

Streszczenie rozprawy doktorskiej Mgr Jacka Piechy /j.angielski/ pt. “Objection (sprzeciw) in administrative law

The topic of this dissertation is to analyse the normative content of the concept of “objection” (“sprzeciw”). This notion is more often used in statutory provisions of the broad area of the administrative law.

The thesis that the legislator uses the term “objection” (“sprzeciw”) in an inconsistent manner provides for the starting point for this dissertation. In other words, different designatums are described with this term. However, the question arises whether it is possible to distinguish the legal institution of objection (sprzeciw) due to the more often use of this notion by the legislator. Consequently, the main task, indispensable to achieve the objective of either confirming or denying the thesis of this dissertation, is to decode the normative content of the notion of “objection” (“sprzeciw”) as provided for in the provisions of the administrative law.

The present dissertation demonstrates that objection (sprzeciw) is not a homogeneous notion under the Polish administrative law. In fact, the legislator attributes different meanings to it. In other words, various designatums are described with this term.

In this dissertation a division into separate groups of the above-mentioned “objections” (“sprzeciw”) was made. The criterion used for the division was the criterion of the function (role) fulfilled by a given type of “objection” (“sprzeciw”), and it proves it is possible to distinguish at least four groups of “objections” (“sprzeciw”) in the Polish administrative law.

Firstly, the legislator uses the term objection (sprzeciw) to define legal measures, i.e. actions aimed at questioning actions or conduct of public administration bodies. At the same time, it is necessary to indicate that this group is not homogeneous in its nature. The object of objection (sprzeciw), i.e. the issue against which the objection is filed, is diversified, as well as are the results brought by filing the objection.

The second large group of objections (sprzeciw) consists of “objection” (“sprzeciw”) being an expression of will of an administrative body as the institution of tacit consent (tacit agreement). It has been observed that whenever the institution of tacit consent is established in the provisions of the substantive law, the concept of “objection” (“sprzeciw”) is used. In such instance, objection (sprzeciw) is considered to be an administrative instrument which is used by administrative bodies first and foremost not to allow the development of powers of an object administrated by virtue of law, i.e. due to the lapse of time (tacit consent).

The third group consists of objections (sprzeciw) which are measures of supervisory influence. However, these measures have a specific nature. By means of objection a supervisory body questions particular instruments of a supervised body concerning admitting a given individual to a professional corporation (for instance, entering their name in the list of advocates).

The fourth group distinguished in this dissertation pertains to situations, where the concept of “objection” (“sprzeciw”) constitutes the content of cooperation of bodies. This dissertation concludes that objection (sprzeciw) is filed by a cooperating body against a decision project (administrative instrument) of the body deciding a case.

Furthermore, this dissertation describes other instances of using the concept of objection (sprzeciw) by the legislator in the administrative law.

The above findings confirm the thesis stating that “objection” (“sprzeciw”) is not a homogeneous category in the area of the administrative law.

Consequently, a transparent legal institution is impossible to be defined here. Objection (sprzeciw) should be defined rather as a legal construction (legal constructions) having separate functions within particular, distinguished groups.

In the conclusion, principles of *de lege ferenda* were formulated.

