For the indisputably established boundary points, stabilization was performed in the presence of the parties in the following way: border points No.18.1-1459, 18.1-1458, 18.1-620, 18.1-623, 18.1-624, 18.1-1310a were marked with iron pipes, border points No. 18.1-681 , 18.1-682, 18.1-683, 18.1-684 18.1-685, 18.1-625 are old metal fence posts or concrete posts inserted in place of the old ones. Point No. 18.1-1310a was marked on the line 18.1-624-18.1-1310 due to the lack of possibility to mark the point 18.1-1310 located in the middle of the drainage ditch.

The course of the border along the sections marked on the border sketch as follows: line 18.1 - 674-18.1-673-18.1-672-18.1- 1422 -18.1 - 671 -18.1 -1423 -18.1 - 1424 is indicated on the basis of renewed border marks from the year 2020 border determination in the report No. P.0612.2020.653 – work interrupted. **The work was not interrupted. We withdrew our consent, when we realised the true intention was to allow Tomasz Kuś to expand his Plot to block our historic public access**

The course of the border along the sections marked on the border sketch as follows: line 18.1- 674 -18.1 - 673 - 18.1 -1423 - 18.1-1424 was established on the basis of the unanimous declaration of the parties as the correction of the border line. **The declaration was not unanimous, because we would never agree to our neighbour expanding his plot to block our historic public access**

For the undisputed boundary points, stabilization was performed in the presence of the parties in the following manner: Points 18.1 - 674, 18.1-673, 18.1 - 1423 and 18.1 - 1414 were marked with iron pipes.

The parties present during the activities are requesting approval of the established border line between the plots by the decision of the Mayor of the Wilków Commune.

In connection with the above, it was adjudicated as in the sentence.

Instruction

The party has the right to appeal against this decision to the Local Government Appeals Court in Lublin through me within 14 days of its delivery. During the time limit for lodging an appeal, a party may waive the right to appeal against the public administration body that issued the decision. The decision becomes final and binding on the day the public administration authority is served with the declaration of waiver of the right to appeal by the last party to the proceedings.

PiS Mayor Daniel Kuś broke the law (that is: Article 33, section 3 of the Geodetic and Cartographic Law) when he directed us on an incorrect appeal path and, by refusing to correct his error, he is breaking further laws (that is: 1) Article 6 of the Code of Administrative Procedure (CoAP) in connection with Article 112 of the CoAP in connection with Article 113 of the CoAP; 2) Article 7 of the CoAP; 3) Article 77 of the CoAP; 4) Article 77 of the CoAP in connection with Article 107 § 3 of the CoAP; 5) Article 112 of the CoAP). Rather than holding PiS Mayor Daniel Kuś to account for breaking the law, the Local Government Court of Appeals is currently tying us up with bureaucracy, claiming our lawyer doesn't have the correct paperwork. It is evident that Poles who marry Jews are not protected by the Law in Poland in the 21st Century.

WÓJT GMINY WILKÓW

WÓJT
mgr inż. Daniel Kuś

They receive:
1. Ms. Agnieszka and Mr. Tomasz Kuś residing in Wilków 52, 24-313 Wilków
2. Ms. Kamila Charchuła
Chairwoman of the Land Community
of the village of Wilków
residing in Wilków 44a, 24-313 Wilków
3. Ms. Anna Roberts-Meier
Puławska Street 18/137, 20-046 Lublin
4. Poviat Starost in Opole Lubelskie
Lubelska Street 4, 24-300 Opole Lubelskie
5. To file [= Ad acta]

Pobrano opłatę skarbową
w kwocie ..... 10 ..... zł
nr kwitariusza 01048/01
w dniu ..... 10.08.2022 r.

Sygn. akt III SA/Lu 336/23

ODPIS

The Administrative Court in Lublin rejected our appeal against the demarcation of 2022 because the Local Government Court of Appeal was not the correct authority to receive that appeal. The Administrative Court ruled that Gmina Wilków (the "first-instance authority") had directed us incorrectly

JUDGMENT

ON BEHALF OF THE REPUBLIC OF POLAND

Dnia 23 November 2023 r.

Voivodship Administrative Court in Lublin composed of:

Chairman	Judge WSA Jerzy Drwal (sprawozdawca)
Judges	Judge WSA Ewa Ibrom
	Assessor WSA Agnieszka Kosowska

after considering on November 23rd, 2023 r.
at a closed session in a simplified procedure
the case of Anna Roberts-Meier's complaint
against the decision of the Local Government Appeal Court in Lublin of
May 11th, 2023, No. SKO.41/2540/GG/2023
regarding the declaration of inadmissibility appeal

dismisses the complaint.

WOJEWÓDZKI SĄD ADMINISTRACYJNY W LUBLINIE

Na oryginale właściwe podpisy
Za zgodność z oryginałem stwierdzam
Referent
Małgorzata Rębacz

and to this end, they provide them with the necessary explanations and instructions.

In the case under consideration, these principles were violated by the Kolegium, which resulted in the defectiveness of the decision issued by this body.

According to the Court, the first-instance authority incorrectly instructed the parties to the proceedings in its decision that the decision in question may be appealed to the Local Government Appeal Court in Lublin through the first-instance authority. The Kolegium, despite the visible shortcomings of the first-instance body as to the proper instruction of the parties regarding their remedies and the complainant's actions without a professional representative, did not point to the content of Art. 33 section 3 of the Geodetic and Cartographic Law. It did not ask the complainant to specify whether her letter, contrary to the provisions of this provision, is an appeal or a request to refer the case to the Court, or whether it is of another nature. The Kolegium also did not provide information on the consequences of filing an appeal against the decision of the first-instance authority on the demarcation of real estate.

In the Court's opinion, the Kolegium issued a decision declaring the appeal as inadmissible at least prematurely, disregarding the procedural obligations arising from Art. 8 § 1 and art. 9 of the CoAP, as well as omitting its obligation to precisely determine the content of the party's request.

The Court indicated that when re-examining the case, the authority would summon the complainant again, referring to the content of Art. 33 section 3 of the Geodetic and Cartographic Law Act to specify its letter of August 25th, 2022, submitted within the deadline referred to in Art. 33 section 3 of the above-mentioned Act. It will also inform the party about the negative consequences for it if an appeal is filed contrary to the above provision.

Following the guidelines included in the Justification of the Judgment of the Voivodship Administrative Court in Lublin, the appellate body, in a letter of April 14th, 2023, summoned the party, pursuant to Art. 64 § 2 of the CoAP, to remove, within 7 days from the date of receipt of the request, the lack of a formal application of August 25th, 2022, by indicating whether this application constitutes an appeal against the administrative decision of the Mayor of the Wilków Commune of August 10th, 2022, on the demarcation real estate or is of a different nature (with a request to indicate it), otherwise the application will not be considered. At the same time, the Kolegium informed the party that there is no appeal from the decision issued under Art. 33 section 1 of the Act of May 17th, 1989, Geodetic and Cartographic Law.

ala

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Lublin, 8 listopada 2024 r.

Samorządowe Kolegium Odwoławcze w Lublinie
ul. Zana 38 C
20-601 Lublin

za pośrednictwem

Wójta Gminy Wilków
Wilków 62A
24-313 Wilków

Skarżący: **Anna Roberts-Meier**
ul. Puławska 18/137
20-046 Lublin
reprezentowana przez pełnomocnika:
adw. Jana Kokota
ul. 3 Maja 18/6
20-078 Lublin

Znak sprawy: GKiR.6830.4.2021

COMPLAINT AGAINST THE DECISION
OF THE MAYOR OF THE MUNICIPALITY OF WILKÓW OF 28 OCTOBER 2024
REGARDING THE REFUSAL TO CORRECTION OF THE INSTRUCTION

Acting on behalf of and for the benefit of **Anna Roberts–Meier** – based on and within the scope of the power of attorney granted to me (power of attorney in the case files), I hereby appeal against the decision of the Mayor of the Wilków Commune of October 28, 2024 regarding the refusal to correct the instruction in decision no. GKiR.6830.4.2021 in its entirety.

I find the contested judgment violating:

– art. 6 k.p.a. w zw. z art. 112 k.p.a. w zw. z art. 113 k.p.a. due to the failure of the body to apply the provisions of mandatory law and, as a consequence, to issue a negative decision, while the Body should have issued a decision to correct the decision in accordance with the Complainant's request;

– art. 7 k.p.a. by failing to apply the principle of objective truth, i.e. by failing to examine the nature of the error by the Authority and, as a consequence, finding that it was not possible to correct the decision instruction, as it was not an obvious error, while the case law and analysis of the content of Article 113 of the Code of Administrative Procedure indicate that in this case, in fact, an obvious error occurred;;

– art. 77 k.p.a. due to the Authority's failure to examine the nature of the error and, consequently, finding that it was not possible to correct the decision instruction, as it was not an obvious error, while the case law and analysis of the content of Article 113 of the Code of Administrative Procedure indicate that in this case there was in fact an obvious error;

– art. 77 k.p.a. w zw. z art. 107 § 3 k.p.a. by the Authority failing to take into account that in this case, on the basis of all the evidence collected in the case, the decision may be corrected pursuant to Article 113 of the Code of Administrative Procedure, whereas in this case, after analysing the specific case, it is indisputable that the erroneous instruction contained in the decision constitutes an obvious error constituting a manifestation of an incorrect choice of words, as it is obvious that the Authority is aware of the correct course of appealing against the decision;

– art. 112 k.p.a. by imposing negative consequences on the Appellant for complying with an erroneous instruction, while provision aii. 112 of the Code of Administrative Procedure directly excludes such a possibility;

In view of the above, I request:

– annul the contested decision and rule on the merits of the case in accordance with the Applicant's request, i.e. to correct the instruction on the decision no: GKiR.6830.4.2021;

possibly in case of failure to take into account the above

– annulment of the contested decision to refer the case for reconsideration to the first instance body.

JUSTIFICATION

On August 10, 2022, the Mayor of the Wilków Commune issued a decision with reference number: GKiR.6830.4.2021, by virtue of which he approved the delimitation of the real estate plot with cadastral number 590/1 with neighboring plots with cadastral numbers 589, 740 and 717/1 located in the area 18 - Wilków, Wilków commune, Opole district, Lublin province. In the aforementioned Decision, the Mayor of the Wilków Commune in the Instruction indicated the following appeal path *"the party has the right to file an appeal to the Local Government Appeal Board through me within 14 days of its delivery"*.

The party complied with the above instruction, and therefore was unable to effectively defend its rights, as the Local Government Appeal Board dismissed the appeal due to the inadmissibility of such an appeal path.

In view of the above, in order to be able to effectively appeal against the delimitation decision of the Mayor of Wilków Commune, on 20 September this year, the Party submitted to the body a request to issue a correction of the decision, namely to correct the decision in terms of the formulated instruction. The complainant, on the basis of Article 112 of the Code of Administrative Procedure in connection with Article 113 of the Code of Administrative Procedure, requested the correction of an obvious error.

On October 28 this year, the Mayor of the Wilków Commune issued a decision in the case in question, by virtue of which he refused to rectify the instruction in decision no. GKiR.6830.4.2021.

It is impossible to agree with the above decision.

First of all, I would like to point out that the Authority wrongly assumed that the errors appearing in the decision instruction cannot be considered a clerical error or other obvious error under Article 113 of the Code of Administrative Procedure.

In the context of administrative proceedings, the right to appeal against judgments and decisions expressed in Article 78 of the Constitution of the Republic of Poland means the right of a party to initiate the procedure for verifying the correctness of an administrative decision issued in an individual case by a first-instance body. The purpose of verifying decisions is to protect the rights and interests of the parties to the proceedings and to ensure the lawfulness of the public administration's actions in its relations with the individual. In the case of a non-final decision, the means of appeal is, as a rule, an appeal. A11. Article 129 § 1 of the Code of Administrative Procedure establishes an indirect procedure for filing an appeal to the appeal body, i.e. through the body that issued the decision. In Article 129 § 2 of the Code of Administrative Procedure, the legislator specified a deadline of 14 days from the date of service or announcement of the decision for filing an appeal, while in § 3 it stipulated that special provisions may provide for other deadlines for filing an appeal. Filing an appeal within the deadline by an authorized entity initiates the procedure for verifying the decision within the administrative course of the instance. A special provision may provide that a decision issued in the first instance is final and then subject to verification by way of a

complaint to an administrative court or that it is subject to appeal in an action before a common court. **In each case, regardless of the nature of the decision, it should contain information on the means of appealing against it, which results directly from Art. 107 § 1 points 7 and 9 of the Code of Administrative Procedure. It should be noted that the cited provision of the Code of Administrative Procedure guarantees the parties the right to information on the means of appeal available to them.**

The instruction is a mandatory element of the decision and fulfils the obligation to inform the parties resulting from art. 9 of the Code of Administrative Procedure, which has a guarantee and protective character towards the individual as the weaker entity in public law relations. The instruction is of great importance to the parties to the proceedings. As Arkadiusz Szyszkowski notes, "it is sometimes the most important information for the party, immediately after it has familiarised itself with the decision". It should be noted that a correct instruction must contain all the information specified in art. 107 § 1 item 7 or 9 of the Code of Administrative Procedure. In practice, the defectiveness of the instruction may consist in its absence, incompleteness or inconsistency of the content of the instruction with the provisions of law specifying the appropriate means of appeal in a given case and the procedure and deadline for its submission. The view is well-established in the literature and case law that an incorrect instruction does not constitute a significant defect of the decision and does not provide grounds for its annulment. Art. 112 of the Code of Administrative Procedure protects the party against the negative effects of complying with erroneous instructions. This provision states that "an erroneous instruction in a decision regarding the right to appeal or the effects of waiving the right to appeal or filing an action with a common court or a complaint with an administrative court may not harm the party that has complied with this instruction". Not harming the party should be understood as eliminating the negative effects for the party caused by complying with the erroneous instructions. An erroneous instruction may not deprive the party of the possibility of effectively appealing against an administrative decision, and thus exercising the subjective right resulting from art. 78 of the Constitution of the Republic of Poland. In turn, the right to equal treatment by public authorities and the lack of discrimination for any reason result directly from art. 32 points 1 and 2 of the Constitution of the Republic of Poland.

At the same time, the consideration of the possibility of correcting a decision should always take place against the background of the circumstances of a specific case, as what may be considered obvious in one set of factual relations may lose this feature when this set changes, even to a relatively small extent. **The concept of "obvious error" is, after all, vague in nature**, referring to a system of extra-legal concepts and assessments, consequently excluding the automatism of the adopted criteria in favour of a certain flexibility, allowing for making the legal qualification more realistic and adapting it to various, often unique and individual aspects of the situation being examined (judgment of the Supreme Administrative Court of 19 May 2008, file ref. I FSK 732/07).

For example, the issue of admissibility of correcting an error in designating a party to the proceedings may be assessed differently. Thus: if the error in designating a party consists in an obviously erroneous statement of the surname or first name or address of residence of the party, the decision may be corrected in accordance with Article 113 § 1 of the Code of Administrative Procedure. In the event, however, that an entity that was not and cannot be a party to the proceedings was designated as a party, because the proceedings did not concern its legal interest or obligation, such a decision is burdened with the defect referred to in Article 156 § 1 item 4 of the Code of Administrative Procedure, i.e. that the decision was addressed to a person who was not a party to the case (judgment of the Voivodship Administrative Court in Warsaw of 19 October 2007, file reference VI SA/Wa 949/07).

Correction cannot replace other procedural institutions appropriate for removing significant defects inherent in the decision, such as, for example, annulling the decision or declaring it invalid. **It cannot be a loophole for reassessing the factual or legal status or lead to a change in the substantive decision** (see judgment of the Voivodship Administrative Court in Warsaw of 27 April 2006, file reference I SA/Wa 1663/05).

In addition, the body that issued the decision may clarify, by means of a resolution at the request of the enforcement body or a party, doubts as to the content of the decision (Article 113 § 2 of the Code of Administrative Procedure). It should be emphasized that the literal content of this provision indicates that such proceedings cannot be initiated ex officio.

The application of this legal remedy should be preceded by an application submitted by an authorized entity, i.e. an enforcement body or a party. In the light of art. 1 a point 7 of the Act of 17 June 1966 on enforcement proceedings in administration, an enforcement body is an authority authorized to apply, in whole or in part, the measures specified in the Act to ensure that the obliged persons fulfill their financial or non–financial obligations and to secure the fulfillment of these obligations.

The classification of defectiveness adopted in art. 113 § 1 of the Code of Administrative Procedure is exhaustive, characterized by the same feature – obviousness. It therefore constitutes a limit of the substantive admissibility of rectification, **expressed in the fact that the rectification cannot lead to a substantive change of the decision** (judgment of the Supreme Administrative Court of 11 August 1999, II SA 1072/99, Lex No. 46235; judgment of the Regional Administrative Court in Warsaw of 13 February 2004, II SA 220/03, Legalis, and of 25 February 2005, VII SA/Wa 321/04, Legalis).

The obviousness of an error or mistake consists in a discrepancy, visible in the light of the case files, between the thought (intention) expressed by the public administration authority and the selection of individual words or numbers to define unquestionable facts (judgment of the Supreme Administrative Court of 19 July 2002, IV SA 498/01, Legalis; judgment of the Regional Administrative Court in Warsaw of 24 January 2008, III SA/Wa 3802/06, Legalis; judgment of the Regional Administrative Court in Gdańsk of 18 August 2022, II SA/Gd 311/22, Legalis). An apparent mistake may be related to the improper use of, for example, a word, an apparently incorrect spelling or an unintentional omission of one or more words (judgment of the SKO of 23 August 2001, Kol. Odw. 1507/01/G, OwSS 2002, No. 4, item 91). Such a situation may therefore be related to the fact that the administrative decision expresses something that is apparently inconsistent with the idea expressed unequivocally by the public administration body, and was expressed only through an oversight, **an incorrect choice of words or a clerical error** (judgment of the NSA of 17 October 2001, II SA 1099/01, Legalis).

At this point I would like to point out that in fact the body made a statement (in writing) that should undoubtedly be considered an oversight and therefore an obvious mistake. It is known that the Body has expert knowledge and the incorrect instruction was formulated only as a result of an oversight.

The obviousness of an error should result either from the nature of the error itself or from a comparison of the decision with the justification, the content of the motion or other circumstances (judgments of the Regional Administrative Court in Warsaw: of 3 july 2007, VII SA/Wa 672/07, Legalis; of 29 june 2007, VI SA/Wa 433/07, Lex No. 356431; of 2 April 2008, II SA/Wa I 09/08, Legalis; judgment of the Regional Administrative Court in Białystok of 4 june 2008, II SA/Bk 200/08, Legalis). The second type of obviousness can be established by comparing the content of the decision with the documents contained in the case files (judgment of the Supreme Administrative Court of 22 january 1998, IV SA 531/96, Lex No. 43134).

The consequence of this is that the correction of an obvious error is possible only when it is not necessary to conduct evidentiary proceedings in order to prove that a specific entry in the decision is incorrect (judgment of the Regional Administrative Court in Warsaw of 28 April 2008, IV SA/Wa 306/08, Legalis)

In this case, the correction of the error does not lead to the conduct of the proceedings or to a substantive change of the decision. Any substantive change of the decision must be made as a result of an instance control. In this proceeding, the party only requests the correction of the instruction, which in no way interferes with the substantive decision of the body.

The concept of an obvious error is imprecise, referring to a system of extra-legal concepts and assessments, and as a result excluding the automaticity of the adopted criteria in favour of a certain flexibility, allowing for a more realistic legal qualification and adapting it to various, often unique and individual aspects of the situation being examined. For this reason, what may be considered obvious in one set of factual relations may lose this feature when this set changes, even to a relatively small extent (judgment of the Supreme Administrative Court of 29 May 2008, I FSK 732/07, Legalis).

For this reason, in the proceedings for the correction of a clerical error under Article 113 § 1 of the Code of Administrative Procedure, substantive issues that were the subject of the decision in which the correction was made cannot be considered (judgments of the Supreme Administrative Court of 24 September 1999, IV SA 1184/97, not published and of 8 October 2014, II OSK 777/13, Legalis; judgment of the Supreme Administrative Court of 4 January 2022, I OSK 3192/19, not published).

At the same time, I would like to point out the significant significance of Article 112 of the Code of Administrative Procedure. The condition for applying Article 112 of the Code of Administrative Procedure is the existence of a possibility of appealing a given decision in the legal order. This is established by relating the right to challenge a body's decision by means of appeal (e.g. appeal, complaint, action to a common court, complaint to an administrative court) to the legal norm granting the party such a right. However, the right to file an appeal cannot be derived from an erroneous position of the body that incorrectly instructed the party as to the appeal to which it is entitled. The protection granted under Article 112 of the Code of Administrative Procedure is not absolute in nature and cannot constitute the creation of such rights of a party in the proceedings, where they have not been granted at all. A different view would in fact give administrative bodies a law-making function and the possibility of functioning, as it were, alongside the applicable legal system, which in turn would be incompatible with the principle of the rule of law (Article 7 of the Constitution of the Republic of Poland and Article 6 of the Code of Administrative Procedure), and as a result also with the principle raised in this appeal of deepening the trust of the participants in the proceedings in public authorities (Article 8 of the Code of Administrative Procedure) by accepting the actions of the body outside the applicable legal norms.

In administrative law, one cannot accept the fiction of common knowledge of law, this is not a field in which it would have a reason to exist (cf. A. Turska, O fikcji, pp. 310–311; Z. Duniewska, Ignorantia iuris, pp. 99 et seq.). W. Lang writes that "the requirement (obligation) of common, elementary knowledge of law by the addressees of legal norms is not a legal requirement in the proper sense of the word, as it does not constitute an independent obligation of the addressees. The subject of legal regulation is not directly the state of people's consciousness" (W. Lang, in: W. Lang, J. Wróblewski, S. Zawadzki, Teoria państwa i prawa, p. 500).

For this reason, public administration and judicial bodies are obliged to provide legal information (ibid.; see also W. Taras, Informowanie Obywatele, p. 74 et seq.; T. Górzyńska, Prawo do informacji, p. 216 et seq.). In cases decided in the proceedings regulated by the

Code of Administrative Procedure, the body conducting the proceedings has information obligations towards the parties and participants of the proceedings, resulting from the general principle established in art. 9 (see the note to it). The provisions contained in art. 112 of the Code of Administrative Procedure constitute one of the most significant consequences of the breach by the body conducting the proceedings of the obligation to provide the parties with reliable information about their rights, in relation to their very important sphere – filing appeals. Verification of decisions, aimed at protecting the rights and interests of the parties to the proceedings, is at the same time an institution serving to ensure the lawfulness of the public administration's actions in its relations with the individual.

The wording of the provision in question should be considered in conjunction with Article 107 of the Code of Administrative Procedure. Although, in accordance with Article 112 of the Code of Administrative Procedure, an erroneous instruction in the decision of the authority as to the remedy available to the party or the lack of such instruction cannot be detrimental to the party, the fact of failure to provide instruction in this matter constitutes a limitation of the parties' right to defence (judgment of the Voivevodship Administrative Court in Warsaw of 23 September 2005, VII SA/Wa 1374/04, Legalis). This results from the possibility of implementing the principle of two–instance proceedings expressed in Article 15 of the Code of Administrative Procedure (primarily through the possibility of filing an appeal against a decision), or judicial review of an administrative decision specified in Article 16 § 2 of the Code of Administrative Procedure (primarily within the administrative courts).

The analysis of Article 112 of the Code of Administrative Procedure is related to the characteristics of the instruction and the effects resulting from its wording, which are derived from the analysis of, in particular, Article 107 § 1 of the Code of Administrative Procedure, from which it follows that an administrative decision contains an instruction on whether and in what procedure an appeal may be lodged against it and on the right to waive an appeal and the effects of waiving an appeal, whereas a decision against which an action may be lodged with a common court, an objection to the decision or a complaint with an administrative court should contain an instruction on the admissibility of lodging such a remedy (see the note to Article 107, Nb 58–61).

For a party to administrative proceedings, the instruction contained in the decision of the body should be authoritative. Due to the wording of art. 112 of the Code of Administrative Procedure, an erroneous instruction in a decision regarding the right to appeal cannot harm the party that complied with this instruction. It should be noted that the protection resulting from the discussed provision will only apply to a situation in which the party complied with a defective instruction provided by a public administration body. The mere existence of an error in the instruction does not entail the possibility of applying the protective mechanism resulting from art. 112 of the Code of Administrative Procedure (see also judgment of the Regional Administrative Court in Rzeszów of 23 April 2008, II SA/Rz 881/07, Legalis).

An error for the effects of which protection is provided for under the scope of art. 112 k.p.a. is the inconsistency of the content of the instruction with the mandatory provisions of law. Firstly, the possibility of applying a specific legal remedy should result from the instruction; secondly, the protection is provided by providing the addressee of the decision with a specific deadline for applying a specific legal remedy. An error concerning the deadline contained in the instruction is associated with extending protection beyond the deadline specified by law. This results from the fact that an administered entity that acts in trust towards the public administration body, which comes down to recognising that the element included in the administrative decision is correct, cannot be burdened with additional obligations if it turns out that the instruction was incorrect.

Modification of regulations related to the procedure for filing a legal remedy involves interference with the deadline for its application or the competence of the body. In the event of failure to meet the deadline for filing a legal remedy as a result of following an erroneous instruction, its filing should be considered effective (see judgment of the Supreme Administrative Court of 20 July 2010, I OSK 840/1 O, Legalis); however, in the case of application to an instruction in which the body competent to handle the case was erroneously indicated, Article 65 of the Code of Administrative Procedure should be applied.

In view of the above, I conclude as stated at the outset.

ADWOKAT
adw. Jan Kokot

Attachment:

1/ copy of the complaint