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*Liability for damages done by administrative decisions
or by valid administrative court rulings*

Summary

The subject of this paper is liability of the State Treasury for damages done by the State as a result of individual acts such as court rulings and administrative decisions issued in the course of administrative proceedings.

The paper identifies the procedures and the necessary circumstances that must occur to make a claim for damages resulting from a defective decision or court ruling in administrative procedure. The institution of liability for damages is an essential element of a system of ensuring that the public administration bodies will act correctly. It also has a huge impact on the security of the rights of individuals against the effects of defective actions of those bodies. Each entity should have the right to be compensated for the damages done by illegal actions or failure to act by public bodies.

The paper starts with the genesis of the institution of State liability for damages done by defective administrative decisions and court rulings in Poland and in other countries. Next it presents numerous amendments and regulations that have been added to allow claimants to pursue claims for damages done by the State. The premises of the liability of the State for damages (an action or an illegal action of public authorities, the damage caused and the causal link) have been analysed in light of the provisions of article 77 clause 1 of the Constitution of the Republic of Poland and in the context of legal doctrine and court rulings.

The possibility of pursuing a claim for damages done by an ongoing decision, subject to a judiciary revision, has been broadly discussed as well. It is an essential issue because Polish legislation lacks, as yet, a coherent and clear regulation which would allow to state whether, in the case of a non-definitive decision, a claim may be made for damages caused by that decision before it became effective.

Finally, State liability in tort and the understanding of the term “unlawfulness” as a separate term and not part of the civil law concept are discussed.

Keywords: liability for damages of the State Treasury, liability of public authorities, public tort, harm, illegality, unlawfulness