H. Beck, Warszawa, 2020, p. 955.

[33] According to "Information about administrative courts functioning in 2021", voivodeship administrative courts heard 13,635 complaints about inaction of administrative bodies and lengthy conduction of proceedings, of which 48.6% were upheld (file:///C:/Users/USER1/Downloads/2021%20(3).pdf). On the other hand, in 2020 voivodeship administrative courts heard 8,311 complaints about the same matters, of which 46.29% were upheld (file:///C:/Users/USER1/Downloads/2020.pdf), accessed on 7.02.2022.

[34] Judgment of the Voivodeship Administrative Court in Opole of 14.04.2022, II SAB/Op 9/22 (https://orzeczenia.nsa.gov.pl/doc/D5A954231A, accessed on 7.02.2022).

should inform what steps it took and for what particular reason it cannot conclude an evidence proceeding and issue a decision.[35]

An appeal should be made for making the reasons correspond to an evidence proceeding carried out, which was highlighted by administrative courts indicating, for example, that undertaking the first procedural step after a complaint has been filed (…), indicates an administrative body's inertness and no concentration of evidence proceeding activities.[36] Increasing the number of the evidence proceeding activities above the needs resulting from the essence of the case,[37] as well as inefficient collection of evidence[38] cannot justify a failure to handle a case within the time limit. The principle of the expeditiousness of a proceeding and the resulting obligation to handle a case promptly cannot lead to the infringement of legal provisions, abandoning some forms of a proceeding, violation of the parties' procedural rights etc. in the name of this expeditiousness.[39]

A party to a proceeding should be without delay notified about the reason for a failure to handle a case within the time limit.[40] It should happen the moment any obstacles to continue a proceeding occur without waiting until the deadline for handling it expires.[41] It should be also emphasised that postponing a deadline for handling a case, an administrative body is obliged to explain the reasons for that in a way that can be verified.[42]

It should be pointed out that the reasons strictly related to the circumstances of a given case are not the only ones that can justify a failure to handle a case punctually. Such a conclusion would be inappropriate, because it would not take into account extraordinary situations resulting in an administrative body's temporary inability to operate (e.g. flood, fire, evacuation, war). However, at the time of standard (typical) functioning of public administration bodies that is not disrupted by external factors (independent of an administrative body), the reasons for delay in handling a case should be strictly related to this case.

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[35] Cf. Pater, I., Pater, J., 'Środki prawne służące stronie na bezczynność organu podatkowego', *Monitor Podatkowy*, No. 4, 2001, pp. 29–34.

[36] Judgments of the Voivodeship Administrative Court in Wrocław of 31.05.2022, II SAB/Wr 63/22 (https://orzeczenia.nsa.gov.pl/doc/23D434B05C) and IV SAB/Wr 38/22 (https://orzeczenia.nsa.gov.pl/doc/843B6B66C1); judgment of the Voivodeship Administrative Court in Poznań of 16.01.2019, II SAB/Po 17/18 (https://orzeczenia.nsa.gov.pl/doc/930AE9DEDB), accessed on 7.02.2022.

[37] Judgment of the Voivodeship Administrative Court in Wrocław of 26.05.2022, I SAB/Wr 183/22 (https://orzeczenia.nsa.gov.pl/doc/5F8F9E0033, accessed on 7.02.2022).

[38] Judgment of the Voivodeship Administrative Court in Wrocław of 10.05.2022, II SAB/Wr 1484/21 (https://orzeczenia.nsa.gov.pl/doc/3F6AD32399, accessed on 7.02.2022).

[39] Adamiak, B., in:, Adamiak, B., Borkowski, J. (eds), *Kodeks postępowania administracyjnego. Komentarz*, C.H. Beck, Warszawa, 2017, p. 105.

[40] Judgment of the Voivodeship Administrative Court in Wrocław of 31.05.2022, IV SAB/Wr 48/22 (https://orzeczenia.nsa.gov.pl/doc/E1D56DD689, accessed on 7.02.2022).

[41] Dzwonkowski, H., Damaz, M., in: Dzwonkowski, H. (ed.), *Ordynacja podatkowa. Komentarz,* C.H. Beck, Warszawa, 2020, p. 952.

[42] Judgment of the Voivodeship Administrative Court in Łódź of 14.05.2020, I SAB/Łd 1/20 (https://orzeczenia.nsa.gov.pl/doc/92B09B87FA, accessed on 7.02.2022).

INAPPROPRIATE REASONS FOR A FAILURE TO HANDLE A CASE WITHIN THE OBLIGATORY TIME LIMIT

Unfortunately, as numerous administrative courts' judgments indicate, it happens that public administration bodies justify a failure to meet a deadline for handling a case by facing problems unrelated to a given proceeding, thus not directly affecting a proceeding, and factors that an administrative body can influence in fact. Therefore, it is necessary to identify inappropriate reasons unrelated to the circumstances of a given case quoted by administrative bodies as ones for a failure to handle a case punctually. Most often they include staffing problems (including holiday seasons, insufficient staffing levels) and being overloaded with work.

Broadly understood staffing problems occurring in an administrative institution (including a holiday season) should not constitute a reason for a failure to handle an administrative case within a time limit. Clerks on leave, regardless of the type: resulting from Employment Code[43] or other legal acts[44] regulations, and even individual terms of work and pay, should be planned and granted by managers of administrative institutions in a way ensuring continuity of proper functioning of a given administrative body. An employee's leave or any other staffing problems, especially related to clerk staffing levels, should not be a formal reason for a failure to handle a case on time. A staffing policy towards persons performing tasks of a public administration body and their supervisors should be shaped in the way ensuring the right staff able to perform their tasks at every stage of their fulfilment.

Courts' judgments also confirm this inference. Staffing problems and insufficient staffing levels cannot justify lengthiness and inaction of an administrative body,[45] because state institutions are obliged to organise work and employ such resources that can ensure the performance of tasks assigned to them. The issue of potential staffing problems does not exclude a possibility of stating that an administrative body indulged in inaction, because the state of inaction is an objective situation and is a consequence of an administrative body's failure to undertake procedural activities within the statutory time limits.[46] Problems with work organisation in an institution, reflected in the form of e.g. difficulties in recruiting employees, or temporary staffing problems resulting from employees' leave of absence cannot limit the rights of a party to a proceeding or constitute justification of the infringement of those rights.[47] Potential staffing problems should be predicted in the process of planning the work of a public administration body and the plan alone should forecast mechanisms of functioning when they occur and methods and ways of

[43] Act of 26 June 1974: Employment Code (consolidated text, Journal of Laws of 2022, item 1510 as amended).

[44] E.g. Act of 21 November 2008 on civil service (consolidated text, Journal of Laws of 2022, item 1691).

[45] Judgment of the Voivodeship Administrative Court in Poznań of 14.06.2022, II SAB/Po 90/22 (https://orzeczenia.nsa.gov.pl/doc/359A1D28E2, accessed on 7.02.2022).

[46] Judgment of the Voivodeship Administrative Court in Poznań of 1.06.2022, II SAB/Po 244/21 (https://orzeczenia.nsa.gov.pl/doc/02AAB146B1, accessed on 7.02.2022).

[47] Judgment of the Voivodeship Administrative Court in Gorzów Wielkopolski of 8.06.2022, II SAB/Go 37/22 (https://orzeczenia.nsa.gov.pl/doc/6C9E0648, accessed on 7.02.2022).

their elimination. Proper organisation of tasks and employment of appropriate staff are parts of the public mission, which cannot be accomplished to the detriment of an individual.[48] Inertness resulting from insufficient staffing levels is not the fault of particular employees but it can be a consequence of the lack of the appropriate strengthening of organisational units.[49]

Against the background of this inference, one should agree with the statement that a man in an administrative organisation cannot be automatically treated as a supine element of a big system that has no will, feelings and interests because these would limit the steering ability of the system.[50]

Overload of cases is a more complicated situation but also inadmissible as a reason for failing to handle a case within the time limit. It should be admitted that work overload can take place in every administrative body, especially when regulations change. However, public authorities should act in such a way that lets them prepare to changes and reduce the risk of being dysfunctional. It is true that work overload can occur at the initial stage of the change in regulations that influence the heavy workload in public administration, but it should be eliminated as quickly as possible by undertaking all possible organisational activities, both personal and material. Overload of cases must not be a permanent reason for a failure to handle cases punctually. Therefore, while heavy workload can occasionally be quoted as a factor that prevents punctual handling of an administrative case, it cannot be a reason regularly quoted by an administrative body in decisions (notifications) informing a party about a failure to handle a case and assigning new time limits.

Administrative courts also criticised quoting overload of cases as a reason for lengthening the time necessary to deal with an administrative case. An administrative body cannot justify lengthiness by a big number of applications because state authorities are obliged to organise work in the way and employ such resources that will enable them to perform all assigned tasks.[51] Big inflow of cases cannot limit the rights of a party to a proceeding or justify the infringement of them.

It should be noticed that overload of cases as a reason which is not directly related to a proceeding conducted is often a real reason for a failure to perform a particular activity within a proceeding, which would help conclude it. Thus, overload of cases only causes a failure to perform some activities necessary in a proceeding and having influence on the handling of a case. Thus, the justification of a failure to

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[48] Judgment of the Voivodeship Administrative Court in Wrocław of 31.05.2022, IV SAB/Wr 48/22 (https://orzeczenia.nsa.gov.pl/doc/E1D56DD689, accessed on 7.02.2022).

[49] Judgment of the Voivodeship Administrative Court in Poznań of 9.06.2022, II SAB/Po 62/22 (https://orzeczenia.nsa.gov.pl/doc/9F939EABCC, accessed on 7.02.2022).

[50] Knosala, E., *Organizacja administracji publicznej. Studium z nauki administracji i prawa administracyjnego*, Wyższa Szkoła Zarządzania i Marketingu, Sosnowiec, 2005, p. 19.

[51] Judgment of the Voivodeship Administrative Court in Poznań of 9.06.2022, II SAB/Po 62/22 (https://orzeczenia.nsa.gov.pl/doc/9F939EABCC); judgment of the Voivodeship Administrative Court in Gorzów Wielkopolski of 8.06.2022, II SAB/Go 37/22 (https://orzeczenia.nsa.gov.pl/doc/6C9E0648); judgment of the Voivodeship Administrative Court in Poznań of 1.06.2022, II SAB/Po 244/21 (https://orzeczenia.nsa.gov.pl/doc/02AAB146B1), accessed on 7.02.2022.

handle a case based on overload of cases seems inappropriate, insufficient and not reflecting the true reason for a delay to justify a failure to handle a case.

The Voivodeship Administrative Court in Wrocław stated that a big number of applications influences the efficiency of an administrative body, but it is inadmissible in the state of justice that this situation has not been improved recently.[52] The Voivodeship Administrative Court in Poznań also stated that a big number of cases do not exclude a possibility of recognising that an administrative body indulged in inertness, but can be taken into consideration in the assessment whether lengthiness of a proceeding took place with a flagrant breach of law. The increase in the number of cases must result in delays in their resolution. These are objective difficulties causing the lengthening of proceedings and they cannot be ignored in the evaluation of the functioning of an administrative body.[53]

Decisions (notifications) informing about the reasons for failing to handle a case within the time limit and assigning a new deadline that refer only to an overload of cases should be recognised as one that informs a party to the proceeding in an insufficient and unsatisfactory way. Whenever an administrative body refers to the overload of cases, it should also inform what measures were taken to solve a problem and which activities are really still delayed and must be performed. Promptness of administrative activities also depends on decision makers planning employment and remuneration levels,[54] and there are special requirements for management staff.[55]

Another area under consideration with regard to inappropriate reasons for failing to handle a case on time includes causes connected with the circumstances of a given case but they should not be quoted as those reasons due to a high level of generalisation. They most often include legal norms that prevent punctual handling of a case as well as the fact that an evidence proceeding is conducted or a case is complex in nature.

Other legal norms that are allegedly in conflict with the norms assigning time limits are pretexts that should never constitute reasons for failing to handle an administrative (tax related) case. The norms include Article 10 § 1 CAP in relation to general administrative proceedings, Article 200 TL in relation to tax proceedings and time limits for serving letters assigned for both types (Article 39 and the subsequent CAP and Article 144 and the subsequent TL), respectively.

Tax authorities in particular relatively often justify a failure to handle a case on time quoting an obligation to assign a seven-day time limit for a party to respond in connection with the collected evidence (Article 200 § 1 TL). Such conduct should be recognised as inadmissible for two reasons.

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[52] Judgment of the Voivodeship Administrative Court in Wrocław of 26.05.2022, I SAB/Wr 2754/21 (https://orzeczenia.nsa.gov.pl/doc/779A57C213, accessed on 7.02.2022).

[53] Judgment of the Voivodeship Administrative Court in Poznań of 1.06.2022 r. II SAB Po 244/21 (https://orzeczenia.nsa.gov.pl/doc/02AAB146B1, accessed on 7.02.2022).

[54] Gruszczyński, B., Kabat, A., in: *Ordynacja podatkowa. Komentarz*, Babiarz, S., Dauter, B., Gruszczyński, B., Hauser, R., Kabat, A., Niezgódka-Medek, M., Wolters Kluwer, Warszawa, 2015, p. 696.

[55] Leoński, Z., *Nauka administracji*, C.H. Beck, Warszawa, 2002, p. 111.

Firstly, an administrative body justifying a failure to handle a case on time quoting the obligation imposed by the provision of Article 200 § 1 TL to assign a seven-day time limit for a party to respond in connection with the collected evidence assumes that the legislator irrationally shaped the provisions regulating tax proceedings and did not take into account a period long enough to deal with a tax related case. However, as it was mentioned above, the legislator rationally assigned a longer two or three-month periods for especially complex cases and appeals. Thus, the legislator decided that in uncomplicated cases settled without delay but not later than within a month, and in more difficult cases settled within two or three months, there is a real possibility of ensuring a party's right to take actively participation in a proceeding by assigning a seven-day time limit to respond in connection with the issue of evidence collected. Thus, a tax authority cannot *ergo* assume that the legislator conflicted the provisions regulating time limits for resolving tax related cases with the obligation to ensure a possibility of responding in connection with the evidence collected.

Secondly, justifying a failure to meet a deadline for handling a case by quoting the need to comply with Article 200 § 1 TL is not understandable for a party to a proceeding, because what happens is really a specific type of attempt to shift the moral responsibility for unpunctuality on the legislator or a party. Thus, a tax authority often sends an untrue message to a party: "*we have done everything within the case but the obligation under Article 200 § 1 TL or the party's activity prevented the conclusion of the proceeding on time*". Such a deduction is not only unfair but it is not transparent and in fact does not explain the reason for a delay. The Supreme Administrative Court stated that Article 200 § 1 TL, which contains a definite specification of the norm laid down in Article 123 TL, constitutes a statutory guarantee of the exercise of the rights of a party to a tax proceeding within the area of his full participation in this proceeding.[56] Thus, the provision of Article 200 § 1 TL cannot be in conflict with the obligation to handle a case on time. The Supreme Audit Office also pointed out that indicating the obligation to enable a party to exercise his rights under Article 200 § 1 TL as a reason for lengthening the time limit for handling a case is an activity that is not earnest in nature and misinforms a taxpayer about the real reason for postponing the deadline for concluding a proceeding.[57]

It should be pointed out that, in fact, it is not the obligation to assign a seven-day time limit to respond in connection with the evidence collected that constitutes the reason for failing to meet the deadline for handling a case but there are usually other reasons that occur before the fulfilment of the obligation under Article 200 § 1 TL (most often related to the evidence proceeding conducted). Therefore, the delayed fulfilment of the obligation under Article 200 § 1 TL is a kind of consequence of other causes of lengthening a tax proceeding and not just a reason for failing to handle a case on time alone. It should be also taken into account that the assignment

[56] Judgment of the Supreme Administrative Court of 5.07.2011, I GSK 417/10 (https://orzeczenia.nsa.gov.pl/doc/C47F283059, accessed on 7.02.2022).

[57] Public address after the Supreme Audit Office – Department in Poznań audit, LPO-4101-21-03/2013/P/13/039 of 17.12.2013, conducted in the Tax Office in Poznań-Nowe Miasto (C:/Users/USER1/Downloads/P-13-039-LPO-03-01.pdf, accessed on 7.02.2022).

of a seven-day time limit for responding in connection with the evidence collected also means that, in the opinion of the tax authority, the evidence collected in the course of a proceeding is complete and there is no other evidence significant from the point of view of legal and tax related actual state about which a tax authority may learn in the standard course of activities.[58] Thereby, the real reasons for failing to handle a case on time usually consist in delays in the conduction of a tax proceeding that result in the postponed exercise of the right under Article 200 § 1 TL. The former usually have connotations with the phenomena described above, i.e. organisational problems including overload of cases and staffing problems. The latter, on the other hand, result from a far-reaching tax proceeding the duration of which can be lengthened by cooperation with other administrative bodies, including tax authorities in other countries. However, regardless of what causes delays in the fulfilment of an obligation under Article 200 § 1 TL, the obligation resulting from this provision is not the reason for failing to handle a case on time. The real reasons for that are different.

Administrative bodies should not justify a failure to handle a case on time by referring to evidence proceedings in progress or a complex nature of a case without the indication of sufficient details that still must be examined or explained. An evidence proceeding constitutes an extremely important part of an administrative proceeding and as such it cannot be an obstacle to punctual handling of a case, even if this case is complicated. It is one of the basic stages of a process of applying a substantive law norm,[59] and it aims to exhaustively examine all actual circumstances of a given case in order to create its real picture and have grounds for applying legal provisions.[60] Only such findings may constitute a guarantee that the principle of objective truth will be stuck to.[61] For example, in a tax proceeding, the scope of an evidence proceeding is determined mostly by the scope of a tax related case (i.e. its subject matter, namely a tax) within which an occurrence of tax liabilities will be examined.[62]

The Voivodeship Administrative Court in Olsztyn was right to point out that the legislator admitted a possibility of compromising the principle of prompt (within the set time limits) handling of a case that gives priority to other procedural principles, especially the principle of thorough explanation of a case, and collection and exhaustive examination of the whole evidence, which constitute a necessary requirement for appropriate application of substantive law.[63] On the other hand, the Voivodeship Administrative Court in Wrocław, stated that in cases concerning

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[58] Miśkiewicz, M., Mariański, A., in: Mariański, A. (ed.), *Ordynacja podatkowa. Komentarz*, C.H. Beck, Warszawa, 2021, p. 909.

[59] Wróblewski, J., *Sądowe stosowanie prawa*, PWN, Warszawa, 1972, p. 52.

[60] Dawidowicz, W., *Ogólne postępowanie administracyjne. Zarys systemu*, PWN, Warszawa, 1962, p. 108.

[61] Dzwonkowski, H., Gorąca-Paczuska, J., in: Dzwonkowski, H. (ed.), *Ordynacja podatkowa. Komentarz,* C.H. Beck, Warszawa, 2020, p. 1053.

[62] Miśkiewicz, M., Mariański, A., in: Mariański, A. (ed.), *Ordynacja podatkowa. Komentarz*, C.H. Beck, Warszawa, 2021, p. 857.

[63] Judgment of the Voivodeship Administrative Court in Olsztyn of 10.05.2018, I SAB/Ol 6/18 (https://orzeczenia.nsa.gov.pl/doc/602DB5099A, accessed on 7.02.2022).

a complicated actual state, in which it is necessary to examine a lot of evidence, an administrative body is obliged to conduct a proceeding efficiently, which not always means quickly, in order to determine an actual state and resolve a case properly[64]; and as the legislator differentiates time limits based on the levels of complexity of cases, not every delay means that an administrative body was inactive or conducted a proceeding lengthily (…), however, undoubtedly, even in complicated cases an administrative body should act incisively and quickly.[65] At the same time, the Court once again criticised administrative bodies for undertaking inefficient activities that are not aimed at collecting necessary evidence, do not explain important circumstances and do not lead to the conclusion of a proceeding.

In the light of that, it should be emphasised that particular elements of an evidence proceeding may in fact constitute real reasons for failing to handle a case on time and even, as it was indicated above, that it usually happens, especially when a case is complicated. For example, it may concern the need to question many witnesses, audit or make some checks on a business partner of the party to a proceeding, or to wait for some important information from another state administration body. Such detailed reasons, constituting *de facto* an element of an evidence proceeding, may be indicated as reasons for failing to handle a case within the time limit, because they sufficiently inform a party to a proceeding about an obstacle in the way to conclude a case, and first of all they are true. On the other hand, a general indication of "an evidence proceeding" or "a complicated nature of a case" as reasons for failing to handle a case within the time limit without the provision of relevant details is unclear for a party to the proceeding and makes an impression that an evidence proceeding is in conflict with handling a case within the statutory time limit, which is not in accordance with the legislator's intention. It is not desired and even should not be admissible to indicate the reasons at such levels of generalisation that in fact do not explain real causes of a delay to a party to a proceeding but just satisfy the formal requirement of notifications. Therefore, it is necessary to postulate that the reasons given in decisions (notifications) on the lengthening of a time limit for handling a case are thoroughly specified.

CONCLUSIONS

Summing up, it is necessary to emphasise that efficiency and punctuality of handling administrative cases constitute significant factors through the prism of which society assesses not only administrative authorities but also the entire state. The statutory time limits for handling administrative (tax or complaint) proceedings laid down by the legislator are not always sufficient to conclude a proceeding avoiding its lengthening, nevertheless the reasons for delays should be specified strictly and thoroughly.

[64] Judgment of the Voivodeship Administrative Court in Wrocław of 26.05.2022, IV SAB/Wr 295/22 (https://orzeczenia.nsa.gov.pl/doc/7F13897932, accessed on 7.02.2022).

[65] Judgment of the Voivodeship Administrative Court in Wrocław of 7.06.2022, II SAB/Wr 1562/21 (https://orzeczenia.nsa.gov.pl/doc/90A2ADC1EF, accessed on 7.02.022).

It should be emphasised that a failure to handle an administrative (tax or complaint) case within the time limit should be justified by providing real reasons actually occurring in this proceeding. Appropriate indication of reasons for a delay should be set in real circumstances of the given case, thus, the reasons given to a party to the proceeding should not go beyond the context of the given case, which was repeatedly confirmed by administrative courts.

In the light of the above, it is absolutely necessary to eliminate situations, in which administrative bodies quote inappropriate reasons for failing to handle a case punctually, those that go beyond the scope of a given proceeding and cannot be influenced by an administrative body, as well as those that are strictly related to a given proceeding but presented in a too general way, in fact, do not inform a party to a proceeding about the reasons for a delay. The first group of inappropriate reasons includes in particular staffing problems in an administrative body involved and overload of cases. On the other hand, the second group of reasons includes events of referring to legal norms that are allegedly in conflict with the obligation to handle a case within the given time limit, the fact of conducting an evidence proceeding and a complicated nature of a case. All these reasons do not provide sufficient information about the real causes of a delay, which usually consists in an element of an evidence proceeding.

In conclusion, administrative bodies that justify a delay should give real reasons occurring in a given proceeding. Those reasons should reflect the actual state as thoroughly as possible, and the reasons alone should be strictly connected with the case. Giving general reasons should be avoided, especially when an administrative body can influence them. Giving reasons for a delay in a detailed way is in conformity with the principle of striving for objective truth and influences a general appraisal of an administrative body.

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