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Judicial Review of Discretionary Powers in the Activity of Historical Monuments Protection Bodies in the Polish Legal System

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The sovereign nature of the forms of operation of cultural heritage protection authorities, the polarization between the individual interest and the public interest, discretion margin in the activities of the authorities – all these elements create a kind of "explosive mixture", which is the source of the legal disputes between the owners of historical monuments and historical monuments protection bodies. The key element of the guarantee of individual freedom is the judicial review of public administration. Therefore, it is a matter of dispute to which extent the public administration is subject to judicial review when performing the tasks entrusted. The aim of this article is to show how Polish administrative courts approach the problem. What methodology of the review of discretion margin do they use? How do they solve the dilemma: who makes the final decision – the body or the court? Do they retain judicial self-restraint or are they ready and willing to interfere in the merits of the decision?

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