Raad van State

ACA EUROPE

Colloquium organized by the Council of State of the Netherlands and ACA-Europe

"An exploration of Technology and the Law"

The Hague 14 May 2018

Answers to questionnaire: Poland

Colloquium co-funded by the «Justice » program of the European Union

Answers to preliminary questionnaire:
Poland

Digital decision-making

The use of 'Big Data' and algorithms enables decisions to be taken more rapidly and more frequently, for example on whether to issue permits, award grants or pay benefits. Critics warn of 'government by robots' that is hard to keep in check, while proponents argue that such technology will improve the justification and efficiency of decision-making.

1. Do administrative bodies in your country make use of automated decision-making? By 'automated decision-making' we mean decisions based on automated files or computer models.

o Yes

Please provide an example.

The process of automated decision-making may refer to situations in which the decision issued by the authority is based on data collected in different types of registers, systems or records. A good example of this are decisions regarding road transport based mainly on the data included in the Central Register of Vehicles and Drivers (CEPiK run by the Ministry of Interior and Administration), kept in an IT system. On the basis of the information included in such a collection, the competent authorities issue, among others:

- decisions regarding vehicle registration (e.g. refusal to register a vehicle recorded as a stolen vehicle);
- decisions on imposing fines (e.g. against a person appearing in the register as the owner of the car, who drove through a monitored section of the road under a control device without payment of the required fee – in this case the basis for the penalty is also relevant registration records and photographic documentation).

Please also indicate what consequences automated decision-making has for you when assessing decisions in a judicial capacity and/or what particular aspects you have to consider when drafting advisory opinions on legislative proposals relating to this topic.

It seems that the primary role of the courts evaluating the "automated" decisions is primarily to thoroughly investigate the facts of the case. It is to check if the individual's situation is not exceptional enough to justify deviation from the schematic (automated) settlement of the case only on the basis of data included in a particular register, record or other collection.

o No

Is there a public debate in your country on this issue? Is the introduction of such a system under consideration? What advantages and disadvantages have been identified?

.....

Do you consider this topic suitable for a more detailed exchange of ideas at the Colloquium and, if so, what aspects of this topic warrant discussion?

……

Digital proceedings

An increasing number of countries now permit (or require) proceedings to be conducted digitally. The benefits of such a system are usually emphasised (e.g. efficiency gains), but how do digital proceedings relate in practice to principles such as access to the courts?

2. Are digital (paperless) forms of legal proceedings used in your country? Is it possible in your country to conduct proceedings digitally, for example online? If so, is this optional or mandatory?

o Yes

Please describe your experiences, positive and/or negative.

……..

o No

Would you like to see the introduction of digital proceedings in your country? Is this under consideration? Is there a public debate on this issue? What advantages and disadvantages have been identified?

Currently the electronic access to the administrative courts is limited only to some proceedings concerning access to public information and submitting letters of complaint to public authority in connection with the performance of its prescribed duties (it should be highlighted, that such a complaint is not an ordinary remedy (appeal), is not a legal measure to contest an individual administrative decision and the citizen does not have to have a legal interest to submit such a complaint). The electronic documents can be submitted to the Supreme Administrative Court via:

1) electronic document carrier (DVD, CD, USB)
2) electronic incoming correspondence box located on ePUAP - the Polish nationwide IT platform set up to allow citizens to communicate with public administrative bodies in a uniform, standard way.

The relevant legal provisions allowing electronic access to administrative courts were introduced by the Act of 10 January 2014 amending the Act on the Informatization of Activities of Entities performing Public Tasks as well as certain other acts (Journal of Laws Dz. U. of 2014, item 183). This Act amended also the Act of 30 August 2002 Law on proceedings before administrative courts (hereinafter as PPSA). The relevant provisions regulating electronic access to Polish administrative courts will enter into force on 15th May 2018. In consequence there is no practical experience in discussed matter.

As an appendix you will find an extract from the Act of 30 August 2002 – Law on proceedings before administrative courts – presenting provisions concerning filing letters to a court in the form of an electronic document. Under the mentioned regulation the possibility to conduct proceedings digitally will not be mandatory. According to Art. 12a PPSA for each case falling within the scope of administrative court files shall be created either in paper or in electronic form. However, the form of

the first letter delivered to the court determines the form of files. It is up to the parties of the proceedings. According to Art. 74a paragraph 2 PPSA “If a party requests that letters no longer be served using electronic means of communication, the court shall serve a letter in the manner prescribed for a letter in a form other than the form of an electronic document.” (see appendix).

Do you consider this topic suitable for a more detailed exchange of ideas at the Colloquium and, if so, what aspects of this topic warrant discussion?

From the Polish administrative courts point of view it would be very useful to exchange ideas with other countries which have experience in conducting digital proceedings and have already identified advantages or disadvantages of such digitalisation.

Digital dispute settlement in the public sector without involving the courts

If a party knows in advance that they have virtually no chance of winning a case, there is little point in instituting proceedings. Computer programs can analyse tens of thousands of judgments and use the results to predict the outcome and the chance of success or failure.

3. In your country, are you aware of parties using computer systems within the public domain in the settlement of disputes prior to possible court proceedings? Examples may include systems that predict the outcomes of new cases on the basis of case law analysis, allowing parties to decide whether or not to pursue legal proceedings or settle out of court.

o Yes

Please provide an example. Is it only parties to proceedings that make use of such systems, or do the courts also use them to assist them in reaching judgments? Is there any debate in your country on the use of such systems, for example in relation to fundamental rights and legal protection?

Since 2007, a database including judicial decisions of the Supreme Administrative Court and the voivodship administrative courts issued since January 2004 as well as selected judicial decisions from previous years has been published on the website of the Supreme Administrative Court (http://orzeczenia.nsa.gov.pl/cbo/query). The access to the database of judicial decisions is widespread and free of charge. The database of judicial decisions is a source of information for both, parties who decide to enter into a legal dispute (although because there is no information on this matter, it is impossible to determine the extent to which it contributes to abandoning the initiation of a judicial procedure), and parties to administrative court proceedings, which – in their arguments – very often refer to the judicial decisions included in the database. An electronic collection of judicial decisions is also used by judges in the decision process. It allows, first of all, for tracing the position of courts and their arguments in specific cases, becoming an important tool for ensuring uniformity of jurisprudence. However, it must be stressed that the jurisprudence analysis and the assessment made on this basis is solely the result of human activities (work of the persons using the database). The electronic collection of judicial decisions includes only tools enabling the search for judicial decisions according to certain criteria (e.g. by indicating the reference number of the case, key words – question, judge, date of issue of the judicial decision or provision of law, etc.). There is no system to automatically process the data included in the database and to draw on this basis the conclusion regarding the probable outcome of the case and the chances of winning.

Irrespective of the above, commercial (against remuneration) legal information systems are also available in Poland, including, among others, databases of judicial decisions. Sometimes they offer presentations of so-called respective jurisdiction approach (which may suggest a probable outcome). The conclusions presented there are the result of an analysis of the jurisprudence made by law professionals and are not the result of data processing by a computer programme.

In the legal environment, discussions are held primarily on validity, availability (limited access to paid legal information systems), and reliability of data included in electronic collections in the context of *ignorantia iuris nocet* rule.

o No

Would you like to see such systems introduced? Is this under consideration? Is there a public debate in your country on this issue? What advantages and disadvantages have been identified?

As pointed out hereinabove, there are no computer programmes used for analysing the jurisprudence and making it possible to predict the probable outcome (as mentioned in the questionnaire). There is also no information on the planned introduction of such solutions or a wide public debate on this matter.

Do you consider this topic suitable for a more detailed exchange of ideas at the Colloquium and, if so, what aspects of this topic warrant discussion?

The use of electronic databases raises a number of interesting questions that may be discussed during the planned colloquium. Interesting, among others, is:
- the risk of using unofficial databases in the context of their widespread (mass) use by parties of administrative court proceedings and courts (the Supreme Administrative Court website states that "the database is merely of informational and educational nature, and not an official publication of judicial decisions");
- the risk of promoting (forcing) a particular court's position in commercial programmes by publishing selected judicial decisions, including non-final judicial decisions.

Technology-neutral legislation

If a statutory definition contains the words 'written' or 'in writing', does the definition also apply in a paperless context? If a self-driving car causes an accident, who is liable? The software manufacturer?

4. Does your country have experience of legislation framed in a way that is technology-neutral or that otherwise takes account of future technological developments?

o Yes

Please provide an example in the context of your legislative advisory role and indicate whether or not the legislation in question succeeded in this regard, and why.

Technological neutrality is one of the basic principles of the process of computerisation of public entities. The Act of 17 February 2005 on the Informatization of Activities of Entities Performing Public Tasks (consolidated text Journal of Laws Dz. U. of 2017, item 570) stipulates that any minimum requirements established under this act for IT systems, registers and for the exchange of information in electronic form must guarantee technological neutrality (Article 1(2), (3) and (4)). On the other hand, this concept is defined as a principle of equal treatment by public authorities of IT technologies and creating conditions for fair competition in this area, including prevention of possible elimination of competing technologies in the development and modification of IT systems or in the development of competing products and solutions (Article 3(19)).

Technological neutrality is referred to in the acts as the rule of law creation (regulatory provisions). For example, in the Act of 6 September 2001 on Access to Public Information (consolidated text Journal of Laws Dz. U. of 2016, item 1764), technological neutrality was designated as a guideline for the Council of Ministers in the process of regulating the functioning of a central repository containing the information resources and metadata specified in the Act (Article 9b(6)). Similarly, the need to take the principle of technological neutrality into account is indicated in the Act of 28 April 2011 on the Health Information System (consolidated text Journal of Laws Dz. U. of 2016, item 1535, as amended). In accordance with Article 21 of this Act, the Minister of Health, in consultation with the minister competent for computerisation, will develop and make available, free of charge, a software model for electronic databases, including medical records, for creating, updating of data collections, creating of databases regarding health care and integrating them within an IT system, taking into account the principle of technological neutrality.

Technological neutrality is also a requirement for local government units to promote broadband Internet access (through providing consumers with telecommunication equipment or computer hardware, or through financing the cost of telecommunication services to consumers), in accordance with Article 15(3) of the Act of 7 May 2010 on Supporting the Development of Telecommunication Services and Networks (consolidated text Journal of Laws Dz. U. of 2016, item 1537, as amended).

Technological neutrality is also one of the basic principles of telecommunication law in Poland. The Act of 16 July 2004 – Telecommunication Law (consolidated text Journal of Laws Dz. U. of 2016, item 1489, as amended) provides, among others, that one of its objectives is to create conditions for technological neutrality (Article 1(2)(5)). According to the further provisions of this act, technological neutrality is to be taken into account in the process of establishing the frequency management plans by the President of the Office of Electronic Communications (Article 112(4)(7)), and its implementation is to be ensured in the regulatory policy of the authorities competent for telecommunication (Article 189(2)(5)).

Despite the state technological neutrality declared in the acts, the public debate claims lack of actual implementation of this principle. It is pointed out that the concerns, already reported in the course of preparatory work on the draft Act on the

Informatization of Activities of Entities Performing Public Tasks, remain current. Experts have already claimed that there is a real threat of vendor lock-in in Poland due to the larger share of Microsoft in the market than in other EU countries. As an example we may refer to the solution adopted by the Social Insurance Institution [ZUS], which introduced the "Payer" programme created by a contractor (producer) chosen in a public procurement procedure – a computer programme that enables the sending of insurance documents to ZUS in an electronic form, is free of charge, but works exclusively with the MS Windows operating system, a commercial product produced by a single trader under a proprietary license. This system imposed a restriction on the citizens that only people with computers running Microsoft's Windows platform could use it. In 2007, courts, having examined a claim of one citizen, ordered ZUS to provide the claimant with the public information – a technical specification of the KSI MAIL protocol used by the "Payer" computer programme. In executing the judgment, ZUS made public the protocol specification but did not make any modifications that would exempt citizens from "coercion" to acquire the MS Windows operating system in order to maintain electronic communication with ZUS.

o No

Does the lack of such legislation cause problems in your society or in other respects? Please provide an example.

…….

5. How do the courts (administrative or otherwise) in your country deal with legislation that is framed in terms of specific technologies? Do they apply strict interpretations in such cases or is it possible, or even customary, to apply a broader interpretation in order to resolve a problem? Is there any form of debate on this topic, for example with regard to fundamental rights?

In the jurisprudence of administrative courts, the concept of technological neutrality appears mainly in matters of telecommunication law. In such cases, the courts refer to the principle of technological neutrality as the purpose of the Act, governing regulators' actions in the telecommunication services market. The courts emphasise above all the aspect of the principle of neutrality which is expressed in the need to make these services more flexible and open. In one of the judgments, the Supreme Administrative Court stressed that the principle of technological neutrality allows for the use of modern technologies without constantly changing the regulations in this respect (judgment of the Supreme Administrative Court of 5 February 2013, file ref. no. II GSK 2107/11). In another recent decision regarding radio frequency charges, the Court stated that the principle in question "is that the Member States, which are obliged to increase the flexibility and accessibility of radio spectrum, may not impose or favour the use of certain kind of technology. On the contrary, they have to manage the radio frequency, which is considered to be a public good of significant social, cultural and economic value, in such a way as to enable the users to choose the best technology and services to use in the frequency bands. They are to ensure that all types of technologies used in electronic communication services may be used in

radio frequency bands (...)" (Supreme Administrative Court judgment of 21 June 2017, file ref. no. II GSK 2592/15). Due to the relatively limited number of cases in which the Supreme Administrative Court has dealt with the issue of technological neutrality in detail, it is difficult to assess the judiciary's approach as explicitly restrictive or liberal. However, existing statements of the administrative courts in this regard, allow us to suppose that in cases where the principle of technological neutrality influences the issuing of decision, a flexible approach to the interpreted provisions of law will be preferred, aiming at solving the problem in the spirit of neutrality.

Do you consider this topic suitable for a more detailed exchange of ideas at the Colloquium and, if so, what aspects of this topic warrant discussion?

……

Digital enforcement

More and more European countries are using digital data to enforce a range of legislation. In the Netherlands, digital data is used for a variety of purposes, such as vehicle speed checks on motorways and in lorries (by means of a tachograph), corporate and private tax returns filed online, and risk profiles developed by law enforcement authorities. In terms of fundamental rights and other such issues, what are the legal boundaries of digital enforcement?

6. Do you know of cases in your country where automated data analyses are used for enforcement-related purposes, for instance to identify risk profiles? Perhaps the tax authorities use data analysis from various sources, for example, to perform targeted audits?

o Yes

Please provide an example. What specific angles of approach do you, as a legislative adviser and/or administrative judge, consider important in this regard?

Digital data in Poland are, in a certain but narrow sense, used in the performance of public tasks by the administration. Fiscal control may be quoted here as an example. From the statements made by representatives of the tax audit authorities in 2014, indicating a high detection rate of irregularities (95-98%), it may be assumed that the 'Big Data' methods are used to identify entities that may engage in abusive practices (in particular by considering the industry in which the entity operates, the subject of marketing, the type of office occupied, the non-market behaviour of the entity, and the tax and legal history of the entity). However, the processing of data in the aforementioned scope allowed only for forming a hypothesis on possible irregularities, and therefore was relevant at the stage of control planning, preceding the proper formalised activities of the authority.

Currently, the wide access of the tax administration to various types of data (possibility to obtain, collect, process and use these data) is guaranteed by the Act of 16 November 2016 on National Tax Administration (Journal of Laws Dz. U. of 2016, item 1947, as amended) which entered into force on 1 March 2017. In the course of the preparatory work on the Act, the National Council of the Judiciary raised objections concerning too easy acquisition of information on taxpayers, including personal data obtained from telecommunication and postal operators. Therefore, it may be assumed that this aspect of functioning of the new tax administration in Poland will be subject to a special control by the courts.

o No

Is the introduction of digital enforcement under consideration? Is there a public debate in your country on this issue? What advantages and disadvantages have been identified?

……..

Do you consider this topic suitable for a more detailed exchange of ideas at the Colloquium and, if so, what aspects of this topic warrant discussion?

An interesting issue in the context of the public administration's use of 'Big Data' methods is the question of the acceptable level of public surveillance by the data-gathering authority in order to carry out its assigned tasks.

Open-ended question for administrative jurisdictions

Are there technological developments (other than those already mentioned) that you believe will soon have far-reaching consequences for administrative courts (particularly developments you have already encountered or expect to encounter)?

Please list these developments in order of importance and explain why you consider them significant. Please also indicate whether you would like to discuss one or more of these topics in more detail in The Hague.

As it was mentioned before, Polish administrative courts will be facing a far-reaching process of digitalisation of proceedings next year. At the moment this is the main and the most important topic as far as technological developments are concerned.

Open-ended question for legislative advisory bodies

Are there technological developments (other than those already mentioned) that you have already encountered or expect to encounter and believe will soon have far-reaching consequences for the legislative process and legislative advisory bodies in general?

Please list the developments in order of importance and explain why you consider them significant. Please also indicate whether you would like to discuss one or more of these topics in more detail in The Hague.

APPENDIX

I. Extract from the Act of 30 August 2002 – Law on proceedings before administrative courts – Provisions concerning filing letters to a court in the form of an electronic document (entry into force on 15th May 2018).

PART I
PRELIMINARY PROVISIONS
Chapter 1
General Provisions
(…)
Art. 12a. § 1. For each case falling within the scope referred to in art. 1 files shall be created. Files shall be created in electronic or paper form.
§ 2. Electronic files shall be processed with the use of an electronic document management system, as defined in the provisions on national archive resources and archives.
(…)
§ 4. Case files shall be made accessible to the parties to a proceeding.Parties shall have the right to examine case files as well as to receive transcripts, copies or excerpts from the files.
§ 5. The court shall, with respect to electronic files, enable a party to carry out the activities referred to in § 4 in its computer system, following the identification of the party in the manner set out in the provisions of the Act on the informatization of entities performing public tasks of February 17th 2005 (Journal of
Laws Dz. U. of 2013 item 235 and of 2014 item 183).
(…)
§ 8. The President of the Republic of Poland shall specify, by means of a regulation:
1) the way in which the files referred to in § 1 shall be created and processed;
2) the conditions and procedures for storing and transferring the files of voivodship administrative courts and the Supreme Administrative Court;
3) the conditions and procedures for destroying the files referred to in § 1 and in subparagraph 2 after the period of their storage.
§ 9. When issuing the regulation referred to in § 8, the President of the Republic of Poland shall take into consideration, in particular, the conditions of electronic document management, as defined in the provisions referred to in § 2 and 3, types of cases as well as adequate protection of files against unauthorized access,loss or damage.

Art. 12b. § 1. The written form requirement provided for in the statute shall be deemed as being complied with if an electronic document has been signed in the manner referred to in art. 46 § 2a.
§ 2. In the course of proceedings, electronic documents shall be lodged with an administrative court through an electronic incoming correspondence box, and the court shall serve such documents on parties using electronic means of communication under the conditions set out in art. 74a.
§ 3. In order to serve letters in a proceeding, an administrative court shall transform the form of letters received from the parties:
1) in the case of a letter in the form of an electronic document, by making a certified printout, as referred to in art. 47 § 3, if a party does not use electronic means of communication to receive letters;
2) in the case of a letter in paper form, by making a certified copy in the form of an electronic document if a party uses electronic means of communication to receive letters.
§ 4. Provisions on the use of electronic means of communication shall apply accordingly to the authorities to which or through which letters in the form of an electronic document are submitted.

(…)

PART II

PARTIES
(…)
Chapter 3
Agents
(…)
Art. 37 (…) § 1a. Where a transcript of a power of attorney or transcripts of other documents proving powers were prepared in the form of an electronic document, they shall be certified, as referred to in § 1, using a qualified electronic signature, signature verified with the use of a trusted ePUAP profile or using other mechanisms referred to in art. 20a(2) of the Act on the informatization of entities performing public tasks of February 17th 2005, provided that such mechanisms were introduced by the administrative court. Transcripts of a power of attorney or transcripts of other documents proving powers which are certified electronically shall be prepared in data formats specified in provisions issued pursuant to art. 18(1) of the Act.

Art. 37a. A power of attorney granted in the form of an electronic document shall be accompanied by a safe electronic qualified signature, signature verified with the use of a trusted ePUAP profile or using other mechanisms referred to in art. 20a(2) of the Act on the informatization of entities performing public tasks of February 17th 2005, provided that such mechanisms were introduced by the administrative court.

(…)
PART III
PROCEEDINGS BEFORE VOIVODSHIP ADMINISTRATIVE COURTS
Chapter 1
Documents submitted in court proceedings

(…)
Art. 46 (…)§ 2a. Where a letter is lodged by a party in the form of an electronic document, it should also contain an electronic address and be accompanied by a qualified electronic signature of the party, its statutory representative or attorney, signature verified with the use of a trusted ePUAP profile or using other mechanisms referred to in art. 20a(2) of the Act on the informatization of entities per- forming public tasks of February 17th 2005, provided that such mechanisms were introduced by the administrative court.
§ 2b. The rules for signing documents set out in § 2a shall also apply to enclosures lodged in the form of an electronic document.
§ 2c. A letter that is lodged in a form other than the form of an electronic document and that contains a request that court letters be served using electronic means of communication shall contain an electronic address.
§ 2d. If the letter referred to in § 2a does not contain an electronic address, the court shall assume that the electronic address from which the letter lodged in the form of an electronic document was sent is relevant, and if the letter was lodged in a different form and contains the request referred to in § 2c, the court shall serve letters to the address indicated in accordance with § 2, and the first letter from the court shall include information that a request that letters be served using electronic means of communication must contain an electronic address.

Art. 47 (…)
§ 3. In the case of letters and enclosures lodged in the form of an electronic document, transcripts shall not be enclosed. In order to serve documents on parties that do not use electronic means of communication to receive letters, the court shall make copies of electronic documents in the form of certified printouts, in accordance with the requirements set out in provisions issued pursuant to art. 16(3) of the Act on the informatization of entities performing public tasks of February 17th 2005.

§ 4. When serving transcripts of letters and enclosures in a form other than the form of an electronic document, the court shall inform the party about the conditions for the lodging of letters and for the service of letters by the court using electronic means of communication.

(…)
Art. 48 (…)
§ 3a. If a transcript of a document was prepared in the form of an electronic document, it shall be certified to be in conformity with the original, as referred to in § 3, using a qualified electronic signature, signature verified with the use of a trusted ePUAP profile or using other mechanisms referred to in art. 20a(2) of the Act on the informatization of entities performing public tasks of February 17th 2005, provided that such mechanisms were introduced by the administrative court. Transcripts of documents that are certified electronically shall be prepared in data formats specified in provisions issued pursuant to art. 18(1) of the Act.
(…)
Art. 49a. The court shall confirm the submission of a letter in the form of an electronic document to its electronic incoming correspondence box by sending an official acknowledgment of receipt, as defined in the Act on the informatization of entities performing public tasks of February 17th 2005 to the electronic address indicated by the person lodging the letter. An official acknowledgment of receipt shall include information that letters in the case will be served using electronic means of communication as well as information about the right of the party to request that letters no longer be served using electronic means of communication, as referred to in art. 74a § 2.

(..)

Chapter 2
Complaint
(…)
Art. 54 (…)
§ 1a. A complaint in the form of an electronic document shall be submitted to the electronic incoming correspondence box of the authority. The provision of art. 49a shall apply accordingly.
(…)
§ 2a. If a complaint has been lodged:
1) in the form of an electronic document to the electronic incoming correspondence box of the authority referred to in § 1 – the authority shall transfer the complaint and the response to the complaint to the court, to its electronic incoming correspondence box;
2) in paper form – the authority shall transfer the complaint and the response to the complaint to the court in this form.
§ 2b. In the event that the files of the case to which a complaint relates are kept by the authority in electronic form, the authority shall:
1) transfer the case files to the court, together with information on documents whose content is not available in its entirety in the case files kept in electronic form as well as on the manner and date of their transfer to the court, to its electronic incoming correspondence box, and if it is not possible for technical reasons – on an electronic data carrier;
2) transfer to the court documents in the case files whose content is not available in its entirety in the case files kept in electronic form, indicating the electronic case files transferred to the court in the manner referred to in subparagraph 1.
§ 2c. If the files of the case to which a given relates are kept by the authority referred to in § 1 in paper form, the authority shall transfer to the court the case files and, where applicable, electronic documentation stored on electronic data carriers whose content is not available in paper form.
(…)

Chapter 4

Service
Art. 65 (…)§ 1. The court shall serve documents using a postal operator, as defined in the Act of November 23rd 2012 – Postal law (Journal of Laws Dz. U. item 1529), through its employees, through other persons or bodies authorized by the court or using electronic means of communication, under the conditions specified in art. 74a.

(…)

Art. 74a. § 1. The court shall serve letters using electronic means of communication if a party has satisfied one of the following conditions:
1) it lodged a letter in the form of an electronic document through the electronic incoming correspondence box of the court or the authority through which the letter is lodged;
2) it requested that the court serve letters in this way and informed the court of its electronic address;
3) it agreed that the service of letters is to be effected using such means and informed the court of its electronic address.
§ 2. If a party requests that letters no longer be served using electronic means of communication, the court shall serve a letter in the manner prescribed for a letter in a form other than the form of an electronic document.
§ 3. In order to serve a letter in the form of an electronic document, the court shall send to the electronic address of the addressee a notice containing:
1) information that the addressee may retrieve the letter in the form of an electronic document as well as an indication of the electronic address at which the addressee may retrieve the document and at which the addressee should acknowledge the receipt of the document;
2) information as to how the letter can be retrieved, including especially on the manner of identifying the addressee at the indicated electronic address in the computer system of the court as well as information that an official acknowledgement of receipt must be accompanied by a qualified electronic signature, signature verified with the use of a trusted ePUAP profile or using other mechanisms referred to in art. 20a(2) of the Act on the informatization of entities performing public tasks of February 17th 2005, provided that such mechanisms were introduced by the administrative court.
§ 4. The notice referred to in § 3 may be automatically created and sent through the computer system of the court, and the receipt of the notice shall not be acknowledged.
§ 5. The date of the service of a letter shall be the date on which its addressee signs an official acknowledgment of receipt in the manner set out in § 3(2).
§ 6. Should a letter in the form of an electronic document not be retrieved by its addressee, the court shall, after seven days from the date of sending the notice, send a repeat notice that the letter may be retrieved.
§ 7. The provisions of § 3 and 4 shall apply to a repeat notice.
§ 8. Should a letter not be retrieved, the letter shall be deemed to have been served fourteen days after the date on which the first notice was sent.
§ 9. In the event that a letter in the form of an electronic document is deemed to have been served, the court shall provide the addressee of the letter with access to the letter in the form of an electronic document in its computer system as well as with information on the date on which the letter was deemed to have been served and on the dates on which the notices referred to in § 3 and 6 were sent.
§ 10. In the case of letters served on such participants in a roceeding before a court as the public prosecutor, Human Rights Defender and the Ombudsman for Children as well as the authority whose action, failure to act or excessive length of proceedings has been challenged, the court shall send a letter directly to the electronic incoming correspondence box of the public entity, as defined in the Act on the informatization of entities performing public tasks of February 17th 2005, against an official acknowledgement of receipt.
§ 11. The date of service of the letters referred to in § 10 shall be the date indicated in the official acknowledgement of receipt.

§ 12. Court letters, transcripts of letters and enclosures in court proceedings as well as decisions served by a court in the form of an electronic document shall be accompanied by a safe electronic signature verified with the use of a valid qualified certificate.

(…)

Art. 77 (…)
§ 1a. The receipt of a letter in the form of an electronic document shall be acknowledged in the manner set out in art. 74a § 5 or 10.

Chapter 5
Time limits
(…)
Art. 83 (…)
§ 5. The date of the lodging of a letter in the form of an electronic document shall be the date on which the letter has been entered into the computer system of a court or a competent authority indicated in the official acknowledgement of receipt.