Appendix 3

Robert Suwaj PhD

CURRICULUM VITAE
presenting a description of scientific achievements

I. Education and increase in qualifications

University (from – to)	Degree or diploma/certificate of completion
University of Warsaw, Faculty of Law in Białystok 1992–1997	LLM Master's dissertation: ***Tax law compared with other branches of law*** tutor – Prof. E. Ruśkowski
University of Białystok 2000–2003	doctor of law in administrative law, awarded by a resolution of the Council of Faculty of Law at the University of Białystok title of the thesis: ***Administrative proceedings on taking evidence in the light of the provisions of the Administrative Procedures Code*** tutor – D. R. Kijowski, PhD hab.
Jagiellonian University summer semester of the 2011/2012 academic year	scientific internship at the Department of Administrative Law, Faculty of Law and Administration

II. Information on employment to date at scientific establishments

After earning my master's degree in law, I worked with the Department of Administrative Law at the Faculty of law of the University of Białystok, tutoring (holding classes in Administrative Proceedings) and teaching (including active participation in Professor E. Smoktunowicz's scientific seminar).

I started my doctoral studies in the 1999/2000 academic year at the above Faculty of Law, while, in 1 September 2000, I was hired as an Assistant at the Department of Administrative Law of the University of Białystok.

Next, after earning a doctorate in legal sciences, I was hired on 1 March 2004 as an Assistant Professor.

I am employed at the University of Białystok, which is my primary place of work in the meaning of the provisions of the Act on Higher Education.

In 2006-2011, I additionally worked as a lecturer (under an employment contract) at the Administrative Procedures Department of the Stanisław Staszic College of public administration in Białystok.

On 1 October 2013, I started to work with the Police Academy in Szczytno, where I am employed as an Assistant Professor on under an employment contract.

III. Specification of the scientific achievements referred to in Article 16 of the Act on Scientific Degrees and Scientific Titles and on Degrees and Titles in Arts of 14 March 2003 (Journal of Laws No. 65, item 595, as amended)

I am presenting a monograph titled: ***Judicial Protection against the Inactivity of Public Administration,*** Wolters Kluwer, Warsaw 2014, ISBN: 978-83-264-3272-9 Format: B6 (125 x 176 mm), Number of pages: 360, as my scientific achievement after receiving my doctoral degree, which – in my opinion – is a significant contribution to the development of a specific scientific discipline.

The assumption of the monograph was to conduct a comprehensive assessment of the available measures of legal protection against the inactivity of an authority in the national justice system to which the addressees (recipients) of activities of public administration are entitled. The fundamental substantive premise for taking up the subject in question was the need to analyse the coherence and completeness of the whole of the justice system, assuming that the control exercised by the administrative courts constitutes a basic, but frequently necessary form of judicial action against the inactivity of bodies of public administration in order to obtain full protection. This is because the protection granted by the legislator in the broadly-understood administrative "case" and its basic premise is the assumption of bringing about the fulfilment of the public duty by the administrative authority. The obligation, which – in addition – will be fulfilled in accordance with both substantive law and procedural law.

Assuming that, alongside the measures of protection against the inactivity of the administration, there are also measures serving to protect against the effects (consequences) of inactivity (of a supplementary nature), I accepted, that they should be jointly subject to a comprehensive assessment from the point of view of the effectiveness of legal measures in the meaning of the cited regulations of the Convention for the protection of human rights and fundamental freedoms and the Charter of fundamental rights of the European Union and the case-law of the ECHR.

I brought the basic research problems within the subject of considerations selected in this way down to the following general questions:

1. Does the current legal regulation create a system of judicial protection against the inactivity of public administration?
2. Is this system structurally correct and non-defective?
3. Do the applicable regulations, which provide legal protection against the inactivity of public administration, effectively secure the simultaneous achievement of the acceleration and compensation effect?

The main objectives of the thesis in the form of the assessment of the applicable national measures of protection against the inactivity of public administration (which will be the answer to the research problems set), as well as the formulation of specific new proposals of solutions, were conditional on the achievement of specific objectives, namely:

a) the definition of the notion of inactivity of public administration in the light of the applicable legal concepts of not resolving a case within the deadline and prolonged handling of proceedings,
b) the specification of the model of the system of judicial protection against the inactivity of public administration and the factors determining its shape and boundaries,
c) the comparison of the applicable rules for preventing and countering inactivity of public administration with the applicable national (Constitutional) and international (Treaty) standards,
d) the identification and systematization of the theoretical and practical problems in achieving a state of effectiveness of judicial protection against the inactivity of public administration.

Given the above assumptions and the current state of effectiveness of the measures of protection against inactivity of public administration, I accepted that the currently applicable legal regulations do not constitute a cohesive system of protection against inactivity of the public administration. In particular, they do not guarantee that the addressee of the administrative actions will benefit from real and effective judicial protection with the help of the existing legal regulations, which will ensure that he achieves the accelerating and compensation objective.

The preliminary working hypotheses, which were verified in the individual parts of the considerations, served this purpose.

First, I decided that the study of administrative proceedings and administrative court proceedings have not yet developed clear criteria for determining the content and limits

of the notion of inactivity of public administration and the relationship of its content with the notions of failing to resolve a case within the deadline and prolonged handling of the proceedings, which causes practical problems in setting the boundaries and forms of this protection.

Secondly, a model of preventing inactivity of public administration has not been established in the study of administrative proceedings. The applicable model, which encompasses protection against the already existing inactivity of public administration, which can be claimed before the bodies of public administration, is structured in a way which does not guarantee an effective impact on the timeliness of the actions of the administration in all spheres (and legal forms) of its action.

Thirdly, the accepted normative solutions and practice in rulings of the administrative courts suggest that there is no complete and coherent system of protection against the inactivity of public administration implemented by the administrative courts in all legal forms of action of the administration. There are areas of activity involving the performance of specific tasks, which, because of their content, as well as the form of implementation or procedural structure assigned to them, are not subject to judicial review, not giving the addressees of these activities the ability to realize their personal right, namely the constitutional right to a court hearing in every case.

Fourthly, I accepted that the applicable regulatory structure of complaints about inaction or prolonged proceedings enables the complainant to only achieve the acceleration effect, involving bringing about as a result of an act being issued or activities being taken up late by the administrative authority as a result of the Court accepting the complaint as being reasonable. However, it does not give the possibility of obtaining a compensation effect, which requires that this is sought in separate court proceedings.

Fifthly, the initial assessment of the normative regulations compared with the practice of adjudication of the administrative courts indicates that the essence and purpose of protection against inactivity provided for in the complaint against the activity or prolonged handling of proceedings seem disputable. This also creates a problem with the unambiguous establishment of the time limits for which there is an entitlement to statutory measures of legal protection, as well as the time limits of the court's jurisdiction to rule on such matters.

Sixthly, I accepted that the achievement of the compensation effect in the case of inactivity that is found requires the addressee of the administrative activities to initiate separate proceedings before a court of law, in which the burden of proof rests with the complainant. An entity which is dissatisfied with the inactivity of the administrative authority will need to demonstrate that it suffered damage as a result of the illegal inactivity of the public authority, which is in a normal causal relationship with the inactivity in exercising public authority.

The basic substantive premise of taking up the subject of examining the system of judicial protection against inactivity of the public administration was based on the need to assess its adequacy in the light of the constitutional standard of the right to a court

hearing, as well as the subjective rights guaranteed by international treaties, namely the right to the settlement of a case, without undue delay and the right to an effective remedy. As is emphasised in the literature, Article 13 of the European Convention on Human Rights guarantees the availability of an effective remedy at national level to protect the essence of the rights and freedoms guaranteed by the Convention. This implies the need for the existence of a remedy and the assumption that this measure must be effective. Meanwhile, this measure will be effective if two premises are jointly satisfied:

a) adequacy (acceleration effect) – enabling the review of the essence of the complaint (about a right or freedom) by the competent national authority and
b) effectiveness (compensation effect) – enabling the assurance of adequate compensation for inactivity.

The subject matter of the considerations specified in this way boiled down to the general questions posed in the introduction. These issues, which constitute the fundamental research problems, on the basis of which the national legal order in the area of judicial protection against the inactivity of public administration was analysed, enable the final verification of the main research arguments on the basis of the conclusions contained in the individual chapters of the thesis. They also later constitute the grounds for formulating specific postulates.

The first of the research problems boiled down to the general question of whether the current normative regulation creates a system of judicial protection against the inactivity of public administration.

Given the overall summary conclusions obtained as a result of the research conducted, with respect to the research problem which was formulated, the conclusion can be drawn that – at least from the formal point of view – there is a normative system of protection against inactivity encompassing both protection against inactivity, as well as its consequences.

The second research problem boiled down to the more detailed question of whether the national system of judicial protection against inactivity of public administration is structurally coherent and non-defective. The general findings in the thesis regarding this research problem give grounds for assuming that, although the structural assumptions that make up the system are correct, their normative implementation by the legislature provides for significant defectiveness, leaving inactivity of public administration in certain important areas of its operation beyond judicial control. In this respect, the constitutional right to a court hearing in every case is significantly limited. Therefore, there is also no question of an effective remedy or exercising the right of review of a case within a reasonable period.

The third of the research problems boiled down to the specific question of: do the applicable national regulations, which provide legal protection against the inactivity of public administration, effectively secure the simultaneous achievement of the acceleration and compensation effect?

In assessing the applicable normative regulations enabling judicial protection against inactivity from the point of view of the effectiveness of a complaint about inactivity or prolonged proceedings in the light of Article 13 of the European Convention on Human Rights, which guarantees the availability of an effective remedy at national level to protect the essence of the rights and freedoms guaranteed by the Convention, consideration should be given to the fact that the legal remedy will be effective if it implements two premises jointly:

a) adequacy – enabling the review of the essence of the complaint (about a right or freedom) by the competent national authority and
b) effectiveness – enabling the assurance of adequate redress.

Although, in terms of the first premise, it can be accepted that – despite doubts in interpretation – the legislature equipped the administrative courts – to the selected extent in which they are competent to rule – with tools enabling the case to be resolved, the premise of effectiveness enabling the achievement of redress because of inactivity has not been correctly implemented by the legislature in a manner which enables its real achievement.

However, the basic difficulty which appears with regard to effectiveness of the legal measures to be used against the inactivity of the administration is the break-down of the effects which are expected to be achieved (acceleration and compensation) into two separate court proceedings: administrative and civil, of which the second of the proceedings is related to the need for the complainant to take additional action and to initiate such proceedings within the appropriate deadline, and then – being burdened with the onus of proof – to demonstrate that he suffered injury, which is causally connected to the illegal omission during the exercise of public authority by the State Treasury, territorial self-government or another legal person exercising that authority by law.

The analysis of the case law of the courts of law does not give the opportunity to find real examples of any body of public administration bearing liability for compensation for inactivity or prolonged handling of proceedings, which appears to confirm the view of the doubtful effectiveness of the applicable regulations. This problem has already been noticed and a draft regulation provides for the introduction of new powers for the court to alternatively impose a fine on the authority or award an amount of money from the authority to the complainant at an amount of between PLN 1,000 and PLN 10,000. This possibility was modelled on the solution adopted in the Act of 17 June 2004 on the complaint regarding a breach of a party's right to a review of a case in the evidence gathering proceedings or proceedings supervised by the public prosecutor and court proceedings without undue delay. According to the author of the bill, in addition to the redress role, the threat of awarding a fee will reinforce the guarantee of the punctual settlement of a case by the administrative authorities which have the obligation to act[1].

The general findings described above with regard to the research problem that was set imply that existing national legislation giving legal protection against the inactivity of public administration do not sufficiently provide for the achievement of the acceleration

[1] The justification of the bill is available at: http://www.sejm.gov.pl/Sejm7.nsf/druk.xsp?nr=1633.

and compensation effect. Although the former is achievable, the achievement of the latter causes huge practical problems. This condition is also dangerous because it creates the belief of the administration that there is no real liability as a result of its inactivity.

Based on the results of the considerations about the fundamental research problems and their premises, it can be concluded that the main argument of the thesis was reviewed positively, with certain modifications. The existing defectiveness in the current regulations, comprising the system of redress for the inactivity of the public administration does not create a cohesive system of redress for the inactivity of public administration. In particular, it does not give the possibility of obtaining full legal protection, preventing advantage being taken of measures of judicial protection ensuring the achievement of both the acceleration and compensation objectives.

The findings, which were made both in the normative field and based on the ruling practice of the administrative courts, justify the need for normative changes in the area studied, so specific postulates of a directional nature, as well as suggestions regarding specific normative solutions have been formulated below.

In view of the above findings, I decided to mention certain postulates (comments) acknowledging it appropriate and desirable to take legislative action with regard to the possibilities of resolving the regulatory irregularities presented.

An issue of primary importance, which is of a directional nature, appears to be the need for research on the creation of a legal system which prevents inactivity of public administration. There is no doubt that this should be most awaited – from the rational point of view – direction of legislative activities, enabling the creation of modern public administration, acting effectively and efficiently, in a manner that eliminates the possibility of congestion arising in its operation, regardless of whether this is intentional or not. However, this initiative is particularly complicated, because diverse negative consequences related to the practical acceptance of a model of administrative silence in all legal forms of activity of public administration cannot be forgotten. Therefore, this requires considered action, although finding a good solution in this respect would enable most problems arising in connection with the inactivity of public administration and its consequences, which can cause damage to both public and private interests, to be resolved. After all, the mere restriction by the state of the ability to seek claims for damages does not solve the problem that every inactivity actually causes damage. It will not always be rewarded, but still arises and will continue to arise.

The next suggestion appears to be the need for a systemic approach to the normative regulation of the principles of liability incurred by the administration, for both its actions and its omissions, to the extent provided for in the Constitution of the Republic of Poland and international treaties. Today's system boils down rather to the introduction of restrictions in the area of forms, procedures and limits to seeking such claims in separate court proceedings, where the burden of proof is transferred to the entity which was injured through the lack of action of the respective body of administration.

Undoubtedly, it seems desirable to standardize the terminology of the notions binding both the activities of the administration, as well as the lack of these activities, as well as the legal consequences of their lack in order to practically and effectively apply the instruments of judicial protection. In the first instance, the issue of claiming legal protection against the inaction of the administration in administrative court proceedings needs to be standardized. In the broader perspective, this applies to all instruments of protection, including those related to liability for the consequences of the inactivity of the public administration.

This issue is also related to the need for an unambiguous normative clarification of these boundaries of protection against the inactivity of the public administration. This means, firstly, the comprehensive regulation of the limits of this protection, in a manner which enables judicial control of the inactivity of the administration, regardless of the legal form of performance of the public tasks, in particular by extending the control of the inactivity to exercising public administration powers, including in the forms of non-authoritative powers, regardless of whether such control is to be exercised in proceedings before the administrative court, or before a court of law. In fact, from the point of view of the implementation of the right to a court hearing, this is not particularly important, although, from the practical point of view, placing the protection against inactivity in proceedings before a court of law in a manner which enables this court to take over the case and to finally resolve it can significantly improve the situation of the addressees of administrative actions who have suffered negative consequences of inactivity of the public administration. Likewise, this structure does not exclude the possibility of transferring control of inactivity to the administrative courts, with the appropriate extension of the scope of their powers in the area of the simultaneous ruling on compensation or redress for inactivity in the performance of public tasks.

The problem of the unambiguous normative clarification of the essence of this protection against the inactivity of the public administration appears particularly important in the light of the entitlement to file complaints about inactivity or prolonged handling of proceedings. It seems necessary to explicitly clarify in the norms whether there is an entitlement to file two separate complaints in different factual and legal situations, from which the complainant can benefit for a specific purpose, or one complaint encompassing various spaces of time. The specification of the object of protection also seems required on normative grounds: either to attach the complaint to the administrative court as an instrument acting exclusively motivationally on the administrative authorities, in a way, "forcing" them to issue an act or take action; or as a response (repression) inciting specific legal consequences both in the same case, by ordering its settlement within a set deadline, but also as an instrument for drawing legal consequences in connection with the inactivity that has arisen (a fine imposed on the authority, the take-over of the case to be handled). It is only the clarification of the subject matter of the protection against inactivity, as well as the objective which individual complaints are to serve (for inactivity or prolonged handling of proceedings) which will enable the administrative courts to apply remedies that are appropriate to the purpose for which they have been introduced into the normative system.

Similarly, the issue of the time limits regarding the ability to accept complaints about inactivity or prolonged handling of cases by the authority which has been accused of inactivity and the issue of further adjudication in the case by the court need to be clarified. The resolution of this issue is particularly important because it is currently unclear how courts should proceed for it to be possible to accept that their actions are correct. This issue is clearly related to the previous one and therefore the work on its resolution should be conducted in parallel. This is because the establishment of which objective is to be assigned to the instruments of judicial control of inactivity will also unequivocally resolve the problem of the timing for ruling, indicating unambiguously whether the administrative authority which accepted the complaint about inactivity or prolonged handling of proceedings can and should be additionally held liable for the inactivity or prolonged handling of the proceedings arising before the decision was issued and whether this liability should only boil down to the possibility of imposing a fine on it, the beneficiary of which will not be the addressee of the administrative actions, who brought the complaint to the court.

Referring to the above issues, it seems reasonable to combine the ability to achieve both of the effects required in the case law of the ECHR, namely both the acceleration, as well as the compensation effect, in a single judicial proceeding. This is the direction in which the amendments proposed by the President of the Republic of Poland seem to be moving in the bill referred to above.

Notwithstanding the above postulates and suggestions, two practical comments arise from the analysis regarding the role of the administrative courts. The first of these applies to the adjudicating practice, which boils down to a specific method of searching for the limits of competence of the administrative courts. In this context, the method of adjudication by the administrative courts, which is pursued on the basis of the strictly interpreted principle of judicial control of administrative actions in matters regarding inaction or prolonged handling of proceedings when issuing acts and performing public administration activities regarding the rights or duties arising from the provisions of the law should be critically assessed in every case where this leads to the real deprival of the complainant's right to a court hearing.

This is particularly important and noticeable in two areas: 1) inactivity in issuing so-called other acts or taking up public administration activities regarding rights or duties arising from the provisions of the law, and 2) inactivity of administrative authorities in so-called hybrid proceedings, both at the stage of the proceedings before the administrative authority and with regard to inactivity in transferring the measures of redress to the court of law with jurisdiction. The current practice of adjudication seems to create a complete lack of judicial protection against inactivity in the above cases, the sole reason for which is the strict judicial interpretation of the jurisdiction of the administrative courts for dealing with complaints of this kind.

The second issue also applies to the adjudicating activities of administrative courts, although it involves exactly the opposite action, namely the interpretation of the provisions of the law in an extensive manner. This adjudicating activity takes on particular importance in the case of interpreting the subjective scope and time limits of the ability to review complaints regarding inactivity or prolonged handling of

proceedings. In my opinion, this interpretation goes too far, even becoming a *contra legem* interpretation in certain cases. This is action, which can be attributed noble intentions, which doubtless include extending the limits of control of inactivity and prolonged handling of proceedings, although, in the wider context, it appears to bear the hallmarks of unauthorized legislation, which contributes to the breach of the principle of certainty of the law and its content. The above, extensive interpretation appears to be so unreasonable that it is conducted in conflict with the intention of the legislature, which, in the justification of the bill introducing the complaint regarding prolonged handling of proceedings into the normative system, expressed its expectations of the subject of the protection provided for therein.

IV. Overview of other research and scientific achievements

The other scientific and research achievements have been presented in accordance with the requirements contained in the Regulation of the Minister of Science and Higher Education of 1 September 2011 on the criteria for assessing the achievements of applicants for a post-doctoral habilitation degree (Journal of Laws No. 196, item 1165).

My scientific and research interests in the area of legal sciences apply to issues related to the legal aspects of the activities of public administration. The main area of interest is the theory of the law and administrative procedures, including both the principles and the general course of administrative proceedings, as well as separate proceedings and specific proceedings. An additional area of interest is also the issue of the impact of international law and the legal regulations of the European Union, in terms of their impact on national law and the administrative procedure, as well as on the judicial control of the activities of public administration.

These issues are frequently analysed on the basis of other legal systems, but, in principle, relate to the Polish legal system. For this reason, the main publications are magazines and monographs with national coverage. The issues of interest to the applicant do not correspond to the subject matter of the foreign (American, British) journals contained in § 3 of the above regulation and, for this reason, the presented achievements do not include scientific publications in journals contained in the Journal Citation Reports (JCR). It should also be noted that the list of scientific journals of the European Reference Index for the Humanities (ERIH), which consists of journals from fifteen selected humanities and social science disciplines, does not currently contain journals on legal studies.

However, the applicant is the author and co-author of two foreign publications:

- *Sanctions in General Administrative Procedure*, in: *Theoretical and Practical Aspects in Poland and the Czech Republic*, edited by M. Popławski and D. Šramkova, Masarykova Univerzita, Brno–Białystok 2008
- *Ethical Responsibility of Officials of the European Union and Type of Sanctions Imposed for Unethical Conduct*, co-author P.A. Borowska, in: *Dny práva – 2008 – Days of Law*, Masarykova Univerzita, Brno 2008.

After obtaining his doctorate degree, the applicant has published approx. 100 scientific and creative professional works. Furthermore, several works, including articles and

commentaries, are at the publication stage. The scientific achievements include, in particular, 4 monographs, including that presented above constituting the basis of the post-doctoral habilitation application, as well as 30 papers constituting chapters in monographs, 24 articles and commentaries, 4 reviews and 2 reports (the list of publications is contained in appendix 4). It is noteworthy that the last of these were published in national publications appearing on the list of scored journals of the Ministry of Science and Higher Education, such as:

- "Overview of Public Law" [*Przegląd Prawa Publicznego*],
- "Territorial Self-Government" [*Samorząd Terytorialny*],
- "Scientific Notebooks on Administrative Jurisdictions" [*Zeszyty Naukowe Sądownictwa Administracyjnego*],
- "Gdańsk Legal Studies. Review of Case Law" [*Gdańskie Studia Prawnicze. Przegląd Orzecznictwa*],
- "Municipal Finance" [*Finanse Komunalne*],
- "Legal System Studies" [*Studia Prawnoustrojowe*],
- "Administration. Theory–Teaching–Practice" [*Administracja. Teoria–Dydaktyka–Praktyka*],
- "Public Administration. National and international studies" [*Administracja Publiczna. Studia krajowe i międzynarodowe*],
- "Białystok Legal Studies" [*Białostockie Studia Prawnicze*] and
- "State Control" [*Kontrola Państwowa*].

My teaching achievements constitute 27 educational studies, of which I was the editor, author and co-author.

The most important planes of research I have conducted on the legal regulations were the procedural institutions of administrative law, as well as the detailed institutions of the law and administrative proceedings on the legal aspects of taking evidence. My core areas of research in the field of law also include legal issues and issues supporting the law, as well as the principles and procedures of performing public duties. The areas of interdisciplinary research conducted also appear important, as their subject areas have become issues of influence of administrative procedures on various spheres of public law.

More specific topics of my scientific interest to date can be mentioned within the framework of the generally specified areas of research. These are:

1. Proceedings of taking evidence in general administrative proceedings

Various publications have arisen within this research area, which fundamentally characterized the course, procedure and principles of the proceedings on the taking of evidence, as one of the most important stages of the administrative process. Among these, special attention should be given to the monograph prepared on the basis of the doctorate thesis named *Proceedings on the Taking of Evidence in the light of the Provisions of the Administrative Procedures Code*, Wydawnictwa Profesjonalne Alpha-Pro, Ostrołęka 2005. All aspects related to the issue of administrative proceedings in taking evidence were analysed in this paper.

In this case, likewise the cycle of publications related to publications involving issues of taking evidence appears important, namely:

- *Proceedings on the Taking of Evidence as a Subject of Regulation by the Administrative Procedures Code*, Public Administration. National and International Studies No. 2/2003,
- *Basic Concepts of the Process of Proving Facts in General Administrative Proceedings, Public Administration*. National and International Studies No. 1/2004, and
- *Substitutes of Evidence as Elements of the Process of Proving Facts in general Administrative Proceedings*, Public Administration. National and International Studies No. 2/2004.

The research in this area led to the acceptance of two fundamental conclusions. The first of these is the acceptance that proceedings of taking evidence constitute the basic and exceptionally important element of the investigation, being simultaneously a stage of settling every administrative case. This is because an investigation takes place in every case, whereas, wherever suggested by a provision of the law and the facts of the case, proceedings also need to be conducted on the taking of evidence, namely such procedural activities by which the authority settling the case legally gathers evidence confirming the existence of the circumstances required by the provisions of the law (the so-called relevant facts). Secondly, it seems important that the procedural regulations determine the course, scope and form of taking evidence to a minor extent. The regulations contained in substantive law are of prime importance here, and it is their frequent amendments and heterogeneous nature which constitutes the main problem in the correct conduct of the proceedings on taking evidence.

2. General institutions of administrative law and proceedings

In this area, special attention should be devoted to the monograph, which was published in three editions, *Issuing Administrative Decisions*, Wydawnictwo Presscom, Wrocław 2006, 2007, 2011. Its subject is the analysis of the process of preparing and issuing decisions made in dynamic terms – from the initiation of administrative proceedings until after they end before the court of the first instance. The analysis of the doctrine and case law on issuing decisions and my experience gained in judicial work enabled me to assume that issuing a correct decision is influenced by the activities performed by the authority from the initiation of the proceedings in the administrative case. Therefore, in order to be legally significant, every procedural step must be taken with due care, in terms of both form and content. Such an approach will enable a decision to be prepared, which cannot be challenged with a breach of procedural law.

Particular significance here should also be attributed to the published articles titled:

- *Practical Aspects of the Initiation of Administrative Proceedings at the Request of a Party*, Public Administration. National and International Studies No. 2/2006.
- *Practical Aspects of the Participation of Public Organizations in Administrative Proceedings*, in: *Administrative Law* [scientific editor R. Suwaj], C.H. Beck, Warsaw 2008, Series: Library of Student Legal Advice, series editor I. Kraśnicka, and
- *Administrative Hearing as a Form of Clarification Proceedings*, Public Administration. National and International Studies No. 1/2007, as well as the chapter titled:

- *Sanctions in General Administrative Procedure*, published in the study named *Theoretical and Practical Aspects in Poland and the Czech Republic*, edited by M. Popławski and D. Šramkova, Masarykova Univerzita, Brno–Białystok 2008.

The papers devoted to case studies taken from the decisions of the competent authorities in administrative cases have a more practical dimension. These publications (in the form of commentaries) arose in parallel with those previously mentioned. These include:

- *commentary on the ruling of the Supreme Administrative Court of 29 May 2001 IISA/PO336/00 (published in ONSA 2002/3/118)*, in: Public Administration. National and International Studies No. 1/2004,
- *commentary on the ruling of the Voivodeship Administrative Court of 1 June 2006 ISA/Po 864/2005 (published in POP 2007/2, item 27)*, in: Public Administration. National and International Studies No. 1/2008.

During my professional work and the broadening of my knowledge of the institution of administrative procedures, as well as increasing my teaching skills, I noticed a need to for the creation of an instrument supporting teaching in extremely complex procedural issues. Working together with a team of collaborators, I prepared an exceptionally original teaching aid, which I edited, titled *Memory Guide: Guide to Exercises in Administrative Proceedings* [authors] D.J. Kościuk, A. Modrzejewski, M. Pater, A. Piszcz, A. Suławko-Karetko, R. Suwaj (ed.), Temida 2, Białystok 2007.

As a co-author, I also had the opportunity to participate in the creation of a book of exercises in administrative law, named *Administrative Law. Exercises*, which contained studies by co-authors on this issue:

- *Basic Concepts and Structures in the Study of Administrative Law* (chapter prepared jointly with P. Borowska, P. Sitniewski, M. Wincenciak, P.J. Suwaj, J. Radwanowicz-Wanczewska),
- *Public Administration Employees* (chapter prepared jointly with P.J. Suwaj, M. Wincenciak, P. Borowska and A. Modrzejewski),
- *Legal Forms of Administrative Activity* (chapter prepared jointly with M. Wincenciak, J. Radwanowicz-Wanczewska, M. Wenclik, A. Brzostek and P. Sitniewski),
- *Sources and Interpretation of Administrative Law* (chapter prepared jointly with A. Brzostek, A. Modrzejewski, P. Sitniewski and M. Wenclik).

3. The significance of administrative procedures in public law

Because the common belief that procedures (including the administrative procedure) are only tools for fulfilling public tasks, this also became – over time – fully acceptable to me; the vast majority of my scientific studies are issues related to the functioning of the institution of administrative law in various areas of activity of public entities and the interdisciplinary use of legal instruments in the activities of the public administration. Most of these studies arose in collaboration with specialists from various areas of public law, as a result of which it became possible to combine and resolve difficult practical issues, which had not been taken up to date in studies because of their multidimensional nature and the need for an interdisciplinary approach. These include studies of a

theoretical- and dogmatic-law nature, devoted to many planes of activity of public administration. These include the following publications:

- *The Responsibilities of Property Owners in Maintaining Cleanliness and Order in Municipalities*, co-author: A. Modrzejewski, in: Public Administration. National and International Studies No. 2/2005,
- *Municipal Waste Management – Selected Practical Problems*, in: *Efficiency of Operation of Self-Government Administration: VII Annual Conference of the Association of Public Administration Education*, Sandomierz, 21–23 May 2006, scientific editor E. Ura, Rzeszów 2006,
- *Legality and Legalism in the Performance of Tasks in the Area of Road Safety*, co-author P.A. Borowska, in: Administrative Law [scientific editor R. Suwaj], C.H. Beck, Warsaw 2008, series: Library of Student Legal Counselling Services, series editor I. Kraśnicka,
- *Contracts on the Management of a Roadway*, in: Contracts in Administration, ed. J. Boć and L. Dziewięcka-Bokun, Wrocław : Kolonia Limited, 2008,
- *Principle of Proportionality and the Penalty for Felling a Tree in the Light of the Act on the Protection of Nature*, co-author A. Brzostek, in: *Administrative Law*, [scientific editor R. Suwaj], C.H. Beck, Warsaw 2008, series: Library of Student Legal Counselling Services, series editor I. Kraśnicka.

The analysis of the above issues in these papers indicates that the procedural law regulation of individual areas of substantive administrative law is highly inconsistent, which creates a dysfunction in the instruments of public action on legal entities envisaged therein. While creating certain legal structures, which – by assumption – were to serve the purpose of protecting public interest, the legislature frequently did this in an imperfect manner. As a result of the above often competence-awarding norm empowering the authority to take certain actions in the sphere of public law, legal solutions obligating individual entities (most frequently the addressees of the decisions) to particular conduct were not assigned. This results in the inability to apply individual procedural instruments with respect to the parties to the proceedings and the far-reaching ineffectiveness of the administrative proceedings conducted.

In the area in question, attention should also be drawn to the research conducted on the issue of entities, the nature of which is disputed, participating in administrative proceedings, as well as the specific role of the administrative authority, when it operates in proceedings in offence cases, or in the relations between areas of public authorities. The work in this area includes:

- *Party to Administrative Proceedings in the Event of Liquidation Through Bankruptcy*, co-author A. Piszcz, Review of Public Law No. 10/2007,
- *Impact of Liquidation Through Bankruptcy on Administrative Proceedings Regarding the Debtor's Assets*, co-author A. Piszcz, Review of Public Law No. 10/2008,
- *The Administrative Authority as a Public Prosecutor*, in: Internal Security in a Contemporary State: collective work edited by E. Ura, Rzeszów University of Technology, Rzeszów 2008,
- *Problems of Applying Administrative Procedures – Selected Issues*, in: *Contemporary Issues in Public Administration: selected issues*, editor

P. Chmielnicki, E. Książek, K. Winiarski, Stanisław Podobiński Publishing House of the Jan Długosz University, Częstochowa 2008,
- *Pathologies in Relations Between Spheres of Public Authorities*, co-author A. Jackiewicz, in: *Pathologies in Public Administration*, ed. P.J. Suwaj, D.R. Kijowski, Wolters Kluwer Polska, Warsaw 2009,
- *The Principle of Nemo Iudex in Causa Sua in General Administrative Proceedings*, co-author P.J. Suwaj, in: *Codification of Administrative Proceedings on the 50th Anniversary of the Administrative Procedures Code*, ed. J. Niczyporuk, Publishing House of the University of Management and Administration, Lublin 2010 [form 2009]

4. Issue of tax proceedings

Studies of the functioning of administrative procedures resulted in the need to conduct both an external and internal comparative legal analysis. Under the detailed administrative proceedings, the most important practical role is played by tax proceedings, the regulation of which is of a comparable nature to that of general administrative proceedings, although the legislature foresaw certain – frequently quite surprising – derogations and exceptions in it. On the one hand, this is an understandable situation, because – as it seems – this is precisely the objective of creating special procedures, so that – because of the specific nature of the area encompassed by them – they contain solutions which are distinct from general and specific proceedings. On the other hand, the identity of the solutions related to the structure of Chapter IV of the Tax Ordinance, where tax proceedings are regulated, gives rise to a reasonably large amount of doubt, if they are compared with jurisdictional administrative proceedings.

I found issues of procedural differences, their causes and legal consequences, affecting both the participants of the tax proceedings and the tax authorities themselves, interesting in this area. These considerations are reflected in a series of publications, which consist of:
- *Procedural Consequences of Introducing the Institution of a Hearing in Tax Proceedings*, in: *Tax Ordinance in Practice*, Temida 2, Białystok 2007,
- *The Burden of Proving and the Burden of Proof in Tax Proceedings* in: *Tax Ordinance in Theory and Practice*, ed. L. Etel, Temida 2, Białystok 2008,
- *Initiation of Tax Proceedings at the Request of a Party – Practical Problems*, in: *Local Taxes and Charges in Practice*, ed. M. Popławski, Taxpress, Warsaw 2008.

5. Administrative enforcement proceedings

A consequence of my procedural interests in the area of activity of the administrative authorities was to also the inclusion of issues of administrative enforcement proceedings in my studies, which constitute the executive procedure with respect to jurisdictional administrative and tax proceedings. The main objective of conducting enforcement is to bring about the fulfilment of the obligation being enforced, namely causing the obligee to comply with the obligation imposed on him. Because of the reasonably complicated nature of the legal solutions, I decided to spread the scope of research over my collaborators, as a result of which a co-authorship paper arose, titled

Practice of Administrative Enforcement Proceedings, in which I prepared the following parts:

- *Preparatory Activities,*
- *Executive Activities,*
- *The Essence and Scope of Administrative Enforcement,*
- *Enforcement Costs,*
- *Responsibility in Enforcement Proceedings,*
- *Entities of Enforcement Proceedings,*
- *Interruption of the Course of Enforcement Proceedings,*
- *Participants of Enforcement Proceedings,*
- *Rules in Enforcement Proceedings.*

The analysis of the course of enforcement proceedings demonstrated that the legal solutions governing the application of coercive enforcement contain a number of imperfect solutions. In addition, because of the use of references to other acts of law, the legislature introduced a condition in which it is difficult to correctly apply the provisions on enforcement proceedings in administration, both with respect to the obligee, as well as other persons and especially with respect to persons representing the obligee. The relationship between the enforcement authority and the creditor is also regulated in a fairly complicated way, which frequently results in the lack of effectiveness of the procedural actions taken.

The research in this respect culminated in my participation in a collective work, prepared under the editor, Prof. D. R. Kijowski, which was the commentary on the Act on Administrative Enforcement Proceedings, in which I prepared the commentary on Articles 67–71b. (*Act on Enforcement Proceedings in Administration: Commentary* ed. D.R. Kijowski, Lex a Wolters Kluwer business, Warsaw 2010, p. 687-730).

6. Legal principles and principles supporting the law in the performance of public tasks

Within the areas of my research interests, an important place is occupied by the issue of rules and principles (both legal and arising from other sources) of operation of the public administration. Although the issue of principles is also part of the procedural regulations (for example, general principles of administrative proceedings), because of their fundamental importance and binding nature, I decided to make them a separate subject of study. My interest in these issues was primarily a result of two factors. Firstly – as I have indicated above – there can be talk of various sources of principles of administrative proceedings, whereby their different method of establishment simultaneously affects the extent to which they are made binding by the administrative authorities and the nature of the possible sanctions which can be applied in the event of a breach of a specific principle. On the other hand, the different nature and sources of regulation mean that a frequently similar subject of an obligation is governed by norms of a completely different type (e.g. legal and ethical), which overlap. These findings inspired me to look for a certain system of values and importance of these principles and the correct method of applying them. The following publications arose in this area, mainly as co-authorship:

- *European Standards of Administrative Procedures Compared with the General Principles of Polish Administrative Proceedings* (co-author P. J. Suwaj), in: *Poland in the European Union: Selected Issues*, ed. P. Chmielnicki, E. Książek, K. Winiarski, Stanisław Podobiński Publishing House of the Jan Dlugosz University, Częstochowa 2007,
- *On the Overrated Role of Codes of Ethics*, Public Administration. National and International Studies No. 2/2007,
    7. *European Standards of Administrative Proceedings as Norms Creating Models of Ethical Attitudes of an Official*, co-author P.J. Suwaj, in: *Ethos of an Official*, scientific editor D. Bąk, Wydawnictwa Akademickie i Profesjonalne, Warsaw 2007,
    8. *Ethical Responsibility of Officials of the European Union and Type of Sanctions Imposed for Unethical Conduct*, co-author P A. Borowska, in: *Dny práva – 2008 – Days of Law*, Masarykova Univerzita, Brno 2008,
    9. *External Conditions of the National Decision-Making Process*, co-author K. Boiret, in: *International Conditions of Public Administration*, ed. P.J. Suwaj, R. Szczepankowski and M. Zdanowicz, Stanislaw Staszic College of Public Administration, Białystok 2008.

7. Amendments made to the Administrative Procedures Code and Act on proceedings before administrative courts in 2010–2013

The most recent area of my research has been my focus on the analysis and evaluation of the recent changes in general administrative proceedings and the administrative court procedure. The general evaluation of these changes indicates incorrect assumptions of the legislature regarding the legal situation in force on the date of introduction of the amendment. In my opinion, the author of the bill also frequently conducts a superficial and analytically shallow assessment of the legal consequences of the proposed amendments. Significant doubts arise in the choice of regulations in which the amendments are made, because this was not preceded by theoretical legal considerations, or studies of administrative or judicial practice. The author of the bill frequently refers to the case law of courts and international tribunals, misreading its basic arguments in which allegations are raised as to the correctness of the national procedural regulations. These considerations have been included in the article titled:
- *Quality of the Created Law Using the Example of Amendments Made to the Administrative Procedures Code in 2010–2012*, Administration. Theory–Teaching–Practice No. 1/2013, p. 40-62.

I also conducted a detailed analysis of the individual normative solutions, which were amended in the above period. Specific procedural institutions has been analysed and assessed in the following papers:
- *Exclusion of an Employee from Participation in Administrative Proceedings*, State Control No. 5/2013, p. 123-134,
- *Initiation of Administrative Proceedings at a Party's Request after the Amendment of the Administrative Procedures Code*, co-author J. Dobkowski, in: *Functioning of Municipal Self-Government in Poland*, scientific editor P. Pietrasz, K. Gawrońska, D. Kościuk, J. Kulikowska-Kulesza, M. Perkowska, Oficyna Wydawnicza ASPRA, Białystok–Warsaw 2012 [50% participation], p. 25-42,

- *Complaint About the Prolonged Handling of Proceedings as an Example of Inflating the Right to Effective Judicial Protection against Inactivity*, in: *Inflation of Administrative Law*, scientific editor P.J. Suwaj, Lex a Wolters Kluwer business, Warsaw 2012, p. 105-117,
- *On the Side-Line of Preventing Inactivity of an Authority in Administrative Proceedings*, co-author J. Dobkowski, in: *Analysis and Assessment of the Changes in the Administrative Procedures Code in 2010–2011*, ed. M. Błachucki, T. Górzyńskiej, G. Sibiga, Supreme Administrative Court, Warsaw 2012 [50% participation], p. 145-165,
- *Exclusion of a Member of a County's Management Board from Participating in Administrative Proceedings under the Act on Public Roads*, in: *Legal Problems of Territorial Self-Government. vol. 1*, scientific editor B. M. Ćwietrniak, Oficyna Wydawnicza "Humanitas", Sosnowiec 2013, p. 361-364,
- *The Right to Good Administration and Good Administration using the Example of a Selected Legal Regulation*, in: *Impact of Lifestyle Changes on Administrative Law and Public Administration*, scientific editor J. Zimmermann, P.J. Suwaj, Lex a Wolters Kluwer business, Warsaw 2013, p. 266-279.

V. Scientific, teaching, organizational and popularizing achievements, as well as involvement in projects

1. **List of published scientific works and creative professional work** – Appendix 4.
2. **Information on achievements in teaching and organization in the area of education** – Appendix 6.
3. **Information on activities popularizing learning and collaboration with institutions, organizations and scientific societies domestically and abroad** – Appendix 7.

30.05.2014
date

Robert Suwaj
signature