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Water Service as a Means of Ensuring a Public Good and the River Basin Management Plan in the Context of Procedures for General and Specific Acts: EU Institutions Against the Background of Professor Kasznica's Work

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Abstract
The subject of the article is the institutions of European law as defined by the Water Framework Directive. They are mentioned in the title of the article. It is important that both of these institutions are described and analysed in the context of Professor Kasznica's scientific output concerning the manner of ensuring the use of a public thing (here, the water service) and in the context of the procedures of applying general and specific acts (here, the river basin management plan). It is shown that the scientific theses of the professor remain valid also in the context of the regulations of European administrative law.

Keywords
water law; water service; public goods; administrative general act

1. Introduction

In the outstanding academic work of Professor Stanisław Kasznica, two fields of activity can be highlighted and addressed in this publication: firstly, the subject of administrative law and the purpose of public administration bodies, and secondly, the mode of action of administration and administrative law directly (in those cases where administrative jurisdiction is not required, or the organisational activity of public administration bodies is based on the law). Considerations on both issues can be found in the book entitled *Polskie prawo administracyjne: pojęcia i instytucje zasadnicze* (*Polish Administrative Law: Basic Concepts and Institutions*)[1]. In it the professor describes the concepts of a public good and rationing law. He calls rationing law the right of administrative

1 S Kasznica, *Polskie prawo administracyjne: pojęcia i instytucje zasadnicze* [Polish Administrative Law: Basic Concepts and Institutions] (Księgarnia Akademicka 1947).

authorities to issue general norms under the name of regulations[2]. He also describes the concept of a public good by calling them things for common use[3]. In his words: "These are things which can be used to a certain extent by everyone without separate permission"[4].

The public authority thus achieves its objective by means of administration, either by using procedures which make it possible to create general acts or by means of legislation, the application of which does not require administration in order to protect the enjoyment of a public good. In the first case, the administration may also enter the field of legislation. This generally involves regulations. According to the current Constitution of the Republic of Poland, regulations are sources of law. The professor argues that issuing them is an "[e]xtension of the scope of action of administrative authorities beyond the scope of the administrative function into the field of legislation". Of course, he is writing about the state of law relevant to the March Constitution. He goes on to say that "[a]dministrative authorities have the right to issue general norms under the name of regulations. This is the so-called rationing right of administrative authorities"[5]. On the other hand, when it comes to public goods, the professor states that "[l]egal norms concerning public goods have a public-legal character. Wherever it comes to the public service of this good, only the provisions of administrative law apply." Thus, we are dealing here with a situation in which the state achieves its objectives by legislating for direct application. The actions of the administration may consist, for example, in maintaining the proper condition of a good, access to which is determined by administrative law. Therefore, the state often nominates entities responsible for the maintenance of roads, forests or waters. One can describe these entities and their role as the stewards of a specific public good.

In his book, the professor refers to the various purposes and subjects of public administration and administrative law. One such area is water law[6]. The principle defined therein, today called the principle of universal use of water, concerns the use of this good. In the context of the role of the administration as a landlord, one can also note the development of this approach and the influence of European law – this is the new institution of water services. In the water law one can also find an example of an action that corresponds to the rationing legislation defined by the professor. It is about establishing by regulation a water management plan in a river basin area. The following section considers each of these issues separately.

2. Water services and the common use of a public good

Professor Kasznica cites access to water as one case in which administrative law regulates universal access to a public good. In this context, he mentions public waters, the sea coast, public wells and others. In doing so, he expresses his position that access to water, next to the use of roads, is the most common and for this reason the most important case of using a public good. The professor points out that public goods are universally accessible for two different reasons: 1) from nature, as with air or water, or 2) from their legal status, as with roads.[7] Nowadays, it can be seen, I think, that access to water also has a universal status. Whilst air cannot be physically captured and made a rationed good, the situation is different for water. In the current legal status, rivers, streams,

2 Ibid., 16.
3 Ibid., 161.
4 Ibid.
5 Ibid., 16.
6 Ustawa z dnia 20 lipca 2017 r. – Prawo wodne [Act of 20 July 2017 – Water Law] [2022] JoL 2625.
7 Ibid., 161.

groundwater and the territorial sea and internal sea waters are owned by the State Treasury (this is stated in Article 211(2) of the Water Law)[8]. The network of flowing waters can be compared to roads; likewise, some rivers and canals constitute waterways. Therefore, although waters are part of nature, like air and unlike roads, their status is the effect of a legal norm contrary to that of air. Highlighting the differences with regard to the use of water and air, it can be noted that in the modern world it is difficult to imagine a rational legal provision stating that everyone has the right to breathe the air in the atmosphere.

When one compares the status of waters according to the 1922 Water Law – which the professor writes about in the book – with the current regulation contained in the 2017 Act, one can see some differences. Firstly, in the former law, waters were public not because of their characteristics (e.g. because they are flowing) but only as long as they were not private. The Water Act[9] states in Article 1 that "[w]aters are either public or private. The former are public property (part of the public good), the latter are private property." In turn, Article 2(1) of the Water Act states that "[a]ll waters are public unless by virtue of this Act (Article 4) or as a result of special legal titles they are privately owned." Article 3(1) of the Water Act provides that "[p]rivate flowing waters and lakes may by legislation be categorised as public waters in the public interest." The statutory procedure for the acquisition of flowing waters is noteworthy. The professor states after the content of Article 4 of the Water Law that by law, the water from precipitation, reservoirs, groundwater and springs located on private land is the private property of the owner. Meanwhile, the contemporary Water Law states that flowing waters and groundwater are the property of the State Treasury. Article 211 of the 2017 Water Law stipulates that "[w]aters of the territorial sea, internal marine waters, inland flowing waters and groundwater are the property of the State Treasury." Thus, the ownership of statutory waters vested in the state has been broadened.

In his book, the professor identifies three types of use of a public good: ordinary, enhanced and special.[10] As he states about ordinary use, it results from the "inherent properties of the thing". The use of a public good in this case is protected and regulated by order regulations (police regulations according to the language of administrative law at the time). Enhanced use, on the other hand, involves the use of a public good to a wider extent. As a rule, as the professor states that this applies to the owners of the "realty", i.e. the real estate located next to the public good. In general, such use of a public good already requires an administrative permit. Special use, on the other hand, consists in such advanced use of a good that its substance is interfered with, e.g. "building on a river a bathing facility or water damming equipment, setting up a ferry, etc."

In this context, it is worth pointing out that the Water Law of 1922 distinguished the so-called general use of waters. Article 21(1) of this law stipulates that:

> [p]ublic waters may be used by anyone without separate permission of the authority in an ordinary manner that does not exclude the same use by others: for bathing, washing, washing, watering and swimming, riding in boats, slipping and drawing water with hand vessels for household purposes. With the same restriction, everyone is allowed to discharge ordinary or used farm water into public running waters. However, the discharge of polluted water through common facilities (sewers) does not fall under this provision. Neither the course and quality of the water and its banks may be impaired by the above-mentioned use, nor may it infringe upon the rights of others or cause damage

8 Ibid.

9 Ustawa wodna z dnia 19 września 1922 r. [Water Act of 19 September 1922] [1928] JoL 574.

10 S Kasznica (1947) 163.

> to anyone. In addition, police regulations must be observed at all times and this may only take place in places that have been designated for this purpose, using the accesses permitted for this purpose.

These three types of use of a public good basically correspond to what modern water law refers to as common, ordinary and special use of water (Articles 32, 33 and 34 of the Water Law, respectively). Common use is available to everyone, ordinary use has to do with the ownership of the property and special use refers to the economic use of water. Article 211(3) of the Water Law also stipulates that waters belonging to the State Treasury (also local authorities, in this case ponds and other waters which are not running waters) have the status of public water. The waters of the State Treasury and local government units are therefore a public good.[11] In this concept, legal science distinguishes three groups of property: 1) administrative property, 2) property whose purpose is to generate profit and 3) things of general use.[12] The last group includes water.

In this context, it is necessary to point out a novelty in the current Water Law, i.e. water services. This institution did not exist when the professor was writing his book, which does not mean that public entities did not carry out certain types of activities which are nowadays called water services. This institution is a sign of the times for two reasons: firstly, because its introduction into Polish law is the result of the influence of European Union law, and secondly, because it is the result of thinking that in the field of water management the state not only defines the rules of rationing, but also actively acts as a public service provider providing access to this critical public good. The origin of the water services institution is the Directive establishing a framework for Community action in the field of water policy.[13] This act has substantially cleaned up European water law by implementing the tenets of the legal institution of environmental security.[14] Water services make it possible to use water within a statutorily defined scope. According to the Act, water services consist in providing water use beyond the scope of common, ordinary and special water use. Water services are to be provided to businesses, but also to public entities and households. In addition to this general definition of what water services are, the legislature has, as in the case of special water use, established an enumerative catalogue of activities within water services: extracting groundwater or surface water or discharging sewage into waters or into the ground, which includes discharging sewage into water facilities. As noted:

> [t]his framing of the definition of water services is of a mixed nature and is a directional definition of the purpose of water services, while at the same time developing a classification of the types of these services. Subjectively, the definition has been constructed according to the concepts defined in the Act (including those defined in the "glossary"), which means that in the practice of applying

11 J Stelmasiak, L Bielecki, 'Rzecz publiczna a ochrona środowiska w samorządzie gminnym' [Public Interest and Environmental Protection in Municipal Government] in M Szewczyk (ed), *Z problematyki prawnej samorządu terytorialnego, Księga dla uczczenia 70. Rocznicy urodzin oraz 45. Rocznicy pracy naukowej Profesora Zbigniewa Janku* [On the Legal Issues of Local Government, a Book to Commemorate the 70th Anniversary of the Birth and the 45th Anniversary of the Scientific Work of Professor Zbigniew Janku] (Wydawnictwo Naukowe UAM 2017) 239. See also A Wilczyńska, P Wilczyński, 'Lasy jako dobro publiczne' in A Kaźmierska-Patrzyczna, P Korzeniowski, M Stahl (eds), *Problemy pogranicza prawa administracyjnego i prawa ochrony* środowiska [Problems on the Border between Administrative Law and Environmental Protection Law] (Wolters Kluwer 2017) 498.

12 Z Leoński, *Materialne prawo administracyjne* [Substantive Administrative Law] (CH Beck 2009) 139.

13 Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy [2000] OJ L 327 .

14 P Korzeniowski, *Bezpieczeństwo ekologiczne jako instytucja prawna ochrony środowiska* [Ecological Safety as a Legal Institution of Environmental Protection] (Wydawnictwo Uniwersytetu Łódzkiego 2012) 282.

> the provisions of the new Act, after its entry into force, it will be indispensable to make a systemic interpretation, taking into account the meaning of all the defining elements, clarifying the conceptual scope of "water services".[15]

According to the definition in Article 2(38) of the Directive, water services means all services which enable households, public bodies or any economic activity (a) to abstract, dam, store, treat and distribute surface water or groundwater and (b) to collect and treat waste water which is subsequently discharged into surface water. It is thus clearly defined that the services are intended to enable the use of water resources. Therefore, it can be assumed that water services are activities intended to ensure that the recipient has the possibility to use water beyond the framework, common, ordinary and special uses of water. In this connection, it can be pointed out that the legislature envisages a new fourth category of water use, which has no name and is the most far-reaching category of water use. The provision of water use within this category is a water service. The management of water resources serves to meet the needs of the population and the economy as stated by the Water Law in Article 10. Meeting needs has thus been recognised as an objective of the water resources administration.[16] Water services can therefore be a bilateral legal relationship. It has been noted in the literature that such a relationship is not present in the case of navigation or flood protection activities, for example, but it is present in the case of water supply or sewage disposal.[17] Although the accuracy of this observation depends on how broadly water services are understood, this issue was the subject of a dispute before the Luxembourg Tribunal, as discussed below.

Water services are not performed as part of economic activity. The name "service" transferred directly from European law (as discussed below) creates terminological confusion. In fact, we are dealing with an activity of a public administration entity whose aim is to provide access to a specific water use. The organisation of these services is provided by a state legal person, i.e. the state's water management authority – Wody Polskie (Polish Waterways). It is worth adding that Wody Polskie is a foundation-type entity.[18] It is a state legal person which is endowed with public assets. It can also be qualified as an entity from the circle of state agencies.[19] Pursuant to Article 240(6)(4) of the Act, State Water Management – Wody Polskie – among its numerous tasks as part of its economic activity, it may provide services in the field of cargo and passenger water transport. These are economic services, not water services.

Water services are to be paid for – the principle of recovering costs for water services applies under Article 9 of the Directive. This is to ensure efficient, economical management of water resources

15 A Kozieł, 'Nowe prawo wodne – istotne zmiany systemowe i ich wpływ na działalność geologiczno-górnicza' [New Water Law – Significant Systemic Changes and their Impact on Geological and Mining Activities] (2016) Zeszyty naukowe Instytutu Gospodarki Surowcami Mineralnymi i Energią Polskiej Akademii Nauk vol. 96, 137.

16 P Szreniawski, 'Rzeki a samorząd terytorialny' [Rivers and Local Government] in M Szewczyk (ed), *Z problematyki prawnej samorządu terytorialnego, Księga dla uczczenia 70. Rocznicy urodzin oraz 45. Rocznicy pracy naukowej Profesora Zbigniewa Janku* [On the Legal Issues of Local Government, a Book to Commemorate the 70th Anniversary of the Birth and the 45th Anniversary of the Scientific Work of Professor Zbigniew Janku] (Wydawnictwo Naukowe UAM 2017) 296.

17 M Sobota, 'Europejski system opłat za usługi wodne jako instrument kształtowania zasady zwrotu kosztów i zasady zanieczyszczający płaci' [The European System of Charging for Water Services as an Instrument for Shaping the Principle of Cost Recovery and the Polluter Pays Principle] (2022) Ius Novum 16(2), 188.

18 J Zimmerann, *Prawo admnistarcyjne* [Administrative Law] (Wolters Kluwer 2012) 131.

19 R Michalska-Badziak, 'Podmioty administrujące' [Administering Entities] in M Stahl (ed), *Prawo administracyjne, pojęcie, instytucje, zasady w teorii i orzecznictwie* [Administrative Law, Concept, Institutions, Principles in Theory and Jurisprudence] (Wolters Kluwer 2013) 279.

to achieve environmental objectives. Against this background, the scope of the concept of water services as defined by the Directive was a subject of dispute. In its judgment of 11 September 2014 in Case C-525/12, the Court of Justice dismissed the action of the Commission against the Federal Republic of Germany, which was also supported by Denmark, Austria, Hungary, Finland, Sweden and the United Kingdom.[20] At issue before the Court was the fact that the Commission alleged that Germany, by limiting the scope of the term *water services*, had thereby restricted the collection of charges. Germany and the countries supporting it adopted the interpretation that activities such as damming water for energy production, navigation and flood protection, for example, were not water services. Meanwhile, the Commission pushed for the position that "in the interest of water resources, different uses of water should have a price". The Commission also stated that "[c] onsequently, Member States are obliged to set charges for the different forms of water use, even if these forms cannot be considered provision of services in the traditional sense of the term. Thus, navigation itself should already be subject to a charge." In this context, the Court noted that the charges are also intended to reimburse costs not only for services in the *sensu stricto* but also for the environment and resources. Germany also argued that:

> [w]ith regard to the definition of the concept of services, the Federal Republic of Germany submits that the definition in Article 57 TFEU should be used and requires the existence of a bilateral relationship, which is absent, for example, in the case of the use of water for navigation or in the case of flood protection measures, but which is established in the case of water supply and sewage treatment activities.

It was also correctly noted that "the broad interpretation adopted by the Commission of the concept of water services leads in practice to the negation of the existence of other forms of water use, which are nevertheless identified in Article 2(39) of Directive 2000/60." The Commission, in turn, noted that "in environmental law, services do not require human participation, as is evident from the Millennium Ecosystem Services Assessment produced by the United Nations in 2001 (CREDOC, Biotope, Asconit Consultants, 2009)." Here it is worth mentioning that Article 2(39) of the Directive defines the concept of water use in such a way that water services can be understood as only one type of water use. This interpretation confirms the correctness of the Polish legislature's implementation of the Directives as mentioned above. The Court dismissed the Commission's appeal. In the judgment it did not clearly define the scope of the definition of water services. Instead, it ruled that the directive does not require the introduction of an obligation to pay charges by way of reimbursement for each water use activity.

2.1. Conclusions

To sum up this part of the discussion, I think it can be said that, compared to the administrative and legal regulations which Professor Kasznica described, there has been a development in the rules of access to water related to the need to protect it. This has to do with the greenhouse effect and the widespread problem of water shortages in Europe, as evidenced for example by the European Environment Agency's report.[21] The administration must act to ensure that everyone and the economy has access to this life-giving resource. It is not enough just to lay down rules

20 Judgment of the Court C-525/12 EU:C:2014:2202.

21 'Water stress is a major and growing concern in Europe' (2021), <https://www.eea.europa.eu/highlights/water-stress-is-a-major> accessed 28 Jan 2023.

for its use. It is necessary to actively promote the use of water as a public good. This action must be taken by the state administration. In terms of the difference between economic services and water services within the meaning of the Directive, it can be pointed out that water services are classified as public services, which means that they can be offered either by public or private companies, with the proviso that public authorities are responsible for ensuring the quality and availability of these services. Therefore, the provision of water services in terms of availability, standards and payment is subject to strict administrative and legal regulation.

3. The River Basin Management Plan – Against the Background of the Different Modes of Issuing General Administrative Acts

As can be seen from the provisions of the Treaty on the Functioning of the EU,[22] the field of the environment falls within the Union's tasks. According to Article 4 of the TFEU, in this area the Union shares competences with the Member States.[23] This applies to an important extent to water management.[24] Of course, the scope of European regulation is determined by respect for principles such as proportionality and subsidiarity. The Union should carry out its legislative activity insofar as it is required at that level and insofar as legislative measures taken at the Union level are necessary. However, it should be noted that water management is, by its very nature, an area subject to quite substantial legislative regulation at the Union level. Water management cannot be contained within national boundaries. Watercourses, river basin districts and groundwater all transcend boundaries. On the other hand, water is essential for human life and health and for the functioning of the ecosystem in which humans live. Nowadays, a huge challenge for civilisation is climate change. These phenomena cause problems in the supply of sufficient freshwater, for both people and nature. These issues are of cardinal importance for the water management of countries, which is what the Union is concerned with, and as has been noted, they are of a transboundary nature.

In view of the above-mentioned issues and the need for common, EU-wide care for water management and the adopted principle of national authorities applying EU law, the institution of a river basin management plan appears in this Directive, and thus in the Polish Act. This plan, in a model approach, should be shaped and implemented by national authorities of Member States working together – insofar as it covers a river basin on the territory of several countries. It is worth noting that the preamble to the Directive points out the following: "The success of this Directive depends on close cooperation and coherent action at Community, Member State and local level as well as on information, consultation and involvement of the public, including users." Furthermore, paragraph 35 of the preamble reads:

> Within a river basin district where water use may have transboundary effects, the requirements for achieving the environmental objectives established under this Directive, in particular in any programmes of measures, should be coordinated for the whole of the river basin district. For river basins extending beyond the boundaries of the Community, Member States should endeavour to ensure appropriate coordination with the relevant third countries.

22 Consolidated version of the Treaty on the Functioning of the European Union [2016] OJ C 202, 1.
23 W Hackenberg, *Europarecht* (CH Beck 2018) 28; M Herdegen, *Europarecht* (CH Beck 2019) 213.
24 M Herdegen (2019) 474.

In pursuit of the objectives set out above, Article 13(2) of the Directive states that:

> [i]n the case of an international river basin district falling entirely within the Community, Member States shall ensure coordination with the aim of producing a single river basin management plan. Where such a plan is not produced, Member States shall produce river basin management plans covering at least those parts of the international river basin district falling within their territory to achieve the objectives of this Directive.

It follows from the above provision that Member States should aim to produce a single management plan for an international river basin district. However, the second sentence of the said provision also foresees a situation where coordination between Member State authorities fails and a common plan is not produced. In such a situation, Member State authorities are obliged to develop a plan for their territory which can ensure that the objectives of the Directive are met. The scope of the plan is defined in Article 318 of the Water Law. In the context of this plan, the concept of a river basin district, which is much broader than the river basin itself, is essential. Indeed, as follows from Article 16(31) of the Water Law, a river basin district comprises, firstly, an area of land and sea. In addition, an area may consist of one or more adjacent river basins. It also includes groundwater, internal marine waters, transitional waters and coastal waters. Importantly, the river basin district is the main spatial unit of water management. The plan is therefore prepared for the river basin district.

The current River Basin Management Plan takes the form of a regulation of the Council of Ministers. Consequently, it should be published in the Journal of Laws and has the value of a generally binding act. There has been a change in this respect, because before June 2011 the Plan was a resolution of the Council of Ministers and was published in Monitor Polski. The legislature justified this change by stating that:

> [t]he introduction of such a regulation is important for the role played by river basin management plans in the water management planning system and their environmental significance. It will also exclude legal doubts in relation to the reference to the findings of water management plans in the content of water permits.[25]

In this context, the important issue arises of whether the form of the regulation is adequate for the role played by the Plan. A regulation is an act implementing a law in the light of the Constitution of the Republic of Poland, whilst the Plan does not have such a character. Indeed, the act is an example of a general administrative act. The addressee is defined generally, but the circumstances are specified. This is an act that concerns a specific space. There must be a process of subsumption to determine the arrangements in this act. The whole process of developing the content of the plan is making a lengthy, detailed and comprehensive factual determination of the river basin area. Such an exercise corresponds to the essence of a general administrative act.[26] The unresolved change of form from a resolution of the Council of Ministers to a regulation of the Council of Ministers is further evidence of the problem of issuing general administrative acts in the Polish legal system.[27]

25 Explanatory Memorandum to the draft amending the Water Law Act and certain other acts, Parliamentary Print No. 2106 <https://sejm.gov.pl/sejm7.nsf/PrzebiegProc.xsp?nr=2106> accessed 1 Aug 2024.

26 E Szewczyk, M Szewczyk, *Generalny akt administracyjny* [General Administrative Act] (Wolters Kluwer 2014) 91.

27 Ibid., 187.

The provisions of the current Water Law also provide another example of the issuing of general administrative acts by establishing rules for determining development conditions in areas of special flood risk. This refers to the possibility to designate these areas for development in the local spatial development plan after obtaining permission in the form of an administrative decision, which also specifies the requirements for the location of new development. Such decisions are issued, *inter alia*, as part of the procedure for drawing up a local spatial development plan. They are issued by the director of the Regional Water Management Board of Wody Polski. At the stage of preparing a draft local spatial development plan, Article 166(2)(5) of the Water Law applies, which stipulates that it must be agreed with the Regional Director of the Water Management Board of Wody Polski as regards the development and use of land located in areas of special flood hazard. This authority issues an administrative decision when making its agreement (Article 166(5)).

The administrative decision in question is issued as an agreement on the draft local development plan. If the planned development is approved, the decision contains independent findings on the requirements and conditions for it. The decision can therefore be regarded as an additional necessary element to the planning arrangements. The development conditions are therefore determined simultaneously based on the local plan and the decision. The decision is a separate act. It is also taken under a separate procedure, i.e. administrative proceedings regulated by the Code of Administrative Procedure.[28] Nevertheless, its issuance is an element of the planning procedure and its findings are related to the findings of the local spatial development plan. Therefore, it is not an act which, irrespective of the findings of the local spatial development plan – such as establishing a conservation protection zone – regulates the possibility of undertaking construction activity. Both acts, i.e. the local spatial development plan and the consenting decision of the Polish Water Authority, are related, one could say. Not only are they to be applied simultaneously, but each of them separately is inapplicable. As the statement of the conciliating authority is binding in nature, it is assumed that it has the co-competence to take a decision and not the competence to control the authority issuing the decision.[29] This seems to be a special case of co-competence, where two authorities decide a case by each issuing their own act. Administrative decisions are individual in nature. Meanwhile, the essence of the decision is not only an expression of consent to the findings towards its addressee, i.e. the authority drafting the draft local spatial development plan. The decision, as indicated, also contains independent findings, as it specifies requirements for future projects. Thus, it will undoubtedly be used by entities designing construction projects or by bodies issuing, for example, building permits. The decision therefore has a number of addressees, but their scope is defined generally, i.e. it is addressed to anyone who wishes to build in an area at particular risk of flooding, or to those who will adjudicate in such cases. On this basis, it can be concluded that it is a general act.[30] The essence of a general administrative act consists of:

(1) belonging to the legal forms of application of substantive administrative law and
(2) the general and specific nature of the standards.[31]

28 Ustawa z dnia 14 czerwca 1960 r. Kodeks postępowania administracyjnego [Act of 14 June 1960 Code of Administrative Procedure] [2017] JoL 1257.

29 B Adamiak, J Borkowski, *Kodeks postępowania administracyjnego. Commentary* [Code of Administrative Procedure. Comment] (CH Beck 2006) 495; M Matczak, *Kompetencja organu administracji publicznej* [Competence of a Public Administration Body] (Kantor Wydawniczy Zakamycze 2004) 54.

30 E Szewczyk, M Szewczyk (2014) 91. This is also how this type of act is referred to in German law – see H Maurer, *Allgemeines Verwaltungsrechr* (CH Beck 2009) 207.

31 E Szewczyk, M Szewczyk (2014) 92.

Undoubtedly, the concreteness of the norms manifests itself in relation to a specific place – the special flood risk area – where this particular act is to be respected. This act can be regarded as determining the status of that place. Thus, it belongs to the group of general administrative acts directed at things identified as such.[32]

The decision of the Water Authority is issued in the process of applying the law based on the formula of legal syllogism. The syllogistic conception of the application of law is derived from legal positivism,[33] whereby the legal syllogism is a model of the application of law with two types of premises – factual and legal – as well as a conclusion resulting from the subsumption of these premises. The legal premise is the general and abstract norm properly interpreted, the factual premise is the factual findings to which legal consequences are to be attached and the conclusion is the resolution in the form of an individual, concrete norm. The legal syllogism formula is also appropriate for the process of issuing a general administrative act.

It is worth noting that the creation of local spatial development plans, thus formally in the legislative process, involves similar activities. In order for a local spatial development plan to be drafted, it is necessary to establish the actual state of development of a given (specific) area and to establish the rules for its future development. The legislature decided that the local spatial development plan is an act of local law, though this does not change the actual character of at least some of its findings.[34] Indeed, to a large extent the act bears the characteristics of a general administrative act. Acts of local law are a source of law. At the same time, the determinations and the manner of their determination indicate that this is a specific and general act. It sets out specific rules for the development of specific properties. Very often it stipulates specific development parameters. In the process of drafting such an act, it is necessary to take into account the specific circumstances, i.e. the urban development conditions of the place in question. This is obviously connected with the urban planner. Therefore, the construction of the local plan is also based on the formula of legal syllogism. From the point of view of administrative law, this act should be assigned to general administrative acts and acts of law application.

Another example of a general act which is also an act of application of the law is an order of a *starost* approving the permanent organisation of traffic on a public road. The resolution of the 7th panel of judges of the Supreme Administrative Court of 26 June 2014 attempts to define the nature of such acts. The justification of the resolution reads:

> In the terms needed for the present considerations, it is possible to define traffic management as the regulation of the manner of movement on roads, the exercise of authority over the organisation of traffic carried out by issuing certain directives and orders in the form provided for by law and by a competent authority. The act of approving a road traffic organisation project is not normative in nature, even though it sets out certain rules of behaviour that may resemble rules that fall within common legal norms. Although it creates a new legal situation for the addressees of the act, it cannot be considered a general normative act. Traffic management on roads, including the approval of traffic organisation on roads, is not a form of legislating, but a form of applying legal rules. It belongs to the category of acts of management by application of legal norms.

32 Ibid., 149.

33 S Wronkowska in: S Wronkowska, Z Ziembiński (eds), *Zarys teorii prawa* [Outline of Legal Theory] (Ars Boni et Aequi 2001) 52; See also T. Spyra, *Granice wykładni prawa Znaczenie językowe tekstu prawnego jako granica wykładni* [Limits of Legal Interpretation. The Linguistic Meaning of a Legal Text as a Limit of Interpretation] (Wolters Kluwer 2006) 110.

34 Cf E Szewczyk, M Szewczyk (2014) 95.

The subject of the Supreme Administrative Court's consideration was whether the provision of Art. 3(2)(4) or Art. 3(2)(6) p.p.s.a. constitutes a basis for challenging this act.[35] The court analysed the views of the judiciary and legal scholars, finding that:

> [s]umming up these considerations, it should be stated that in the interpretation of the notions of act and actions regulated in Article 3 para. 2 item 4 of the p.p.s.a., it is agreed that they are not decisions but they belong to the scope of public administration, they concern an individualised subject, although they may also show the features of a general act, that they should rule on the nature of the connection with the rights and obligations set out in the applicable law. These features, however, allow the conclusion that the approval of the traffic organisation does not fall within this framework, first of all because the condition of individualisation of the act or action is not fulfilled, as well as because of the lack of connection with the right or obligation arising from the law made in this manner. Moreover, there is no implementation of a concretised legal norm here, but the creation of a norm of desirable behaviour on the road in traffic.

However, the Supreme Administrative Court in the resolution assumed that this is not only a general act but also an abstract act, despite the fact that it is an act of law application. The following remark was made in this context:

> Once again, it is fair to emphasise that the approval of traffic organisation is of a general and abstract nature, creates a new legal situation for road users and does so generally – on the principle of universality of access. Meanwhile, the acts and actions referred to in Art. 3 § 2 item 4 of the p.p.s.a. are acts or actions of individual character, concerning rights or obligations arising from the provisions of law. Acts executing road administration tasks are acts of public authority, because they interfere in the matter of using public roads, specifying their network, method of financing, quality, parameters, maintenance in serviceability. Therefore, the argumentation in favour of recognising the approval of traffic organisation as an act under Article 3 § 2 item 6 of the p.p.s.a. is more convincing. It is based on the conclusion, arising from the analysis of the legal state, on the effects of approving traffic organisation referring to the creation of a legal situation by establishing new rules of traffic organisation of a general and universal nature, and thus is not limited to the organisational and technical scope, and is not a one-off activity (so, e.g. the Supreme Administrative Court in the judgement of 8 March 2012, I OSK 1993/11). It is a peculiar activity of a local government body.

However, one may doubt whether we are really dealing here with an abstract act. An ordinance on the organisation of road traffic concerns the approval of a specific document containing rules for the movement of, inter alia, cars on a specific designated road. It is therefore a general administrative act. Taking this view in the context of this publication, it is worth noting that this is another form in which this type of act is issued. It may be added, however, that the basis for a complaint to the court could be Article 3(2)(4) p.p.s.a. Contrary to what the Supreme Administrative Court has established, this provision is not limited to cases of individual acts.[36]

35 Ustawa z dnia 30 sierpnia 2002 r. Prawo o postępowaniu przed sądami administracyjnymi [Act of 30 August 2002, Law on Proceedings before Administrative Courts] [2022] JoL 329.

36 The control of public administration activities by administrative courts includes adjudication of complaints against [...] other than those specified in points 1–3, acts or activities of public administration concerning rights or obligations arising from the provisions of law, excluding acts or activities undertaken as part of administrative proceedings specified in the ustawa z dnia 14 czerwca 1960 r. Kodeks postępowania administracyjnego [Act of 14 June 1960 Code of Administrative Procedure] [2017] JoL 1257.

These cases involve the issuance of specific and general acts by public authorities. Examples include establishing a water management plan in a river basin district, issuing an administrative decision to accept a local plan in flood risk areas (and setting conditions for construction projects), adopting a local plan and approving traffic organisation on a public road by ordinance. Each time, the authority issues a specific general act, defining general rules in a specific case in the broadest sense of the public interest. Issuing general acts in specific cases is an intermediate situation between the application of law and lawmaking. Polish law does not specify the procedure for such decisions, leading to their issuance through either the legislative procedure (as in regulations), the local law procedure (as with the river basin management plan or local spatial development plan) or a jurisdictional administrative procedure as laid down in the Code of Administrative Procedure (such as administrative decisions by Wody Polskie defining conditions for construction in flood risk areas). Another example is the approval by ordinance of a traffic organisation project on a public road, showing that an independent procedure for issuing general acts of law application is possible. These decisions can be viewed as rationing lawmaking in the sense described by Professor Kasznica in his book. This type of administrative activity is likely to develop due to the complexity of facts requiring general rules, whilst regulating matters in abstract terms may be inadequate. The administration's role is to transfer the general dispositions of the legislature to specific cases, blurring the boundary between lawmaking and law application. The difference, of course, is that we are dealing with specific cases. However, this does not change the fact that by enacting norms of a general nature, the administration largely acts as a lawmaker. Thus, Professor Kasznica's description of this activity as rationing legislation accurately reflects its essence.[37] This problem is also indicated by the above quote from the Supreme Administrative Court concerning the qualification of the act of approving traffic organisation on a public road. In this context, the professor even speaks of extending the scope of action of administrative authorities beyond the administrative function into the field of legislation.

The problem of the boundary between an act of applying the law and a normative act is also present in the science of European administrative law. The literature points out that the acts issued by the Commission, in addition to being concrete, may also contain normative elements.[38] Implementing are acts issued in abstract circumstances and at the same time general acts having the character of regulatory acts. As indicated, they are specific administrative acts of European law. They serve to implement the obligations set out in European derived law.[39] It is an action of an administrative nature. In other words, these acts perform the typical administrative function of a management instrument – in this case towards generally defined addressees. Regulatory implementing acts are administrative acts in the sense that they constitute an instance of administrative action. They do not create statutory norms or even norms corresponding to the content of delegated acts (i.e. supplementing or not substantially amending an act of a legislative nature). They are general acts as far as the definition of the addressee is concerned. They may bind the Member State and the administered entities. Regulatory acts have the character of specific administrative acts of European law. Their specificity lies in the fact that prima facie they could

37 S Kasznica (1947) 16.

38 T Oppermann, CD Classen, M Nettesheim, *Europarecht* (CH Beck 2018) 134; M Pechstein, C Nowak, U Häde, *Frankfurter Kommentar zu EUV, GRC, AEUV* (Mohr Siebeck 2017) 920; M Niedźwiedź, 'Administracyjne wykonywanie prawa Unii Europejskiej' [Administrative Implementation of European Union Law] in R Hauser, Z Niewiadomski, A Wróbel. (eds), *Europeizacja prawa adminsitracyjnego* System Prawa Administracyjnego [Europeanization of Administrative Law. Administrative Law System] (CH Beck 2014) 136.

39 M Pechstein, C Nowak, U Häde (2017) 924.

be considered to be normative in nature – but it must be borne in mind that they are acts of law application; they are not normative acts, but are issued under abstract circumstances. The Polish literature indicates that one of the fastest growing areas of European administrative law is regulatory law. The relevant acts usually concern sectors of the economy involving infrastructure networks (e.g. telecommunications, energy or railways).[40] It is possible to identify a number of regulations issued under the executive procedure, which should be regarded as regulatory acts.[41] Similarly, in the case of executive decisions, there are those that can be considered regulatory acts.[42] It can be concluded that these types of acts complete the need for regulation between legislative acts and delegated acts and specific administrative acts. However, it is important to note that the distinction drawn here is not sharp. A significant proportion of general administrative acts may contain partly regulatory and partly specific regulations.

3.1. Conclusions

The Polish Constitution provides for a legislative procedure, but also for the issuance of executive acts and acts of local law. As indicated, the issuance of ordinances or acts of local law may also be used to enact general and specific acts. However, I think that even the legislative procedure can be essentially administrative, as pointed out by Professor Kasznica in his book. He states that sometimes administrative functions are reserved for the legislature itself by enacting laws which, in essence, have the character of administrative decisions. He gives the example of setting a quota

40 M Szydło, 'Relacje pomiędzy Komisją Europejską a krajowymi organami regulacyjnymi. Czy nowy model administracji europejskiej?' [Relations between the European Commission and National Regulatory Authorities. A New Model of European Administration?] in Z Janku, Z Leoński, M Szewczyk, M Waligórski, K Wojtczak (eds), *Europeizacja polskiego prawa administracyjnego* [Europeanization of Polish Administrative Law] (Kolonia Limited 2005) 209.

41 Commission Implementing Regulation (EU) 2016/226 of 17 February 2016 amending Implementing Regulation (EU) 999/2014 imposing a definitive anti-dumping duty on imports of ammonium nitrate originating in Russia following an expiry review pursuant to Article 11(2) of Council Regulation (EC) 1225/2009 [2016] OJ L 41, 13; Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for the implementation of certain provisions of Regulation (EU) 952/2013 of the European Parliament and of the Council laying down the Union Customs Code [2015] OJ L 343, 558; Commission Implementing Regulation (EU) 2018/310 of 1 March 2018 fixing the import duties in the cereals sector applicable from 2 March [2018] OJ L 60, 19; Commission Implementing Regulation (EU) 2017/1142 of 27 June 2017 amending Annex I to Regulation (EC) 669/2009 as regards the list of feed and food of non-animal origin subject to an increased level of official controls on imports [2017] OJ L 165, 29; repealed also by normative implementing Commission Regulation (EU) 2019/1793 of 22 October 2019 on the temporary increase of official controls and exceptional measures governing the introduction into the Union of certain goods from certain third countries, implementing Regulations (EU) 2017/625 and (EC) 178/2002 of the European Parliament and of the Council and repealing Commission Regulations (EC) 669/2009, (EU) 884/2014, (EU) 2015/175, (EU) 2017/186 and (EU) 2018/1660 [2019] OJ L 277, 89. Commission Implementing Regulation (EU) 2018/125 of 24 January 2018 amending Annex I to Council Regulation (EEC) 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff [2018] OJ L 22, 10.

42 Commission Implementing Decision (EU) 2018/661 of 26 April 2018 amending Implementing Decision (EU) 2015/750 on the harmonisation of the 1,452–1,492 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Union with regard to its extension to the harmonised frequency bands 1,427–1,452 MHz and 1,492–1,517 MHz [2018] OJ L 110, 127; Commission Implementing Decision of 28 February 2012 establishing the best available techniques (BAT) conclusions under Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions, for iron and steel production (notified under document C(2012) 903 [2012] OJ L 70, 63.

of recruits, enacting conscription, declaring war or concluding a peace agreement. As an example, the professor also used the state budget, which is adopted in the form of a law.[43] Currently, there are laws in Poland whose content indicates that they concern specific cases, or specific projects. These concern the construction of the gas port in Świnoujście or the cross-cutting of the Vistula Spit.[44] It has already been pointed out in the literature that the norms which these laws contain are of a concrete nature.[45]

It can therefore be argued that the legislative procedure is sometimes used not only to legislate, but also to adopt specific acts, which serve as examples of administration. This is a result of the lack of a distinct procedure for enacting specific and general acts, as well as the authority's search for special solutions. Consequently, the name of an act does not determine its nature in the material legal sense. For instance, a River Basin Management Plan, although adopted by regulation, is not actually an act implementing a law. Formally, we are dealing with a regulation, just as a local plan is an act of local law, and an agreement by Wody Polskie on the conditions for construction in a flood risk area constitutes an administrative decision – but only in a formal sense.

Therefore, the name of the act does not determine its nature; it is merely a derivative of the procedure through which it was issued. It can be concluded that the types of administrative acts defined by administrative law – acts of lawmaking – do not coincide with the legislative and administrative procedures defined by the Constitution and other laws. The legislature could structure the provisions to distinguish at least three types of procedures for lawmaking acts: general and abstract; specific and general; and specific and individual. Until this is done, we are left to use the existing procedures. This demonstrates that a restrictive distinction between acts of application and lawmaking, based on formally defined procedures, is not possible.

References

Literature

Adamiak B, Borkowski J, *Kodeks postępowania administracyjnego. Komentarz* [Code of Administrative Procedure. Comment] (CH Beck 2006).

Hackenberg W, *Europarecht* (CH Beck 2018).

Herdegen M, *Europarecht* (CH Beck 2019).

Jędrzejczak M, Kruś M, Staniszewska L, 'Specyfika regulacji prawnej w ustawie o inwestycjach w zakresie terminalu regazyfikacyjnego skroplonego gazu ziemnego w Świnoujściu' [Specificity of the Legal Regulation in the Act on Investments Regarding the Liquefied Natural Gas Regasification Terminal in Świnoujście] in B Popowska, E Kosiński, P Lissoń (eds), *Prawne uwarunkowania konkurencji na rynku gazu* [Legal Conditions of Competition on the Gas Market] (CH Beck 2015) 181–196.

Kasznica S, *Polskie prawo administracyjne: pojęcia i instytucje zasadnicze* [Polish Administrative Law: Basic Concepts and Institutions] (Księgarnia Akademicka 1947).

43 S Kasznica (1947) 17.

44 Ustawa z dnia 24 kwietnia 2009 r. o inwestycjach w zakresie terminalu regazyfikacyjnego skroplonego gazu ziemnego w Świnoujściu [Act of 24 April 2009 on Investments in the Liquefied Natural Gas Regasification Terminal in Świnoujście] [2021] JoL 1836.

45 M Jędrzejczak, M Kruś, L Staniszewska, 'Specyfika regulacji prawnej w ustawie o inwestycjach w zakresie terminalu regazyfikacyjnego skroplonego gazu ziemnego w Świnoujściu' [Specificity of the Legal Regulation in the Act on Investments Regarding the Liquefied Natural Gas Regasification Terminal in Świnoujście] in B Popowska, E Kosiński, P Lissoń (eds), *Prawne uwarunkowania konkurencji na rynku gazu* [Legal Conditions of Competition on the Gas Market] (CH Beck 2015) 181–196.

Korzeniowski P, *Bezpieczeństwo ekologiczne jako instytucja prawna ochrony środowiska* [Ecological Safety as a Legal Institution of Environmental Protection] (Wydawnictwo Uniwersytetu Łódzkiego 2012).

Kozieł A, 'Nowe prawo wodne – istotne zmiany systemowe i ich wpływ na działalność geologiczno-górnicza' [New Water Law – Significant Systemic Changes and their Impact on Geological and Mining Activities] (2016) Zeszyty naukowe Instytutu Gospodarki Surowcami Mineralnymi i Energią Polskiej Akademii Nauk vol. 96, 133–150.

Leoński Z, *Materialne prawo administracyjne* [Substantive Administrative Law] (CH Beck 2009).

Matczak M, *Kompetencja organu administracji publicznej* [Competence of a Public Administration Body] (Kantor Wydawniczy Zakamycze 2004).

Maurer H, *Allgemeines Verwaltungsrechr* (CH Beck 2009).

Michalska-Badziak R, 'Podmioty administrujące' [Administering Entities] in M Stahl (ed), *Prawo administracyjne, pojęcie, instytucje, zasady w teorii i orzecznictwie* [Administrative Law, Concept, Institutions, Principles in Theory and Jurisprudence] (Wolters Kluwer 2013) 272–305.

Niedźwiedź M, 'Administracyjne wykonywanie prawa Unii Europejskiej' [Administrative Implementation of European Union Law] in R Hauser, Z Niewiadomski, A Wróbel (eds), *Europeizacja prawa adminsitracyjnego* System Prawa Administracyjnego [Europeanization of Administrative Law. Administrative Law System] (CH Beck 2014) 121–180.

Oppermann T, Classen CD, Nettesheim M, *Europarecht* (CH Beck 2018).

Pechstein M, Nowak C, Häde U, *Frankfurter Kommentar zu EUV, GRC, AEUV* (Mohr Siebeck 2017).

Sobota M, 'Europejski system opłat za usługi wodne jako instrument kształtowania zasady zwrotu kosztów i zasady zanieczyszczający płaci' [The European System of Charging for Water Services as an Instrument for Shaping the Principle of Cost Recovery and the Polluter Pays Principle] (2022) Ius Novum 16(2), 182–197.

Spyra T, *Granice wykładni prawa. Znaczenie językowe tekstu prawnego jako granica wykładni* [Limits of Legal Interpretation. The Linguistic Meaning of a Legal Text as a Limit of Interpretation] (Wolters Kluwer 2006).

Stelmasiak J, Bielecki L, 'Rzecz publiczna a ochrona środowiska w samorządzie gminnym' [Public Interest and Environmental Protection in Municipal Government] in M Szewczyk (ed), *Z problematyki prawnej samorządu terytorialnego, Księga dla uczczenia 70. Rocznicy urodzin oraz 45. Rocznicy pracy naukowej Profesora Zbigniewa Janku* [On the Legal Issues of Local Government, a Book to Commemorate the 70th Anniversary of the Birth and the 45th Anniversary of the Scientific Work of Professor Zbigniew Janku] (Wydawnictwo Naukowe UAM 2017) 237–248.

Szewczyk E, Szewczyk M, *Generalny akt administracyjny* [General Administrative Act] (Wolters Kluwer 2014).

Szreniawski P, 'Rzeki a samorząd terytorialny' [Rivers and Local Government] in M Szewczyk (ed), *Z problematyki prawnej samorządu terytorialnego, Księga dla uczczenia 70. Rocznicy urodzin oraz 45. Rocznicy pracy naukowej Profesora Zbigniewa Janku* [On the Legal Issues of Local Government, a Book to Commemorate the 70th Anniversary of the Birth and the 45th Anniversary of the Scientific Work of Professor Zbigniew Janku] (Wydawnictwo Naukowe UAM 2017) 293–300.

Szydło M, 'Relacje pomiędzy Komisją Europejską a krajowymi organami regulacyjnymi. Czy nowy model administracji europejskiej?' [Relations between the European Commission and National Regulatory Authorities. A New Model of European Administration?] in Z Janku, Z Leoński, M Szewczyk, M Waligórski, K Wojtczak (eds), *Europeizacja polskiego*

prawa administracyjnego [Europeanization of Polish Administrative Law] (Kolonia Limited 2005) 209–214.
Wilczyńska A, Wilczyński P, 'Lasy jako dobro publiczne' [Forests as a Public Good] in A Kaźmierska-Patrzyczna, P Korzeniowski, M Stahl (eds), *Problemy pogranicza prawa administracyjnego i prawa ochrony środowiska* [Problems on the Border between Administrative Law and Environmental Protection Law] (Wolters Kluwer 2017), 497–519.
Wronkowska S, Ziembiński Z (eds), *Zarys teorii prawa* [Outline of Legal Theory] (Ars Boni et Aequi 2001).
Zimmerann J, *Prawo admnistarcyjne* [Administrative Law] (Wolters Kluwer 2016).

List of legislative acts

Ustawa wodna z dnia 19 września 1922 r. [Water Act of 19 September 1922] [1928] JoL 574.
Ustawa z dnia 14 czerwca 1960 r. Kodeks postępowania administracyjnego [Act of 14 June 1960 Code of Administrative Procedure] [2017] JoL 1257.
Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy [2000] OJ L 327.
Ustawa z dnia 30 sierpnia 2002 r. Prawo o postępowaniu przed sądami administracyjnymi [Act of 30 August 2002, Law on Proceedings before Administrative Courts] [2022] JoL 329.
Ustawa z dnia 24 kwietnia 2009 r. o inwestycjach w zakresie terminalu regazyfikacyjnego skroplonego gazu ziemnego w Świnoujściu [Act of 24 April 2009 on Investments in the Liquefied Natural Gas Regasification Terminal in Świnoujście] [2021] JoL 1836.
Commission Implementing Decision of 28 February 2012 establishing the best available techniques (BAT) conclusions under Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions, for iron and steel production (notified under document C(2012) 903 [2012] OJ L 70, 63.
Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for the implementation of certain provisions of Regulation (EU) 952/2013 of the European Parliament and of the Council laying down the Union Customs Code [2015] OJ L 343, 558.
Explanatory Memorandum to the draft amending the Water Law Act and certain other acts, Parliamentary Print No. 2106 <https://sejm.gov.pl/sejm7.nsf/PrzebiegProc.xsp?nr=2106> accessed 1 Aug 2024.
Commission Implementing Regulation (EU) 2016/226 of 17 February 2016 amending Implementing Regulation (EU) 999/2014 imposing a definitive anti-dumping duty on imports of ammonium nitrate originating in Russia following an expiry review pursuant to Article 11(2) of Council Regulation (EC) 1225/2009 [2016] OJ L 41, 13.
Consolidated version of the Treaty on the Functioning of the European Union [2016] OJ C 202, 1.
Ustawa z dnia 24 lutego 2017 r. o inwestycjach w zakresie budowy drogi wodnej łączącej Zalew Wiślany z Zatoką Gdańską [Act of 24 February 2017 on Investments in the Construction of a Waterway Connecting the Vistula Lagoon with the Bay of Gdańsk] [2021] JoL 1644.
Commission Implementing Regulation (EU) 2017/1142 of 27 June 2017 amending Annex I to Regulation (EC) 669/2009 as regards the list of feed and food of non-animal origin subject to an increased level of official controls on imports [2017] OJ L 165, 29.
Ustawa z dnia 20 lipca 2017 r. – Prawo wodne [Act of 20 July 2017 – Water Law] [2022] JoL 2625.
Commission Implementing Regulation (EU) 2018/125 of 24 January 2018 amending Annex I

to Council Regulation (EEC) 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff [2018] OJ L 22, 10.
Commission Implementing Regulation (EU) 2018/310 of 1 March 2018 fixing the import duties in the cereals sector applicable from 2 March 2018 [2018] OJ L 60, 19.
Commission Implementing Decision (EU) 2018/661 of 26 April 2018 amending Implementing Decision (EU) 2015/750 on the harmonisation of the 1 452-1 492 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Union with regard to its extension to the harmonised frequency bands 1 427-1 452 MHz and 1 492-1 517 MHz [2018] OJ L 110, 127.
Commission Implementing Regulation (EU) 2019/1793 of 22 October 2019. on the temporary increase of official controls and exceptional measures governing the introduction into the Union of certain goods from certain third countries, implementing Regulations (EU) 2017/625 and (EC) 178/2002 of the European Parliament and of the Council and repealing Commission Regulations (EC) 669/2009, (EU) 884/2014, (EU) 2015/175, (EU) 2017/186 and (EU) 2018/1660 [2019] OJ L 277, 89.

Judgments

Judgment of the Court C-525/12 EU:C:2014:2202.

Online Sources

'Water stress is a major and growing concern in Europe' (2021), <https://www.eea.europa.eu/highlights/water-stress-is-a-major> accessed 28 Jan 2023.