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Summary

of the article: **Temporal legal effects of the judgments of the Constitutional Tribunal with respect to legal acts declared unconstitutional**

Pursuant to Article 190 (3) of the Constitution, a judgment of the Constitutional Tribunal shall take effect from the day of its publication. However, the Constitutional Tribunal may specify another date for the end of the binding force of a normative act. The Constitutional Tribunal Act does not elaborate on or specify in detail the aforementioned provision of the Constitution. The publication of a judgment of the Constitutional Tribunal is crucial for its effectiveness. It is generally assumed both in legal theory and in judicial decisions that when the binding force of a normative act ends as a result of a judgment of the Constitutional Tribunal, the provisions indicated in the judgment are abolished, which is *a priori* not the same as the abrogation of a normative act as a result of actions by legislative authorities. Abrogation does not eliminate legal effects produced by the abrogated provision when it was in force and does not preclude its application under intertemporal law. Despite a consensus about the essence of the end of the binding force of a normative act as a result of a judgment of the Constitutional Tribunal, opinions may vary as to the date on which the act ceases to have binding force.

Article 190 (3) of the Constitution does not state whether or not a judgment of the Constitutional Tribunal enters into force as of the date on which a given unconstitutional act was adopted (*ex tunc*), i.e. on the earliest possible date. Thus, unlike in some democratic states, the legislator did not come to the view that an unconstitutional rule of law is invalid from the outset. However, as the legislator determined that the Constitutional Tribunal is entitled to set a different date of the end of the binding force of a normative act, it cannot be concluded that under the Constitution a judgment of the Constitutional Tribunal cannot have effect *ex tunc*. The Constitutional Tribunal itself has not developed transparent rules in this regard. At first sight, the judgments of administrative courts suggest that a more cohesive position has become widespread, namely that unconstitutional provisions cease to have binding force *ex tunc*. However, administrative courts have also rendered judgments in which they presented a different opinion and found that a judgment of the Constitutional Tribunal takes effect *ex nunc*. In the opinion of one of the panels of the Supreme Administrative Court, it happens when the Constitutional Tribunal indicated in the grounds for its judgment that it is possible to apply a given provision in the wording which was declared unconstitutional until the judgment is published in the Journal of Laws.

Summary

of the article: **Computerization of administrative court proceedings (new solutions)**

The computerization of administrative court proceedings has covered four areas. The first one concerns case files, including the manner in which they are managed and accessed by a party. The second one relates to pleadings (letters sent by parties), rules for lodging pleadings and sending files to the court. The third area pertains to serving court letters, and the fourth one relates to other issues concerning the improvement of the conduct of proceedings, including: electronic power of attorney, authenticating copies of powers of attorney or other documents confirming authorization as well as certifying that the copies of documents prepared in electronic form are true copies of the original documents.

The analysis of legislation pertaining to the computerization of administrative court proceedings suggests that the computerization of such proceedings follows an evolutionary approach. This is best exemplified by the fact that the legislator permitted the use of hybrid files, containing both paper and electronic documents. Moreover, the manner in which parties lodge pleadings and in which court letters are delivered to parties generally depends on the decision of the parties. Thus, the use of the electronic means of communication is optional.

New legislation pertaining to the use of new information technologies in administrative court proceedings does not restrict the right to a hearing, but rather the contrary. It can be concluded that the computerization of proceedings before administrative courts, including especially the use of new technologies, will ensure greater access to justice. Moreover, it seems that it will also improve the conduct of proceedings, which may, in consequence, help close administrative court proceedings within a reasonable time.

It should also be borne in mind that the introduction of information technologies to proceedings before administrative courts is not an end in itself. New legislation as well as its interpretation must, therefore, take into account the subject-matter and the functions of administrative court proceedings. The computerization of administrative court proceedings, including but not limited to the use of electronic means of communication, should be compatible with particular elements of administrative court procedure and the rules governing it.

Summary

of the article: **Frameworks of state aid in the light of Article 107 of the Treaty on the Functioning of the European Union. Recovery of public debts**

Aid granted by a state or through state resources should be compatible with the internal market. Restrictions on granting state aid are provided for in the Treaty on the Functioning of the European Union. The Commission, together with the Member States, analyses the functioning of the national system against the requirements set out in, above all, Article 107 of the Treaty. The provision of aid is supervised by the European Commission, whose decisions may be appealed against by the Member States to the Court of Justice of the European Union. As derogations from the general prohibition cannot constitute an impairment to its essence, it is particularly important to ensure that the implementation of restrictions provided for by law is transparent, to ensure the equal treatment of entrepreneurs in a similar situation as well as to effectively monitor the used practices. Thus, decisions rendered by European Union courts take on particular importance.

The judgment of 21 March 2013 presented in the present article pertains to an important issue, namely the recovery of public debts. In this judgment, the Court of Justice of the European Union found that when a public creditor grants payment facilities in respect of a debt payable to it by an enterprise, assessment is, in principle, carried out using the private creditor test. The test, provided that it is applicable in a given case, is one of the elements that the Commission is obliged to take into account when determining the provision of such aid. One should emphasize the problem of whether the authority which is to ensure the implementation of the Treaty actually takes into account the opinions of the Member States.

Summary

of the article: **Interpretation of European Union multilingual secondary legislation by Polish administrative courts**

To correctly interpret the European Union law, it is necessary to take into account its supranational, autonomous and multilingual character. The aim of the analysis whose results are presented in this article was to determine the manner in which Polish administrative courts had interpreted the European Union law in the ten years of Poland's membership in the European Union. The article explains how Polish courts understand and apply the closely interlinked and complementary rules formulated by the EU courts in Luxembourg, namely the principle of uniform interpretation, the principle of autonomous interpretation and the principle of the equal authenticity of all official language versions of a legal act.

The analysis carried out based on the source materials indicated in this article shows that the Polish administrative judiciary endorsed the opinions of the EU courts in Luxembourg. To work out a uniform and autonomous meaning of the provisions of the European Union law, Polish courts use functional interpretation also when it is found that there are no differences in meaning between the compared language versions. Such practice with respect to interpretation reflects the widely held view in Poland that even if there are no longer ambiguities with respect to the language of a given text, it cannot end the interpretation process, as the final meaning of the phrases of a legal text can only be established after all types of interpretation have been used.

Summary

of the article: **The Polish language as the official language of the Republic of Poland and the European Union**

The aim of this article is to determine relations between Polish as the official language of the Republic of Poland, referred to in Article 27 of the Constitution of the Republic of Poland, and Polish as an official language being part of the multilingual legal system of the European Union.

The provision of Article 27 of the Constitution of the Republic of Poland, stating that Polish is the official language in Poland, is one of the basic constitutional principles of the Republic of Poland. Under the aforementioned provision, "Polish shall be the official language in the Republic of Poland. This provision shall not infringe upon national minority rights resulting from ratified international agreements." When in 2004 the Republic of Poland joined the European Union, the special status of the Polish language in the Polish legal system was reflected in the international system. Polish became one of the 24 European languages in which authentic European Union legal texts are drawn up. Thus, for the first time in history, Polish became an official language also outside the territory of the Republic of Poland. To determine the relations between Polish as the official language of Poland, referred to in Article 27 of the Constitution of the Republic of Poland, and Polish as an official language of the European Union, it is necessary to, above all, determine the scope of the aforementioned provision of Article 27 of the Constitution as well as the relevant provisions of the Treaty on the European Union, Treaty on the Functioning of the European Union and Regulation No. 1 of the Council of the European Economic Community determining the languages to be used by the European Economic Community. The article then presents the possible consequences of the adopted theoretical and legal solutions.