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Summary

of the article: **Simplified proceedings in the Polish Code of Administrative Procedure and in the Law on Proceedings before Administrative Courts**

This paper discusses the similarities and differences in how simplified proceedings are regulated in the Polish Code of Administrative Proceedings and in the Law on Proceedings before Administrative Courts. While both of these types of simplified proceedings have similar aims, those being accelerating and simplifying the procedure, yet due to the essence of the administrative and administrative court cases, they differ in their fundamental elements.

First and foremost, the reasons for initiating such proceedings vary, though there are some relations among them. As regards the administrative procedure, the use of the simplified procedure is mandatory, applies to non-contentious cases, and is due to the explicit intent of the legislator. As regards the administrative court procedure, the simplified mode is not mandatory, the decision to use it is left at the discretion of the court, and sometimes of the party. Thus, the legislator only specifies the scope of the cases that may be examined in such mode. Also, contrary to the Polish Code of Administrative Proceedings, this pertains to contentious cases, sometimes with high gravity. Both these regulations are original in nature and deviate from the solutions adopted in the Polish Code of Civil Procedure.

The degree of simplification (summary) of both types of proceedings is also a consequence of the essence of the administrative and administrative court cases. Due to the merits of administrative cases, the provisions of the Polish Code of Administrative Proceedings are more extensive than the provisions of the Law on Proceedings before Administrative Courts. The simplification of the proceedings according to the Polish Code of Administrative Proceedings concerns the initiation, the explanatory proceedings, the adjudication, and the challenging stages of the actions undertaken during such proceedings. Contrary to the Polish Code of Administrative Proceedings, the simplification of the proceedings according to the Law on Proceedings before Administrative Courts is reduced only to changing the form of proceedings from open to closed.

The author offers an assessment of these solutions, making certain *de lege ferenda* conclusions. However, the author emphasizes that due to the absence of special provisions, the conclusions may only be preliminary in nature with respect to the Polish Code of Administrative Proceedings.

Keywords: simplified proceedings, administrative proceedings, administrative court proceedings, administrative case, administrative court case

Summary

of the article: **Simplified proceedings before voivodship administrative courts – between openness and speed of the administrative court proceedings**

This paper discusses the simplified mode as a regulation that meets the requirement of both the openness and the speed of proceedings before an administrative court. Both these values are derived directly from the Polish Constitution of 2 April 1997 and from the international agreements that are binding upon Poland. Specific solutions in this area are provided for also in acts of law, that ins in the Law on Proceedings before Administrative Courts. In this regard, we can talk about a series of legal regulations that form a general standard, whose elements include: openness and speed of the administrative court proceedings.

The purpose of this paper is to indicate the most important sources of these two fundamental requirements of the right to court realised in the cases examined by administrative courts and to analyse whether the right to have a case openly examined is not excessively restricted in the simplified mode that is in use in the proceedings before voivodship administrative courts. Mutual relations between those two constitutional and legal-international values are also defined. A relevant analysis should make it possible to provide an answer to the question as to whether, despite the unquestionable benefits carried by the introduction of the simplified proceedings, the right to have a case examined openly is realised to a sufficient degree.

Keywords: Constitution, international agreements, administrative courts, administrative court proceedings, simplified mode, principle of openness of proceedings, principle of speed of proceedings, principle of proportionality

Summary

of the article: **Uncovering the axiological and teleological basis for legal-administrative actions in the jurisprudence of administrative courts**

The duty of public administration authorities to take into consideration the axiological and teleological basis for each act or action of legal-administrative nature touches upon such fundamental issues of administrative law science as administrative competence and the legal situation of administered entities. It also concerns the determinants of the proper realisation of the administrative competence by its entities and the proper use – from the axiological and teleological perspective – of legal instruments that set forth the legal situation of the administered entities, and finally – legal mechanisms that warrant the protection against the abuse of legal attributes by both sides of legal-administrative relations.

The analysis of the French line of thought in this scope – as it has an impact on the solutions in force in many countries, including in the European Union – allows us to grasp and later use the methods, and later to control the phenomenon that the French call *détournement de pouvoir*, which – as it is an innate element of functioning of the public administration and the administrative law – is universal. On one hand, it sets forth the minimum standards of conduct for administrative and administrating authorities as regards the duty to consider the values and purposes comprising the axiological and teleological basis for each legal-administrative act and action; should the authority fail to consider such desired values and purposes, the given action or deed should be deemed improper. On the other hand, administrative courts – if an act or an action is challenged – should eliminate them from the legal system, if the authority failed to consider the desirable values and purposes. In such way, the assessment of the proper nature of legal-administrative acts and actions gains a comprehensive outlook. While the phenomenon and the juridical construction of *détournement de pouvoir* are clearly based on the French law in the norms of the judge-made law and the views of the representatives of the French legal doctrine, Poland lacks clear legal grounds for the establishment of an analogous structure. The duty to consider the desirable values and purposes by administrative and administrating authorities is only indirectly derived from the general principles of administrative law. In turn, the ability to challenge an act or an action based on the defence that the duty to consider the axiological and teleological basis had not been considered must be associated with the extensively understood violation of the reference norm contained in Article 1(2) of the Act – Law on the System of Administrative Courts.

Keywords: administrative competence, duty, legal axiology, legal teleology, administrative law, French law, *détournement de pouvoir*

Summary

of the article: **Objection as a way to reduce the number of cassatory decisions**

The legal institution of the objection was introduced into the Act – Law on Proceedings before Administrative Courts as a remedy to the overuse by the appeal authorities of Article 138(2) of the Polish Code of Administrative Proceedings, i.e. the fact that cassatory decisions are issued too often. The paper is an attempt to answer the question whether court-administrative proceedings are the right place to regulate this issue and whether the shape of the adopted solution makes it possible to achieve the subject goal. The analysis of the legal institution of the objection leads to the conclusion that “overregulation” phenomenon is at play. Moreover, by introducing elements intended to accelerate court proceedings, some elements were introduced that challenge the reliability of the proceedings that are pending in the objection mode.

The acceleration itself could have taken place within the existing summary mode, in particular as accelerating the proceedings with a separate instrument does not achieve the purpose of this instrument, i.e. reducing the number of cassatory decisions.

As a rule, the resolution of the problem of a too high number of cassatory decisions must be sought at the source, i.e. in the administrative proceedings themselves. It would be sufficient to introduce a mandatory disciplinary measure, e.g. a fine, in specific situations on the grounds of the Law on Proceedings before Administrative Courts.

Keywords: cassatory decision, objection, administrative court proceedings

Summary

of the article: **Enforceability of the decision under Article 48(2) of the Construction Law and the temporary protection in the administrative court proceedings**

This paper is an attempt to evaluate the impact of the revision of the Construction Law in terms of the procedure to legalise illegal constructions, impact of the revision on the scope of material competence of administrative courts, and the impact of the court ruling granting temporary protection on the administrative proceedings (legalization). The new legal solution set forth in Article 48(2) of the Construction Law was described, related to the order to suspend construction works. The ability of the court to define the scope of the temporary protection granted in connection with the inspection of the decision ordering the suspension of construction works was also presented. The paper ends with comments on the multi-dimensional consequences of the revision and the called for quality of legislative works.

Keywords: Construction law, illegal constructions, suspending the enforcement of a challenged [administrative] act, temporary protection