

## Foreword

Professor Marian Zimmermann's article *On Jurisdictional Proceedings and the Concept of a Party in the Code of Administrative Procedure*, written shortly after the adoption of this Code, was one of the author's last works. It presents theses which highlight the very essence of administrative procedure, which is entirely different from judicial procedure and is connected with substantive law in a special way. Consequently, this article still has great relevance, regardless of the many amendments that have subsequently been made to the Code. It is a work that the doctrine continually refers to as a basis for considerations focused on the fundamental issues of administrative procedure, and it also provides the support for many court decisions. For these reasons, Professor Marian Zimmermann's article remains a key text for those studying administrative law at faculties of law and administration.

It was in the pages of this article that, for the first time in scholarly literature, administrative procedure aimed at issuing administrative decisions was described as 'jurisdictional' procedure. The word 'jurisdiction' is conventionally used to describe judicial actions that involve 'deciding about someone's right'. By using this term in the context of administrative procedure, the author pointed out that if a procedure in which an abstract and general norm of administrative law is transformed

into a concrete and individual norm by means of a decision, it also has the character of jurisdiction: because the administrative body also thereby decides about someone's right. At the time when Professor Marian Zimmermann's article was written, there was no administrative judiciary in Poland, so the term 'jurisdiction' could be applied to settling cases by way of an administrative decision. *Nota bene*, the emergence of the administrative judiciary did not change this situation, because the administrative courts do not have the competence to adjudicate on the merits of a case, that is, to exercise jurisdiction.

The essence of the article is its reflection on the category of legal interest as a factor that determines the very existence of jurisdictional procedure. The author carefully considers two opposing conceptions of this interest, which arose as a result of two interpretations of the controversial Article 25 of the Code of Administrative Procedure (now Article 28). However, the author's reflections on this dispute do not constitute the key contribution of the article, since this controversy has already been resolved by judicial decisions. The timeless element is rather that the category of legal interest is grasped as the basic factor linking a norm of substantive administrative law with jurisdictional procedure. Let us note that it is the existence of a legal interest pertaining to a subject that allows an administrative case can be built. Such a case arises when there is a fact or event that can be connected with a norm of substantive law in such a way that it allows for the concretization of this norm. However, the case must be 'someone's' and the concretization of the norm should concern 'someone'. This 'someone' can only be an entity holding a legal interest. It is therefore an 'individual case', and it is precisely the resolution of such cases that is regulated by the Code of Administrative Procedure. When reading Professor Marian Zimmermann's article, we come to realize just how important a legal interest is for this entire matter. The author's presentation of different positions on this subject, his own conclusion, and his referring the whole issue to the category of an administrative case – these are the elements that constitute the basic value

of the article. This truly scientific value is independent of the contemporary fate of the Code, to which various amendments, breakthroughs and controversial 'improvements' have already made. Despite such changes, the essence of a legal interest and its significance cannot be erased.

*Prof. Jan Zimmermann*  
*The son of the author*

