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**An obligation to return: a new quality in the Polish law on foreigners?
Reflections on the transposition of the return directive**

Summary

The subject of this article is the obligation to return as a new instrument in the Polish law on foreigners. This obligation to return has been in force since 1 May 2014 and replaces the previously functioning expulsion and the obligation to leave the territory of the Republic of Poland. New legal solutions result from the transposition of so called “Return Directive”, agreed in 2008 and the entry into force of the Foreigners Act of 12 December 2013.

The question is whether these solutions constitute an absolute novelty or whether they are a stage in the evolution of the Polish law on foreigners. Is it merely a correction of the former standards or a totally new quality? The answer to these questions is crucial, as the regulations concerning the status of illegally staying foreigners are a measure show whether the balance between the protection of human rights and the protection of public interest in its numerous aspects is achieved.

Seeking for the answer, the author firstly presents the provisions of the Return Directive and subsequently introduces the institution of the obligation to return against the background of the legal regulation of expulsion and obligation to leave the territory of the Republic of Poland. The analysis addresses types of administrative decisions in these matters, their premises, contents, legal consequences and execution as well as a tolerated stay permit and a permission to stay for humanitarian reasons. Competent authorities and different forms of aid and assistance offered to foreigners are also discussed.

The deliberations end with a few reflections. In the conclusion it is stated that the obligation to return is not, as such, revolutionary in the Polish law on foreigners. However, many of the new solutions constitute important developments, generally in favour of the above mentioned balance between the protection of human rights and public interest. Despite this principally positive evaluation, it is noteworthy that some of them may pose a certain risk.

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