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Summary

of the article: **Selected problems of the access to public information in the case law of the Supreme Administrative Court**

The article discusses problems resulting from the recent case law of administrative courts regarding access to public information. To a lesser extent they relate to the idea of public information, because in principle the case law has adopted this concept in its broader sense. Disputes concern the relationship between public information and the adopted concept of internal documents and technical information. The author presents arguments in favour of the narrow understanding of internal documents and settling issues of technical information *ad casum*. She also analyses doubts concerning the subjective scope of the Act on access to public information, including the possibility for minors and collective entities to submit applications. At the same time, she points to new problems which may appear in the context of the Act on the reuse of public sector information.

The recent case law on business confidential information, protection of classified information and personal data, as well as the right to privacy, is discussed in terms of judicial review of access to public information. At the same time, the author points out to the controversies regarding parties to such review proceedings. When discussing the relationship between the Act on access to public information and other acts, doubts concerning access to information within the framework of the pardon proceedings are highlighted. The article ends with conclusions including, *inter alia*, demands in relation to the legislature regarding the quality of the adopted legislation.

Słowa klucze: dostęp do informacji publicznej, ponowne wykorzystanie informacji publicznej, dokument wewnętrzny, informacja techniczna, tajemnica przedsiębiorcy, ochrona informacji niejawnych, ochrona danych osobowych, prawo do prywatności

Keywords: access to public information, reuse of public information, internal document, technical information, business confidential information, protection of classified information, protection of personal data, right to privacy

Summary

of the article: **Selected problems in the field of administrative transformation of perpetual usufruct into the right of ownership**

In the light of applicable legal regulations, transformation of perpetual usufruct into the right of ownership may take place using both civil law and administrative law instruments. This study discusses the latter mechanism. The main objective of the legislation governing transformation of the right in question on the basis of an administrative decision is to promote enfranchisement. The above assumption formed basis for subsequent amendments of the act, resulting in the extension of the objective and subjective scope of transformation, which is inevitably linked with depletion of the resources owned by the State Treasury and local governments. When evaluating compliance of the regulations in question with the Constitution, the Constitutional Tribunal takes "special" protection of municipal property as the basic pattern in the light of constitutional models, in particular Article 165, paragraph 1, and Article 167, paragraphs 1 and 2, of this act. Emphasis put by the Constitutional Tribunal on the strong public ownership is questioned from the point of view of the constitutional system, especially in terms of the protection of private property as the foundation of the ownership relationships referred to in Article 20 of the Constitution. Adoption of this systemic and functional perspective justifies enfranchisement on more favourable terms as compared to the transformation on market principles since it is sufficiently grounded in the Constitution.

Słowa klucze: użytkowanie wieczyste, administracyjny tryb przekształcenia, uwłaszczenie, ekwiwalentność

Keywords: Perpetual usufruct, transformation of the right in the administrative proceedings, granting property right, equivalence

Summary

of the article: **Appeal against the adjudication on financing a project from the funds allocated for the implementation of the cohesion policy**

Proceedings before administrative courts in cases of co-financing from European funds preserved their special nature also in the current programming period of the European Union budget. All this is due to the statutory reference which requires to apply, in the first place, provisions of the Act of 11 July 2014 on the rules of implementation of programmes in the field of cohesion policy financed in the 2014–2020 financial perspective, and allows to apply provisions of the Act of 30 August 2002 – Law on proceedings before administrative courts only to the extent that is not regulated in the first of the above-mentioned acts. Due to a similar construction applied by the legislature, concepts developed both in the case law and in the literature on the basis of the Act of 6 December 2006 on the principles of development policy are still partially up-to-date. Despite many similarities, however, there are some significant differences which are not without effect on the procedural complexities of the legal protection granted to complainants applying for funding. This situation requires careful analysis and taking into account the specificity of all regulations related to the proceedings in the field of project co-financing. This, in fact, is crucial for proper filing and hearing of an appeal brought before an administrative court regarding distribution of European funds.

Słowa kluczowe: fundusze unijne, polityka spójności, środki zaskarżenia.

Keywords: European funds, cohesion policy, means of challenge

Summary

of the article: **Abuse of the right to trial in administrative court proceedings**

The article discusses the problem of abusing institutions which make up the constitutional right to trial by parties to administrative court proceedings. In the introduction, the authors show the range of practical forms of abuse of the right to trial which administrative courts have to cope with. The case law of the European Court of Human Rights and legislation of other countries serve as examples of contemporary arrangements regarding the concept of abuse of the procedural law. Next, the authors present the case law of administrative courts concerning the abuse of the right to trial which has so far focused on the proceedings for the grant of assistance. Subsequently, the typology of the forms of abuse of the right to trial in proceedings before administrative courts is proposed and illustrated with practical examples from the case law of administrative courts.

An analysis of how to classify prohibition of abuse of procedural rights in the light of the Constitution of the Republic of Poland forms an important part of the work. The authors formulate a thesis according to which the constitutional concept of a "case" only covers situations in which a person actually seeks protection of their own interests. Using the court only to hinder the work of the court or to seek purely imaginary claims is an abuse of the right to trial and does not fall within the scope of the definition of a "case" within the meaning of Article 45, paragraph 1, of the Constitution. This means that in the case of direct application of the Constitution administrative courts would be able, even *de lege lata*, to refer to the construction of abuse of the right to trial, including the recognition of a given appeal as inadmissible on this basis. At the same time, the authors point out that it is difficult to charge with abuse of the right to trial a person who files, in good faith, a claim that is minor in objective terms yet significant from the subjective point of view of that person. Triviality of the case should not automatically result in recognizing a given case as abuse of the right to trial. Rather, it should be considered as an important factor which, along with other premises (e.g. resubmission of the same claim, lack of any justification or its obvious groundlessness), could prove such abuse.

The final part of the article contains conclusions with proposals of individual legislative changes aimed at reducing abuse of procedural rights in administrative court proceedings. The authors propose, *inter alia*, to introduce a possibility of rejecting an appeal or a cassation appeal by the court in the event of abuse of the right to court, abuse of the mechanisms related to the costs of proceedings, fines or other financial penalties. The basis for the use of these mechanisms should be an appropriate clause prohibiting abuse of the right to trial in administrative court proceedings.

Słowa klucze: prawo do sądu, nadużycie, sądy administracyjne

Keywords: right to trial, abuse, administrative courts

Summary

of the article: **Auto-control in accordance with Article 179a of the Law on proceedings before administrative courts. Procedural issues**

This article discusses the procedure of auto-control exercised by voivodeship administrative courts against their own rulings pursuant to the provisions of Article 179a of the Law on proceedings before administrative courts. The competence resulting therefrom arises after the submission of a cassation appeal. The article presents the construction of the said institution, in which the voivodeship administrative court acts as a court of both first and second instance. Administrative courts adjudicate within the scope of their judicial competence. A cassation appeal may be lodged against a ruling as a whole.

Słowa klucze: skarga kasacyjna, dewolutywność, dwuinstancyjność, sąd pierwszej instancji, sąd drugiej instancji, kompetencja autokontrolna, kontrola pozioma, zaskarżalność

Keywords: cassation appeal, devolutive effect, two-instance, court of first instance, court of second instance, auto-control competence, horizontal control, voidability

Summary

of the article: **The premise of the need for legal protection as an instrument to prevent abuse of the right of appeal in German administrative court proceedings**

The problem of abuse of the right of appeal brings a task for the case law to create instruments allowing to find a balance between guarantees of legal protection and prevention of the use of these guarantees in violation of their purpose and nature. The goal of the article is to present one of these instruments: a concept of the premise of the need for legal protection which was developed in the German case law and doctrine. These considerations may be treated as an argument in favour of the thesis that the concept of abuse of the right to appeal is not inconsistent with the foundations of the right to trial and may be an efficient instrument for the protection of the effectiveness of the system of justice, which is endangered by engaging in futile legal disputes, devoid of real impact on the legal situation of the complainants.

Słowa klucze: prawo do sądu, nadużycie prawa do skargi, zasada dobrej wiary, interes prawny

Keywords: right to trial, abuse of the right to appeal, principle of good faith, legal interest