II OSK 2336/17 - Decision of the Supreme Administrative Court

LEX No. 2376100

Decision

of the Supreme Administrative Court

of October 17, 2017

II OSK 2336/17

Status:
ruling valid

STATEMENT OF GROUNDS

Conclusion of the judgment

The Supreme Administrative Court sitting in a panel comprising: Presiding Judge: Barbara Adamiak, Supreme Administrative Court Judge, sitting in closed session in the General Administrative Chamber, [in the matter of] cassation complaints of the Ombudsman, (...) Association and (...) Foundation against the decision of the Provincial Administrative Court in Warsaw of March 14, 2017, case no. IV SA/Wa 2787/16, to reject the complaint in the case of the Ombudsman's complaint against the Minister of Environment's approval, on (...) March 2016, ref.: (...), of an annex to the forest management plan prepared for the B. Forest District for the years 2012-2021, decides to: dismiss the cassation complaints

Factual Justification

By decision dated March 14, 2017, the Provincial Administrative Court in Warsaw - pursuant to Article 58 § 1 point 6 of the Act - Law on Proceedings before Administrative Courts in conjunction with Article 58 § 3 of the Act - Law on Proceedings before Administrative Courts ("LPBAC") - rejected the Ombudsman's complaint against the approval by the Minister of Environment on March (...), 2016, of the annex to the forest management plan prepared for the B. Forest District for the years 2012-2021.

In the statement of grounds for its decision, the Court of first instance pointed out that the disputed approval of the annex to the forest management plan for 2012-2021 for the B. Forest District, as performed by the Minister of Environment, is not an administrative decision. The court did not classify this action as another act or action within the meaning of Article 3 § 2 point 4 of LPBAC; therefore, the case at hand is not within the subject-matter jurisdiction of the administrative court under article 3 of the Act - Law on Proceedings before Administrative Courts.

The court held that the actions taken by the Minister of Environment regarding the approval of the annex to the forest management plan concern the property of the State Treasury which is represented by the State Forests. The actions taken are not external in nature, as there is no addressee to whom they would be addressed. The actions taken by the Minister responsible for environmental protection are of an internal nature and are related to the management of State Treasury property. Under these circumstances, a public administration body, such as the

Minister of Environment, is not taking actions of an outward, authoritative nature and does not decide about the legal rights or obligations of a specific entity in an individual case. Therefore, approval by the Minister of Environment of an annex to the forest management plan is not performed in the form of an administrative decision.

The court pointed out that the minister responsible for the environment grants, by way of a decree, statutes to the State Forests, specifying in particular the rules and mode of operation and the internal bodies, with a view to creating optimal organizational conditions for the pursuit of tasks by the State Forests (Article 44 of the Forests Act). The State Forests National Forest Holding has not been granted legal personality, which follows directly from Article 32 section 1 of the Forests Act. This entity has also not been granted juridical capacity, so it cannot be the subject of civil law rights and obligations. It follows directly from Article 32 section 1 of the Forests Act that the primary purpose of establishing the State Forests is to manage the property of the State Treasury, and in particular to represent the State Treasury in the management of its property. It follows from Articles 38 section 1, 38a section 1 and 39 of the State Forests Act that this entity performs actions for and on behalf of the State Treasury. Therefore, the State Forests are the *stationes fisci* (a representative acting for and on behalf) of the State Treasury. This circumstance is, therefore, the decisive reason why the approval of the forest management plan by the Minister responsible for the environment is not an act addressed outside, to third parties, but an action addressed towards "itself", i.e. an internal act. Consequently, it lacks the elements attributed to an administrative decision.

In the Court's opinion, the approval of the forest management plan by the competent minister for the environment cannot be regarded as an administrative decision also in consideration of the wording of Article 22 section 4 of the Forests Act. This provision gives the minister responsible for the environment the power to intervene in the implementation of forest management plans for properties owned by the State Treasury. This shows that the nature of a forest management plan for State Treasury-owned properties is different from an administrative decision. This is because, in the case of an administrative decision, the Act on Enforcement Proceedings in Administration of June 17, 1966 provides for appropriate coercive measures to be taken in order to enforce the decision. In the case of a forest management plan approved by the minister, this possibility is excluded.

In the opinion of the court of first instance, the Minister's approval of the annex to the forest management plan cannot be ascribed the nature of an administrative decision on the basis of the definition of the forest owner in Article 6 section 1 point 3 of the Forests Act, since, under the Forests Act, the State Forests represent the State Treasury in the management of its property, so they are only *stationes fisci* (a representative of the state acting for and on behalf) of the State Treasury. Consequently, the State Forests are not, within the meaning of the aforementioned provision, the owners of the forests which they are managing on behalf of the State Treasury.

The approval of a forest management plan under Article 39 of the Forests Act cannot be ascribed the nature of an administrative decision. This provision states that "the forests referred to in Article 3 point 1 letter a and point 2, which are under the management of the State Forests, may be leased by the forest district manager with the consent of the director of the regional directorate of State Forests, subject to maintaining the forest management objectives and tasks specified in the forest management plan." The possibility of concluding

such a civil law agreement with a third party does not make the said forest management plan an external act. This is because the condition for leasing these forests is to maintain the objectives and tasks set forth in the forest management plan. The obligations are therefore not imposed on the lessor by the forest management plan, but by a civil law agreement.

In the Court's view, the Minister's approval in this case also cannot be considered another act or action within the meaning of Article 3 § 2 point 4 of LPBAC as the action of the Minister is not addressed to third parties - natural persons or legal persons being the owners of the forest. According to Article 22 section 2 of the Forests Act ("FA"), the simplified forest management plan shall be approved by the head of county (*starosta*) after receiving an opinion of the competent forest district manager. The approval of a simplified forest management plan by the head of county gives rise to certain rights and obligations of the forest owner with regard to its forest management operations. If the owner of a forest that is not owned by the State Treasury fails to carry out the tasks set out in the simplified forest management plan (or in the decision of the head of county in the case mentioned in Article 19 section 3 of FA), the head of county shall order the fulfillment of these obligations and tasks by issuing a decision (Article 24 of FA). Therefore, the approval of the simplified forest management plan by the head of county does not take the form of an administrative decision (the legislator has clearly provided for the situations in which the head of county is entitled to issue a decision: Article 19 section 3, Article 21 section 5, Article 24 of the Act); however, the approval by the head of county is an act that is addressed outwards, as the addressees are third parties (forest owners). In addition, there are specific rights and obligations of forest owners arising from the approved simplified forest management plan, and if they are not fulfilled, the head of county may issue a decision imposing an obligation to fulfill them. In these circumstances, it is reasonable to assume that the approval of simplified plans by the head of county should be classified in accordance with Article 3 § 2 point 4 of LPBAC. The above remarks concerning the simplified forest management plans, the rules for their preparation, the relationship between the head of county and the owners of forests covered by the simplified forest management plan show that the legal character of the approval of the simplified forest management plan by the head of county must not be equated to that of the approval of the forest management plan by the minister.

Article 3 § 2 point 4 of LPBAC provides for judicial review by administrative courts with respect to acts and activities taken in individual cases, i.e. towards specific entities, addressees of such actions or obligations. In the same way as an administrative decision, issued by an administrative authority, has the character of an outward action that is addressed to an individual entity, the action or act referred to in Article 3 § 2 point 4 of LPBAC also needs to be addressed to an external entity. However, this condition is not met in the case of approval of a forest management plan by the minister responsible for environmental protection, where the forest is owned by the State Treasury and is managed by the State Forests (which are a state organizational unit without legal personality) representing the State Treasury with respect to the managed property, which are supervised by the minister for environmental protection.

The Ombudsman filed an cassation complaint against the above decision, claiming that:

I. the court breached the procedural provisions which may have a significant impact on the outcome of the case, namely:

a) Article 58 § 1 point 6 of LPBAC in conjunction with Article 5 point 1 LPBAC by dismissing the complaint as inadmissible because the court wrongly held that the case of approval of (the annex to) the forest management plan is a case that arises from superiority and subordination in relationships between public administration authorities, therefore also breaching Article 1 of LPBAC in conjunction with Article 184 of the Constitution of the Republic of Poland, as the court refused to review the legality of the decision complained against, such decision being an act in the sphere of public administration activities;

b) Article 141 § 4 sentence 1 in conjunction with Article 166 of LPBAC by providing a defective statement of grounds for the decision it issued, as the court failed to refer to the effects of the rules of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, done at Aarhus on June 25, 1998 (Journal of Laws of 2003, No. 78, item 706 - hereinafter, "the Aarhus Convention") and of Directive 2011/92/EU of the European Parliament and of the Council of December 13, 2011 on the assessment of the effects of certain public and private projects on the environment (OJ 2012 L 26, p. 1, as amended - hereinafter, "Directive 2011/92") on the legal nature of the act of approving the (annex to) the forest management plan;

II. the court breached substantive rule, namely:

a) Article 22 section 1 and Article 23 section 1 in conjunction with Article 22 section 1 of the Forests Act of September 28, 1991 (Journal of Laws of 2015, item 2100, as amended) in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union (OJ 2010 C 83, p. 389 - hereinafter, the “Charter of Fundamental Rights”) in conjunction with Article 11 of Directive 2011/92 and in conjunction with Article 6 and Article 9 paragraphs 2 and 3 of the Aarhus Convention, by interpreting these provisions wrongly where the court held that the approval of the (annex to) the forest management plan does not take the form of an administrative decision;

b) Article 91 sections 1 and 2 of the Constitution of the Republic of Poland in conjunction with Article 9 of the Constitution of the Republic of Poland by failing to apply those provisions and dismissing the complaint in a situation where its admissibility results from an international agreement ratified by an Act of Parliament (the Aarhus Convention), and also by breaching Article 288 of the Treaty on the Functioning of the European Union (OJ 2010 C 83, p. 47 - hereinafter, the “TFEU”) where the court failed to apply that article and dismissed the complaint in a situation where its admissibility is supported by the need to interpret national law in accordance with the EU legislation.

The Ombudsman requested that the decision appealed against be repealed in its entirety and the case be remanded to the Provincial Administrative Court. Furthermore, the Ombudsman requested that the matter of the legal form of the act of approval of the (annex to the) forest management plan be submitted to a panel of seven judges of the Supreme Administrative Court.

In reply to the cassation complaint, the Director General of State Forests requested that the Ombudsman's cassation complaint be dismissed in its entirety and that the case be examined in a hearing. In his justification, he pointed out that the approval of the forest management plan by the Minister of Environment concerns only the property of the State Treasury under management of State Forests and is addressed to the supervised entity. The action of approval does not have any of the characteristics of an administrative decision. It should not be classified under Article 3 § 2 point 4 of LPBAC because the provision refers only to acts and actions undertaken as part of administrative or tax proceedings. He pointed out that, contrary to the assertions made in the cassation complaint, it would be pointless for the court of first instance to address the allegations concerning the assessment of the effect of non-national law, i.e. the rules of the Aarhus Convention and Directive 2011/92, on the legal nature of the act of approving the (annex to the) forest management plan in the situation where the complaint is rejected due to lack of jurisdiction of administrative courts. He pointed out that the actions resulting from the annex to the forest management plan for the B. Forest District do not fall under the category of projects listed in Annex I to the Aarhus Convention, nor do they represent a project that may have a significant impact on the environment, and that the provisions of the Convention do not provide the right to challenge any act of a private person or public authority in the field of the environment when such an act may not be challenged under national law. In Polish law, the procedures referred to in the Convention are laid down by the provisions of national law, i.e. the Code of Administrative Procedure, the Nature Conservation Act, the Environmental Protection Act, the Act on Provision of Access to Information concerning the Environment and its Protection, Public Participation in Environmental Protection and on Environmental Impact Assessments.

In reply to the cassation complaint, the Minister of Environment requested that the Ombudsman's cassation complaint be dismissed in its entirety and that the case be examined at a hearing. The Minister pointed out that the approval of the annex to the forest management plan could not be classified as one of the planned projects listed in Annex I to the Convention, and the Polish legislator did not provide that the procedure specified in Article 6 of the Convention would apply to annexes to forest management plans, and, therefore, the aforementioned Article 6 and Article 9 paragraphs 2 and 3 of the Convention would not apply in this case. He argued that the complainant in cassation failed to specify, in the grounds of the cassation complaint, a single provision of the Act on Provision of Access to Information concerning the Environment and its Protection (...) that the Court allegedly violated. He pointed out that the approval of management plans by the minister for environmental protection for forests owned by the State Treasury is an internal action undertaken in connection with the performance of ownership tasks. The forest management plan, including the annex thereto and its approval, are not a project within the meaning of the Act of October 3, 2008 on the Provision of Information concerning the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, and are only subject to strategic environmental impact assessment for planning documents.

The (...) Foundation filed an cassation complaint against the above decision, assigning that:

I. under Article 174 point 1 of LPBAC - the court breached the substantive rule by wrongly interpreting Article 3 § 2 point 1 of LPBAC in conjunction with Article 5 point 1 of LPBAC in conjunction with Article 23 section 1 of the Forests Act of September

28, 1991 (consolidated text: Journal of Laws of 2017, item 788) in conjunction with Article 22 section 1 of the Forests Act, where the court held that the decision of the Minister of Environment of March (...), 2016 approving the annex to the forest management plan for the B. Forest District for the years 2012 - 2021 was not an administrative decision within the meaning of Article 3 § 2 point 1 of LPBAC and thus did not fall under the jurisdiction of administrative courts, while the decision should have been considered an administrative decision within the meaning of Article 3 § 2 point 1 of LPBAC which falls under the jurisdiction of administrative courts, as a consequence of which the Provincial Administrative Court in Warsaw dismissed the Ombudsman's complaint against the said decision;

II. under Article 174 point 2 of LPBAC - the court breached procedural provisions, namely Article 58 § 1 point 1 of LPBAC in conjunction with Article 58 § 3 of LPBAC by rejecting the decision while the case fell within the jurisdiction of administrative courts and could have been heard on its merits, such breach having a significant impact on the outcome of the case since because, as a consequence of this breach, the Provincial Administrative Court in Warsaw rejected the Ombudsman's complaint against the decision.

The Foundation requested that the decision appealed against be repealed in its entirety and the case be remanded to the Provincial Administrative Court. It further requested that the case be examined at a hearing.

In reply to the cassation complaint, the Minister of Environment moved that the Foundation's cassation complaint be dismissed in its entirety and that the case be examined at a hearing. The Minister pointed out that, in its statement of grounds for the cassation complaint, the complainant did not show any violation of a specific provision of international and European Union law through its misinterpretation or misapplication. He pointed out that the approval of management plans by the minister for environmental protection for forests owned by the State Treasury is an internal action undertaken in connection with the performance of ownership tasks. The forest management plan, including the annex thereto and its approval, are not a project within the meaning of the Act of October 3, 2008 on the Provision of Information concerning the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, and are only subject to strategic environmental impact assessment for planning documents.

In reply to the cassation complaint, the (...) Club requested that the cassation complaint by the Ombudsman and by (...) be admitted. In the Club's view, a forest management plan is not merely a blueprint for future projects still subject to separate authorization procedures, but is a stand-alone measure affecting the environment. It requested a preliminary ruling from the Court of Justice of the European Union on the interpretation of Article 9.3. of the Aarhus Convention whether Article 9 paragraph 3 of the Aarhus Convention requires, where they meet the criteria, if any, that members of the public have access to appellate and judicial procedures to challenge decisions by public authorities approving a plan on the basis of which actions that may have an effect on the condition of elements of the environment are directly undertaken and on the basis of which exemptions from environmental protection measures are directly applicable, such as a forest management plan.

The (...) Association filed an cassation complaint against the above decision, assigning that:

I. under Article 174 point 1 of LPBAC - the court breached substantive rule:

1) Article 22 section 1, Article 23 section 1 of the Forests Act of September 28, 1991 (Journal of Laws of 2017, item 788) - by wrong interpretation and by holding that the approval by the Minister of Environment of the forest management plan and the annex to this plan for forests owned by the State Treasury is not an administrative decision and is not subject to appeal to an administrative court, but is a matter arising from organizational superiority and official subordination;

2) Articles 4 section 3, 5 section 1 point 1, 19 section 1 and 32 section 1 of the Forests Act, by misinterpretation and by holding that the State Forests National Forest Holding as an entity is part of the structure of public administration (in particular within the proceedings concerning the approval of the forest management plan), and is subordinate, in terms of the organization, to the minister responsible for environmental matters;

3) Article 44 section 3 of the Act of October 3, 2008 on access to information on the environment and its protection, public participation in environmental protection and on environmental impact assessments (consolidated text: Journal of Laws of 2016, item 353, as amended) in conjunction with Article 6 in conjunction with Article 9 paragraphs 2 and 3 of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, done at Aarhus on 25 June 1998 (Journal of Laws of 2003, No. 78, item 706), and Article 10a of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ ER L 175, 5.7.1985, p. 40), and Article 11 of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1) - by misinterpretation and failure to ensure that it is possible for environmental organizations to challenge projects which have an environmental impact, irrespective of their legal form, before a court or an independent and impartial body, and also by failing to interpret the abovementioned provision of national law in accordance with the EU law – in the light of the content and objectives of Directive 85/337/EEC and Directive 2011/92/EU, resulting in a lack of possibility for the public concerned (a public organization) to participate in the decision-making and to have access to justice in environmental matters and in the decision that the approval of a forest management plan did not constitute an administrative decision and, therefore, it was inadmissible to bring a complaint before an administrative court in the present case.

II. under Article 174 point 2 of LPBAC - the court breached procedural provisions which had an impact on the outcome of the case, namely:

1. Article 58 § 1 point 6 in conjunction with article 58 § 3 in conjunction with Article 5 point 1 in conjunction with article 3 § 2 points 1 and 4 of LPBAC in

conjunction with Article 3 § 3 point 1 of the Act of June 14, 1960 Code of Administrative Procedure (Journal of Laws of 2016, item 23, as amended) - by groundless rejection of the complaint in a situation where there were grounds for hearing it due to the fact that the approval of the forest management plan for forests owned by the State Treasury by the Minister of Environment is a matter falling under the jurisdiction of an administrative court - because it is an administrative decision (or, alternatively, another act or action in the field of public administration concerning rights or obligations arising from the provisions of law), and the issuance of this act is not a matter arising from relationships of organizational superiors and subordinates between public administration authorities and other state organizational units.

The Association requested that the contested decision be repealed in its entirety and the case be remanded to the Provincial Administrative Court, and that the costs of the cassation proceedings, including counsel fees and expenses, be awarded from the authority in favor of the Association according to the applicable rules. It further requested that the case be examined at a hearing.

In reply to the cassation complaint, the Director General of State Forests moved that the Association's and Foundation's cassation complaint be dismissed in its entirety and that the case be examined at a hearing. In his justification, he pointed out that the approval of the forest management plan by the Minister of Environment concerns only the property of the State Treasury under management of State Forests and is addressed to the supervised entity. The action of approval does not have any of the characteristics of an administrative decision. It should not be classified under Article 3 § 2 point 4 of LPBAC because the provision refers only to acts and actions undertaken as part of administrative or tax proceedings. He pointed out that, contrary to the assertions made in the cassation complaint, it would be pointless for the trial court to address the allegations concerning the assessment of the effect of non-national law, i.e. the rules of the Aarhus Convention and Directive 2011/92, on the legal nature of the act of approving the (annex to the) forest management plan in the situation where the complaint is rejected due to lack of jurisdiction of administrative courts. He pointed out that the actions resulting from the annex to the forest management plan for the B. Forest District do not fall under the category of projects listed in Annex I to the Aarhus Convention, nor do they represent a project that may have a significant impact on the environment, and that the provisions of the Convention do not provide the right to challenge any act of a private person or public authority in the field of the environment when such an act may not be challenged under national law. In Polish law, the procedures referred to in the Convention are laid down by the provisions of national law, i.e. the Code of Administrative Procedure, the Nature Conservation Act, the Environmental Protection Act, the Act on Provision of Access to Information concerning the Environment and its Protection, Public Participation in Environmental Protection and on Environmental Impact Assessments.

In reply to the cassation complaint, the Minister of Environment requested that the Association's cassation complaint be dismissed in its entirety and that the case be examined at a hearing. The Minister pointed out that the approval of the annex to the forest management plan could not be classified as one of the planned projects listed in Annex I to the Convention, and the Polish legislator did not provide that the procedure specified in Article 6

of the Convention would apply to annexes to forest management plans, and, therefore, the aforementioned Article 6 and Article 9 paragraphs 2 and 3 of the Convention would not apply in this case. He argued that the complainant in cassation failed to specify, in the grounds of the cassation complaint, a single provision of the Act on Provision of Access to Information concerning the Environment and its Protection (...) that the Court allegedly violated. He pointed out that the approval of management plans by the minister for environmental protection for forests owned by the State Treasury is an internal action undertaken in connection with the performance of ownership tasks. The forest management plan, including the annex thereto and its approval, are not a project within the meaning of the Act of October 3, 2008 on the Provision of Information concerning the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, and are only subject to strategic environmental impact assessment for planning documents.

Legal grounds

The Supreme Administrative Court considered the following:

In accordance with Article 183 § 1 of the Act of August 30, 2002 - Law on Proceedings before Administrative Courts (Journal of Laws of 2017, item 1369), the Supreme Administrative Court hears the case within the limits of the cassation complaint, but takes into account, *ex officio*, the invalidity of the proceedings. In the present case, the essential issue that comes to the fore is the question of invalidity of the proceedings, which is the case in a situation where judicial remedy was inadmissible (Article 183 § 2 point 1 LPBAC). This condition for invalidity of proceedings before an administrative court means that, although the appeals in cassation were based on a number of assignments of breach of procedure errors, it should first be considered whether the administrative court had jurisdiction to examine the lawfulness of the approval of the annex to the forest management plan.

What is decisive here is the determination of the jurisdiction of administrative courts according to Article 5 point 1 of the Law on Proceedings before Administrative Courts which stipulates that administrative courts shall have no jurisdiction over matters arising from organizational superiority and subordination in relations between public administration authorities. Consequently, an occurrence of a managerial relationship precludes the jurisdiction of administrative courts.

What is decisive for establishing whether there are relationships of organizational superordination and subordination are the legal solutions adopted in Article 4 section 1, Article 5 section 1 point 1 and Article 32 section 1 of the Forests Act of September 28, 1991. It follows from these legal provisions that forests owned by the State Treasury are managed by the State Forests National Forest Holding. According to Article 32 section 1 of the Forests Act, State Forests are a state organizational unit without legal personality. It follows from the systemic solutions adopted in the Act of August 8, 1996 on the Council of Ministers (Journal of Laws 2012, item 392) that a minister shall direct, supervise and control the activities of subordinate bodies, offices and units (Article 34 section 1 sentence 1). Therefore, a minister supervises and controls the activities of these units. Pursuant to Article 28 section 3 of the Act of September 4, 1997 on the Departments of Government Administration, the Minister responsible for the environment supervises the activities of (...) the "State Forests" National Forest Holding. The supervisory powers of the Minister of Environment are determined by Article 4 section 1 of the Forests Act. In light of this legal provision, the relationship of

organizational superordination and subordination of State Forests to the Minister for environmental protection should be derived. Consequently, this organizational subordination excludes the jurisdiction of administrative court.

Therefore, the claim that the court breached Article 4 section 3, Article 5 section 1 point 1, Article 18 section 1 and Article 32 section 1 of the Forests Act in that the court wrongly interpreted the law and erred in holding that the State Forests National Forest Holding is an entity within the structure of public administration subordinate to the Minister of Environment cannot be regarded as well-founded.

It is also important to point out the nature of the forest management plan act. The legislator provided in Article 6 section 1 point 6 of the Forests Law that a forest plan shall be taken to mean the fundamental forest management document developed for a specific object, containing a description and assessment of the condition of the forest and the objectives, tasks and methods of forest management. There is no basis for inferring from the definite nature that gives the plan the force of a document that it is a decision or other act or action relating to rights and obligations which arises from a provision of law. This is because it does not satisfy the primary purpose of defining rights or obligations to be fulfilled, and is, instead, an act of management directed at a state organizational unit. The view taken by the Supreme Administrative Court in its judgment of March 12, 2014, case no. II OSK 2477/12, that the approval of the plan "is an action of internal character undertaken in connection with the performance of owner's tasks, being the sphere of *dominium*, and not *imperium*" should be fully shared.

Such determination of the Court's jurisdiction makes any allegations of error with respect to the merits of the annex to the forest management plan unfounded, since this act does not fall under the jurisdiction of administrative courts. Therefore, all allegations of infringement of substantive rule, including EU law, are unfounded, since, due to lack of jurisdiction of administrative courts, they were not applicable before the provincial court.

Referring to the motion of the complainants in cassation to examine the appeals in cassation at a hearing, it should be noted that, in accordance with Article 182 § 1 LPBAC: "The Supreme Administrative Court may hear an cassation complaint against a decision of a provincial administrative court that concludes the proceedings in a case at a closed sitting." Referring to the above provision, the Court examining these cassation complaints has not found any circumstances that would support the necessity to hold a hearing, especially as the only issue revealed in the present case concerned the admissibility of lodging the appeal in the case.

The Supreme Administrative Court also did not find merit in the requests made in the cassation complaint.

In this state of affairs, since the cassation complaints were not based on justified grounds, the Supreme Administrative Court ruled pursuant to Article 184 of the Law on Proceedings before Administrative Courts as set forth in the operative part hereinbefore.