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Naczelny Sąd Administracyjny
00-011 Warszawa, ul. G.P. Boduena 3/5
tel. 22 551-67-25, fax 22 826-74-54, e-mail: msawicka@nsa.gov.pl

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SPIS TREŚCI

STUDIA I ARTYKUŁY

Prof. dr hab. Wojciech Chróścielewski (*Uniwersytet Łódzki*)
Niektóre zagadnienia związane z funkcjonowaniem Komisji do spraw usuwania skutków prawnych decyzji reprywatyzacyjnych dotyczących nieruchomości warszawskich 9
Summary 25

Dr hab. Małgorzata Jaśkowska (*profesor, Uniwersytet Kardynała Stefana Wyszyńskiego w Warszawie*)
Nadużycie publicznego prawa podmiotowego jako przesłanka ograniczenia dostępu do sądu w sprawach z zakresu informacji publicznej 27
Summary 41

Sędzia Arkadiusz Cudak (*Naczelny Sąd Administracyjny*)
Legitymacja oraz termin do zgłoszenia żądania wyłączenia spod egzekucji administracyjnej 42
Summary 56

Dr Artur Modrzejewski (adiunkt, Uniwersytet w Białymstoku)
Związanie uchwałą Naczelnego Sądu Administracyjnego z dnia 19 grudnia 2016 r., sygn. akt II FPS 3/16 „od dnia jej podjęcia" 57
Summary 67

Mgr Kacper Kanka (doradca podatkowy, Gdańsk)
Zmiana interpretacji indywidualnej wydanej na skutek prawomocnego orzeczenia sądu – analiza orzecznictwa sądów administracyjnych 68
Summary 81

VARIA

Mgr Elżbieta Jabłońska-Gorzelak (asystent sędziego, Naczelny Sąd Administracyjny)
Sprawozdanie z konferencji w 95. rocznicę utworzenia Najwyższego Trybunału Administracyjnego zorganizowanej w dniu 4 grudnia 2017 r. w Warszawie w siedzibie Naczelnego Sądu Administracyjnego 83

ORZECZNICTWO

I. Trybunał Sprawiedliwości Unii Europejskiej (wybór i opracowanie: *Andrzej Wróbel, Piotr Wróbel)*
1. Odesłanie prejudycjalne – Podatki – Podatek od towarów i usług (VAT) – Dyrektywa 2006/112/WE – Artykuł 98 – Uprawnienie państw członkowskich do zastosowania

obniżonej stawki do niektórych dostaw towarów i świadczenia usług – Punkt 1 załącznika III – Środki spożywcze – Wyroby ciastkarskie i ciastka – Data minimalnej trwałości lub termin przydatności do spożycia – Zasada neutralności podatkowej
Wyrok TS z dnia 9 listopada 2017 r. w sprawie C-499/16 *AZ*, ECLI:EU:C:2017:846 91
2. Odesłanie prejudycjalne – Przestrzeń wolności, bezpieczeństwa i sprawiedliwości – Rozporządzenie (WE) nr 810/2009 – Artykuł 32 ust. 3 – Wspólnotowy kodeks wizowy – Decyzja o odmowie wydania wizy – Prawo osoby ubiegającej się o wizę do odwołania się od tej decyzji – Obowiązek zagwarantowania przez państwo członkowskie prawa do środka odwoławczego do sądu
Wyrok TS z dnia 13 grudnia 2017 r. w sprawie C-403/16 *Soufiane El Hassani*, ECLI:EU:C:2017:960 96

II. Europejski Trybunał Praw Człowieka (wybór i opracowanie: *Agnieszka Wilk-Ilewicz*)
Błędy popełnione przez władze państwowe nie mogą być naprawiane na koszt jednostek, lecz mają być naprawiane na koszt państwa (naruszenie art. 1 Protokołu nr 1 do Konwencji)
Wyrok ETPC z dnia 31 października 2017 r. w sprawie *Činga przeciwko Litwie* (skarga nr 69419/13) 103

III. Trybunał Konstytucyjny (wybór: *Irena Chojnacka,* opracowanie: *Mieszko Nowicki)*
Wyrok TK z dnia 18 października 2017 r. (sygn. akt K 27/15) [dot. minimalnej ochrony przed bezdomnością w przypadku egzekucji z nieruchomości] 107

IV. Sąd Najwyższy (wybór i opracowanie: *Dawid Miąsik*)
1. Wyrok SN z dnia 20 kwietnia 2017 r. (sygn. akt III SK 29/16) [dot. kary pieniężnej nakładanej przez Prezesa Urzędu Ochrony Konkurencji i Konsumentów na przedsiębiorcę z tytułu nieudzielenia żądanej informacji) 118
2. Wyrok SN z dnia 26 kwietnia 2017 r. (sygn. akt I CSK 486/16) [dot. skutków uchylenia na podstawie k.p.c. przez Sąd Ochrony Konkurencji i Konsumentów decyzji Prezesa Urzędu Komunikacji Elektronicznej] 121

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 16 października 2017 r. (sygn. akt I FPS 1/17) [dot. uznania orzeczenia TSUE za podstawę wznowienia postępowania sądowoadministracyjnego niezależnie od doręczenia go stronie] 125
2. Uchwała składu siedmiu sędziów NSA z dnia 11 grudnia 2017 r. (sygn. akt II OPS 2/17) [dot. zakresu danych wymaganych do wskazania na karcie poparcia przez mieszkańca jednostki samorządu terytorialnego wniosku o przeprowadzenie referendum lokalnego] 128
B. Orzecznictwo wojewódzkich sądów administracyjnych (wybór: *Andrzej Gomułowicz*, opracowanie: *Marcin Wiącek*)
1. Wyrok WSA w Warszawie z dnia 7 kwietnia 2016 r. (sygn. akt III SA/Wa 3453/15) [dot. wymiany walut tradycyjnych na jednostki wirtualnej waluty bitcoin i odwrotnie – w kontekście zwolnienia z podatku od wartości dodanej] 131
2. Wyrok WSA w Warszawie z dnia 9 maja 2017 r. (sygn. akt VI SA/Wa 2372/16) [dot. niedopuszczalności odmowy wyznaczenia siedziby kancelarii notarialnej w danej miejscowości z powołaniem się na istnienie już w tej miejscowości określonej liczby kancelarii notarialnych] 133
3. Postanowienie WSA w Białymstoku z dnia 3 sierpnia 2017 r. (sygn. akt II SA/Bk 255/17)[dot. braku kognicji sądu administracyjnego w odniesieniu do odmowy wyrażenia przez rektora zgody na udzielenie zwolnienia z opłat za korzystanie z domu studenta] 134

VI. Glosy
Mec. Maciej Zborowski (adwokat, doradca podatkowy, Warszawa)
Glosa do postanowienia Naczelnego Sądu Administracyjnego z dnia 2 września 2016 r. (sygn. akt II FSK 898/16) [dot. wznowienia postępowania sądowoadministracyjnego na podstawie wyroku TK z odroczonym terminem utraty mocy obowiązującej przepisu uznanego za niezgodny z Konstytucją] 136

KRONIKA

Kalendarium sądownictwa administracyjnego (listopad – grudzień 2017 r.) (opracowała *Anna Rossmanith)* 147

BIBLIOGRAFIA

I. Recenzje
Michał Bartoszewicz, *Język polski i jego ochrona prawna w porządku konstytucyjnym Rzeczypospolitej Polskiej*, Wydawnictwo Sejmowe, Warszawa 2017, s. 374 163
II. Wykaz publikacji z zakresu postępowania administracyjnego i sądowoadministracyjnego (listopad – grudzień 2017 r.) (opracowała *Marta Jaszczukowa*) 167

Lista recenzentów współpracujących w 2017 r. z Redakcją „Zeszytów Naukowych Sądownictwa Administracyjnego" 175

Skorowidz „Zeszytów Naukowych Sądownictwa Administracyjnego" za 2017 r. (opracowała *Maria Poszwińska*) (wkładka)

TABLE OF CONTENTS

STUDIES AND ARTICLES

Prof. dr hab. Wojciech Chróścielewski (*University of Łódź*)
Some issues related to the functioning of the Committee for the elimination of legal consequences of reprivatisation decisions regarding Warsaw properties 9
Summary 25

Dr hab. Małgorzata Jaśkowska (*professor, Cardinal Wyszyński University in Warsaw*)
Abuse of public rights as grounds for the restriction of the access to a fair trial in cases falling within the scope of public information 27
Summary 41

Arkadiusz Cudak (judge of the Supreme Administrative Court, Supreme Administrative Court)
The legitimacy and the time limit for making the request for exemption from the administrative enforcement 42
Summary 56

Dr Artur Modrzejewski (assistant professor, University of Białystok)
Binding by the resolution of the Supreme Administrative Court of 19 December 2016 Case No. II FPS 3/16 "from the date of its adoption" 57
Summary 67

Mgr Kacper Kanka (tax advisor, Gdańsk)
Change of individual tax law interpretation issued as a result of final court decision – the analysis of the case-law of administrative courts 68
Summary 81

VARIA

Mgr Elżbieta Jabłońska-Gorzelak (judge assistant, Supreme Administrative Court)
Report on the conference on the 95th anniversary of the creation of the Supreme Administrative Tribunal organised on 4 December 2017 in Warsaw at the seat of the Supreme Administrative Court 83

CASE-LAW

I. Court of Justice of the European Union (selected and prepared by: *Andrzej Wróbel, Piotr Wróbel)*
1. Reference for a preliminary ruling – Taxes – Goods and services tax (VAT) – Directive 2006/112/EC – Article 98 – Member States' entitlement to apply a reduced rate to the supply of certain goods and services – Section 1 of Annex 3 – Foodstuffs – Fine bakery wares and confectionery – Date of minimum durability or the expiry date – The principle of fiscal neutrality Judgement of the Court of Justice of 9 November 2017, in Case C-499/16 *AZ*, ECLI:EU:C:2017:846..... 91

2. Reference for a preliminary ruling – Area of freedom, security and justice – Regulation (EC) no. 810/2009 – Article 32 paragraph 3 – Community Code on Visas – Decision to refuse a visa – Right of a person applying for a visa to appeal from this decision – Obligation to ensure by a Member State the right bring an action before the court Judgement of the Court of Justice of 13 December 2017 in Case C-403/16 *Soufiane El Hassani*, ECLI:EU:C:2017:960 96

II. European Court of Human Rights (selected and prepared by: *Agnieszka Wilk-Ilewicz*)
The mistakes made by State authorities cannot be rectified at the expenses of individuals, but have to be rectified at the expense of the State (violation of Article 1 of the Protocol no. 1 to the Convention)
Judgment of the ECHR of 31 October 2017 in Case *Činga against Lithuania* (Application no. 69419/13) 103

III. The Constitutional Tribunal (selected by: *Irena Chojnacka,* prepared by: *Mieszko Nowicki)*
Judgment of the Constitutional Tribunal of 18 October 2017. (Case No. K 27/15) [concerning minimum protection against homelessness in the case of the enforcement concerning immovable property] 107

IV. Supreme Court (selected and prepared by: *Dawid Miąsik*)
1. Judgment of the Supreme Court of 20 April 2017 (Case No. III SK 29/16) [concerning a financial penalty imposed by the President of the Office of Competition and Consumer Protection on an entrepreneur due to withholding of the requested information) 118
2. Judgment of the Supreme Court of 26 April 2017 (Case No. I CSK 486/16) [concerning the effects of the repeal of the decision of the President of the Office of Electronic Communications by the Court of Competition and Consumer Protection on the basis of the Civil Procedure Code] 121

V. Supreme Administrative Court and voivodship administrative courts
A. The case-law of the Supreme Administrative Court (selected by: *Stefan Babiarz*, prepared by: *Marcin Wiącek*)
1. The resolution of a panel of seven judges of the Supreme Administrative Court of 16 October 2017 (Case No. I FPS 1/17) [concerning the recognition of the CJEU's decision as the basis for the resumption of the court-administrative proceedings regardless of the service of it on a Party] 125
2. The resolution of a panel of seven judges of the Supreme Administrative Court of 11 December 2017 (Case No. II OPS 2/17) [concerning the scope of data required to indicate on a support card by a resident of the regional self-government unit of the request for a local referendum] 128
B. The case-law of voivodship administrative courts (selected by: *Andrzej Gomułowicz*, prepared by: *Marcin Wiącek*)
1. Judgment of the Voivodship Administrative Court in Warsaw of 7 April 2016 (Case No. III SA/Wa 3453/15) [concerning the exchange of the traditional currencies into the units of virtual currency bitcoin and vice versa – in the context of the exemption from value added tax] 131
2. Judgment of the Voivodship Administrative Court in Warsaw of 9 May 2017 (Case No. VI SA/Wa 2372/16) [concerning the unacceptability of the refusal to designate the headquarters of the notary office in a given town with reference to the existence a specified number of notary offices in this town] 133
3. Order of the Voivodship Administrative Court in Białystok of 3 August 2017 (Case No. II SA/Bk 255/17) [concerning the lack of cognition of the administrative court with respect to the [university] rector's refusal to give their consent to granting of an exemption from fees for the use of the student dormitory] 134

VI. Notes
Maciej Zborowski (advocate, tax advisor, Warsaw)
Note to the order of the Supreme Administrative Court of 2 September 2016 (Case No. II FSK 898/16) [concerning the resumption of the administrative court proceedings based on the judgment of the Constitutional Tribunal with the deferred repeal date of the provision regarded as being unconstitutional] 136

CHRONICLE

Chronicles of the administrative judiciary (November–December 2017) **(**prepared by *Anna Rossmanith)* 147

REFERENCES

I. Reviews
Michał Bartoszewicz, *Polish Language and its legal protection in the constitutional order of the Republic of Poland (Język polski i jego ochrona prawna w porządku konstytucyjnym Rzeczypospolitej Polskiej)*, Wydawnictwo Sejmowe, Warszawa 2017, p. 374 (rev. *Agnieszka Wiltos*) 163
II. List of publications from the scope of the administrative and administrative court proceedings (November–December 2017) (prepared by *Marta Jaszczukowa*) 167

List of reviewers working for the Editorial of "Scientific Journals of Administrative Jurisdictions" in 2017 175

Index of "Scientific Bulletin of Administrative Jurisdiction" for 2017 (prepared by *Maria Poszwińska*) (insertion)

Summary

of the article: **Issues related to the functioning of the Committee for the elimination of legal consequences of reprivatisation decisions regarding Warsaw properties**

Numerous irregularities in the reprivatisation of Warsaw lands led to the creation of a special government administration body – the Committee for the elimination of legal consequences of reprivatisation decisions regarding Warsaw properties that were unlawfully issued. The Act of 9 March 2017 creating this Committee and regulating some issues related to the functioning of it (hereinafter as "the Act") is causing much controversy.

The author, after recalling the greatest difficulties related to the application in practice of the provisions of the Decree of 26 October 1945 on the ownership or use of land in the area of the Capital City of Warsaw, analyses some, the most controversial issues related to the establishment and functioning of the Committee.

The conducted analysis of the legal nature of the Committee allows him to conclude that it is a public administration body that has the status of "Minister" as defined in the Code of Administrative Proceedings (hereinafter as "CAP").

Considering the relevant parties to the proceedings before the Committee, he comes to the conclusion that the construction of the provisions of the Act excludes the possibility of qualifying the Capital City of Warsaw as a party, and at the same time it is unacceptable to treat the President of the Capital City of Warsaw – the body that issued the decisions of reprivatisation at first instance – as a party to the proceedings. Consequently, the summons of the person holding the position of this body to a hearing (as a Party) before the Committee was unacceptable and fining this person for not appearing before the Committee was of the same nature.

According to the author, the renters of premises in buildings located on reprivatised lands have the status of a Party in these proceedings, and the previous case-law, which refused them the right to this status, was wrong. For this reason, he approves the solutions contained in the Act that protect the rights of these persons, in particular granting them the right to claim the compensation for the damage suffered.

He also analyses the decision-making powers of the Committee, which partially overlap with the presumptions of the application of the extraordinary modes of administrative proceedings as set out in the CAP. However, due to the fact that the proceedings before the administrative bodies or courts are subject to suspension, unless declaratory proceedings have been instituted before the Committee, the occurrence of the positive dispute over authority in this respect is out of question.

At the end, the author stresses that the aim of the Act concerning the analysed Committee and the functioning of it is to eliminate the violations of law in the process of reprivatisation, but similar objective could have been achieved by applying the provisions concerning the participation of the public prosecutor in the administrative proceedings, which are contained in the CAP, in practice. The exercise by public prosecutors of the privileges contained in those provisions could have fought pathologies in terms of the reprivatisation of Warsaw properties much earlier.

Summary

of the article: **Abuse of a subjective right vis- à- vis the public authorities as a precondition for the restriction of the access to a court in cases falling within the scope of public information**

In the article, the author presents the arguments against the concept of rejection of a complaint to the administrative court in the case falling within the scope of public information due to the fact that it was filed in the case that was obviously and grossly trivial. She stresses that this concept does not have any explicit normative basis in the public law. At the same time, due to the axiological reasons, she objects to the introduction of such a provision in the future. The right to the judicial review of public administration, which is a principle of the Polish legal system, cannot be restricted by the nature of the case, which would lead to its contravention. She believes that the phenomenon of the abuse of rights, as well as the right to public information, may therefore be fought only by means of other instruments, including the permissible legal mechanisms, derived from the principle of weighing up of interests and the constitutional principle of proportionality.

Summary

of the article: **The legitimacy and the time limit for making the request for exemption from the administrative enforcement**

The subject matter of the article is the institution of the request for exemption from the administrative enforcement. This is one of the most important means of defence granted to entities other than the one obliged within the administrative enforcement. This legal measure was analysed in two aspects determining the admissibility, namely: legitimacy and the time limit for its filing.

Legitimacy to file the request to exempt goods or property rights from the enforcement is granted to third parties, thus the entities that are not obliged. Entities that have the legitimacy to file allegations cannot defend in the analysed mode. This dependence also applies in the reverse direction. Having the legitimacy to file the request for exemption eliminates the privilege to file allegations concerning the conducting of the administrative enforcement. Third parties have limited, but appropriate for their legal situation in the course of the administrative enforcement, abilities to defend themselves.

However, the 14-day time limit for making the request for exemption from the enforcement is of the substantive nature. In the event of the failure to comply with this time-limit, it cannot be reinstated. This failure is followed by consequences in the form of the loss of the extrajudicial right to exempt the seized assets from the enforcement.

Summary

of the article: **Binding by the resolution of the Supreme Administrative Court of 19 December 2016 file no. II FPS 3/16 "from the date of its adoption"**

In the above resolution, the Supreme Administrative Court stated that, in matters related to fees for municipal waste management, the provision of the Article 6q paragraph 1 of the Act of 13 September 1996 on the maintenance of cleanliness and order in the municipalities (Journal of Laws of 2016 item 250, as amended) excludes the application of the provision of the Article 39 paragraph 4 of the Act of 8 March 1990 on municipal self-government (Journal of Laws of 2016 item 446, as amended). At the same time, the Supreme Administrative Court stated that the interpretation in the resolution is binding from the date of its adoption.

In the reasons, referring to the legal consequences of the adopted resolution and the agreed interpretation, the Supreme Administrative Court stated that the determination of the legal consequences of the interpretation of the analysed provisions, which was made by the panel of seven judges, may take place only in the case of the investigation of specific complaints against resolutions adopted on the basis of the mentioned provision. In this aspect, the section 2 of the resolution, which determines only the impact of its content on the future, seems interesting.

In the resolution, the Supreme Administrative Court indicated that it is binding "from the date of its adoption". This kind of wording is not a standard procedural reservation included in resolutions of the Supreme Administrative Court, what is more, it's safe to conclude that on 18 April 2017 the resolution is the only one that contains this type of reservation. The legal basis for this type of reservation is not included in the legal provisions on the proceedings before the administrative courts. The subject matter of this article will be the analysis of the prospective binding by the content of the resolution introduced by the Supreme Administrative Court.

Prospective influence of the Supreme Administrative Court's resolution will be analysed under the same solution used in the case-law of the Supreme Court and the deferred repeal date of the [unconstitutional] provision adopted by the judgment of the Constitutional Tribunal.

Summary

of the article: **Change of individual tax law interpretation issued as a result of final court decision – the analysis of the case-law of administrative courts**

The subject matter of the article is to examine the relation between a legal norm based on the Article 14e § 1 (1) of the Tax Ordinance (the possibility to change the tax law interpretation issued in individual case in case its irregularities) and Article 153 of the Law on Proceedings before Administrative Courts (bound by the legal assessment contained in the final judgment of the administrative court). In order to show a practical aspect of the research problem in question, the content of the judgement of the Voivodship Administrative Court (WSA) in Kraków of 13 February 2017, Case No. I SA/Kr 1430/16 is the introduction to consideration.

The article describes theoretical aspects regarding: binding of the administrative body and the court by the legal assessment contained in a final judgment, the limit of the binding by the administrative court judgment and the legal assessment contained in it, the nature and subject matter of the interpretative procedure and the individual [tax law] interpretation in the context of the subject of administrative case, comparison of the subject of the proceedings in matters of the change of the individual [tax law] interpretation and the subject matter of the interpretative proceedings. In matters of the considerations, the case-law of administrative courts was also presented.

The aim of the above deliberations is to enable the assessment of the judgement of the Voivodship Administrative Court (WSA) in Kraków of 13 February 2017 and to propose the solution to the research problem in question.