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Summary

of the article: **Administrative court control of refusal to give clearance to the services of an administrative institution**

This paper discusses the admissibility and legitimacy of administrative court control of procedures and refusals to give clearance to the services of an administrative institution. This concerns the services of such service-providing administrative institutions as: libraries, museums, theatres, culture centres, concert halls or sport and leisure facilities. No qualification deed is required to use their services, as access to those services is usually granted by the Constitution and should be legally protected.

The literature and statements of justification in some judgments claim that the subject-matter jurisdiction of administrative courts provided for in Article 3 § 2.4 of the Law on Proceedings before Administrative Courts encompasses procedures and refusals to give clearance to the services of an administrative institution. Nonetheless, in the few cases where such procedures or refusals were the immediate object of a claim, administrative courts decided they did not have jurisdiction over those cases. Meanwhile, an analysis suggests that refusal to give clearance to services fulfils all the criteria of being subject to administrative court control on the abovementioned legal basis. Article 146 of the abovementioned Act applies to the recognition of such claims.

Key words: administrative institution, service-providing administrative institution, subject-matter jurisdiction of administrative courts, refusals to give clearance to services

Summary

of the article: **Legal form of a refusal to enclose an additional mention to a vital record on the basis of the non-recognition of a foreign judgement**

Additional mention is a legal concept aimed at updating data registered in civil status acts. A refusal to enclose an additional mention, as an act in the field of vital registration, is issued in the form of an administrative decision (article 2 section 6 of the Vital Records Law). This decision is appealable to the competent voivode. It is not clear whether an administrative decision should be issued when a refusal to enclose an additional mention is based on the non-recognition of a foreign judgment, according to the rules provided by article 1146 of the Civil Procedure Code. Article 108 section 4 of the Vital Records Law states that in this case a civil status registrar notifies an applicant in writing of the reasons for refusal, informing the applicant of the right to apply to the common court to determine whether the foreign judgment may be recognised. The results of literal interpretation, as well as the protective function of the analysed provisions, indicate that also in this case the refusal should be issued by way of an administrative decision.

Keywords: vital records, additional mention, foreign judgement, recognition, non-recognition, administrative decision, informative letter

Summary

of the article: **Committing an offence as a basis for resumption specific proceedings for the acquisition of Polish citizenship – selected juridical and constitutional issues**

The Constitution of the Republic of Poland of 1997 regulates the grounds for the primary and secondary acquisition of Polish citizenship. It also provides for an important principle that this special status cannot be deprived. Meanwhile, the jurisprudence of administrative courts has developed a view that allows the resumption of proceedings for recognition as a Polish citizen. This happens when the acquisition was the result of an offence, specifically – the circumstances that gave rise to the positive decision were demonstrated on the basis of manipulated or forged documents. Therefore, the basic research problem, formulated from the point of view of the constitutional rule on the durability of civil relations, concerns the admissibility of removing from the legal circulation a decision confirming its possession. In this light, the judgments of the European Court of Human Rights in Strasbourg and the judgments of Polish administrative courts were analyzed. The findings made in this way were compared with a dogmatic analysis of the Polish Constitution. As a result, it was recognized that the jurisprudence of administrative courts complies with the constitutional standard. Protection against loss of citizenship does not apply to situations in which an individual could not be this public law relationship, because in fact it never fulfilled the relevant conditions arising from legal provisions and whose existence results in its acquisition.

Keywords: citizenship, acquisition of citizenship, loss of citizenship, naturalization, president of the Republic of Poland

Summary

of the article: **The substantive law limits of the VAT taxpayer's good faith**

The prohibition of abuse of rights clause stipulates that no one may rely on European Union law to commit a crime or to abuse his rights. In the concept of good faith of the taxpayer, the CJEU recognizes that only a taxpayer who committed a crime or abuse himself or who knew or should have known that he was involved in a crime or abuse should be deprived of the right to exercise a specific right (e.g. the right to deduct). The concept of good faith is of great importance for the practice of applying VAT regulations. However, the shape presented by the Court remains far from defined. The Tribunal does not decide, among others, when to assert the taxpayer's good faith. It does not set its precise boundaries. The article identifies the reasons for too broad approach to the jurisprudence concept and sets its normative boundary. This result was achieved after confronting the jurisprudence of the CJEU with the normative structure assumed for the common system of value added tax.

Keywords: tax law; good faith; taxpayer; VAT; fraud

Summary

of the article: **The property left beyond the Bug River – hypotheses and conclusions of research on the execution of the right to compensation pursuant to the Act of 8 July 2005**

The problem of the property left beyond the Bug River and compensation for forcibly vacating the land over 75 years ago is a valid issue to this day. Pursuant to the Act on the Execution of the Right to Compensation for Forcibly Vacated Land Outside the Existing Borders of the Republic of Poland of 8 July 2005, several dozen thousand cases are pending, and the amount of compensation already paid has exceeded 4.5 billion PLN. Meanwhile, the solutions applied to the property left beyond the Bug River constitute an important point of reference and source of experience for the still unresolved issue of reprivatization of forcibly vacated real property within the current Polish borders.

As part of the research, the author analysed both the case-law of the voivodship (regional) administrative courts, the Supreme Administrative Court and European courts, and the legal solutions concerning potentially analogous historical situations applied in other countries, e.g. in Greece, Turkey, Finland, Germany, the Netherlands and the Czech Republic. The results made it possible to verify the research hypotheses and issues concerning validity of the administrative procedure for satisfying the claims in question, effectiveness of procedural solutions, the practice of applying the law regarding property left beyond the Bug River and relevance of the classification criteria of eligible beneficiaries.

Key words: property left beyond the the Bug River, reprivatization, right to compensation, restitution, real property

Summary

of the article: **The Constitutional conditions of the status of the Jewish minority in Poland**

This article presents the constitutional conditions of the status of the Jewish minority in Poland, from the March Constitution to the Constitution of 1997. The work consists of the description of individual Constitutions, with particular emphasis on the guarantees and rights of individuals belonging to national, religious and ethnic minorities. The study attempts to compare the guarantees of rights and freedoms enjoyed by the Jewish minority over the years and to confront them with the guarantees provided to other churches and religious associations. In the author's opinion, all contemporary Constitutions of the Republic of Poland have constituted the status of the Jewish minority on an equal footing with that of other national, ethnic and religious minorities. The research method used in the paper was the legal-dogmatic method, consisting in the interpretation of legal norms, and the historical method.

Keywords: Constitution, Jewish minority, anti-Semitism, minorities in the interwar period

Summary

of the **note to the judgment of the Supreme Administrative Court of 26 November 2019**
(Case No. I OSK 1676/19)

The essence of the case to which the commented judgment relates is the question whether the public authority may, despite the lack of an explicit legal basis, refuse to approve the competition for the position of the headmaster and discontinue the competition procedure, because of liquidation of the position that would be filled by this competition. The Supreme Administrative Court stated that, taking the position of a literal interpretation of §8 para. 2 of the Regulation of the Minister of National Education of 8 April 2010 on the Rules of the Competition for the Position of the Headmaster of a Public School. The position of the Supreme Administrative Court is inaccurate, as it leads to unreasonable consequences – it forces the mayor to approve the competition and appoint the winner in the position of headmaster, which no longer exists. The commented judgment leads to reflection on the interpretation of provisions regulating powers of public authorities and the cases in which the action of an authority is permissible without an explicit legal basis. Both in jurisprudence and in legal academic literature, the prohibition of action without explicit legal basis is not considered as an absolute rule.

Keywords: powers of public authorities, headmaster, literal interpretation