

AGNIESZKA CIESIELSKA

**Issues related to the prohibition of *reformatio in peius*
in administrative court proceedings**

Summary

The principle of prohibition of *reformatio in peius* is established in Article 134 § 2 of the Law on Proceedings Before Administrative Courts. According to this provision the administrative court is not allowed to issue a decision to the detriment of the complainant. A judgment adverse to the complainant can be exceptionally issued but only if the court finds a violation of the law resulting in the annulment of the challenged act or action. This principle is a procedural institution which ensures that the complainant's situation will not deteriorate due to the decision of the administrative court.

There are many interpretative doubts concerning the prohibition of *reformatio in peius* in the doctrine and the jurisdiction of the administrative courts. This is because administrative courts very rarely issue a decision on the merits. Decisions of administrative courts are basically of cassation nature. When the administrative court allows a complaint, the contested act is generally eliminated from the system of law and the case is returned for re-examination by the public administrative authority. It is therefore very difficult to determine the content of the prohibition of *reformatio in peius* in administrative court proceedings and in practice the prohibition of a change for the worse is not a real guarantee of the protection of the interests of the complainant.

In the author's opinion, the way of approaching the mechanism of application of the prohibition of *reformatio in peius* by the administrative courts needs to be changed. And yet, a significant improvement in the effectiveness of the protection against the worsening of the complainant's legal situation will only be possible through the introduction of a new legal regulation restricting the jurisdiction of public administrative authority, which will reconsider the case after the cassation judgment issued by the administrative court.

Keywords: administrative court proceedings – prohibition of *reformatio in peius* – complaint to the administrative court – judgment to the detriment of the complainant