NACZELNY SĄD ADMINISTRACYJNY

ZESZYTY NAUKOWE Sądownictwa Administracyjnego

dwumiesięcznik

rok XII nr 5 (68)/2016
Warszawa 2016

WYDAWCA
Naczelny Sąd Administracyjny

KOMITET REDAKCYJNY
Barbara Adamiak, Stefan Babiarz, Stanisław Biernat, Jacek Chlebny, Irena Chojnacka, Jan Filip, Andrzej Gomułowicz (zastępca redaktora naczelnego), Bogusław Gruszczyński, Roman Hauser, Andrzej Kisielewicz, Małgorzata Sawicka-Jezierczuk (sekretarz redakcji), Andrzej Skoczylas, Janusz Trzciński (redaktor naczelny), Maria Wiśniewska, Andrzej Wróbel, Marek Zirk-Sadowski

Redaktor językowy *Justyna Woldańska*
Redaktor tematyczny *Wojciech Piątek*

ADRES REDAKCJI
Naczelny Sąd Administracyjny
00-011 Warszawa, ul. G.P. Boduena 3/5
tel. 22 826-74-88, fax 22 826-74-54, e-mail: msawicka@nsa.gov.pl

© Copyright by Naczelny Sąd Administracyjny
Warszawa 2016

ISSN 1734-803X
Nr indeksu 204358

„Zeszyty Naukowe Sądownictwa Administracyjnego" znajdują się w wykazie czasopism punktowanych przez Ministerstwo Nauki i Szkolnictwa Wyższego na potrzeby oceny parametrycznej jednostek naukowych.
Liczba punktów za publikację wynosi 8.

Wersją podstawową (referencyjną) czasopisma jest wersja papierowa.

Wolters Kluwer

Wolters Kluwer SA
01-208 Warszawa, ul. Przyokopowa 33
www.wolterskluwer.pl

Dyrektor Działu Czasopism:
Klaudiusz Kaleta, tel. +48 604 290 764, kkaleta@wolterskluwer.pl
Sekretariat: tel. 22 535 82 03

Szczegółowe informacje o prenumeracie czasopism można uzyskać pod numerem infolinii 801 044 545, faks 22 535 80 87, handel@wolterskluwer.pl

Skład i łamanie: Andytex, Warszawa
Druk ukończono w sierpniu 2016 roku. Nakład 1000 egz.

SPIS TREŚCI

STUDIA I ARTYKUŁY

Prof. dr hab. Marek Zirk-Sadowski (Uniwersytet Łódzki)
Dr Tomasz Grzybowski (asystent sędziego, Naczelny Sąd Administracyjny)
Udział sądów najwyższych w legitymizacji polskiego porządku prawnego 9
Summary 22

Prof. dr hab. Wojciech Chróścielewski (Uniwersytet Łódzki)
Konsekwencje prawne złożenia odwołania przez osobę, która nie jest stroną postępowania administracyjnego 23
Summary 34

Dr hab. Piotr Korzeniowski (profesor, Uniwersytet Łódzki)
W sprawie modelu odpowiedzialności administracyjnoprawnej w ochronie środowiska 36
Summary 52

Dr Krzysztof Radzikowski (adiunkt, Uniwersytet Warszawski)
Korekta przychodów i kosztów podatkowych z działalności gospodarczej w przypadku zwrotu świadczenia 53
Summary 72

Dr Krzysztof Gruszecki (radca prawny)
Postępowanie dowodowe w sprawach wymierzania kar pieniężnych za zniszczenie zieleni 73
Summary 89

Dr Karolina Wojciechowska (adiunkt, Uniwersytet Warszawski)
Sobota jako dzień równorzędny z dniem ustawowo wolnym od pracy w postępowaniu administracyjnym na gruncie orzecznictwa sądowego 91
Summary 98

VARIA

Dr Iwona Rzucidło-Grochowska (asystent – specjalista, Biuro Orzecznictwa NSA)
Uzasadnienie jako instrument budowy zaufania. Po Szkole Letniej „Uzasadnianie orzeczeń sądowych: perspektywy prawne i interdyscyplinarne" [sprawozdanie z obrad w dniach 6–9 lipca 2016 r. w Jabłonnie k. Warszawy] 101

ORZECZNICTWO

I. **Trybunał Sprawiedliwości Unii Europejskiej** (wybór i opracowanie: *Andrzej Wróbel, Piotr Wróbel)*
Odesłanie prejudycjalne – Wspólny system podatku od wartości dodanej – Dyrektywa 2006/112/WE – Artykuł 167, art. 178 lit. a/, art. 179 i art. 226 pkt 3 – Odliczenie podatku naliczonego – Wystawianie faktur bez numeru podatkowego lub numeru identyfikacyjnego do celów VAT – Przepisy państwa członkowskiego wykluczające korektę faktury ze skutkiem *ex tunc*
Wyrok TSUE z dnia 15 września 2016 r. w sprawie C-518/14 *Senatex GmbH*, ECLI:EU:C:2016:691 109

II. **Europejski Trybunał Praw Człowieka** (wybór i opracowanie: *Agnieszka Wilk-Ilewicz*)
Dostęp do sądu a jego ograniczenie o charakterze finansowym
Wyrok ETPC z dnia 14 czerwca 2016 r. w sprawie *Buczek przeciwko Polsce* (skarga nr 31667/12) 116

III. **Trybunał Konstytucyjny** (wybór: *Irena Chojnacka,* opracowanie: *Mieszko Nowicki*)
Wyrok TK z dnia 19 lipca 2016 r. (sygn. akt Kp 3/15) [dot. ograniczenia uprawnień byłych właścicieli gruntów warszawskich nadanych im na mocy dekretu z dnia 26 października 1945 r. o własności i użytkowaniu gruntów na obszarze m.st. Warszawy] 118

IV. **Sąd Najwyższy** (wybór i opracowanie: *Dawid Miąsik*)
1. Wyrok SN z dnia 17 marca 2016 r. (sygn. akt V CSK 377/15) [dot. możliwości niestosowania przez sąd w danej sprawie przepisu ustawy oczywiście niezgodnego z Konstytucją] 129
2. Wyrok SN z dnia 21 kwietnia 2016 r. (sygn. akt III SK 21/15) [dot. wyjątkowości nakładania kary pieniężnej na określonego przedsiębiorcę w przypadku zmiany przez Prezesa UOKiK wykładni prawa] 133

V. **Naczelny Sąd Administracyjny i wojewódzkie sądy administracyjne**
A. Orzecznictwo Naczelnego Sądu Administracyjnego (wybór: *Stefan Babiarz*, opracowanie: *Marcin Wiącek*)
1. Uchwała składu siedmiu sędziów NSA z dnia 23 maja 2016 r. (sygn. akt II GPS 2/15) [dot. możliwości odnoszenia pojęcia „sprawa z zakresu ubezpieczenia społecznego" do spraw będących przedmiotem postępowania egzekucyjnego oraz do spraw z zakresu ubezpieczenia zdrowotnego] 141
2. Uchwała składu siedmiu sędziów NSA z dnia 6 czerwca 2016 r. (sygn. akt II FPS 2/16) [dot. wskazania, do którego źródła przychodów należy zaliczyć odsetki za nieterminowe uiszczenie ceny za zbyte akcje] 145

B. Orzecznictwo wojewódzkich sądów administracyjnych (wybór: *Bogusław Gruszczyński*, opracowanie: *Marcin Wiącek*)
1. Wyrok WSA w Łodzi z dnia 22 października 2014 r. (sygn. akt I SA/Łd 695/14) [dot. zakazu wspólnego opodatkowania małżonków w okresie zawieszenia wykonywania działalności gospodarczej] 149
2. Wyrok WSA w Warszawie z dnia 31 lipca 2015 r. (sygn. akt VI SA/Wa 910/15) [dot. niedopuszczalności odwołania od oceny zadań opracowanych w trakcie egzaminu komorniczego] 150
3. Wyrok WSA w Poznaniu z dnia 29 października 2015 r. (sygn. akt II SA/Po 703/15) [dot. niemożności wstąpienia do postępowania odwoławczego na podstawie art. 30 § 4 k.p.a. spadkobierców inwestora, któremu decyzją organu I instancji odmówiono ustalenia warunków zabudowy] 151
4. Wyrok WSA w Białymstoku z dnia 8 grudnia 2015 r. (sygn. akt II SA/Bk 643/15) [dot. uzyskiwania przez współwłaściciela nieruchomości danych osobowych osób zameldowanych na tej nieruchomości] 152

5. Postanowienie WSA w Białymstoku z dnia 17 grudnia 2015 r. (sygn. akt II SA/Bk 752/15) [dot. niedopuszczalności skargi do sądu administracyjnego na uchwałę rady miejskiej odmawiającą uwzględnienia wezwania do usunięcia naruszenia prawa] 153

VI. Wnioski Prezesa NSA i pytania prawne sądów administracyjnych skierowane do Trybunału Konstytucyjnego (opracowała *Irena Chojnacka*)
Pytanie prawne Wojewódzkiego Sądu Administracyjnego w Poznaniu, postanowienie z dnia 19 maja 2016 r. (sygn. akt III SA/Po 1167/15) 155

VII. Glosy
Mgr Grzegorz Heleniak (doktorant, Uniwersytet Łódzki)
Glosa [krytyczna] **do uchwały składu siedmiu sędziów Naczelnego Sądu Administracyjnego z dnia 16 maja 2016 r. (sygn. akt II GPS 1/16)** [dot. wykładni przepisów ustawy o grach hazardowych] 159

Dr Piotr Stanisławiszyn (adiunkt, Uniwersytet Opolski)
Glosa [aprobująca] **do uchwały składu siedmiu sędziów Naczelnego Sądu Administracyjnego z dnia 16 maja 2016 r. (sygn. akt II GPS 1/16)** [dot. wykładni przepisów ustawy o grach hazardowych] 169

KRONIKA

Kalendarium sądownictwa administracyjnego (lipiec–sierpień 2016 r.) (opracował *Przemysław Florjanowicz-Błachut*) 177
Uzupełnienie Kroniki (marzec–kwiecień 2016 r.) 183

BIBLIOGRAFIA

Publikacje z zakresu postępowania administracyjnego i sądowoadministracyjnego (lipiec – sierpień 2016 r.) (opracowała *Marta Jaszczukowa*) 189

TABLE OF CONTENTS

STUDIES AND ARTICLES

Professor Marek Zirk-Sadowski, PhD (University of Łódź)
Tomasz Grzybowski, PhD (assistant to a judge, Supreme Administrative Court)
Participation of supreme courts in the legitimacy of the Polish legal system 9
Summary 22

Professor Wojciech Chróścielewski, PhD (University of Łódź)
Legal consequences of appeal submitted by a person who is not a party to administrative proceedings 23
Summary 34

Piotr Korzeniowski, PhD (professor, University of Łódź)
On the model of administrative and legal responsibility in environmental protection 36
Summary 52

Krzysztof Radzikowski, PhD (assistant professor, University of Warsaw)
Adjustment of tax revenues and costs resulting from business activity in the case of reimbursement of benefit 53
Summary 72

Krzysztof Gruszecki, PhD (legal advisor)
Taking of evidence in cases of imposition of fines for the destruction of greenery 73
Summary 89

Karolina Wojciechowska, PhD (assistant professor, University of Warsaw)
Saturday as a day equivalent to statutory holidays in administrative proceedings in the light of judicial practice 91
Summary 98

VARIA

Iwona Rzucidło-Grochowska, PhD (assistant-expert, Judicial Decisions Bureau of the Supreme Administrative Court)
Statement of reasons as a trust-building instrument. After the Summer School "Statement of reasons in court decisions: legal and interdisciplinary perspectives" [report of the session on 6–9 July 2016, in Jabłonna, near Warsaw] 101

JUDICIAL DECISIONS

I. The Court of Justice of the European Union (selected and prepared by *Andrzej Wróbel*, *Piotr Wróbel*)
Reference for a preliminary ruling – Common system of value added tax – Directive 2006/112/EC – Article 167, Article 178(a), Article 179 and Article 226(3) – Deduction

of input tax – Invoices not showing a tax number or VAT identification number – Legislation of a Member State excluding the *ex tunc* correction of an invoice
Judgment of the Court of Justice of the European Union of 15 September 2016 in the case C-518/14 *Senatex GmbH*, ECLI:EU:C:2016:691 109

II. The European Court of Human Rights (selected and prepared by *Agnieszka Wilk-Ilewicz*)
Access to the court and its financial limitation
Judgment of the European Court of Human Rights of 14 June 2016 in the case *Buczek v Poland* (application no. 31667/12) 116

III. The Constitutional Tribunal (selected by *Irena Chojnacka*, prepared by *Mieszko Nowicki*)
Judgment of the Constitutional Tribunal of 19 July 2016 (files no. Kp 3/15) [re: the restriction of rights of former land owners in Warsaw, granted to them pursuant to the decree of 26 October 1945 on land ownership and use in the capital city of Warsaw] 118

IV. The Supreme Court (selected and prepared by *Dawid Miąsik*)
1. Judgment of the Supreme Court of 17 March 2016 (files no. V CSK 377/15) [re: the possibility of non-application by a court of a provision of an act, which in a given case is clearly inconsistent with the Constitution] 129
2. Judgment of the Supreme Court of 21 April 2016 (files no. III SK 21/15) [re: the exceptional character of imposing a fine on a particular entrepreneur due to the change in the interpretation of law by the President of the Office of Competition and Consumer Protection] 133

V. The Supreme Administrative Court and voivodeship administrative courts
A. Judicial decisions of the Supreme Administrative Court (selected by *Stefan Babiarz*, prepared by *Marcin Wiącek*)
1. Resolution of a panel of seven judges of the Supreme Administrative Court of 23 May 2016 (files no. II GPS 2/15) [re: the possibility to refer the term "social insurance case" to cases that are subject to enforcement proceedings and to health insurance cases] 141
2. Resolution of a panel of seven judges of the Supreme Administrative Court of 6 June 2016 (files no. II FPS 2/16) [re: the designation of the source of income to which the interests for default in payment for disposed shares should be included] 145

B. Judicial decisions of voivodeship administrative courts (selected by *Bogusław Gruszczyński*, prepared by *Marcin Wiącek*)
1. Judgment of the Voivodeship Administrative Court in Łódź of 22 October 2014 (files no. I SA/Łd 695/14) [re: the interdiction of joint assessment for tax purposes during the term of suspension of business operations] 149
2. Judgment of the Voivodeship Administrative Court in Warsaw of 31 July 2015 (files no. VI SA/Wa 910/15) [re: the inadmissibility of appeal against the evaluation of tasks assessed during the debt collector examination] 150
3. Judgment of the Voivodeship Administrative Court in Poznań of 29 October 2015 (files no. II SA/Po 703/15) [re: the inability to join appellate proceedings pursuant to Article 30 § 4 of the Code of Administrative Procedure by heirs of an investor who was denied the determination of building conditions in a first instance decision] 151
4. Judgment of the Voivodeship Administrative Court in Białystok of 8 December 2015 (files no. II SA/Bk 643/15) [re: obtaining personal data of persons registered in a property by the property's co-owner] 152
5. Decision of the Voivodeship Administrative Court in Białystok of 17 December 2015 (files no. II SA/Bk 752/15) [re: the inadmissibility of a complaint brought before an administrative court against a resolution of the city council that denied to grant a request to put an end to the breach of the law] 153

VI. Applications of the President of the SAC and preliminary questions of administrative courts to the Constitutional Tribunal (prepared by *Irena Chojnacka*)
Preliminary question of the Voivodeship Administrative Court in Poznań, decision of 19 May 2016 (files no. III SA/Po 1167/15) 155

VII. Glosses
Grzegorz Heleniak, MA (doctoral student, University of Warsaw)
Gloss [critical] **to the resolution of a panel of seven judges of the Supreme Administrative Court of 16 May 2016 (files no. II GPS 1/16)** [re: the interpretation of the Gambling Law provisions] 159

Piotr Stanisławiszyn, PhD (assistant professor, University of Opole)
Gloss [favourable] **to the resolution of a panel of seven judges of the Supreme Administrative Court of 16 May 2016 (files no. II GPS 1/16)** [re: the interpretation of the Gambling Law provisions] 169

CHRONICLE

Schedule of events in the administrative judiciary (July–August 2016) (prepared by *Przemysław Florjanowicz-Błachut*) 177
Supplement of the Chronicle (March–April 2016) 183

BIBLIOGRAPHY

List of publications in the area of administrative procedure and proceedings before administrative courts (July–August 2016) (prepared by *Marta Jaszczukowa*) 189

Summary

of the article: **Participation of supreme courts in the legitimacy of the Polish legal system**

In the article authors consider position and functions of Polish supreme courts (Supreme Court and Supreme Administrative Court) in the context of constitutional crisis in Poland. Elaboration involves institutional analysis, which emphasizes active role of both courts in providing integrity of Polish legal system. Authors stress that only discursive and integrative approach to application of legal norms in Dworkinian sense can rebuild social trust to the idea of the rule of law and judiciary (especially SC, SAC and Constitutional Tribunal) as its guardian.

Słowa klucze: sądy najwyższe, legitymizacja prawa, kryzys konstytucyjny, dyskurs prawny, wykładnia prawa

Keywords: supreme courts, legitimization of law, constitutional crisis, legal discoures, legal interpretation

Summary

of the article: **Legal consequences of appeal submitted by a person who is not a party to administrative proceedings**

The subject of the analysis carried out in the study are issues relevant to submitting, by an entity that does not have legal interest in a case and therefore is not a party to the administrative proceedings, an appeal against an administrative decision. Until the amendment of the Code of Administrative Procedure in 2011, due to the lack of relevant regulations in the Code, it was assumed that the appellate authority had to pass the decision discontinuing the appellate proceedings. According to the author, it was not the most fortunate solution, since appellate proceedings are brought upon request of a party; bringing an appeal by another entity did not result in commencement of the proceedings. After the amendment, on the basis of Article 61a, in relation to Article 134 of the Code, the appellate authority may refuse to commence such proceedings by way of a decision. Nevertheless, such a decision will be acceptable only when the lack of legal interest is evident. If explanatory proceedings have to be carried out in this matter and as a consequence it turns out that the appellant lacks in attributes of a party, then indeed the appellate proceedings shall be discontinued.

The author also analyses whether the condition for an appeal against a decision of the appellate authority is submitting an appeal against the first instance decision, or is it sufficient for this legal measure to be brought by another entity. At the same time, he presents a view that for an appeal to be admissible it has to be brought beforehand by the appellant. As one of the key motives of his position the author points out that otherwise relevant arguments raised for the first time in the appeal could have been omitted in the appellate proceedings, which would facilitate the conclusive settlement.

In the last part of the article, according to the judgment of the Supreme Administrative Court of 5 February 2016, II OSK 1406/14, the author presents a view that the decision on the lack of the appellant's attribute of a party, irrespective of whether it is made in the form of a decision on the inadmissibility of the appeal or a decision of discontinuance of appellate proceedings, is strictly connected to the addressee, and as a consequence, only the latter has legal interest in appealing against the decision before an administrative court.

Słowa klucze: strona postępowania administracyjnego, interes prawny, złożenie odwołania przez podmiot nie będący stroną, konieczność wyjaśnienia posiadania interesu prawnego, niedopuszczalność odwołania, umorzenie postępowania odwoławczego, dopuszczalność zaskarżenia decyzji o umorzeniu postępowania odwoławczego ewentualnie postanowienia o niedopuszczalności odwołania przez osobę która nie wniosła odwołania

Keywords: party to the administrative proceedings; legal interest; filing an administrative appeal by the subject, who is not a party to the proceedings; necessity of finding out of the possession of legal interest; inadmissibility of appeal; discontinuation of the appellate proceedings; admissibility of complaining against a decision on discontinuation of the appellate proceedings or an order on the inadmissibility of appeal by the person who did not file an administrative appeal against an administrative decision

Summary

of the article: **On the model of administrative and legal responsibility in environmental protection**

Administrative and legal responsibility in environmental protection constitutes one of the main environmental protection institutions of the legal system, guaranteeing the implementation of legal obligations. Significant interest of theory and practice in issues analysed in this article can be explained by, *inter alia*, a comprehensive set of legal instruments of administrative responsibility, whose legal character generates numerous problems of interpretation.

The author of the article emphasises that the term "responsibility" regarding issues of environmental protection is used in philosophy and in law, and has different meanings. The article primarily concentrates on the construction of a legal model of administrative and legal responsibility in environmental protection and on implications of its use on the process of the application of law.

The design of the model presented in this study refers to the values resulting from legal regulations that environmental protection is subject to. The basic task which was undertaken by the author was to present assumptions that reflect the complex character of the model of administrative and legal responsibility in environmental protection.

In the analysed model, attention was paid not only to the factors of legal nature, but also to the framework of economic, technical, social, and political conditions of environmental protection. The article attempts to outline basic issues that are linked also to the functions of administrative responsibility in environmental protection, which are illustrated by chosen opinions, doctrines, and judgments.

Słowa klucze: sankcja administracyjna, odpowiedzialność prawna, obowiązek ochrony środowiska, negatywne oddziaływanie na środowisko.

Keywords: administrative sanction, legal responsibility, obligation to protect the environment, negative impact on the environment.

Summary

of the article: **Adjustment of tax revenues and costs resulting from business activity in the case of reimbursement of benefit**

The article relates to the consequences of reimbursement of a benefit on the tax on income, the said reimbursement usually resulting from unanimous termination of contractual arrangements, complaint on faulty goods or failure of legal cause of transaction (e.g. invalidity of an agreement).

The analysis argues that the taxation act should clearly regulate conditions of admissibility and time and manner of making an adjustment to revenues and expenses in the analysed case, since such an adjustment is neither grounded on civic law or balance sheet law, nor in reference to the economic sense of events that were subject to income taxation. Without such regulation it is not known if the adjustment is acceptable and how it needs to be made.

Under the applicable legislation of 2015, the regulation was fragmented and raised doubts whether the adjustment is admissible in the case of reimbursement of other benefits than goods (if this reimbursement is at all possible) or whether it has to be made during the current period (when the reimbursement was actually made), or retroactively through the adjustment of the tax return for the period during which the original revenues and expenses (resulting from the transaction made) were registered. In the author's opinion, the "current period" method is correct, since the reimbursement of benefits is a new economic event which results in a new tax obligation, and adjustment is made only to incorrectly declared tax (in this case original revenues and expenses remain correct). This approach is consistent with the rules and regulations of account-keeping and with regulations on the adjustment of tax return. There is a prevailing view in judicial decisions and literature that regulations on the tax on income, until the end of 2015, administered the retrospective adjustment.

Amendment of 1 January 2016 removed most of interpretation ambiguities and clearly confirmed the "current" method; in the author's assessment, as a rule this change only clarifies the previous legal status.

Słowa klucze: Korekta podatku dochodowego, korekta przychodu, korekta kosztu, zwrot towaru, zwrot świadczenia, faktura korygująca

Keywords: adjustment to the tax on income, adjustment to the revenue, adjustment to the expense, reimbursement of goods, reimbursement of benefit, adjustment invoice

Summary

of the article: **Taking of evidence in cases of imposition of fines for the destruction of greenery**

Greenery is one of the main components of the environment with which we come in contact most frequently. Therefore, legal solutions that guarantee its effective protection are of great importance. In the Polish legal system, they are stipulated mainly in the Act of 16 April 2004 on Nature Conservation (Journal of Laws 2015, item 1651).

One of the instruments aimed at sanctioning the violation of regulations laying down the principles for using greenery are fines imposed on the basis of Article 88 (1) of the Nature Conservation Act for:

– tree or bush removal without required consent (Article 88 (1)(1)),
– tree or bush removal without the property owner's consent (Article 88 (1)(2)),
– tree or bush destruction (Article 88 (1)(3)),
– tree destruction caused by works performed near the tree crown (Article 88 (1)(4)).

The proper imposition of a fine must be preceded by taking evidence that confirms the violation of law and records the factual circumstances affecting the amount of the fine to be imposed.

The taking of evidence for the imposition of a fine is characterised by significant autonomy. That is because the administration authority must take into account both the provisions of the Code of Administrative Procedure and the Nature Conservation Act. Therefore, the article exhaustively presents the principles governing the taking of evidence by inspection and from experts' opinion, as in practice they are the most relevant and cause problems related to taking such evidence.

The taking of evidence also inextricably entails methods used to determine the size of trees for the purposes of proceedings for the imposition of a fine. Therefore, the article also discusses solutions arising from Article 89 of the Nature Conservation Act, which introduced principles governing which tree trunk circumferences are to constitute grounds for imposing a fine in the case of a tree log, tree trunk or absence thereof.

The observations are summarized by the statement that the taking of evidence in the relevant category of cases is characterised by significant autonomy. Therefore, it is postulated that conflict-of-law rules be introduced that may limit the scope of existing doubts in the future. Introduction of organisational solutions is also suggested, which would lay down the principles governing the conduct of administrative proceedings in environmental protection cases.

Słowa klucze: ochrona przyrody, drzewo, zieleń, kara pieniężna, dowód, oględziny, biegły, postępowanie dowodowe

Keywords: environmental protection, tree, greenery, fine, evidence, inspection, expert, taking of evidence

Summary

of the article: **Saturday as a day equivalent to statutory holidays in administrative proceedings in the light of judicial practice**

The article includes an analysis of judicial decisions of administrative courts in the scope of qualifying Saturday as a day off in the administrative proceedings pursuant to Article 57 § 4 of the Code of Administrative Procedure. In this matter, the representatives of jurisprudence and doctrine were inconsistent in their statements, from the resolution of a panel of seven judges of the Supreme Administrative Court of 25 June 2001, files no. FPS 7/00, through the judgments of voivodeship administrative courts and the Supreme Administrative Court, to the resolution of a panel of seven judges of the SAC of 15 June 2011, files no. I OPS 1/11. In judicial practice and literature, two contradictory interpretations were presented: linguistic, according to which Saturday is not a statutory holiday, and purpose-bound, assuming that Saturday has a status of a day equivalent to statutory holidays. Currently, there is a prevailing tendency to acknowledge Saturday as a day equivalent to a day off pursuant to Article 57 § 4 of the Code of Administrative Procedure. The analysis ends with *de lege ferenda* postulates to amend the provision of Article 57 § 4 of the Code. Thanks to such an amendment, neither the controversial adjustment of rules of law by the judiciary, nor the extension of their content by introducing the term "day equivalent to statutory holidays" will be necessary.

Słowa klucze: sobota, dzień ustawowo wolny od pracy, dzień równorzędny z dniem ustawowo wolnym od pracy, postępowanie administracyjne, orzecznictwo sądów administracyjnych

Keywords: saturday, a day free from work under statutory law, a day equivalent to a day free from work under statutory law, administrative proceeding, jurisdiction of administrative courts