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Summary

of the article: **Decisions of the administrative courts and the legislative process**

This article analyses the problem of the effect the administrative courts have on the contents of the provisions of law both at the level of making law – in the form of comments to the drafts of the specific legislative solutions and – through their decisions – on the system of the prevailing laws and regulations.

In this respect of particular importance are the resolutions of the Supreme Administrative Court (adopted by their nature by the expanded bench). These resolutions determine the legal issues giving rise to serious doubts, mainly due to the possible different understanding of the imprecisely formulated regulations.

The signalling rights of the courts referred to in Art. 155.1 of the Law on Proceedings Before Administrative Courts represent a separate form of the effect the administrative courts have on the contents of the provisions of law. The administrative courts, employing the institution of signalling, are capable of drawing the supervisory authorities' attention to the gross violation of law by the authority in charge of the administrative proceedings. In the signalling decisions the courts may point to the lack of the specific legal regulations preventing the enforcement of rights.

The system of law includes many examples of both proper and improper usage of the administrative courts' decisions. A proper legislative decision should be effective, made in due time, expressed communicatively and duly, with the appropriate advance, promulgated. It must be emphasised that all the improper legislative regulations significantly affect the exercising of the right to trial. The interpretative doubts extend the duration of the court proceedings.

The legislator did not grant to the administrative courts any special rights to participate in the legislative process, however it seems proper to elicit the proper reaction to the decisions of the administrative courts pointing to the lack of clarity or coherence in the provisions of law. It must be decided in what form this postulate needs to be implemented i.e. by creating in the individual ministries the teams responsible for analysing the court decisions (including, in particular, the decisions of the Supreme Administrative Court) in respect of their effect on the system of law or by including the Legislative Council at the Prime Minister to the Supreme Administrative Court.

Summary

of the article: **The role of the proper application of the provisions of the Administrative Procedure Code in the proceedings concerning scientific degrees (selected issues)**

This article presents the separate status of the proceedings concerning the scientific degrees. This serves as the basis for analysing the decisions of the administrative courts in order to obtain the response if the judicial practice does not eliminate these differences. This analysis proves that the administrative courts are aware of the special nature of the object of the administrative proceedings concerning the scientific degrees thanks to which the proper application of the Administrative Procedure Code therein is balanced and does not violate the character of the basic procedural institutions under the Act on Scientific Degrees and Scientific Title and the Degree and Title in Arts dated 14 March 2003. As a result the discussion in the article justifies the claim that the proceedings concerning the scientific degrees are specific administrative proceedings in which the provisions of the Administrative Procedure Code play only an auxiliary role, in principle limited to regulating only the technical-procedural issues.

Summary

of the article: **Public business law in judicial decisions**

The Business Activity Freedom Act dated 2 July 2004 introduced significant changes in the forms of business activity consisting in fact in concealing the form of a permit and designating the new method of undertaking and pursuit of business activity in the form of an entry in the regulated activity register. In spite of introducing the latter legal institution the permits were not abolished which was probably the reason behind the marginalisation of the amendments to their regulation. However, such approach is inconsistent with the purposes

and object of the Business Activity Freedom Act and its role in the public business law as the basic act. Abolishing the common statutory provisions concerning permits in the Business Activity Freedom Act is also unjustified from the perspective of the legislative technique, given that in 27 acts under which a permit must be obtained many procedural elements are similarly regulated. Upon conducting a review to the above extent, including them in the Business Activity Freedom Act would contribute to streamlining the permit issuing regime. Specifying a model of a permit, although the Business Activity Freedom Act does not hold any special place in the hierarchy of the sources of law, is justified because it points to the direction of the pro-future solutions and supplements the regulation of the specific acts. But first of all, only the proper regulations in one act of the basic issues concerning the business activity control and regulation, both in the form of a licence and a permit, would set the limits for the public authorities' imperious invasion of the domain of business freedom, thus creating the business activity freedom standards.

Summary

of the article: **The parties to and the bodies involved in the administrative proceedings and the parties to the court proceedings concerning individual interpretations of tax law**

This article includes and presents the legal discussion, evaluation and views in the broadly analysed area of the issuing and court control of the individual interpretations of tax law, focusing on the procedural issues in the administrative proceedings in which the individual interpretations of the tax law are issued and the proceedings before administrative courts in which these interpretations, when challenged, may be controlled. First of all, the author considers who may be a party authorised to obtain an individual interpretation in accordance with law and who is entitled to challenge it to an administrative court. The author also makes an insightful presentation of the problems of the correct determination of the authority issuing the interpretations and the counterparty to the court proceedings in the events when an individual interpretation of tax law is issued by a director of the tax chamber authorised to issue the interpretations on behalf of the Minister of Finance, where such problems may give rise to doubts and legal disputes.

Summary

of the article: **The competence of the administrative and common courts in cases concerning distribution of the EU funds as exemplified by distribution of funds within the framework of the development policy**

The EU funds are distributed on the basis of the Act on the Principles of the Development Policy in two stages. The first stage, so-called imperious (administrative), is effected in order to select the best beneficiaries who meet the project subsidies awarding criteria. The second stage, the civil one, results in the establishment of a civil-law relationship between the beneficiary and the relevant institution under which the previously selected project will be implemented with the support of the EU funds

Depending on the stage of the proceedings, the court competent to settle a dispute, if any, may be either an administrative court or a common court. The apparently clear jurisdiction of these courts that may be reduced to the formula: the administrative courts – at the stage of the imperial decision in the case and the common courts – at the further stage, sustains serious harm taking into account the construction of subsidising adopted by the legislator and the various factual situations created by the relations beneficiary – institution.

In the competitive system of the EU funds distribution the rights to control vested in the administrative courts were outlined in the Act on the Principles of the Development Policy and specified in detail based on the merits in the provisions of the operational programmes and the rules of competitions. Therefore the administrative court ensures that the relevant institutions correctly evaluate the project presented to them, making sure these evaluations do not violate the applicable laws i.e. they are conducted in accordance with the generally applicable norms that may be inferred first of all from the Constitution and the Act.

The civil courts in turn settle the civil disputes that may arise from, generally speaking, the project evaluation. The areas where a dispute concerning the civil procedure may arise, may first of all involve entering into the project co-financing agreement or the disputes arising from the potential request to enter thereto and, secondly, the issues related to the demand to pay the damages, if a beneficiary suffers a loss as a result of the incorrect project evaluation and thirdly, the disputes resulting from the due performance of the project.