

ANNA SZALKIEWICZ

Administrative criminal law – a real concept or a false illusion?

Summary

This paper deals with pecuniary penalties administered by public administration bodies, and their place in the existing legal system. Recently, a model of liability based on administrative sanctions has become widespread. Consequently, attempts have been undertaken to modify the principles governing the bearing of responsibility in order to arrive at a simplified and immediate administrative procedure and a respective penalty. It is also expected to ease the workload currently suffered by the judicial organs of justice.

An exemption from the criminal responsibility regime of a given category should be accompanied by trial guarantees similar to those applicable under criminal law. However, in reality, the procedure of sanctioning actions undertaken by administrating bodies is far from perfect and leaves much room for discretionary decisions. Unclear criteria governing decisions on penalties as well as the absence of solutions permitting prescription, combined with a lack of clear guidelines of a procedure in the event of a concurrence of an administrative as well as a criminal responsibility, may in effect lead to a breach of constitutional standards.

In this paper the legal nature of administrative pecuniary penalties is analysed and the main features differentiating this form of repression from punishments administered for petty crimes and crimes are discussed. The conclusions reached as a result of the performed analysis constituted the ground upon which an answer to the question whether administrative criminal law is really necessary as a separate branch of law was based.

The proposed solutions are centred around the need to ensure cohesion and uniformity in the area of administering and enforcing pecuniary penalties in administrative proceedings. The formulated conclusions contain *de lege ferenda* a postulate to tie administrative pecuniary penalties to a specific type of responsibility, and to a model of a procedure that would protect an individual against the arbitrariness of authorities.

Keywords: administrative criminal law – administrative pecuniary penalties – criminal responsibility in administrative law