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Summary

of the article: **The *clara non sunt interpretanda* (what is clear does not need to be interpreted) principle – myths and reality**

The article presents two different versions of understanding the *clara non sunt interpretanda* (what is clear does not need to be interpreted) paroemia. One (anti-initiating) known in Poland since 1956 and the other (anti-continuing) known since 1975. The first of them refers to abstaining from undertaking interpretation when a given term is directly "clear" and the second emphasises the need to conclude the interpretation upon arriving at linguistic "clarity".

The critical and approving arguments were presented for both versions and then these arguments were compared and such a comparison resulted in rejecting the first version and replacing it with the *omnia sunt interpretanda* (interpretation is always necessary) principle, and in the case of the other – in applying always the three groups of interpretative directives (i.e. the systemic and functional directives apart from the linguistic one).

This article also points to the tendency in the decisions of Polish courts arguing for rejecting the first version and gradually eliminating the other one.

Summary

of the article: **Liability of militarised services officers for minor disciplinary offences**

The article discusses the liability of militarised services officers for minor disciplinary offences. Such liability is borne by officers of the Police, Border Guard, State Fire Service, Prison Service and the Customs Service for minor violations of their duties characterised by a limited degree of guilt and social noxiousness of the act. In accordance with the contents of the relevant act, the sanctions for the offences in question are referred to as the "disciplining conversation" or "written admonition" and are imposed single-handedly by the relevant disciplining superior who decides if the relevant act the officer has committed is a "minor disciplinary offence" or another disciplinary offence. The above sanctions, in spite of the afflictions involved, are not included in the statutory catalogues of the disciplinary penalties.

Given the subject and the required procedure the sanctions in question are imposed in the so-called simplified disciplinary proceedings that include specifying the entity authorised to impose them, the preconditions of liability, the form of sanctioning, the running of the term to impose the sanction, the prescription of the amenability to punishment and the term for erasing the sanction.

The officer may appeal against the sanction consisting in imposing the penalty of written admonition to the relevant disciplinary commission and complain to an administrative

court. The officer has no formal remedy against the sanction of a disciplining conversation and s/he may not complain against this sanction to an administrative court. This solution should be critically evaluated, because although this sanction has many negative effects on the personal and property sphere of the officers' function-based relationship, the competence, procedural and material correctness of its application remain beyond the control of any instance or court.

Summary

of the article: **Imprescriptible tax liabilities in judicial decisions of administrative courts**

This article analyses the regulation included in Art. 70.8 of the Tax Code dated 29 August 1997 (Journal of Laws of 2012, item 749, hereinafter the Tax Code). It provides that tax obligations secured by mortgage or treasury pledge shall not prescribe, however, after the lapse of the period of prescription the tax obligations may only be enforced against the object of mortgage or pledge. Its author attempts to answer the question if maintaining this norm is purposeful, in particular given that under Art. 70.4 of the Tax Code the running of the period of prescription may be repeatedly interrupted.

Given the far-reaching effects of securing the tax liabilities, it is always necessary to precisely determine the time when the treasury pledge is established and released or when the mortgage is entered in the land and mortgage register and when the legal basis for entering the mortgage ceases to exist. The relevant voivodeship administrative court should from time to time examine these circumstances by virtue of law under Art. 134.1 of the Act on Proceedings Before Administrative Courts dated 30 August 2002 (Journal of Laws of 2012,

item 270) in all these situations when the tax liabilities do not prescribe under Art. 70.8 of the Tax Code. At the same time the scope of activities permitted, after the lapse of the period of prescription, is strictly limited. The expression that "the tax obligations secured by mortgage or treasury pledge shall not prescribe" does not mean that no material changes have occurred in this legal relationship following the lapse of the prescription period. Actually the meaning of Art. 70.8 of the Tax Code is limited mainly to ensuring the effective conclusion of the tax proceedings and issuing the decision to this extent and enforcing the treasury pledge or the mortgage. On the other hand, the public administration authorities are not authorised to take any further steps given the lapse of the prescription period.

Therefore the institution included in Art. 70.8 of the Tax Code is highly necessary in practice, even in spite of the regulation included in Art. 70.4 of the Tax Code. Both these provisions have different purposes. The regulation included in Art. 70.8 of the Tax Code makes it possible to conclude the tax proceedings or the enforcement proceedings in spite of the lapse of the prescription period referred to in Art. 70.1 of the Tax Code and to effectively satisfy a creditor from the object of the mortgage or pledge, also after the lapse of the above mentioned period of time.

Summary

of the article: **Orders in proceedings before administrative courts**

Judgements and decisions are not the only forms of procedural actions of decision-making nature taken by an authority conducting proceedings before administrative courts. In many provisions of the Act on Proceedings Before Administrative Courts the legislator refers to an order, being the declaration of will of the judicial authority which is not an act of administration of justice, issued in the administrative and organisational cases, in order to prepare a hearing and in its course. An order is an effective instrument available to a judge as a supervisor over the court proceedings before they are instituted, in their course and following their completion. Although the legislator repeatedly uses the term "the court orders" in the Act on Proceedings Before Administrative, issuing orders is the power of one-man judicial authorities. The court makes orders in the form of a judgement and a decision, if the act does not provide for issuing a judgement.

The legislator does not include the complex regulations of the orders in the Act on Proceedings Before Administrative Courts, instead making a reference in Art. 167 of the Act on Proceedings Before Administrative Courts in relation to the orders issued by the presiding judges to the relevant application on court decisions. These provisions also apply accordingly to the orders issued by a justices' clerk under Art. 258.3 of the Act on Proceedings Before Administrative Courts and the orders of the president of the court. Therefore the legal norms concerning in the first scope of reference the court decisions applied accordingly may in each case be adapted to the legal nature of the individual order and legal situation in which it is issued.

As regards the orders in which the deciding element directly affecting the procedural situation of the parties to the proceedings has the primary role, the legislator provided the means of appeal the exercise of which makes possible changing or revoking the issued order. These means of appeal include a complaint and specific remedies, in the form of an appeal provided for in Art. 103 of the Act on Proceedings Before Administrative Courts and Art. 114 of the Act on Proceedings Before Administrative Courts and the opposition referred to in Art. 259.1 of the Act on Proceedings Before Administrative Courts. Exercising these means of appeal the parties to the proceedings may effectively protect their positions in the court trial, this way attempting to achieve the primary goal i.e. the court deciding in the award completing the proceedings on the legality of the challenged act or action in the area of public administration.

Summary

of the article: **Administrative decisions in cases concerning business information disclosure**

The main purpose of the article is to discuss the decisions and orders concerning the economic information bureaus.

Pursuant to Art. 22 of the Constitution of the Republic of Poland, limitations upon the economic freedom may be imposed only by means of statute and only for important public reasons. The scope of business of an economic information bureau consists in agency in disclosing economic information. As a result, its freedom of economic activity is limited e.g. by administrative decisions.

The supervision over the bureaus is exercised by the minister competent for economy in the scope of compliance of the conducted business with the act and the rules. Given that economic information includes, among others, personal data of a debtor (also a consumer), the Inspector General for Personal Data Protection controls the processing of this data.