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Artur Kokoszkiewicz*
ORCID: 0000-0001-8914-1835

Justice Dilemmas in Law – the Law Justice Meta-Principle Under the Example of the Polish Administrative Process

ABSTRACT:

The article given below concerns a titular problem of justice in law. As a special exemplification of this problem, the example of the Polish administrative process is taken. It poses a location question of the justice meta-principle in it. Considerations on this topic are universal, affecting multiple normative systems. In each of them the said justice was and is discussed. The term "justice" accompanied normative systems since ancient times. Even in the Old Testament we read about acting righteously and justly. Currently, as well, if only by the example of the EU's Fair Transition Mechanism, discussions on this topic are alive and present. Thus, one can risk saying that justice is still relevant and remains "on the lips" of lawyers, but also politicians, philosophers, theologians or people not at all concerned with science, who may have a conviction that something for them is just or not. This raises the legitimate question of whether one of the guiding principles and therefore a kind of meta-principle of law, can become a justice principle? The author attempts to answer a number of questions below.

Keywords: Theory and philosophy of law, law principles, meta-principle of law, justice, administrative process, just law, justice dilemmas in law.

* PhD in legal sciences, lecturer at the University College of Enterprise and Administration in Lublin, attorney at law, address: Bursaki 12, 20-150 Lublin, Poland, email: kancelaria@akokoszkiewicz.pl

I. Introduction

Justice dilemmas in law – this is the leitmotif of my research. Within the framework of a broad concept of the mentioned "dilemmas" the present article was created. It focuses on the universal concept of the principle (meta-principle) of law. In one hand, it touches on issues of a universal nature that we can attribute to many law systems. On the other hand, it treats the Polish administrative process. It is a kind of exemplification of the previous problems of a universal nature.

I believe the subject of justice should gain a "new life" in international legal and philosophical scholarship. Simultaneously, I express a cautious belief that currently, due to a relativistic trend outlined in this writing, the subject of the title justice and its dilemmas is not very popular. Moreover, in my opinion, there is a need to take up this topic. This is because it is of a fundamental nature, fundamental to legal systems. Therefore, it has a strong scientific and practical justification, also leading to the integration of the theory and law philosophy with dogmatic-legal areas. This is because the problems of justice in law – understood in a theoretical-legal way, translate directly into dogmatic solutions. Thus, the discussion of justice in law shapes specific legal regulations, present in legal systems.

Finally, I think this can be stated with full force: justice dilemmas represent an issue that is attractive not only from the perspective of legal science, but also from the perspective of popular science journalism *sensu largo*, as well as social or political discourse. For example, on the grounds of functioning multistate organizations like the European Union, we are dealing with a common (in the sense of being binding on its members, who, for various reasons, have not been excluded from it) policy on economic transformation. Let alone this program, it should be noted that there is a talk of the "Fair Transformation Mechanism," "Fair Transformation Fund" or a "Fair Transformation Platform."[1]

In the discourse on justice, including justice in law, there is a certain natural controversy, which, in my opinion, justifies talking about the title justice dilemmas. I mean that the justice concept is very capacious, containing huge layers of values. For centuries, not only on the ground of jurisprudential science, it has aroused divergent opinions. This can lead to difficulties in building a consensus on it. For some, the just may turn out to be something unjust and vice versa. Therefore, for the purposes of

[1] <https://shorturl.at/nyAQ1> [04.10.2023].

this article, I will somehow narrow down, focusing mainly on the title "meta principle." I will leave a broader consideration of justice to my readers encouraging to read other items (including mine),[2] where the subject is expanded. Thus, there will be no search for a definition of justice. As Ronald Dworkin says, "to find such a definition of the justice concept that is at once abstract enough to pass uncontroversial among us and concrete enough to be useful is difficult. Our disputes about justice are too rich, and there are too many different kinds of theories in use."[3] This author even concludes that "perhaps, no useful definition of the justice concept exists. If this is in fact the case, it does not cast doubt on the point of debating justice, but only highlights the ingenuity of people who try to be just."[4]

In the context of a divergent understanding of justice, it is impossible not to mention a kind of "charging" or "stewardship" of the justice concept. Doing so, such a term is used for a phenomena that has nothing in common with justice as understood by the paradigm of the democratic legal state of the Western model. Various scientific disciplines are familiar with the phrases, for example, "justice of the Soviet Union" or "justice in the Third German Reich." History shows that the justice, exposed in reality, may not be it for being a facade creation.[5]

At this point, concluding the introduction, I want to point out some assumptions that are related to this article for it is appropriate to move on specific scientific considerations.

As for the main research theses, first of all, in legal systems, on the grounds of procedural regulations, it is reasonable to talk about meta-principles. Secondly, it is equally reasonable to talk about the justice meta-principle. In doing so, in one hand I assume a broad research area. I consider certain issues from a systemic perspective, without focusing on a specific research area. On the other hand, I narrow it down to the extreme and study specific institutions of law using the example of the Polish administrative process. Thus, I assume that such specific examples are *sui generis* ex-

[2] See: Kokoszkiewicz A., Sprawiedliwy proces administracyjny jako zadanie państwa. Studium teoretycznoprawne. Just administrative process as a task of the state theoretical and legal study, Warszawa, 2022.

[3] Dworkin R., Imperium prawa, Warszawa, 2006, 75-76.

[4] Ibid., 76.

[5] Exeler F., Nazi Atrocities, International Criminal Law, and Soviet War Crimes Trials. The Soviet Union and the Global Moment of Post-Second World War Justice, in: The New Histories of International Criminal Law: Retrials edited by N. Bhuta, A. Pagden and B. Straumann, Oxford, 2019, 218-219.

emplification of certain general problems. Of course, certain conclusions that may prove reasonable for this "narrow" research object, are not required to be the same for all other law systems. However, it is a topic to be separately analyzed. I purposely do not excessively analyze it here, as I do not want to avoid the main research objective mentioned above. I fear that an excessive blurring of the topic will not serve the stated goals by undertaking a causal analysis of too many issues.

I am using methods characteristic of legal science. In the main, it will be a logical-linguistic analysis method. I also reach for a comparative or historical method asI believe that all methods serving the research purpose are valuable.

II. Principles and Meta-Principles in Law: about Keeping Hierarchy

As for the consideration of the principle (meta-principle) of justice, first, it should be emphasized that the administrative process norms are undoubtedly parts of elementary needs of a modern democratic state of law. The provision of procedural laws, including procedural guarantees, principles of control and supervision, realizes some of its elementary assumptions. After all, it is common to talk about justice administration by administrative courts. Simultaneously, I am in favor of a broader understanding of the exercise of justice, i.e., the one not limited to the activities of the courts, but to the activities of public administration bodies.

Indeed, after all, their elementary purpose, the rationale for the need of their existence and functioning is to carry out the functions entrusted to them that should be done in a just manner. Hence, I would argue that in the context of their functioning, we can talk about certain principles of the administrative process, in particular, the justice principle. Thus, justice administration is carried out by all authorized entities, administrative bodies and courts.

In the Polish legal sources, the reference of justice to specific dogmatic-legal rules is not very common (which, by the way, is a trend identical to which we observe in the world's legal literature). It is a pity for being an attractive example of the law science integration, determining a broader view of the problems we face. Let's hope for the development of this line of scientific activity. As an interesting and important view on this topic, we note Tomasz Bąkowski's position, who, according to Gustav Radbruch, proposes research "in the context of justice as the basic idea and main

goal of law."[6] I believe the idea of such research is right. Regardless of the conceptual apparatus adopted, whether we are talking about the justice principle or the goal or idea it represents, they are valuable and necessary. After all, "in the Western intellectual tradition (dating back to antiquity), justice is to this day recognized (although not by all doctrines) in principle as the highest moral standard, to which other ideals underlying the functioning of state organization are subordinated, allowing a rational critique of the relations prevailing in the state."[7]

Thus, let me several introductory remarks. "Meta" is a prefix meaning that the formulation that follows it is "over" and "above." In case of meta-principles and principles, we can say that the meta-principle stands above other ones towering over them with its superior character. This prefix is commonly used on the ground of many scientific disciplines, although it seems to me that in the most widespread popular scientific perspective has Aristotelian roots, "metaphysics."[8]

As for the law principles, they carry a very extensive research material having already achieved a recognized achievement in the Polish and world literature on the theory of state and law, while it is worth proudly emphasizing that the Polish thought in this area seems to take shape first. The achievements of J. Wróblewski and S. Wronkowska, M. Zieliński and Z. Ziembinski, while in case of foreign literature the work of authors such as R. Dworkin, R. Alexy, M. Atienza and J. Manero or H. Avila.[9] While it is obvious that the explicit presentation of the "law principle" concept is very problematic, one may already be tempted to present some of its characteristics or assumptions. As L. Leszczynski points out, one can treat a "principle of law" as a type of "legal norm characterized by a special axiological importance,

[6] Bąkowski T., Poszukiwanie sprawiedliwości po kilkudziesięciu latach – Rzecz o braku czasowego ograniczenia wyłączającego stwierdzenie nieważności decyzji administracyjnej określonych w przepisach art. 156 (2) Kodeksu postępowania administracyjnego, GSP, No. XXXV, 2016, 84; Citing also: Radbruch G., Zarys filozofji prawa, Warszawa–Kraków, 1938, 41, 45.

[7] Karp J., Sprawiedliwość społeczna. Szkice ze współczesnej teorii konstytucjonalizmu i praktyki polskiego prawa ustrojowego, Kraków, 2004, 15.

[8] Arystoteles, Metafizyka, Warszawa, 2020.

[9] See: Wróblewski J., Prawo obowiązujące a "ogólne zasady prawa", Zeszyty Naukowe Uniwersytetu Łódzkiego, No. 42, 1965; Wronkowska S., Zieliński M., Ziembiński Z., Zasady prawa, zagadnienia podstawowe, Warszawa, 1974; Dworkin R., Law's Empire, London 1990; Atienza M., Manero J.R., A Theory of Legal Sentences, Dordrecht, 1998; Alexy R., On the Structure of Legal Principles, Ratio Iuris, No. 3, 2000; Avila H., Theory of Legal Principles, Dordrecht, 2007, quoting after: Leszczyński L., Zasady prawa – założenia podstawowe, Studia Iuridica Lublinensia, Vol. XXV, No. 1, 2016, 12-13.

consisting in the protection of values fundamental to the entire legal system or a particular branch of law."[10]

It is also argued that "law principles can also serve to reveal the common ideological and doctrinal basis on which normative settlements of one kind or another shape not only individual legal institutions, but also sets of these institutions within a field of law, or even within the entire legal system."[11] In the context of the law principles, or more precisely, the justice principle in the law on administrative process, it is also worth quoting the view of W. Dawidowicz, pointing out that "by the basic principle of state administration [now we would say: public administration (author's note)] should be understood some legal rule, according to which the state administration is to act" while "it should be – due to the characteristic of its "basicness" – derived from the basic assumptions of the social-economic and political system defined by law."[12] It is reasonable to ask: can the justice meta-principle be a principled legal rule by which public administration could operate?

So, we can ask further – is there a certain meta-principle related to fairness in the administrative processes of various legal systems and especially in the Polish administrative process? And if not, would it be justified to introduce it? Is it really possible to speak of a "meta justice principle" or would it, however, be an "ordinary principle of law?" What kind of consequences might arise from the findings given above? Finally, one can ask, taking a purely dogmatic-legal perspective about the legitimacy of this meta-principle.

III. Exemplification of Principles in the Polish Administrative Process

To answer the questions posed, it should first be clearly stated that the justice principle is not expressed in the Polish administrative process explicitly. Despite "justice" may be associated with something genre-wise more important or more momentous than other principles of the administrative process, namely, the rule of law (Art. 6 KPA[13]), principle of objective truth (Art. 7 KPA) or informing the parties (Art. 9 KPA). The justice principle is not found in the KPA. In the field of tax law, there is a claim

[10] Ibid.

[11] Wronkowska S., Zieliński M., Ziembiński Z., Zasady prawa, zagadnienia podstawowe, Warszawa, 1974, 49.

[12] Dawidowicz W., Nauka prawa administracyjnego: zarys wykładu, T. 1: Zagadnienia podstawowe, Warszawa, 1965, 201.

[13] The Polish Code of Administrative Procedure, 2023.

that "the tax justice principle is one of the guiding principles of tax law. However, it is not defined in any act included in this branch of law."[14] We observe similar situation in administrative law. Although it is not expressed in literal, direct terms, "the principle opposite to the justice principle is not distinguished."[15] J. Zimmermann emphasizes that "nowhere, especially in the general rules of administrative procedure, is "justice" included as an order for action, probably based on the assumption that in administrative proceedings absolute norms are applied and the field left to the justice criterion is negligible. Such a view, however, is erroneous and dangerous. After all, the administration adjudicates on rights and obligations, so it must be just and the law governing its actions should be enacted in a way enforcing this justice. The administration actions should therefore consist of a fair interpretation of norms, fair consideration of all rationales and fair exercise of all discretion forms with the fair adjudication."[16] I fully share this position. Despite the administrative process peculiarities, it should be emphasized that it belongs to the area of public law, extremely important from the perspective of the functioning of any state. In turn, this naturally enforces the need to refer to justice.

In the Polish legal writing, it is possible to find positions that compare justice to the principle expressed in Art. 8 KPA, that is, with the principle of deepening the confidence of participants in proceedings in public authority. In this context, the Polish legal writing indicates that "the issues of justice and trust in public authorities, due to the semantic similarity, show the closest relationship with the general principle of deepening the trust of those involved in proceedings in public authority formulated in Art. 8 KPA."[17] However, it seems that such an equation depreciates justice, reducing it to a lower-order principle. Justice represents a certain supreme value of a higher order. "Justice, as the supreme value of law, serves as a criterion for evaluating other values – political institutions, social systems, individual and group actions."[18]

[14] Święch-Kujawska K., Zasada sprawiedliwości podatkowej a udzielanie ulg w spłacie zobowiązań podatkowych in: Sprawiedliwość i zaufanie do władz publicznych w prawie administracyjnym, edited by M. Stahl, M. Kasiński and K. Wlaźlak, Warszawa, 2015, 676.

[15] Wronkowska S., Zieliński M., Ziembiński Z., Zasady prawa, zagadnienia podstawowe, Warszawa, 1974, 44.

[16] Zimmermann J., Aksjomaty postępowania administracyjnego, Warszawa, 2017, 35.

[17] Kledzik P., Sprawiedliwość i zaufanie do władz publicznych w aspekcie zasad ogólnych postępowania administracyjnego, in: Sprawiedliwość i zaufanie do władz publicznych w prawie administracyjnym, edited by M. Stahl, M. Kasiński and K. Wlaźlak, Warszawa, 2015, 412.

[18] Tokarczyk R., Sprawiedliwość jako naczelna wartość prawa, in: Teoria prawa, filozofia prawa, współczesne prawo i prawoznawstwo : Księga pamiątkowa prof. W. Langa, edited by many various authors, Toruń, 1998, 348.

As for discretion of administrative authority, which is also relevant in terms of our topic, Artur Kotowski stresses that "when discretion is inappropriate, in the sense that it is non-transparent and contradicts the principles of proportionality, justice, equality, or – consequently – legality? When the decision takes care not necessarily of the parties' interests, but primarily of the interests of the state. The state represents a current political sovereign. It is the interest of the party that is most often the interest of the public in a democratic state, while in an authoritarian state an individual's interest counts less than that of the public as a whole."[19]

The Polish jurisprudence achievements also do not apply the "justice principle," although it regularly refers to justice, namely, by articulating the citizen's right to a "fair administrative procedure."[20]

It should be noted that justice is referred to in the Polish Constitution. Its Article 2 states that Poland is a democratic state governed by the rule of law, realizing the principles of social justice. In the Polish Constitution, we do not find additional provisions specifying the principles of social justice specifically based on. It is argued in the constitutional law sources that "in academic and political discourse, social justice appears most often in the context of the theoretical dispute of the social (interventionist) state vs. the minimum (libertarian) state, or when analyzing the concept of political liberalism."[21]

At this point, a remark should be made on linguistic observations. Both in the Polish and world sources we meet numerous adjectives concerning the justice concept. These are like epithets. Therefore, from the word "epithet," I propose to use the term "epithetization" to describe the phenomenon of in-defining, over-describing, characterizing justice. Simultaneously, doing so, the phenomenon is divided into smaller areas. The point is that if we write about procedural justice, we naturally narrow the field of consideration. In one hand, this is a correct and justified action. After all, it is necessary to focus on reasonably selected research material. On the other hand, restriction when researching such a momentous and capacious phenomenon

[19] Kotowski A., Dyskrecjonalność władzy administracyjnej – próba nowego ujęcia, Krytyka Prawa, No. 6, 2014, 75.

[20] Judgment of NSA (Polish Supreme Administrative Court), 19.10.1993 r., V SA 250/93.

[21] Arndt W., Bober S., Sprawiedliwość społeczna w Konstytucji RP, Kraków, 2016, 83, citing also: Laska A., Sprawiedliwość społeczna w dyskursie polskiej zmiany systemowej, Toruń, 2011; Karp J., Sprawiedliwość społeczna. Szkice ze współczesnej teorii konstytucjonalizmu i praktyki polskiego prawa ustrojowego, Kraków, 2004; Miller D., Principles of Social Justice, Cambridge (MA)London, 1999.

can lead to a certain scientific confusion, omission of important observations and, consequently, incorrect conclusions.

Therefore, I express my opinion that the epithetization of justice should not be overexposed. After all, excessively dividing, shoveling and limiting the researched value does not deserve the approved aims. By the same reasoning, it is not reasonable. As Z. Ziembiński aptly notes, "all these additional elements, associated with the adjective "social" in relation to justice, however, do not outline themselves clearly enough to establish in a reportable way a separate sense of the term "social justice" in the Polish legal system. "Social justice" practically refers to "justice" in general, only that it refers to justice that is in some way socially institutionalized, concerning matters of greater general importance."[22]

As for the previous considerations on the position of "justice" in the Polish normative system, special attention should be paid to the constructed concept of "procedural justice." M. Bernatt notes that "procedural justice is one of the principles of a democratic state of law, which is not mentioned *expressis verbis* in Article 2 of the Constitution. However, it can be considered a derivative principle of the rule of law ... [for it derives from it]. The obligation to create a mechanism of effective legal protection in a statutorily defined procedure against all actions of all state authorities, to ensure fair and equal procedures and the necessity to extend procedural guarantees to an individual when this is not prevented by a precise statutory provision." One more reference to justice is included in its Art. 45(1), which states that everyone is entitled to a fair and public hearing without undue delay by a competent, independent, impartial and independent tribunal.[23] This justice is explained by commentators associating with it the hearing of a case by a competent court.[24] I do not agree with it at all, as there are a dozen features other than the jurisdiction of the court speaking whether the case is judged justly or not.

To sum up, the justice principle is not explicitly expressed in the Polish legal regulations of administrative procedures. We find some references to justice in the body of jurisprudence and in the Polish Constitution, although here we observe a literal reference to "social justice" (so we are experiencing the epithetization). Not quite explicitly, but it is indicated that the justice principle is essential to fundamental functioning

[22] Ziembiński Z., Sprawiedliwość społeczna jako pojęcie prawne, Warszawa, 1996, 56.

[23] See: Chróścielewski W., Kmieciak Z., Niezależny organ kontroli w postępowaniu administracyjnym (Raport badawczy), Samorząd Terytorialny, No. 11, 2005, 5–32.

[24] Tuleja P., Komentarz do art. 45 in: Konstytucja Rzeczypospolitej Polskiej. Komentarz (ed. P. Tuleja), Warszawa, 2019 (digital edition, unnumbered pages).

of a democratic state of law. Such a conclusion is led by the provision contained in Article 2 of the Polish Constitution, as well as the judgments of administrative courts referring to justice as a value essential for a state functioning.[25] Paweł Sut aptly points out that "behind the concept of social justice there are different understandings of it and different theories, the choice of which is a matter of individual axiology, subjective preferences and belief. I think it is a contentious issue even to define those spheres of life that relate to this concept, i.e. to determine whether it refers to economic issues, social security, equality, or the struggle for the rights of individuals or yet others."[26]

The constatation may be a bit surprising. Whoever expected that the justice principle, although not explicitly articulated, would commonly or regularly appear in administrative and legal transactions, will not be satisfied? Direct references to the justice principle are not frequent. The justice principle, more broadly, justice in the Polish administrative process, will somehow be imponderable: intangible values difficult to qualify for a lack of a normative account, but with an impact on surrounding legal institutions. Meanwhile, both theoretically and dogmatically, I think it is legitimate to refer to justice in the administrative process. After all, this is a value that measurably shapes the law in the broad sense. At the general ceiling, as well as below, it allows the desirable, fair handling of individual cases.

[25] See: the judgments of the polish administrative courts, together with excerpts from the theses of these judgments referring to the principle of justice: WSA Gdańsk, 7.2.2019, III SA/Gd 889/16: "The denial of an upbringing benefit in such a case would be in flagrant contradiction both with the purpose of the law and with the principles of social justice embodied by the Republic of Poland, in accordance with Art. 2 of the Polish Constitution"; WSA Białystok, 30.11.2017, II SA/Bk 564/17: "It would be incompatible with the principles of social justice to take the position that it is possible to proceed with the expropriation goal and its implementation itself over an indefinitely long period of time, without there being some special reasons to justify an excessively long period of implementation of the expropriation goal"; WSA Wrocław, 21.3.2017, I SA/Wr 1100/16: "In the Court's opinion, this shatters the average sense of fairness and rationality, as well as fails to realize the principle of social justice, viewed also through the prism – in the present case – of special assistance to an incomplete family"; NSA, 5.4.2016, II FSK 462/14: "The application per analogia of normative solutions from a tax law other than the one directly applicable to a specific event (analogia legis) is possible – on an exceptional basis – only when filling the existing legislative gap is beneficial to the taxpayer, there will be no expansion of the scope of his tribute obligations, but also of the scope of tax benefits, and only in this way can a violation of the constitutional principles of justice or equality be avoided, and, moreover, it is rational for economic and social reasons", or NSA, 2.3.2016, II FSK 2474/15: "There are certain limits of administrative discretion within which a tax authority may move when making a decision following the occurrence of the premise of "important interest of the taxpayer" or "public interest" referred to in Article 67a (1) of the Tax Ordinance Act of August 29, 1997. Exceeding these limits occurs, among other things, when the choice of a decision alternative was made in flagrant violation of the principle of fairness".

[26] Sut P., Uwagi o sprawiedliwości społecznej jako realizowalnym prawnie celu państwa demokratycznego, GSP, No. XXXV, 2016, 405.

IV. The Law Principles Are Ultimately Real and Specific Consequences Follow Out of Them

An emphasis should be made here. For the readers may have a valid point – that is, that all of our considerations so far about principles, meta-principles, justice, the state, law – may not have practical implications. In other words, somewhat interesting discourse, including the resulting values, indications, demands, may remain in the abstract realm. This, in turn, would amount to an action of a slogan or facade nature. However, this is not the case and should never be. Principles and meta-law principles, as carriers of values and entities of axiological nature, should have tangible consequences. I mean that if we take a hierarchically higher premise X, lower premises Y and Z should take their origin from it and follow it. To simplify: a meta-principle shapes a principle. In turn, the principle shapes a specific legal norm and ultimately, a rule of law. It is a very important postulate and seems to be universal for all law systems. As it has already been mentioned, there are known cases of "Soviet justice," characterized by beautiful values in the layer of principles. Practically, their realization, implying hierarchical implementation through dogmatic solutions, was facade.

To get back to the main storyline finale, I should say the following: I am not a proponent of separatism in classifications of justice and make other, so to speak on broader assumptions about the "justice idea" and its meaning, I share the position shown by Z. Kmieciak. He points out that "the idea of procedural justice cannot be considered only as a purely theoretical assumption or a general, unverifiable postulate. On the contrary, it should be assumed that it experiences concretization in the form of findings and directives of practical value (...). The procedural justice is seen, as a theoretical concept characterized by a high abstraction degree, with clear philosophical implications. On the other hand, it is a concept expressing the same axiological assumptions without any practical value."[27] In other words, the justice principle represents a certain carrier of values and ideas, with the solutions having a tangible, pragmatic impact on the administrative process at each stage. Tangible manifestations of justice in the administrative process can be a right to a hearing, transparency of the proceedings, provision of legal aid and opportunity to act by an attorney, a reasonable time for issuing a decision.[28]

[27] Kmieciak Z., Ogólne zasady prawa i postępowania administracyjnego, Warszawa, 2000, 149, 152.

[28] Krawiec G., Europejskie standardy związane z przebiegiem postępowania administracyjnego, Roczniki Administracji i Prawa : Rok XI, 69-85.

Hence, I put forward that in absence of a justice principle explicitly shown in the Polish legal system (and in particular in the law of administrative process), the justice principle is a meta-principle. A meta-principle from which the administrative process general principles take their existence, such as the rule of law[29] and principle of unbiased truth. Other principles, not defined in the KPA, originate from the justice principle. They are called "basic principles" in the sources. As J. Starościak aptly notes, "the general principles formulated in the introductory articles of the KPA cannot be identified with the full list of basic principles of the KPA."[30] Therefore, I think that the justice principle can be considered a kind of matrix. Thereby, as it has a principled, superior character, it can be called a meta-principle.

The above-mentioned considerations can be carried to the whole law system (e.g., the state law) or the law system governing functioning of multiple states. As W. Sadurski notes, "a law that does not respect the justice principles is a morally reprehensible law. On the other hand, it represents a law pursuing only the justice principle at the expense of all other social values. *Fiat iustiti, pereat mundus* (let justice be done, though the world perish – own footnote) is not a motto that should guide lawmakers and politicians."[31] Simultaneously, it seems that the realization of the justice principle (meta-principle) should take into account other social values embodying it. An optimal normative model includes a room for the realization of the justice principle through the realization of other values, namely, mercy, subsidiarity, moderation of punishment and others. These values can support justice without opposing to it or being in a neutral position. It is worth signaling the position that "in the conflict of mercy and justice, legal and political theory should choose justice."[32]

Without rejecting this position, since there are reasonable rationales behind it, I point out that there is a space in normative systems to draft procedural rules in a way that justice and mercy are not conflated. The latter value should be able to become an element of the former. The juxtaposition on the basis of contrast or conflict between certain values does not make much sense. It is better to focus on their constructive use to build an optimal, normative model. Such a model should consider a synthesis of the aforementioned values. Exposing formalism or materialism in justice and opposing them to each other by referring to the above-mentioned paraphrase about

[29] See: Borucka-Arctowa M., Woleński J., Wstęp do prawoznawstwa, Kraków, 1997, 111.

[30] Starościak J., Prawo administracyjne, Warszawa, 1971, 263.

[31] Sadurski W., Teoria sprawiedliwości: podstawowe zagadnienia, Warszawa, 1988, 266.

[32] Ibid., 78.

how "the world may perish/burn, but let (implicitly "my") vision of justice prevail, is not desirable and rational. Of course, it does not stand in conducting research and formulating conclusions considering the chosen perspective, but putting it together and taking it to an even higher level. All this requires caution and restraint.

Despite a number of rules of conduct in the law implementing the justice value, we also find rules directly relating to the cited value of mercy. An exemplification of such action in the Polish legal system is Art. 67a of the Tax Ordinance regulating relief in the debts repayment or entire social law system. In an opposite case, when we bet on the conflict of values rather than their complementarity, normative systems become similar to primitive systems under the *dura lex sed lex* principle. Meanwhile, it is precisely a broad understanding of justice in the state and law as a value incorporating other values representing an outstanding achievement of the democratic legal state. Moreover, it confirms the validity of the thesis that one can speak of a justice meta-principle in law.

It is also required to signal the opposition to the above-mentioned claims, such as that "the justice system depends on values other than the value of justice. Its purely moral value is a function of the arbitrary claims that serve it as a starting point."[33] I do not share the thesis of the arbitrariness of claims serving as a starting point in the justice system understood as I gave above. On the other hand, this claim, coming from Chaim Perelman, will be true if we assume the purely formal nature of the justice system.

V. Conclusions

To sum up, despite a lack of a direct expression of the principle or justice meta-principle in the Polish system of administrative procedural law, we can still detect its presence. It has solid foundations – expressed in the existence of legal principles that are inferior to it. It also has a justified axiological basis. Perhaps, on the basis of *de lege ferenda* considerations, it is worth the Polish legislator thinking on clearly articulating this meta-principle, being the key to the entire administrative process. In my opinion, placing it in the initial part of the Administrative Procedures Code is justified. Moreover, it seems justified to apply analogous conclusions to other legal systems, although it requires deeper examination.

[33] Perelman Ch., O sprawiedliwości, Warszawa, 1959, 98.

Responding to the theses given in the beginning of the document, I would like to say that they are verified positively and confirmed. Moreover, I express the cautious belief that such theses can apply (of course, also verified) to many law systems, particularly the ones based on the democratic legal state standard of the Western model. Thus, it can be considered reasonable to refer to meta-principles in law and the justice meta-principle in particular. The immanent nature of justice specifically makes it possible to grant this regulation an overriding role and supply such a principle of law with the meta prefix. I consider particularly important and worth emphasizing the demand – which is also universal – that in the lawmaking hierarchical process, these principles and meta-principles should not remain a slogan and measurably shape the norms and rules of law.

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