ACTA IURIDICA RESOVIENSIA Nr 3(38)/2022
ISSN 2720-0574 DOI: 10.15584/actaires.2022.3.16

Artur Mazurkiewicz

Uniwersytet Rzeszowski
ORCID: 0000-0003-4921-4969

THE CONCEPT OF REINSTATEMENT OF THE DEADLINE IN THE COVID SPECIAL ACT IN LIGHT OF TRADITIONAL SOLUTIONS OF ADMINISTRATIVE LAW IN THIS RESPECT

The SARS CoV-2 virus epidemic has temporarily led to specific conditions for the functioning of states, societies and each citizen. Threats to life and health, restrictions on access to public and private services, the introduction of emergency order restrictions in legal forms incompatible with the Basic Law, isolation, are just some of the phenomena associated with the pandemic, which appeared in social life as rapidly as the increase in disease and death, radically changing the rules of its functioning. These phenomena also affected the administration, which had to function in the new conditions and which faced new challenges. In order to maintain its ability to perform public tasks, which is after all a determinant of the state's efficiency, the administration was closed off from citizens. Some of its structures, particularly those related to health care and internal security, were faced with major new tasks related to combating epidemics and protecting citizens, and within a matter of weeks lost their organizational capacity (e.g., the State Sanitary Inspectorate).

In this suddenly changed situation, the country's supreme authorities also had to react. Being aware that no government after 1989 had faced similar challenges, and that the epidemic was a new, sudden and powerful threat to the security of citizens, while the mood in Poland and around the world was almost panic-stricken, it is impossible to avoid a very critical assessment of many lawmaking activities undertaken under the influence of the pandemic. For example, the delay in taking measures to prevent the spread of virus in subsequent waves was evident. The safety measures applied were initially inadequately severe – such as the ban on walking in the streets, and in contrast, in subsequent waves, despite the still difficult epidemiological situation, they were simply illusory – the obligation to wear masks in public places. Another characteristic of the supreme authorities in the period of the COVID-19 pandemic was the preference for normative tools of the executive power over the legislative power (perhaps due to the fragile and

changeable parliamentary majority), which resulted in the widespread implementation of standards restricting civil liberties by legal acts of a sub-statutory rank, which constitutes a gross violation of the Constitution in a democratic legal state.

Similar signs of a certain legislative chaos and inadequacy of the applied measures and disregard for the fundamental principles of the rule of law can be observed in the activity of the legislator, of which the Act of 20 March 2020 on specific solutions related to preventing, counteracting and combating COVID-19, other infectious diseases and crisis situations caused by them is a particularly characteristic example in the context of a pandemic[1]. This is an act which the subject of regulation is truly monumental. The legislator intended through this act to regulate a huge number of legal issues, implementing changes in many other legal acts, justified – in his opinion – by the epidemiological situation. *Ad hoc* regulations concerning various aspects of law soon revealed many defects and legislative shortcomings, forcing equally hectic corrections and making the applied solutions more detailed, a clear example of which is the Art. 15zzzzzn[2] analyzed in this publication, introducing, in the author's opinion, a legal revolution with regard to the institution of reinstating deadlines.

However, the attempt to analyze the content of the above regulation and its *ratio legis* should be preceded by a review of the legal solutions concerning the institution of deadlines and their reinstatement that have been in force so far and that seem to be partially undisputed, as well as the jurisprudence and doctrinal views issued in relation to the application of these provisions.

Based on the standards of administrative law, it is possible to classify deadlines into substantive and procedural deadlines. Substantive deadlines are periods in which the rights or obligations of an individual under an administrative law relationship may be formed. It may be added that in a situation where the shaping of a substantive legal relationship takes place by way of an authoritative decision of a public administration body, the lapse of a substantive deadline makes it inadmissible to initiate administrative proceedings, and in the case of its earlier initiation, it results in the necessity to discontinue it as groundless[2]. This means that a right expires, or at least the right to demand its realization expires, and in case of an obligation, the right of an administrative body to enforce it against a party expires, which does not mean that it expires. Such obligation becomes a natural obligation, which means that it can be fulfilled voluntarily by the party, e.g. payment of time-barred tax liability, but no administrative proceedings can be conducted in this case either to establish or to enforce the obligation. Therefore it is a legal construction analogous to the institution of statute of limitations known in other branches of law.

[1] Consolidated text of Dz.U. 2021, item 2095, hereinafter also referred to as covid special act.

[2] B. Adamiak [in:] B. Adamiak, J. Borkowski, *Kodeks postępowania administracyjnego. Komentarz*, Warszawa 2004, s. 321

When it comes to procedural deadlines, several categories can be distinguished. These include periods for the parties to perform procedural actions, for example the period for lodging an appeal referred to in Art. 129 § 2 of the Act of 14 June 1960 Administrative Procedure Code[3]. The expiry of these deadlines results in ineffectiveness of the procedural activity for the performance of which the deadline was set.

Moreover, it is possible to distinguish between procedural deadlines for the handling of cases by administrative authorities (Art. 35 § 2–4 of the Administrative Procedure Code). Expiry of such a deadline without achieving a result in the form of the case being settled can be assessed as a state of excessive duration of the proceedings or silence of the administrative body, which gives rise to consequences in the form of necessity to notify the party about a new deadline for the case (Art. 36 of the Administrative Procedure Code) and can be the basis for lodging a complaint (Art. 37 of the Administrative Procedure Code)[4]. Deadlines for handling cases are not subject to reinstatement under the procedure set out in Art. 58 of the Administrative Procedure Code and subsequent articles. However, their violation, apart from possible consequences for the authority and the employee of the office resulting from the determination of inaction or protraction of proceedings, does not affect the effectiveness of actions taken after their expiry and the validity of the entire proceedings.

Finally, it is possible to mention the deadlines set by the authority for certain actions to be performed by a party to the proceedings, the so-called indicative time limit. They may also apply to the actions of the authority and their expiry does not prevent the effective performance of procedural actions for which it was established[5].

Procedural deadlines result from generally applicable laws or from the will of the administrative body in charge of the case expressed in writing. The former are commonly referred to as statutory time limits, the latter as official time limits. While the administrative body is in charge of the official time limit it sets and, upon a party's request made before the time limit expires, can extend it at its own discretion, it has no influence on the length of the statutory time limit. In the case of an official time limit, the administrative body may also, for important reasons[6], recognize the effectiveness of an act performed after its expiry[7], which power it does not have in relation to a statutory time limit.

However, it should be emphasized that both statutory and official time limits have a strict (preclusionary) character and their infringement causes *ipso iure* inef-

[3] Consolidated text of Dz.U. 2021, item 735, hereinafter referred to as the Administrative Procedure Code.

[4] R. Kędziora, *Kodeks postępowania administracyjnego. Komentarz*, Warszawa 2005, p. 160.

[5] A. Wróbel [in:] M. Jaśkowska, A. Wróbel, *Kodeks postępowania administracyjnego. Komentarz*, Kraków 2000, p. 362.

[6] Such reasons include the realization of the principle of objective truth.

[7] E. Iserzon [in:] E. Iserzon, J. Starościak, *Kodeks postępowania administracyjnego. Komentarz, teksty, modele i formy*, Warszawa 1970, pp. 131–132.

fectiveness of the procedural action performed after their expiry. However, the legislator has provided for an institution mitigating this rigour in the form of possibility to reinstate the deadline (Art. 58–60 of the Civil Procedure Code). As a rule, statutory and official time limits are reinstated, and when it is otherwise, the legislator indicates this *expresis verbis* in the text of the provision, as in the case of the request for reinstatement of the deadline (Art. 58 § 3 of the Administrative Procedure Code)[8].

It is extremely important to emphasize that the institution of reinstating a deadline is applied only to deadlines set for procedural actions, thus the possibility of reinstating a deadline does not apply to substantive legal time limits[9].

The reinstatement of a deadline depends on the cumulative fulfillment of several conditions. First of all, the party or participant interested in taking advantage of this solution must file a relevant motion to reinstate the time limit. The public administration body has no power to do so *ex officio*, even if it is aware of the party's lack of fault in not meeting the deadline for a given activity[10].

The second condition for reinstatement of the deadline is to make plausible in the application the lack of fault of the applicant for violation of the time limit. It is highlighted in literature that making the claim plausible means that there is no need to present evidence which would prove the lack of fault with absolute certainty. Therefore, this is a significant simplification for the applicant, as it will be sufficient to present in the application the circumstances that will allow the public administration body to become convinced of the probability that the applicant is not at fault for not completing the procedural act in time[11]. It is stressed that the lack of fault can be said only in a situation when the fulfillment of obligation did not take place due to an obstacle which was impossible to overcome by the person authorized to perform the act, i.e. the obstacle which that person could not remove[12]. Although the literature indicates that a situation in which removing the obstacle to timely performance of the act would require extraordinary effort, i.e. threatening the life or health of the party or exposing it to serious material losses, also prejudges the lack of its fault in this respect[13]. Causes beyond the control of the applicant and justifying the lack of fault in the case of

[8] R. Kędziora, *Kodeks postępowania*…, p. 160.

[9] See. Judgment of the Supreme Administrative Court of 23 May 1995, file ref. no. SA/Wr 2337/94, unpublished, judgment of the Supreme Administrative Court of 11 January 2002, V SA 1215/01 (ONSA 2003, no. 2, item. 62), resolution of the Supreme Administrative Court of 14 October 1996, OPK 19/96 (ONSA 1997, no. 7, item. 56).

[10] This is the judgment of the Supreme Administrative Court of 27 January 1998, II SA 1277/97, unpublished, judgment of the Supreme Administrative Court of 18 June 1998, file ref. no. I SA/Po 1911/97, unpublished.

[11] R. Orzechowski [in:] *Kodeks postępowania administracyjnego. Komentarz*, ed. J. Borkowski, Warszawa 1989, p. 145.

[12] E. Iserzon [in:] E. Iserzon, J. Starościak, *Kodeks postępowania administracyjnego. Komentarz, teksty, modele i formy*, Warszawa 1970, p. 136.

[13] R. Kędziora, *Kodeks postępowania*…, p. 165.

failure to observe the time limit include circumstances associated with force majeure, such as, inter alia, fire, flood, sudden illness, which made it impossible to use another person to perform the procedural act[14]. Obstacles that prevent the observance of a deadline to perform a given action must also last for the entire period provided for the performance of that action[15]. If the person requesting the reinstatement of a deadline was even slightly negligent, there are no grounds for the reinstating the deadline[16].

The third condition for application of the analysed institution is submitting a relevant application within seven days from the day the reason for failure to observe the time limit ceased to exist (Art. 58 § 2 of the Administrative Procedure Code). The applicant should indicate in the application the circumstances proving that the deadline has been met, which will be assessed by the competent authority as one of the statutory prerequisites for applying the institution under analysis. The fact of meeting the deadline and proving it is extremely important, because the deadline for submitting the application for reinstatement of the deadline is exceptionally, by virtue of the explicit disposition of Article 58 § 3 of the Administrative Procedure Code. However, in the practice of applying the law, this circumstance is often difficult to verify because it often happens that failure to observe the time limit resulted from the party's ignorance that it is entitled to perform a certain procedural act (e.g. delivery of a decision or summons to an address other than the actual place of residence of the party). In such a situation, the beginning of the period for filing a motion for reinstatement of deadline is determined by the day on which the party became aware of the failure to observe the time limit for taking a procedural action[17] e.g. upon being informed about it by another party or upon noticing the effects of exercising rights or performing obligations imposed by a decision of which it was not aware. In such situations the date on which the party became aware of the fact that the deadline for completing a procedural act was exceeded is extremely difficult and sometimes impossible to verify by the public administration body, which as a consequence usually accepts the party's explanations in this respect, which in practice allows the interested party some manipulation.

The fourth and final condition for reinstatement of the deadline is that the entity requesting the reinstatement must perform the action for which the time

[14] This is the judgment of the Supreme Administrative Court of 1 March 1999, file ref. no. II SA 45/99, unpublished, or the judgment of the Supreme Administrative Court of 19 September 2000, file ref. no. I SA 1072/00, unpublished.

[15] This is the judgment of the Supreme Administrative Court of 13 October 1999, file ref. no. IV SA 1656/97, unpublished.

[16] This is the judgment of the Supreme Administrative Court of 4 October 2000, file ref. no. I SA/Gd 560/00, unpublished.

[17] This is the judgment of the Supreme Administrative Court of 24 March 1999, file ref. no. I SA/Gd 1664/98, unpublished.

limit was set. Importantly, this action must be taken simultaneously with submitting the motion for reinstatement of deadline and before its consideration, which is justified by preserving the dynamics of the administrative proceedings[18].

The fact that the applicant fulfils all the four above-mentioned prerequisites together obliges the administrative authority to reinstate the deadline for taking a particular action, which is determined by the unambiguous wording of Art. 58 § 1 of the Civil Procedure Code. Consequently, the procedural action for the performance of which the time limit was reinstated and which was already performed at the same time as the application for reinstatement of deadlines was filed, should be regarded as performed within the time limit.

The above regulations, judgments and views of doctrine allowed to formulate a long-established and generally accepted understanding of the nature of substantive and procedural time limits and the principles of reinstating procedural deadlines. Meanwhile, the Act of 20 March 2020 on special solutions relating to preventing, counteracting and combating COVID-19, other infectious diseases and crisis situations caused by them introduced new rules in this respect, which although not repealing the provisions of administrative proceedings analysed above, function in parallel to them and modify slightly Art. 58 § 2 of the Administrative Procedure Code.

Pursuant to Art. 15zzzzzn[2] of the COVID special act:

1. "If a party is found to have failed to comply with the deadlines provided for in administrative law during the period of the state of epidemic declared due to COVID-19:
   a) on the observance of which the granting of legal protection before a public administration body depends,
   b) for a party to perform acts that shape its rights and obligations,
   c) statute of limitations,
   d) which, if not complied with, results in the extinguishment or modification of rights *in rem* and claims and receivables, as well as falling into default,
   e) time barring periods, the non-observance of which by law results in negative consequences for the party,
   f) for entities or organizational units subject to registration in the relevant register to perform activities which require registration in the register, as well as time limits for performance of obligations by such entities under the provisions on their organization – the public administration body shall notify the party about the failure to meet the deadline.
2. In the notice referred to in paragraph 1, the public administration body shall set a time limit of 30 days for the party to apply for reinstatement of the deadline.

[18] R. Kędziora, *Kodeks postępowania*…, p. 166.

3. In the case referred to in Article 58 § 2 of the Administrative Procedure Code of 14 June 1960 – Administrative Procedure Code, the request for reinstatement of the deadline should be submitted within 30 days from the date of cessation of the reason for failure to meet the deadline".

The content of this provision is undoubtedly dictated by the good will of the legislator who, foreseeing paralysis of legal proceedings, difficulties in access to administrative authorities or at least the post office, or mass illnesses of citizens resulting in their inability to conduct their own affairs, introduced a solution under which the authority should notify the party of its failure to meet the deadline. In the notification, the authority shall set a deadline of thirty days for the party to file a motion for reinstatement of the deadline (Art. 15zzzzzn^2 (2)), which is another regulation mitigating the current requirement to file such a motion within seven days from the date of cessation of the reason for the failure to meet the deadline. Then, in paragraph 3 of the provision under consideration, the legislator also provides for extending the time limit for filing a motion for reinstating the deadline provided for in Article 58 § 2 of the Civil Procedure Code from seven to thirty days, modifying in this case the provisions of the Code. This extension of deadlines, both for procedural and other deadlines, should be viewed positively as being clearly in the interest of the party and more than quadrupling its time to take action, which in the period of difficulties resulting from the COVID-19 epidemic could have been very helpful.

However, the list of reinstated deadlines in Art. 15zzzzzn^2 (1) must raise reservations, as it turns out that it is possible to reinstate not only procedural time-limits but also substantive legal time-limits. The list includes not only procedural time limits, such as statutory time limits (paragraph 1(5)), and time limits for making entries in the register (paragraph 1(6)), but also time limits for actions affecting a party's rights and obligations (paragraph 1(2)), limitation periods (paragraph 1(3)), and time limits the failure to observe which results in expiry or modification of rights *in rem*, claims and receivables, and delay (paragraph 1(4)). In the author's opinion this is a revolutionary regulation, but in a negative sense, because it contradicts the basic principles of not only administrative law, but law in general, as analogous solutions concerning aspects of the institution of lapse of time are also in force in civil law[19]. The expiration of a substantive and legal deadline, which gave rise to the possibility of creating substantive and legal rights or obligations, after the expiry of which the rights, including claims or receivables, expired or were transformed into natural ones, had irreversible legal effects with regard to the entity entitled and obliged, as well as *erga omnes*. If a right has expired, it would seem that this is an irreversible event and there is

[19] G. Kamieński [in:] *Postępowanie cywilne*, vol. 1: *Postępowanie sprawdzające i postępowanie zabezpieczające wierzytelności. Rozdział IX Terminy*, ed. E. Marszałkowska-Krześ, Warszawa 2021, pp. 506–514. Also: *Kodeks cywilny. Komentarz*, ed. J. Ciszewski, Warszawa 2013, pp. 238–250.

no possibility of reinstating this right to legal turnover. The analyzed provision changes these principles.

The obligation to notify the party of the failure to comply with the deadline set out in Art. 15zzzzzn[2] (1) of the COVID special act is formulated categorically. Therefore, the public administration authority cannot refrain from complying with it if it finds that a party has failed to comply with the deadline during the period in which the state of epidemics declared on account of COVID-19 is in force, and it is obliged to notify the party of this fact and set a deadline for the party to apply for its reinstatement whenever it finds that such a situation exists (Art.15 zzzzzn[2] (1) *in fine*). A doubt arises as to how to behave in a situation where the authority did not notice the party's failure to observe the deadline. A purposive interpretation based on the *ratio legis* of the regulation leads to the conclusion that in such a situation the party should apply to the authority for a reinstatement of the deadline without a summons, or demand that the authority notifies it under Art. 15zzzzzn[2] (1) of the failure to observe the time limit and the possibility of filing a motion for its reinstatement.

As Art. 15zzzzzn[2] in paragraph 3 provides that in the case of procedural deadlines the regulation is modified only in relation to time limits for filing a motion for reinstatement of the deadline (extension from seven to thirty days), it should be assumed that in this case the remaining conditions for reinstatement of the deadline set out in Art. 58 of the Administrative Procedure Code apply. However, in relation to deadlines other than procedural, the reinstatement of which would not be possible under the provisions of Art. 58 of the Administrative Procedure Code, the conditions for application of this measure specified in Art. 58 of the Administrative Procedure Code do not apply, *ergo* they can be reinstated without any conditions! This solution seems to be too far-reaching, but it is a deliberate separation of situations related to violation of a procedural deadline in a separate editorial unit, thus it is not a coincidence. It should be noted that the legislator, in the indicated Art. 15zzzzzn[2], does not specify clear prerequisites, the fulfillment of which should lead to positive consideration of the motion for reinstating the time limit in case of its failure, unlike in the Civil Procedure Code, because under the Code the necessary prerequisite for reinstating the time limit was and still is the lack of fault of the party for its failure. Due to the fact that the legislator did not indicate unambiguous prerequisites for reinstating the time limit in the aforesaid provision and did not include in the new regulation any reference to 58 § 1 of the Administrative Procedure Code, apart from the above-mentioned reference to procedural time limits in Art. 15zzzzzn[2] (3), it may be argued that the authority is obliged to restore the "non-procedural" time limit in each case where it finds that the deadline has expired ineffectively. The lack of regulations according to which the legitimacy of reinstating the time limit is assessed means that the authority may not introduce its own assessment criteria and decide whether or not the premises in a given case occur.

Once they came into force, these regulations were used, although not very often, in situations that raised serious doubts. An example are the cases arising out of the provisions of Art. 93 of the Act of 21 August 1997 on real estate management[20]. Provisions contained therein indicate the rules for the division of land property and related legal restrictions. Paragraph 2a of the article in question contains the regulation that: "division of real properties located in areas designated in local plans for agricultural and forestry purposes or, in the lack of a local plan, used for agricultural and forestry purposes and resulting in the division of a plot of land with an area of less than 0.3 hectare, is permitted only on condition that the plot is used to enlarge a neighboring property or that boundaries between neighboring properties are adjusted". Particularly important in the context of these considerations is the next part of this paragraph which reads as follows: "the decision approving the division of the real property shall set a time limit for the transfer of rights to the separated plots of land, which may not be longer than 6 months from the date on which the decision approving the division of the real property became final".

If, pursuant to Art. 93 (2a) of the Act on real estate management, a decision approving the division of real estate is issued, but the six-month period for selling the plot of land is not observed, the decision on division issued by a public administration body expires, which is done pursuant to the procedure provided for in Art. 162 § 1.2 of the Administrative Procedure Code. Hence, the substantive and legal basis for the division of real property ceases to exist, the division of plots is no longer effective and the real property as it existed prior to the division is reinstated to the legal system, which in turn makes it impossible to enter into a contract of sale of the partitioned plot. The stipulation in the decision on approval of the division of real property of the time limit for carrying out the sale of separated agricultural or forest land plot of less than 0.3 ha should be treated as issuance of the decision with the reservation that the party thereto should carry out the sale of separated land plot within the stipulated time limit. If the current owner or perpetual usufructuary fails to sell the plot of land or forest within the set deadline to the owner or perpetual usufructuary, respectively, of the adjacent property, then the authority which issued the decision on approval of the division of the property will be obliged, after the expiry of time limit indicated in the decision, to repeal it pursuant to Art. 162 § 2 of the Administrative Procedure Code[21]. In the author's opinion, the aforementioned statutory deadline for the sale of plots after division has a substantive legal nature, i.e. it is a deadline which makes it possible to shape the legal situation of a given entity by means of a declaration of will, but when this deadline expires, the substantive legal effects of the administrative decision expire, the right to dispose of the divided real property expires, as the legally valid division loses its legal force. Then, only a further procedural effect takes place, i.e. the

[20] Consolidated text of Dz.U. 2021, item 1899 as amended.

[21] J. Jaworski, *Ustawa o gospodarce nieruchomościami. Komentarz*, Legalis 2021.

decision may be declared invalid under Art. 162.1.2 of the Administrative Procedure Code, which is declaratory in nature, stating that the decision expires (and its substantive and legal effects are eliminated) on the date on which the six-month deadline for conclusion of the sale agreement expired. Therefore, it would seem that irreversible legal consequences arise here and the only possibility of returning to the legal situation allowing for the sale of such real property is the necessity of making another division. However, in Art. 15zzzzzn[2] of the covid special act, the legislator offered a possibility of reinstating, in principle, all legal deadlines without the need to prove the lack of fault in their violation. This "gateway" was eagerly used as the municipality, which agreed to sell part of the property to its own residents who were owners of neighboring properties in order to improve the development of their property, bore the cost of division. Failure to conclude the sale agreement within the statutory deadline, due to its own oversight, could expose the executive body to liability within the public finance discipline due to, *de facto*, lost public funds and the resident remained dissatisfied because his application for acquisition of the commune property could not be granted. Thus, municipalities called upon the persons concerned to submit applications for the reinstatement of deadline for concluding contracts for the sale of such real estate and eagerly reinstated them, subsequently concluding contracts of sale on the basis of subdivision decisions which had already expired, but suddenly, due to the reinstatement of a seemingly impossible deadline, they "returned" to legal circulation, in a way regaining their validity. In extreme cases, the executive bodies of local government units reinstated the above deadline to conclude the sale agreement on their own, without asking the interested party.

The municipality itself was interested in such a solution, thus the position of the judicature was not taken into account at all, according to which negligence in the organization of an entity, whether public or private, which makes it impossible to meet the deadline in a given situation, but due to the fact that the manner of functioning of a given entity has not been properly optimized, does not constitute grounds for reinstating the deadline even if it had the appearance of objective obstacles. For example, simultaneous absence from work of all persons having decision-making powers, authority to represent or even authority to transfer the relevant fee (court fee or stamp duty) are treated as manifestations of defective organization of work and management, and are related to the notion of fault[22]. As a matter of fact, the failure to observe the time limit in Art. 93 (2a) of the Act on real estate management has always been the result of oversight on the part of the local government administration body (substantive employees) and it resulted from organizational shortcomings of the office. However, in the lack of any limitations in reinstating the deadline, the legislator allowed to omit this obstacle as well.

[22] This is the judgment of the Supreme Administrative Court of 20 September 2001, file ref. no. IV SA 1340/99, unpublished, decision of the Supreme Administrative Court of 2 October 2002, file ref. no. V SA 793/02, MoP 2002, no. 23, p. 1059.

The notion of returning an expired decision to legal circulation or regaining legal force by an expired decision is not a coincidence in legal language. These phenomena are the never-before-seen consequences of the legislator's revolutionary concept allowing the reinstatement of all possible procedural and substantive deadlines without the need to meet any specific requirements. The example of reinstating the deadline in Art. 93 (2a) of the Act on real estate management is only one of many situations created by the legislator as a result of implementing the solutions of Art. 15zzzzzn[2].

To sum up, the legislator for the first time faced such an extraordinary situation, the impact of which on social life and the administration's functioning as well as the application of law could not have been foreseen. It seems that this extraordinary situation and acting under pressure caused the legislators, understood not in abstract, but as people functioning in the legislative apparatus of the country, i.e. the ruling party and, more specifically, the government and the parliamentary majority, to share an atmosphere of panic. This resulted in the creation of regulations in a very short period of time with an unprecedentedly wide scope of regulation, which as it is possible to guess, is a recipe for poor quality of created law. Possibility of reinstating the substantive legal deadlines for realization of expired rights, deadlines generally regarded as impossible to reinstate. No need to even make probable the lack of fault in violation of a deadline that until recently could not be reinstated. Potential infringement of rights of other participants of legal transactions who may suffer harm in relation to exercising rights that seem to have already expired are all consequences of the solution discussed here. Even if the social effects of this regulation are sometimes beneficial for citizens, in the author's opinion it violates the fundamental canons of law established in the jurisprudence, doctrine and above all normative acts. What is important in the context of situations arising in relation to pandemics, sick leave from work and long-term illness or, more broadly, indisposition, according to the Supreme Administrative Court, do not exclude the possibility of a party performing a procedural act, i.e. drafting a letter and sending it to the post office in person or by a household member or other familiar person[23]. The same does not exclude the possibility of such a situation when a sick person performs gainful employment during the illness, because if this person works, may also perform a procedural act on time[24]. Thus not every situation involving COVID-19 illness would justify in advance the reinstatement of a procedural deadline, not to mention a substantive and legal one which may also affect the rights or obligations of other participants in economic transactions. Therefore, the analyzed regulation did not turn out to be too necessary.

[23] This is the judgment of the Supreme Administrative Court of 22 April 1998, file ref. no. SA/Sz 1435/97, unpublished, judgement of the Supreme Administrative Court of 12 April, file ref. no. I SA/Ka 1609/97, unpublished, judgment of the Supreme Administrative Court of 1 March 1999, file no. II SA 45/99, unpublished.

[24] This is the judgment of the Supreme Administrative Court of 14 May 1999, file ref. no. I SA/Gd 74/99, unpublished.

Thus, despite the fact that the legislator acted in good faith, with the intention of facilitating the exercise of citizens' rights in the difficult period of pandemic, the solutions applied with respect to the possibility of reinstating deadlines other than procedural should in any case be assessed unequivocally negatively and with their prolonged functioning would lead to insecurity in legal transactions and even chaos.

Bibliography

Adamiak B., Borkowski J., *Kodeks postępowania administracyjnego. Komentarz*, Warszawa 2004.

Kędziora R., *Kodeks postępowania administracyjnego. Komentarz*, Warszawa 2005.

Jaśkowska M., Wróbel A., *Kodeks postępowania administracyjnego. Komentarz*, Kraków 2000.

Iserzon E., Starościak J., *Kodeks postępowania administracyjnego. Komentarz, teksty, modele i formy*, Warszawa 1970.

Kodeks cywilny. Komentarz, ed. J. Ciszewski, Warszawa 2013.

Kodeks postępowania administracyjnego. Komentarz, ed. J. Borkowski, Warszawa 1989.

Postępowanie cywilne, vol. 1: *Postępowanie sprawdzające i postępowanie zabezpieczające wierzytelności. Rozdział IX Terminy*, ed. E. Marszałkowska-Krześ, Warszawa 2021.

Jaworski J., *Ustawa o gospodarce nieruchomościami. Komentarz*, Legalis 2021.

Summary

The outbreak of the SARS-CoV-2 virus posed new and urgent challenges to the legislature and administration. The entities responsible for the legislative process in Poland seemed to have succumbed to the atmosphere of panic and introduced into legal circulation solutions that overturned the hitherto binding canons of law regarding the possibility of reinstating deadlines, types of deadlines subject to reinstatement, and requirements related to their reinstatement. These solutions, although adopted in the interest of the parties, in the author's opinion are too radical. Moreover, they turned out to be unnecessary in practice and threaten the lack of security in legal proceedings.

Keywords: COVID-19 epidemic, COVID special act, deadline, reinstatement of deadline

KONCEPCJA PRZYWRÓCENIA TERMINU W SPECUSTAWIE COVIDOWEJ W ŚWIETLE TRADYCYJNYCH ROZWIĄZAŃ PRAWA ADMINISTRACYJNEGO W TYM ZAKRESIE

Streszczenie

Epidemia wirusa SARS-CoV-2 postawiła ustawodawcę i administrację przed nowymi i nagłymi wyzwaniami. Podmioty odpowiedzialne w Polsce za proces legislacyjny uległy atmosferze paniki i wprowadziły do obrotu prawnego rozwiązania obalające obowiązujące dotąd kanony prawa w zakresie możliwości przywrócenia terminów, typów terminów podlegających przywróceniu i wymogów związanych z ich przywróceniem. Rozwiązania te, choć przyjęte w interesie stron, w ocenie autora są zbyt radykalne, a ponadto okazały się zbędne, w praktyce zagrażając jednocześnie brakiem bezpieczeństwa w obrocie prawnym.

Słowa kluczowe: epidemia COVID-19, specustawa covidowa, termin, przywrócenie terminu