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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

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BIBLIOGRAFIA

TABLE OF CONTENTS

STUDIES AND PAPERS

CASE-LAW REFERENCES

CHRONICLES

FURTHER REFERENCES

Summary

of the article: **Sphere of administrative jurisdiction**

The article refers to the characteristics of administrative jurisdiction made by J. Zimmermann and to the broadly understood category of administrative jurisdiction that he has distinguished. Assuming that the essence of jurisdiction is "creating law in an individual form", the study attempts to define the legal space of administrative jurisdiction with reference to the specificity and types of administrative law norms. The substantive legal determination of the space of administrative jurisdiction was diagnosed and the resulting consequences were presented.

Keywords: administrative jurisdiction, jurisdictional proceedings, individual administrative case, right of access to public information

Summary

of the article: **The question of the amount of the court fee and the costs of representation in the context of the decision of the enforcement authority to charge the creditor with the enforcement costs**

The present elaboration concerns two disputable issues in the case-law of the Supreme Administrative Court, namely the amount of the court fee in a complaint against a decision charging the creditor with enforcement costs and the legal representation costs adjudged in favour of the parties to the proceedings in such cases. According to the present author, the court fee for such a complaint should be a fixed fee and, consequently, the costs of legal representation adjudged in favour of parties represented by professional legal representatives (e.g. attorneys at law) in cases concerning the charging of the creditor with the costs of enforcement proceedings should be determined on the basis of § 14(1)(1)(c) of the Regulation of 2015 on fees for attorneys at law, i.e. 'in another case – PLN 480.' The view relating to the court fee is persuaded by the service and enforcement nature of enforcement proceedings, the ancillary nature of the costs of enforcement proceedings, the social, economic and axiological context considered in the process of interpreting a legal norm, as well as universally applicable principles in the form of generally accepted rules of justice and fairness, the preferences of the legislator concerning the amount of the court fee, and the constitutional right to a court indicating that court fees should not be excessively high. While the position concerning the costs of legal representation is persuaded by the aim to maintain the coherence of the legal system, the co-application of provisions regulating the amount of court fees before administrative courts and fees for the activities of attorneys at law, the rule prohibiting interpretations leading to contradictions and the rule prohibiting homonymous interpretations. The term 'pecuniary receivable' referred to in § 1 of the Regulation of 2003 on the amount of the court fee in proceedings before administrative courts and in § 14(1)(a) of the Regulation on fees for attorneys at law should have the same normative meaning. Therefore, decisions made in administrative, enforcement and precautionary proceedings should be excluded from the scope of this concept, regardless of the subject matter of the contested act.

Keywords: enforcement costs, creditor, creditor's burden, fixed fee, proportional fee, fees for acts, costs of legal representation, pecuniary receivable, decision made in enforcement proceedings, nature of cases

Summary

of the article: **Other justified grounds as a prerequisite for applying the institution of refusal to initiate a jurisdictional administrative procedure**

One of the grounds for refusal to initiate jurisdictional administrative proceedings is the condition of "other legitimate grounds". The application of this institution is extremely troublesome for adjudicating bodies. It is not transparent and specific, thus leaving the authority a great deal of freedom in its application. The catalog of examples of reasons for such a refusal is helpful – developed by the doctrine and jurisprudence. However, it is necessary for the legislator to clarify the scope of the condition of "other justified reasons" so that the administrative bodies know when it should be applied. It should be emphasized that this form of denial of access to the administrative process path should be exceptional. Abuse of it by adjudicating organs deprives an individual of his constitutional right resulting from the principle of a democratic state ruled by law – the right to settle the matter through a legally regulated procedure.

Keywords: other justifiable reasons; refusal to initiate administrative proceedings; ground for refusal to initiate administrative proceedings

Summary

of the article: **Rates of fees in the municipal waste management system and their price--forming determinants in the light of the case-law of administrative courts**

The publication contains legal and financial issues related to the fulfillment of municipal waste management tasks by the commune, and also refers to the shaping of the amount of public levies – the amount of fees charged ultimately to the recipients of this system. The aim of the article is to answer the theses put forward in the publication, among others: whether the commune has autonomy in the field of municipal waste management in the light of applicable law, or whether the legal and financial instrument of determining the rates of fees for municipal waste management has a direct impact on the price determinants of these floss? Moreover, what legal and specific criteria entitle the decision-making body of the commune to determine the level of the fee rates? The discussion of the presented issue is a comprehensive approximation of the issues related to the estimation of fees for municipal waste management, and thus provides the basis for determining their correct amount by the commune. The publication is an attempt to correctly interpret the law in the calculation of fees in the municipal waste management system.

Keywords: commune, calculation, fees, municipal waste, management

Summary

of the article: **On the requirement to sign a letter submitted to an administrative court in the form of an electronic document**

The aim of the article is to present the problem of the formal requirement of signing a pleading in a proceeding before an administrative court, filed via the ePUAP platform. According to the paper, unclear rules of signing these letters caused a divergence in jurisdiction as to whether signing a pleading with an electronic signature is equivalent to signing a complaint to a provincial administrative court attached to the pleading. In the author's opinion, this question should be answered in the negative, because signing only the cover letter does not legitimise the applicant's will to lodge a complaint of a certain content to a court. Nevertheless, the principles of: protection of trust and assistance to parties require that the administrative court, while calling for signing a complaint with the above mentioned deficiency, should instruct the party that attaching to the signed cover letter in ePUAP an unsigned attachment containing a complaint does not fulfil the requirement of signing this legal measure.

Keywords: signing of the complaint, electronic signature, formal requirement

Summary

of the **Note to the judgment of the Supreme Administrative Court of 26 May 2021 (Case File No. II GOK 2/18)**

The High Administrative Court quashed, in its judgment of 3 May, 2021, the decision of the National Council of the Judiciary no. 330/2018 of 28 August, 2018 relating to presentation (non-presentation) of its motions for appointment to hold the office of judge of the Supreme Court in the Civil Chamber – in sofar as the National Council decided to present to the President of the Republic its motion for appointment of seven persons to hold the office of judge in the Supreme Court. The High Administrative Court quashed also the above said decision with respect to the complainant who had not been presented, and decided about discontinuation of respective proceedings of the Council. The judgment triggered off the series of similar judgments concerning decisions of the National Council of the Judiciary in the matters of motions for appointment to the office of judge in all Chambers of the Supreme Court. It has to be regarded as an important link in the series of decisions of Polish courts of law, of the Court of Justice of the European Union (which answered the legal questions having been addressed to in the case in question by the High Administrative Court) as well as of the European Court of Human Right. Those judicial decisions have been caused by legislative changes in the field of the judiciary, made since 2015, and supported through decisions of the politically dependent Constitutional Tribunal. The High Administrative Court attributed great importance to the principle of primacy of the EU law as it is meant by the Court of Justice of the UE and as it was meant before 2015 by the Constitutional Tribunal. The series of the judgments of the High Administrative Court in question as well as the respective European judicial decisions provoked a frontal attack of the Constitutional Tribunal on that way of comprehension of the principle of primacy.

Keywords: High Administrative Court, National Council of the Judiciary, appointment to hold the office of the judge of the Supreme Court, Constitution of the Republic of Poland, primacy of the law of the European Union, judicial independence

Summary

of the **Note to the Judgment of the Supreme Administrative Court of 26 May 2020 (Case File No I OSK 1533/19)**

The note deals with the judgment of the Supreme Administrative Court on the application of the provisions of the no-longer-applicable Act of 29 August 1997 on the protection of personal data as regards the processing of personal data by the courts as part of the exercise of the administration of justice and its relevance to the current legal situation after the entry into force of the provisions of Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC. Under the previous state of law, it was indicated that the national data protection authority was not a body controlling or supervising the correctness of the application of substantive and procedural law in matters falling within the jurisdiction of the courts, whose decisions were subject to review at court or otherwise specified by the relevant procedures. However, the existence of a basis for the processing of data as part of the examination of an application for exemption from court costs means that the data protection authority had no basis for issuing a decision ordering the restoration of the lawful state of affairs, since there had been no breach of the provisions on the protection of personal data and, moreover, the courts are entitled to process sensitive data when exercising their judicial capacity. The provisions of the GDPR have reinforced this position, as Article 55(3) specifies that national supervisory authorities shall not be competent to supervise the processing of personal data by courts, but only in their judicial capacity. Furthermore, the wording of Article 9(2)(f) GDPR explicitly indicates that courts may process sensitive data as part of their judicial capacity. This provision means that courts, in the context of all proceedings aimed at resolving a dispute pending before them, are entitled to process sensitive data.

Keywords: judiciary, personal data protection, Regulation 2016/679 of the European Parliament and of the Council, repeal of Directive 95/46/EC, access to case files, controlling compliance with protection of personal data

Summary

of the article: **How to increase the efficiency of administrative justice on the example of solutions adopted in France**

This paper deals with the changes that took place at the end of the second decade of the 21st century in the French administrative judiciary and which aimed at increasing its efficiency. The author commences with presenting a reform of the law in the field of developing and increasing the importance of mediation process, redefining the role of honorary judges and creating the post of *juriste-assistant*, as well as extending the powers of courts in certain categories of cases. This picture is then supplemented with a description of far-reaching modifications in the editing of administrative court rulings, which was initiated by the Council of State for a similar purpose. The author presents the genesis of these solutions and the role of the Council of State in their implementation. This allows him to draw conclusions regarding the risk of failure of reforms of the law on proceedings before administrative courts.

Keywords: France, law reform, efficiency of administrative judiciary