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Summary

of the article: **The final and binding nature of administrative decisions – as exemplified by the regulations pertaining to the issuance of decisions by the Polish Financial Supervision Authority**

In the light of the regulations and of the views presented in the works of legal commentators and academics as well as in existing case law one is compelled to conclude that despite the absence of a definition of the term "binding decision" in Polish law, the term in question should be construed as referring to such final decisions with respect to which no administrative means of challenge or means of challenge before administrative courts are available. Pursuant to the provisions pertaining to administrative procedure as well as to proceedings before administrative courts, depending on the facts of the analysed case, binding decisions shall be those decisions with respect to which:

1) the period for filing an appeal or for submitting an application for the re-examination of the case has lapsed or the appellate authority issued a final resolution on the inadmissibility of the appeal or application or on the failure to comply with the deadline for the submission thereof pursuant to art. 134 of the Code of Administrative Procedure; this is because art. 52 § 1 and 2 of the Law on Proceedings before Administrative Courts provides that the precondition for the filing of an appeal to an administrative court is the prior exhaustion of all means of challenge which were available to the appellant in the course of proceedings before administrative bodies;

2) the voivodeship administrative court made a binding ruling on the rejection of the appeal pursuant to art. 58 or art. 220 of the Law on Proceedings before Administrative Courts;

3) the voivodeship administrative court made a binding ruling on the dismissal of the appeal pursuant to art. 151 of the Law on Proceedings before Administrative Courts;

4) the voivodeship administrative court made a binding ruling on the rejection of the cassation appeal against a decision rejecting the appeal or a judgment dismissing the appeal pursuant to art. 178 or art. 180 of the Law on Proceedings before Administrative Courts;

5) the voivodeship administrative court issued a binding judgment in which it rejected a complaint against the decision of the said court on the rejection of the cassation appeal pursuant to art. 197 § 2 read in conjunction with art. 178 of the Law on Proceedings before Administrative Courts;

6) the Supreme Administrative Court issued a binding decision in which it rejected or dismissed a complaint against the decision of the voivodeship administrative court on the rejection of the cassation appeal or complaint against the decision of the voivodeship administrative court rejecting the complaint against the decision of the said court on the rejection of the cassation appeal pursuant to art. 197 § 2 read in conjunction with art. 180 and 184 of the Law on Proceedings before Administrative Courts;

7) the Supreme Administrative Court issued a binding judgment in which it dismissed the cassation appeal against the judgment of the voivodeship administrative court dismissing the appeal pursuant to art. 184 of the Law on Proceedings before Administrative Courts.

Summary

of the article: **The communicativeness of Polish legal codes**

Based on the measures of linguistic communicativeness presented in the article, the legal codes should be considered as comprehensible to bachelor programme students in linguistic terms. Two of the said codes (i.e. the criminal code and the code of petty offences) are evidently more accessible in linguistic terms; conversely, the labour code features the most difficult language and remains the most vague of the codes under scrutiny, with both the highest nominality level and the greatest number of references. Another relatively incomprehensible and poorly worded act is the criminal enforcement code.

The average, model Polish legal code (which is a theoretical construct that in fact does not exist) has an average Gunning fog index (readability index) of 12.78, a difficult and highly nominalised language (average value: N = 4.71) as well as a high number of references (with one reference per every 4.44 normative sentences on average).

Summary

of the article: **Delivery of transnational official and court documents in the light of the right to good administration and the right to a fair trial**

Legal provisions governing the delivery of official and court documents constitute a guarantee of the right to good administration and the right to a fair trial. These rights serve as minimum standards intended to ensure the effectiveness of the proceedings as well as efficient legal protection against the infringement of fundamental rights by the public authorities.

The duality of the sources of law governing the delivery of transnational documents, i.e. the presence of both European and international regulations in this area, as well as the manifest subjective and objective convergence of the said regulations (which in some cases leads to a situation where the relevant EU and international regulations are nearly identical) results in the concurrence of two supranational regulatory regimes in the same area in case of those EU Member States which also remain the members of the Council of Europe and the OECD. The said sources of law introduce a set of universal standards for the delivery of transnational documents which constitutes the common pattern (a set of criteria) that individual countries must comply with when providing the relevant documents to their intended recipients; the regulations referred to above also serve as directives which define the manner in which national law should be applied in this regard. The standards in question are procedural and technical standards encompassing the following principles: the principle of reciprocity and indirect delivery of documents and a unified form, as well as standards which constitute a guarantee of the peaceful enjoyment by the document's recipient of his or her rights which also have an impact on his or her legal standing insofar as substantive law is concerned; these standards include the principle of comprehensible language/the principle of translation of documents, the principle of effectiveness of delivery as well as the principle of equal treatment/non-discrimination. The standards referred to above constitute an expression of the obligation of individual countries to cooperate with one another in the course of delivery of documents and the transmission thereof through the designated domestic authorities (with specific sanctions imposed in the event of non-compliance); the requirement for the application of a template (sample) of an official document containing a specific set of data; the requirement for the application of a language that is comprehensible for the party to the proceedings in the course of any communications between the courts and public administration (i.e. the national language of the party or the language of the country the citizenship of which the party holds); the requirement for the act involving the handover of the document to the recipient in a given country of receipt of such document to be considered valid and binding in the country of origin of the document in question; the prohibition on the inclusion in national regulations of an express criterion resulting in the differentiation of the status of recipients depending on their citizenship as well as the prohibition on such application or interpretation of neutrally worded provisions which confers upon them a meaning which would result in such differentiation.

Summary

of the article: **Administrative court judgment on the duty to act of a public administration body. Comparative legal observations**

Along with the entry into force of the act of 9 April 2015 amending the Law on Proceedings before Administrative Courts, a new art. 145a § 1 was inserted into the said Act, conferring upon the administrative court – in cases where a decision or resolution is set aside due to a violation of the provisions of substantive law which may have an impact on the outcome of the case or in cases where a decision or resolution is found to be invalid in whole or in part – the right to impose upon the relevant body the obligation to adopt – within a specific time period – a decision or resolution specifying the manner in which the case is to be addressed or, alternatively, to resolve the case in question. The aim of the present analysis has been to determine the extent to which the aforementioned change falls within the scope of the rights available to administrative courts in various European legal systems.

The analysis performed led to the conclusion that the rights conferred upon administrative courts are inextricably linked to the control model applied. In the Polish administrative court system model, the aim of which is both to ensure the protection of the individual and to exercise control over the legality of the activities performed by the public administration, the change introduced under art. 145a § 1 of the Law on Proceedings before Administrative Courts is in line with the trends which occur in other European legal systems.