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**Konstrukcja ochrony tymczasowej w polskiej i niemieckiej procedurze sądownoadministracyjnej**

The Concept of Interim Protection in Polish and German Administrative Court Procedures

Streszczenie w języku angielskim

The aim of this doctoral thesis is to analyse the institution of interim protection in Polish and German administrative court procedures and to evaluate the legal solutions functioning in both systems in the context of the right to effective legal protection. The starting point for this analysis is the assumption that the right to a court, which constitutes one of the fundamental guarantees of the protection of individual rights in a democratic state governed by the rule of law, is not limited merely to formal access to a court. It also requires that judicial protection be effective and real. In practice, this means that procedural instruments must exist which allow the legal interests of a party to be protected even before a final decision is issued in the main proceedings. Without effective interim protection, even a favourable court judgment delivered after a longer period may prove ineffective if irreversible legal or factual consequences occur in the meantime.

The subject of this doctoral thesis is the regulation of interim protection in the Polish and German systems of administrative justice. The research is conducted using the comparative legal method based on a functional approach. First, the solutions operating in both legal systems are described in detail, and then they are compared and evaluated. The purpose of this analysis is to determine how the respective legal systems fulfil the function of protecting individual rights in situations where a decision in the main proceedings cannot be issued within a sufficiently short time.

The doctoral thesis demonstrates that the Polish and German systems of administrative justice differ both in terms of their historical background and their procedural structures. The Polish model of administrative judiciary developed under a strong influence of the Austrian legal tradition and is primarily based on a cassatory model in which the administrative court generally limits itself to reviewing the legality of administrative action and annulling the challenged act. In contrast, the German system of administrative justice, which originates from the Prussian legal tradition, has historically granted administrative courts substantive powers. Courts may not only annul unlawful administrative decisions but also oblige public administration authorities to issue a specific decision or take a particular action.

These differences are also reflected in the construction of the institution of interim protection. In Polish administrative court proceedings, the primary form of interim protection is the suspension of the execution of the challenged administrative act or action. This instrument is intended to prevent the negative consequences of enforcing an administrative act until the court resolves the case. The suspension of execution may be ordered either by a public administration authority or by an administrative court if there is a risk of significant damage or of consequences that would be difficult to reverse.

In the German administrative court system, the catalogue of interim protection measures is considerably broader. In addition to the possibility of ordering or restoring the suspensive effect of a legal remedy, the law also provides for the institution of a preliminary injunction. This measure enables administrative courts not only to suspend the execution of an administrative act but also to temporarily regulate the legal situation of the parties by obliging the public administration authority to take a specific action or refrain from it. Such

an interim order may take the form of a securing order aimed at preserving the existing state of affairs or a regulatory order that temporarily alters the applicant's legal situation.

The comparative analysis shows that the German model of interim protection is characterized by greater flexibility and a wider range of instruments enabling the protection of individual rights. This results primarily from the different structure of the entire administrative court system, in which courts possess broader powers to intervene in the activities of public administration. Consequently, the German system provides more diverse forms of interim protection tailored to the nature of the claim being pursued.

From the perspective of the Polish legal system, an important question arises as to whether the introduction of solutions similar to the German preliminary injunction could contribute to increasing the effectiveness of the protection of individual rights in administrative court proceedings. Comparative legal analysis allows for an evaluation of existing regulations and the identification of potential directions for the development of the law. At the same time, it should be emphasised that the differences between the analysed systems stem not only from divergent legislative solutions but also from their historical and systemic foundations.

The conclusions of the doctoral thesis indicate that the institution of interim protection plays a crucial role in ensuring effective legal protection in administrative court proceedings. In both Poland and Germany, it serves to safeguard the legal interests of individuals until the case is resolved in the main proceedings. At the same time, the comparative analysis demonstrates that the scope and structure of such protection may be shaped in different ways depending on the adopted model of administrative justice.