RESOLUTIONS – HOW TO ENSURE THE CONSISTENCY OF CASE LAW?

Session 2 „Binding Effects of Supreme Administrative Court Decisions”

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SAC
THE GUARDIAN OF CONSISTENCY

Three Chambers (over 100 judges)
Financial/General
Administrative/Commercial

Cassation appeals
Resolutions

VOIVODSHIP (REGIONAL ADMINISTRATIVE COURTS (16)
BINDING FORCE OF DECISIONS OF THE SAC

Individual (PARTICULAR) CASE

OTHER CASES
RESOLUTION – WHAT IS IT?

• position of the SAC on a certain legal issue (binding interpretation of law – substantive or procedural)
• adopted by enlarged panels
• not a judgement resolving the case

CONSISTENCY of case law
RESOLUTIONS - TYPES

CONCRETE

Legal issue causing serious doubts???

Question?

Binding resolution
RESOLUTIONS - TYPES

ABSTRACT

- President of the SAC
- Public Prosecutor General
- General Counsel to the Republic of Poland
- Commissioner for Human Rights (Ombudsman)
- Commissioner for Small and Medium Entrepreneurs
- Commissioner for Children’s Rights

Differences in jurisprudence

Question?

SAC ENLARGED PANEL
ENLARGED PANELS
7 JUDGES
ENTIRE CHAMBER
FULL PANEL OF SAC

SAC, April 1, 2019
BINDING FORCE OF RESOLUTIONS

ADMINISTRATIVE COURTS ➔ OBLIGATION TO FOLLOW

but

„If you do not agree, ask once more”
Judges (...) shall be independent and subject only to the Constitution and statutes.

Polish Constitution, Article 178 (1)
EFFECTS OF RESOLUTIONS FOR PARTIES

„PROS”

• Legal certainty
• Predictability
• Equality (*pro futuro*)

„CONS”

• NO possibility to reopen the case
• Risk of taking shortcuts (the right to a fair trial)
Constitutional doubts

Limits of interpretation

Resolutions and judgements of CJEU

„HOT SPOTS“/AREAS OF TENSION

No influence of the interested parties

No rules for selection of judges
THANK YOU FOR YOUR ATTENTION!