NACZELNY SĄD ADMINISTRACYJNY

ZESZYTY NAUKOWE Sądownictwa Administracyjnego

dwumiesięcznik

rok XV nr 4 (85)/2019
Warszawa 2019

WYDAWCA
Naczelny Sąd Administracyjny

KOMITET REDAKCYJNY

REDAKCJA
REDAKTOR NACZELNY prof. dr hab. Janusz Trzciński
ZASTĘPCA REDAKTORA NACZELNEGO prof. dr hab. Andrzej Gomułowicz
SEKRETARZ REDAKCJI mgr Małgorzata Sawicka-Jezierczuk (e-mail: msawicka@nsa.gov.pl)

RADA PROGRAMOWA
CZŁONKOWIE
prof. dr hab. Barbara Adamiak, dr Stefan Babiarz, prof. dr hab. Wojciech Chróścielewski,
dr hab. Jacek Chlebny, mgr Irena Chojnacka, prof. dr hab. Roman Hauser,
dr Andrzej Kisielewicz, prof. dr hab. Andrzej Skoczylas, sędzia NSA Maria Wiśniewska,
prof. dr hab. Zbigniew Witkowski, prof. dr hab. Andrzej Wróbel,
prof. dr hab. Marek Zirk-Sadowski

MIĘDZYNARODOWI CZŁONKOWIE
Dr., Dr. h.c. mult. Eckart Hien, Dr. Univ.-Prof., Clemens Jabloner,
Prof. JUDr Jan Filip, Sędzia Olof Olsson, Prof. Dr. Dr.h.c.mult. Rainer Arnold,
Prof. dr Georges Ravarani, Prof. dr hab. Virgilijus Valančius

*

redaktor tematyczny dr hab. Wojciech Piątek
redaktor językowy mgr Justyna Woldańska
redaktor statystyczny dr Michał Szwast

ADRES REDAKCJI
Naczelny Sąd Administracyjny
00-011 Warszawa, ul. G.P. Boduena 3/5
tel. 22 551-67-25, e-mail: msawicka@nsa.gov.pl; www.nsa.gov.pl/zeszyty-naukowe.php

© Copyright by Naczelny Sąd Administracyjny
Warszawa 2019

ISSN 1734-803X
Nr indeksu 204358

Liczba punktów za publikację wynosi 5.

Wersją podstawową (referencyjną) czasopisma jest wersja papierowa.

Wolters Kluwer

Wolters Kluwer Polska Sp. z o.o.
01-208 Warszawa, ul. Przyokopowa 33
www.wolterskluwer.pl

Dyrektor Działu Publikacji Periodycznych: Klaudia Szawłowska-Milczarek
klaudia.szawlowska@wolterskluwer.com

Szczegółowe informacje o prenumeracie czasopism można uzyskać
pod numerem infolinii: tel. 801 044 545, prenumerata@wolterskluwer.pl
Obsługa Klienta: tel. 22 535 82 72, księgarnia internetowa: www.profinfo.pl

Skład i łamanie: Andytex, Warszawa
Druk ukończono w sierpniu 2019 roku. Nakład 1000 egz.

SPIS TREŚCI

MATERIAŁY Z OBRAD DOROCZNEGO ZGROMADZENIA OGÓLNEGO SĘDZIÓW
NACZELNEGO SĄDU ADMINISTRACYJNEGO
W DNIU 10 CZERWCA 2019 R. W WARSZAWIE

Wystąpienie Prezesa NSA prof. Marka Zirk-Sadowskiego 9
List Prezydenta RP dr. Andrzeja Dudy 20
List Prezesa NIK Krzysztofa Kwiatkowskiego 22
Sprawozdanie z przebiegu obrad (*dr Anna Rossmanith*) 23
Report of the proceedings of the meeting (English translation) 24

STUDIA I ARTYKUŁY

Dr hab. Marcin Kamiński (profesor, Uniwersytet Jagielloński w Krakowie)
Związanie oceną prawną wynikającą z prawomocnego wyroku sądu administracyjnego oddalającego skargę na tle dopuszczalności weryfikacji prawomocnej decyzji w nadzwyczajnych trybach postępowania administracyjnego. Część II 25
Bibliografia załącznikowa 34
Summary 35

Dr hab. Marek Szubiakowski (adiunkt, Uniwersytet Warszawski)
O potrzebie refleksji nad wykładnią art. 68 Ordynacji podatkowej 37
Bibliografia załącznikowa 49
Summary 49

Mgr Olga Karczewska (doktorantka, Uczelnia Łazarskiego w Warszawie)
Prawo zamówień publicznych a dostęp do informacji publicznej 51
Bibliografia załącznikowa 61
Summary 61

Dr Adam Ploszka (adiunkt, Uniwersytet Warszawski)
Miejsce przeprowadzania rodzinnego wywiadu środowiskowego u osób doświadczających bezdomności 62
Bibliografia załącznikowa 76
Summary 76

ORZECZNICTWO

I. **Trybunał Sprawiedliwości Unii Europejskiej** (wybór i opracowanie: *prof. Andrzej Wróbel, mgr Piotr Wróbel*)
Odesłanie prejudycjalne – Wspólny system podatku od wartości dodanej (VAT) – Dyrektywa 2006/112/WE – Artykuł 168 lit. a/ – Odliczenie podatku naliczonego – Zasada neutralności VAT – Podatnik wykonujący jednocześnie działalność gospodarczą oraz działalność niemającą charakteru gospodarczego – Towary i usługi nabyte w celu

realizacji transakcji podlegających opodatkowaniu VAT i transakcji niepodlegających opodatkowaniu VAT – Brak kryteriów podziału w przepisach krajowych – Zasada legalizmu podatkowego
Wyrok TS z dnia 8 maja 2019 r. w sprawie *Związek Gmin Zagłębia Miedziowego*, C-566/17, ECLI:EU:C:2019:390 79

II. Europejski Trybunał Praw Człowieka (wybór i opracowanie: *dr Agnieszka Wilk-Ilewicz*)
Brak spełnienia wymogów niezawisłości i bezstronności przez Sąd, który nie został ustanowiony ustawą
Wyrok ETPC z dnia 12 marca 2019 r. w sprawie *Guðmundur Andri Ástráðsson przeciwko Islandii* (skarga nr 26374/18) 89

III. Trybunał Konstytucyjny (wybór: *mgr Irena Chojnacka*, opracowanie: *mgr Mieszko Nowicki*)
Wyrok TK z dnia 15 maja 2019 r. (sygn. akt SK 26/17) [dot. zgodności z Konstytucją art. 173 § 1 p.p.s.a. w zakresie, w jakim nie przewiduje możliwości zaskarżenia skargą kasacyjną postanowienia NSA, którym ten sąd, orzekając po raz pierwszy o tej sprawie, odrzuca skargę o wznowienie postępowania przed NSA] 98

IV. Sąd Najwyższy (wybór i opracowanie: *mgr Michalina Szpyrka*)
1. Wyrok SN z dnia 15 lutego 2018 r. (sygn. akt IV CSK 95/17) [dot. możliwości uzyskania odszkodowania za utratę gospodarstwa rolnego w wyniku decyzji wydanej z naruszeniem prawa] 104
2. Wyrok SN z dnia 20 marca 2018 r. (sygn. akt III SK 12/17) [dot. możliwości nałożenia kary pieniężnej na podmiot, który nie wykonał obowiązku przewidzianego w Prawie energetycznym, którego zakres zmienił się w połowie roku, a którego doprecyzowanie nastąpiło z opóźnieniem z uwagi na niewydanie w terminie rozporządzenia wykonawczego] 106

V. Naczelny Sąd Administracyjny i wojewódzkie sądy administracyjne
A. Orzecznictwo Naczelnego Sądu Administracyjnego (opracowanie: *dr hab. Marcin Wiącek*)
Uchwała składu siedmiu sędziów NSA z dnia 1 lipca 2019 r. (sygn. akt I OPS 1/19) [dot. przekształcenia stosunku służbowego funkcjonariuszy Służby Celnej] 114
B. Orzecznictwo wojewódzkich sądów administracyjnych (wybór: *prof. Andrzej Gomułowicz*, opracowanie: *dr hab. Marcin Wiącek*)
1. Wyrok WSA w Warszawie z dnia 16 lutego 2016 r. (sygn. akt III SA/Wa 890/15) [dot. działalności leasingowej banków] 118
2. Wyrok WSA w Krakowie z dnia 16 maja 2018 r. (sygn. akt III SA/Kr 150/18) [dot. decyzji potwierdzającej prawo do świadczeń opieki zdrowotnej finansowanych ze środków publicznych] 122
3. Wyrok WSA we Wrocławiu z dnia 4 października 2018 r. (sygn. akt III SA/Wr 223/18) [dot. tzw. dekomunizacji nazw ulic] 124

VI. Glosy
Dr hab. Piotr Mostowik (profesor, Uniwersytet Jagielloński)
Glosa do wyroku Naczelnego Sądu Administracyjnego z dnia 10 października 2018 r. (sygn. akt II OSK 2552/16) [dot. transkrypcji do polskiego rejestru stanu cywilnego treści zagranicznego aktu urodzenia dziecka, gdy rodzice są tej samej płci] 132
Bibliografia załącznikowa 147
Summary 148

Mec. Paweł Świerk (radca prawny, Ministerstwo Środowiska w Warszawie)

Glosa do wyroku Naczelnego Sądu Administracyjnego z dnia 19 lipca 2017 r. (sygn. akt II GSK 5301/16) [dot. bezprzedmiotowości jako przesłanki wygaśnięcia koncesji] 149
Bibliografia załącznikowa 157
Summary 157

Mgr Witold Siuta (doktorant, WSPiA Rzeszowska Szkoła Wyższa)
Glosa do wyroku Naczelnego Sądu Administracyjnego z dnia 15 grudnia 2017 r. (sygn. akt I OSK 1408/17) [dot. braku obligatoryjności organów uczelni w postępowaniu dyscyplinarnym do uznania za okoliczność łagodzącą zakwalifikowania czynu przez sąd powszechny jako przestępstwa o niskiej szkodliwości] 158
Bibliografia załącznikowa 168
Summary 168

Dr Michał Szwast (adiunkt, Uniwersytet Warszawski)
Glosa do wyroku Europejskiego Trybunału Praw Człowieka z dnia 6 grudnia 2018 r., w sprawie *Słomka przeciwko Polsce* (skarga **nr 68924/12)** [dot. kar porządkowych pozbawienia wolności orzekanych przez polskie sądy w ramach tzw. policji sesyjnej] 169
Bibliografia załącznikowa 179
Summary 179

KRONIKA

Kalendarium sądownictwa administracyjnego (maj–czerwiec 2019 r.) (opracowała *dr Anna Rossmanith*) 181

BIBLIOGRAFIA

Publikacje z zakresu postępowania administracyjnego i sądowoadministracyjnego (maj–czerwiec 2019 r.) (opracowała *mgr Marta Jaszczukowa*) 199

TABLE OF CONTENTS

MATERIALS FROM THE ANNUAL MEETING OF THE GENERAL ASSEMBLY OF THE JUDGES OF THE SUPREME ADMINISTRATIVE COURT HELD ON 10 JUNE 2019 IN WARSAW

Speech by the President of the Supreme Administrative Court, prof. Marek Zirk-Sadowski 9
Letter of the President of the Republic of Poland, dr Andrzej Duda 20
Letter of the President of the Supreme Audit Office, Krzysztof Kwiatkowski 22
Report of the proceedings of the meeting (*dr Anna Rossmanith*) 23
Report of the proceedings of the meeting (English translation) 24

STUDIES AND PAPERS

Dr hab. Marcin Kamiński (professor, Jagiellonian University in Krakow)
Binding character of a legal assessment arising from the non-appealable judgment of the administrative court dismissing a claim against the backdrop of the admissibility of the verification of a binding decision under the extraordinary measures of administrative proceedings Part II. 25
References 34
Summary 35

Dr hab. Marek Szubiakowski (assistant professor, University of Warsaw)
On the need to reflect on the interpretation of Article 68 of the Tax Ordinance 37
References 49
Summary 49

Mgr Olga Karczewska (doctoral candidate, Lazarski University)
Public procurement law and access to public information 51
References 61
Summary 61

Dr Adam Ploszka (assistant professor, University of Warsaw)
Place of carrying out a family background interview with a person experiencing homelessness 62
References 76
Summary 76

CASE-LAW

I. Court of Justice of the European Union (selected and prepared by: *prof. Andrzej Wróbel, mgr Piotr Wróbel*)
Reference for a preliminary ruling – Common system of value added tax (VAT) – Directive 2006/112/EC – Article 168(a) – Deduction of input tax – Principle of VAT neutrality – Taxable person engaged in both economic and non-economic activities –

Goods and services purchased for the purposes of performing both transactions subject to VAT and non-taxable transactions – Absence of apportionment criteria in national legislation – Principle of lawfulness of the tax
Judgment of the Court of 8 May 2019, *Związek Gmin Zagłębia Miedziowego*, C-566/17, ECLI:EU:C:2019:390 79

II. European Court of Human Rights (selected and prepared by: *dr Agnieszka Wilk-Ilewicz*)
Failure to satisfy the requirements of independence and impartiality by the court that has not been established by law
Judgment of the European Court of Human Rights of 12 March 2019 in *Guðmundur Andri Ástráðsson v. Iceland* (Application No. 26374/18) 89

III. Constitutional Tribunal (selected by: *mgr Irena Chojnacka*, prepared by: *mgr Mieszko Nowicki*)
Judgment of the Constitutional Tribunal of 15 May 2019 (Case No. SK 26/17) [concerning the constitutional compliance of Article 173(1) of the Act on Proceedings before Administrative Courts to the extent in which it is impossible to lodge a cassation appeal against a decision of the Supreme Administrative Court, by which the Supreme Administrative Court acting as the first court to consider the case rejects the application for the re-opening of the case before the Supreme Administrative Court] 98

IV. Supreme Court (selected and prepared by: *mgr Michalina Szpyrka*)
1. Judgment of the Supreme Court of 15 February 2018 (Case No. IV CSK 95/17) [concerning the possibility of obtaining the compensation for the loss of an agricultural farm as a result of a decision delivered in violation of law] 104
2. Judgment of the Supreme Court of 20 March 2018 (Case No. III SK 12/17) [concerning the possibility of imposing a fine on an entity that failed to satisfy the obligation provided for in the Energy Law, where the scope of the obligation has changed mid-year and has been clarified with delay due to the failure to adopt the implementation regulation in a timely manner] 106

V. Supreme Administrative Court and voivodship administrative courts
A. Case-law of the Supreme Administrative Court (prepared by: *dr hab. Marcin Wiącek*)
Resolution of the panel of seven judges of the Supreme Administrative Court of 1 July 2019 (Case No. I OPS 1/19) [concerning the transformation of the employment relationship of Customs officers] 114
B. Case-law of voivodship administrative courts (selected by: *prof. Andrzej Gomułowicz*, prepared by: *dr hab. Marcin Wiącek*)
1. Judgment of the Voivodship Administrative Court in Warsaw of 16 February 2016 (Case No. III SA/Wa 890/15) [concerning the leasing activities of banks] 118
2. Judgment of the Voivodship Administrative Court in Krakow of 16 May 2018 (Case No. III SA/Kr 150/18) [concerning the decision confirming the entitlement to publicly-funded healthcare services] 122
3. Judgment of the Voivodship Administrative Court in Wrocław of 4 October 2018 (Case No. III SA/Wa 223/18) [concerning the decommunisation of street names] 124

VI. Notes
Dr hab. Piotr Mostowik (professor, Jagiellonian University)
Note to the judgment of the Supreme Administrative Court of 10 October 2018 (Case No. II OSK 2552/16) [concerning the transcription of the foreign birth certificate to the Polish register when both parents are of the same sex] 132
References 147
Summary 148

Mgr Paweł Świerk (attorney-at-law, Ministry of Environment in Warsaw)

Note to the judgment of the Supreme Administrative Court of 19 July 2017 (Case No. II GSK 5301/16) [concerning the irrelevance as a criterion for the expiry of a concession] 149
References 157
Summary 157

Mgr Witold Siuta (doctoral candidate, WSPiA University of Rzeszów)
Note to the judgment of the Supreme Administrative Court of 15 December 2017 (Case No. I OSK 1408/17) [concerning the lack of obligation on the part of university bodies to treat the classification of a crime by the common court as negligible as an extenuating circumstance in disciplinary proceedings] 158
References 168
Summary 168

Dr Michał Szwast (assistant professor, University of Warsaw)
Note to the judgment of the European Court of Human Rights of 6 December 2018, Application No. 68924/12, ***Slomka v. Poland*** [concerning the disciplinary detention imposed by the Polish courts as part of so-called police ordinal 169
References 179
Summary 179

CHRONICLES

Chronicle of administrative judiciary (May–June 2019) (complied by *dr Anna Rossmanith*) 181

BIBLIOGRAPHY

Publications on administrative proceedings and court administrative proceedings (May–June 2019) (complied by *mgr Marta Jaszczukowa*) 199

Report of the proceedings of the meeting

On 10 June 2019 the annual General Assembly of the Judges of the Supreme Administrative Court in Warsaw was held in the Assembly Hall, at which *Information on the activities of administrative courts in 2018* was presented by the President of the Supreme Administrative Court prof. dr hab. Marek Zirk-Sadowski, and adopted by way of a resolution.

The assembly was attended by the President of the Supreme Administrative Court, Vice-Presidents: dr hab. Jacek Chlebny, Janusz Drachal, Jan Rudowski, judges of the Supreme Administrative Court and presidents of voivodship administrative courts, but also by invited guests, being the representatives of the highest authorities of the State and the judiciary: on behalf of the President of the Republic of Poland – Paweł Mucha, Deputy Chief of the Chancellery of the President of the Republic of Poland, on behalf of the First President of the Supreme Court – Dariusz Zawistowski, the President of the Supreme Court in charge of the Civil Chamber, on behalf of the Supreme Audit Office – Elżbieta Jarzęcka-Siwik – Deputy Head of the Department for Legal Affairs and Audit Case Law at the Supreme Audit Office, on behalf of the Commissioner for Human Rights – dr Hanna Machińska – the Deputy Commissioner for Human Rights, and Antoni Cyran, the Head of the Chancellery of the First President of the Supreme Court.

After the meeting was officially opened and the guests were welcomed, the President of the Supreme Administrative Court, prof. Marek Zirk-Sadowski, presented the information on the activities of the Supreme Administrative Court and voivodship administrative courts in 2018. The text of his speech is available *in extenso* at p. 9–19 of this issue of the ZNSA.

After the President of the Supreme Administrative Court, the floor was taken by the invited guests.

The first to speak was Paweł Mucha, Deputy Chief of the Chancellery of the President of the Republic of Poland, who read the letter from the President of the Republic of Poland Andrzej Duda addressed to participants and guests attending the meeting. The letter is available *in extenso* at p. 20–21 of this issue of the ZNSA.

The next speaker was Elżbieta Jarzęcka-Siwik, Deputy Head of the Department for Legal Affairs and Audit Case Law at the Supreme Audit Office, who read out a letter from the President of the Supreme Audit Office Krzysztof Kwiatkowski addressed to the participants of the meeting. The letter is available *in extenso* at p. 22 of this issue of the ZNSA.

At the end of the session, the President of the Supreme Administrative Court, prof. Marek Zirk-Sadowski, ordered a vote of the assembled judges of the NSA on the adoption of the presented *Information on the activities of administrative courts in 2018*. The General Assembly of the Judges of the Supreme Administrative Court unanimously passed a resolution on its adoption.

By *Anna Rossmanith*
(Supreme Administrative Court,
University of Warsaw)

Summary

of the article: **Binding character of a legal assessment arising from the non-appealable judgment of the administrative court dismissing a claim against the backdrop of the admissibility of the verification of a binding decision under the extraordinary measures of administrative proceedings.** Part II

The issue of admissibility of the verification of the final administrative decision in the extraordinary administrative proceedings in the light of the limits of binding force of the final administrative court's judgment and the final legal assessment which results from the final administrative court's judgment dismissing the complaint against the administrative decision is the subject of this study. The second part of the study is the continuation of the first part. The analysis in this part of the study has been focused on the issues of the limits of the binding force of the final administrative courts' judgment dismissing the complaint against the administrative decision in the extraordinary administrative proceedings for quashing or amending the final administrative decisions which are legally correct or which are affected by the defects of not grave degree. The considerations led to the conclusion that from the principle of binding force of the final administrative court's judgment (Article 170 of the Act of 30 August 2002 – The Law on Proceedings before Administrative Courts) results that the scope of admissibility of the verification of the final administrative decision which has been uphold by the administrative court by means of the final judgment dismissing the complaint against this decision in the extraordinary administrative proceedings, including the proceedings stipulated in the Art. 154, 155, 161, 162 and 163 of the Act of 14 June 1960 – The Code of Administrative Proceedings, is conditioned by the contents of the legal assessment which has been expressed in the final administrative court's judgment dismissing the complaint against this decision. Subsequent quashing or amending the decision in the extraordinary administrative proceedings of the above mentioned kind cannot be based on a such version of interpretation of the substantial or procedural law (which has been concretized by the administrative authority in the verified decision) which, contrary to the legal assessment which has been expressed in the final administrative court's judgment, would breach the binding force of this assessment and the form of its preservation – the final administrative court's judgment.

Keywords: validity of administrative courts' judgments; the binding force of the administrative courts' legal assessment which results from the administrative court judgment dismissing the complaint against the administrative decision; the administrative decision upheld by the administrative court and its verification in the extraordinary administrative proceedings intended for quashing or amending of correct or defective to an unqualified extent decisions; the binding force of the administrative court's judgment dismissing the complaint against the administrative decision and the subsequent resolution of the Supreme Administrative Court

Summary

of the article: **On the need to reflect on the interpretation of Article 68 of the Tax Ordinance**

The paper discusses the issue of the interpretation of the provision that constitutes a ground for decisions delivered if it is necessary to assess tax liability arising *ex lege* when the obligation of satisfying such liability has not been met. The sources of interpretation adopted by courts and the evolution of such interpretation are analysed. The basic issue raised is the determination of a date on which the liability arises if the first-instance decision has been appealed against. According to the case-law, the existence of tax liability is determined by the first-instance decision and, having been shaped as such, it may be only modified to the benefit of the taxpayer. In view of such interpretation, the statute of limitations period in respect of the tax liability is determined in relation to the first-instance decision and not in relation to the date on which the decision becomes final and binding. The main part of the paper is devoted to the considerations on the grounds for such interpretation, both in the light of the applicable legal order and in the light of the expected adoption of the new Tax Ordinance.

Keywords: decision, assessment decision, tax proceedings, tax liability, appeal, durability of the decision, statute of limitations, case-law

Summary

of the article: **Public procurement law and access to public information**

This paper analyses the mutual relationship between the provisions of the Act of 6 September 2001 on Access to Public Information (Journal of Laws of 2018, item 1330 as amended) and the Act of 29 January 2004 – Public Procurement Law (Journal of Laws of 2018, item 1986 as amended), as well as consequences related thereto. Common constitutional ground of the two acts is outlined in the introduction. Further parts of the paper discuss the overlapping of the two acts. Subsequently, consequences arising from the equal status of the two acts are presented in the context of information on public procurement procedure. The first focal point is the information on public procurement procedures which is public information, while the second one is the information related to public procurement procedures which creates competitive advantage. The practical meaning of the problem in question was emphasised in the summary.

Keywords: public procurement, public information, competition

Summary

of the article: **Place of carrying out a family background interview with a person experiencing homelessness**

The subject matter of this paper is the verification of a hypothesis under which the provision of the Regulation of the Minister of Family, Labour and Social Policy of 25 August 2016 specifying the place of carrying out a family background interview may be construed in such a manner that in practice it is impossible to carry out a background interview with a person experiencing homelessness staying in so-called non-residential places, such as vacant buildings, heating system channels or railway facilities. In order to verify the hypothesis, both the practice of the application of the provision at the level of administrative bodies and the case-law of administrative courts on the issue were analysed. The conclusions from the analysis confirm that such interpretation is present in the practice of applying the provision in question, but it is a minority interpretation. The prevailing interpretation allows a background interview to be carried out in any place where a person in the crisis of homelessness may be found, including a social welfare centre.

Keywords: family background interview, homelessness, place of residence

Summary

of the **Note to the Judgment of the Supreme Administrative Court of 10 October 2018 (Case No. II OSK 2552/16)**

The paper discusses the judgment of the Supreme Administrative Court concerning the creation of a Polish birth certificate by means of transcription (the conveyance of the foreign content of vital records) that is not compliant with the existing case-law in similar cases, in particular with the judgment of the Supreme Administrative Court of 20 June 2018 (II OSK 1808/16). It is assumed in the most recent judgment that the refusal by the Head of the Registry Office to transcribe the foreign act indicating, in accordance with the foreign law, the child's parental relationship (filiation) with two people of the same sex was groundless. This approach was motivated by the need to ensure the possibility of processing, within subsequent administrative proceedings, specific actions defined in Article 104(5) of the Law on Civil Registry Records (e.g., issuance of an ID card), for the purpose of which it is necessary to hold a Polish registration certificate.

The author provides a critical comment on the court decision and on some statements made in the statement of grounds and emphasises the need to take into consideration international private law, constitutional rules of the Polish family law and international standards. At the same time, the author points out that the issues related to further specific administrative proceedings (e.g. issuance of an ID card) may and should be resolved within such proceedings and not in the general proceedings concerning the creation of the Polish birth certificate by means of transcription.

Keywords: child's origin, registration, birth certificate, children, human rights, recognition of the foreign decision, maternity, paternity, nationality

Summary

of the **Note to the judgment of the Supreme Administrative Court of 19 July 2017 (Case No. II GSK 5301/16)**

The note presents the judgment of the Supreme Administrative Court of 19 July 2017, II GSK 5301/16, along with the approving position. It is necessary to agree with the judgment, in which it was pointed out that the purposeless of the concession for exploiting minerals from deposits may indicate the permanent illegality of the entrepreneur by the right to land real estate covered by this concession. An entrepreneur with the concession is not capable, in this case, to achieve the purpose specified in the concession, i.e. to extract minerals from the deposit.

Keywords: expiry of the concession, purposeless of the concession, exploiting minerals from deposits, the right to the land real estate, mining area

Summary

of the **Note to the Judgment of the Supreme Administrative Court of 15 December 2017 (Case No. I OSK 1408/17)**

In the judgment in question, the Supreme Administrative Court took its position on the disciplinary liability of students for a crime whose commission had no direct relationship with the course of their university education. The Court held that the assessment of such crime made by the court in criminal proceedings is not relevant for disciplinary liability purposes and for the imposition of a sanction for disciplinary misconduct. The author indicates the topicality of the matter considered by the Court, regardless of the change in legal circumstances, and approves of the interpretation laid down in the sentence.

Keywords: student, disciplinary liability, crime

Summary

of the Note to the judgment of the European Court of Human Rights of 6 December 2018, Application No. 68924/12, ***Slomka v. Poland***

In the judgment in Słomka v. Poland case, the European Court of Human Rights ruled on the violation by Poland of art. 6 and art. 10 of the European Convention on Human Rights. The Court found a violation of the right to an impartial tribunal as a result of the accumulation of procedural roles by members of the court, who, being the subject of the applicant's verbal attack at the hearing, punished him with a penalty of 14 days imprisonment. In addition, the ECtHR found violation of the right to an effective remedy, because the order on the penalty was immediately enforceable, and the applicable law did not oblige the courts either to obligatory suspend enforcement of the order, or to investigate the complaint before the execution of the sentence. The Author of the note agrees with the ECtHR judgment. When quoting the views of the ECtHR from other similar matters in his elaboration, the Author presented the postulated directions for the implementation of this judgment. He raised the thesis that this judgment shows the necessity of a thorough remodeling of the principles of legal liability for violation of the seriousness, calmness or order of court actions.

Keywords: right of access to a court, deprivation of liberty