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Simplified Administrative Enforcement Proceedings as an Instrument for Protecting Human Life or Health³

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Abstract

Simplified proceedings, such as immediate coercion and direct coercion, are the subject of consideration in this study. The discussion focuses on the essence and aspects of proceedings referred to in Article 117 and 150 § 3 of the Act of 17 June 1966 on enforcement proceedings in administration. The aim of the research is to attempt to evaluate simplified proceedings as a tool in the system of protection of the most important human values.

The research mainly used the legal-dogmatic method of interpreting the content and ordering the legal structure. The analytical method was also applied, by means of which analyses were made of legal provisions concerning the basis for the application of the simplified procedures in administrative enforcement proceedings.

From the conducted research, it is clear that the primary goal of these proceedings is to counteract the indicated threats. The collected research material allowed confirming the thesis and presenting a *de lege ferenda* motion regarding the necessity to amend Article 117 of the Administrative Enforcement Act. The changes should consist in waiving the necessity to serve a reminder to the debtor before applying this procedure. The provision currently in force omits such a possibility, and the waiver itself may be the result of the need to save important values in an emergency.

Keywords: law, administration, administrative enforcement, simplified proceedings, immediate coercion, direct coercion.

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Introduction

In the Polish legal system, the standards governing enforcement proceedings can be found among provisions that fall under two different disciplines of law and concern the fulfilment of separate obligations. Private-law obligations are to be fulfilled in line with civil law, while the enforcement of public-law (statutory) obligations is carried out under administrative law. This results in a split into judicial (civil) and administrative enforcement proceedings.

In judicial proceedings, enforcement cases fall under the jurisdiction of district courts and the bailiffs operating at these courts. This type of enforcement proceedings is governed in part three of the act of 17 November 1964 – Code of Civil Procedure.⁴ Article 759 § 1 of the the quoted act stipulates that enforcement activities are performed by bailiffs except for those reserved for the courts. In this case we can speak of a general jurisdiction of court bailiffs. Activities reserved for the courts are, in turn, subject to statutory exemptions, and are carried out by court referendaries (also referred to as court clerks).

The other type is administrative enforcement proceedings the detailed procedure of which is governed by the provisions of the act of 17 June 1966 on administrative proceedings in administration (hereinafter: the AEPA).⁵ The act puts special emphasis on the on the following matters: the way creditors proceed when obliged parties evade their obligations; the proceedings conducted by enforcement authorities and the coercive measures they use to bring about the fulfilment or ensure the fulfilment of obligations; and the rules and manner of maintaining the Register of Public Liabilities and making data from the register available. The analysis of the legal regulations of this normative act reveals a system of enforcement proceedings and proceedings to secure claims.

The framework of executive proceedings provides for so-called ‘summary proceedings’, or procedures initiated in special situations under strictly defined conditions. The subject explored in this paper is summary proceedings – with a particular focus on their essence and specificity. The purpose of this article is to evaluate the effectiveness of application of summary proceedings as tools in the system of protection of the most important human values. The research hypothesis

⁴ Uniform text in the Journal of Laws of the Republic of Poland of 2023, item 1550 as amended.

⁵ Uniform text in the Journal of Laws of the Republic of Poland of 2022, item 479 as amended.

is based on the assumption that summary proceedings are primarily used to bring about the prompt fulfilment of certain duties – in situations where delay in their fulfilment may translate into particular risks, mainly to human life or health. It also needs to be posited that despite their many differences, the two types of proceedings have one goal – which is to respond quickly to specific threats. The research was carried out using mainly the legal-dogmatic method of interpreting content and organising legal structures. It also involved applying an analytical method which made it possible to examine the legal provisions on the grounds for the use of summary proceedings in administrative enforcement proceedings.

The research focused on the provisions of Article 117 relating to immediate enforcement and Article 150 § 3 of the Law on Administrative Enforcement Proceedings, concerning the rules for the use of direct coercion as part of summary proceedings. The issue of summary proceedings arising from the above legal regulations seems particularly relevant because of the subject of protection, but also due to the interference with fundamental human rights and freedoms. All of this, combined with the purpose and essence of administrative enforcement proceedings, calls for an outline of the foundation and intent of the provisions that allow for the omission of extensive enforcement procedures in certain situations.

The essence and purposes of administrative enforcement

In the science of administrative law, it is common to assume that enforcement proceedings are a series of actions governed by procedural law, taken by competent authorities and other entities in order to fulfil the obligations arising from acts subject to administrative enforcement through the use of state coercive measures.⁶ The purpose of administrative enforcement proceedings is to enable enforcement authorities to force relevant parties to behave and act in accordance with the law by fulfilling their monetary or non-monetary obligations previously specified in an administrative or other individual legal act or arising directly from the provisions of the law in force.⁷ The concept of enforcement proceedings is the term with the broadest conceptual range, which includes administrative enforcement.

In the course of administrative enforcement proceedings, administrative enforcement is used as one of the stages of such proceedings. Administrative enforcement is a form of state coercion, the use of which is aimed at ensuring the fulfilment of

⁶ R. Sawuła, *Przedmiotowy i podmiotowy zakres egzekucji administracyjnej*, [in:] L. Żukowski, R. Sawuła (eds.), *Postępowanie administracyjne*. Wydanie III, Przemysł–Rzeszów 2012, p. 339.

⁷ Z.R. Kmiecik, *Postępowanie administracyjne, postępowanie egzekucyjne w administracji i postępowanie sądowo-administracyjne*, IV edition, Warszawa 2017, p. 251.

obligations incumbent on the subjects of the norms of administrative law, thereby guaranteeing the effectiveness of this law and the effectiveness of public administration.⁸ The act on enforcement proceedings in administration defines numerous – usually public-law/statutory – obligations.

The following obligations are subject to administrative enforcement: 1) taxes, fees, and other receivables to which the provisions of Chapter III of the act of 29 August 1997 – Tax Ordinance apply; 1a) non-tax budget receivables to which the provisions of the act of 27 August 2009 on public finance apply; 1b) receivables from privatisation revenues; 2) fines and penalties imposed by public administration authorities; 3) monetary receivables – other than those listed in items 1 and 2 if they fall under the material jurisdiction of public administration bodies; 4) receivables due from budget units, resulting from the application of mutual offsetting of tax liabilities with the liabilities owed by these units; 5) monetary receivables earmarked for administrative enforcement under other laws; 6) payments to earmarked (or ‘special purpose’) funds established under separate regulations; 7) monetary receivables due under special contributions to the Reserve Fund; 8) monetary receivables of a Member State, arising from: a) taxes and duties levied by or on behalf of that Member State, by or on behalf of its territorial or administrative division units – including local bodies, as well as on behalf of the European Union, b) refunds, interventions, and other measures that are part of the total or partial financing system of the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) – including amounts due in connection with these activities, c) fees and other monetary charges established under the European Union’s common market framework for the sugar sector, d) penalties, fines, fees, and administrative surcharges related to monetary receivables referred to in letters a–c, imposed by authorities in charge of collecting taxes and duties or in charge of conducting administrative proceedings concerning taxes and duties, or confirmed by administrative or judicial authorities at the request of authorities responsible for taxes and duties, e) fees for certificates and other similar certification documents issued in administrative proceedings for monetary receivables referred to in letter a, f) interest and costs related to monetary receivables referred to in letters a–e, in connection with which mutual assistance may be requested under the Mutual Assistance Act, g) administrative fines or penalties imposed on an employer posting an employee from the territory of the Republic of Poland in connection with violations of the provisions on the posting of employees as part

⁸ M. Masternak, *Pojęcie egzekucji administracyjnej oraz administracyjnego postępowania egzekucyjnego*, [in:] S. Fundowicz, P. Możyłowski (eds.), *Administracyjne postępowanie egzekucyjne. Na 50-lecie ustawy o postępowaniu egzekucyjnym w administracji*, Radom 2017, p. 7.

of provision of services; 9) monetary receivables earmarked for administrative enforcement on the grounds of ratified international agreements to which the Republic of Poland is a party; 10) non-monetary obligations that remain within the jurisdiction of governmental and local government bodies or earmarked for administrative enforcement under a special provision; 11) obligations in the area of occupational health and safety and the payment of due remuneration for work, as well as other benefits which employees are granted, imposed by decisions of the bodies of the State Labour Inspection; 12) personal data protection obligations imposed by the relevant decision of the President of the Personal Data Protection Office.⁹

The obligations outlined are subject to enforcement in enforcement proceedings and to security in accordance with the procedures and rules set forth in the law in force. Administrative enforcement is applied to obligations arising from decisions or orders of relevant authorities. When it comes to government administration and local government units, the grounds for the application thereof are the provisions of law. Exceptions include situations when a special provision reserves judicial enforcement for the obligations enforced.

Administrative enforcement is a state coercive measure regulated under procedural law, used by public administration bodies when it is possible and necessary to enforce the fulfilment of a due obligation.¹⁰ Administrative enforcement – equated with administrative coercion – involves the use of enforcement measures (i.e. coercive measures) to bring about the forced fulfilment of obligations subject to administrative enforcement.¹¹ The right of public administration bodies to impose administrative sanctions is a means of enforcement of the fulfilment of public obligations. However, such measures have only an effect of coercion, while the purpose of administrative enforcement is to achieve a certain state in social reality that is consistent with the content of the administrative or other act that this enforcement is subject to.¹²

Arriving at the desired state of affairs is sometimes possible through the use of special measures with the omission of standard procedures, which is the case with the aforementioned summary proceedings. Summary proceedings differ in the degree of simplification, the subject and object to which they are applied, the prerequisites for application, and the range of enforcement measures permitted

⁹ Article 2 § 1 of the AEPA.

¹⁰ L. Klat-Wertelecka, *Granice stosowania przymusu egzekucyjnego w administracji*, [in:] J. Supernat (ed.), *Między tradycją a przyszłością w nauce prawa administracyjnego, Księga jubileuszowa dedykowana Profesorowi Janowi Bociowi*, Wrocław 2009, p. 305.

¹¹ A.E. Dalkowska, *Prawne instrumenty skutecznej egzekucji należności publicznoprawnych*, „*Annales Universitatis Mariae Curie-Skłodowska*” 2016, Vol. L, 1, sectio H, p. 216.

¹² R. Sawuła, op. cit., p. 340.

to be used.¹³ The first of the summary proceedings examined is referred to in the relevant literature as police coercion or immediate coercion.

Immediate coercion

The use of immediate coercion is stipulated by Article 117 of the AEPA, according to which “the authorities referred to in Article 20 § 2, within the limits of their jurisdiction to impose non-monetary obligations, may use the enforcement measures indicated in Article 1a item 12 letter b, second, third, and fifth indents also for the purpose of enforcing directly issued oral orders, without the need to issue an enforcement order with a writ of execution and serve the obliged party with a decision on the application of the enforcement measure, if the delay in fulfilling the obligation would pose a threat to human life or health or severe damage to the national economy, or if a public interest of special significance so requires”. The scope of the obligation subject to summary enforcement proceedings stems from the oral order of an administrative authority – not from an enforcement order with a writ of execution.¹⁴ The idea of immediate coercion is that in states of emergency, certain authorities – listed in the act – may use certain enforcement measures making use of summary proceedings.¹⁵

When acting to force obliged parties to fulfil their non-monetary public obligations, enforcement authorities may take advantage of a range of various enforcement measures. It seems reasonable to pose the following question at this point: do all enforcement authorities pursuing the fulfilment of non-monetary public obligations have the right to use immediate coercion? It follows from the cited provision that the right to use immediate coercion is vested in selected entities – and only in cases specified by specific acts. These entities include any body of the Police, the Internal Security Agency, the Foreign Intelligence Agency or the Border Guard, the President of the Personal Data Protection Office, the State Labour Inspection authority issuing the decision in the first instance, the fire department authority in charge of rescue operations, as well as other authorities established to protect the peace, security, order, public health or property.

The aforementioned bodies and authorities have the right to apply selected measures of enforcement of non-monetary obligations in immediate proceedings. Immediate coercive measures include substitute execution, seizure of movable

¹³ Z.R. Kmiecik, op. cit., p. 275.

¹⁴ P. Przybysz, *Postępowanie egzekucyjne w administracji. Komentarz. 8 wydanie*, Warszawa 2018, p. 581.

¹⁵ W. Sawczyn, Z. Leoński, *Przymus bezpośredni*, [in:] R. Hauser, A. Skoczyła (eds.), *Postępowanie egzekucyjne w administracji. Komentarz, 9 wydanie zmienione i uzupełnione*, Warszawa 2018, p. 596.

property, and direct coercion. These are the enforcement measures which involve most direct interference with the civil rights of the subjects of the enforcement proceedings. Their use is motivated by a higher purpose – the protection against threats to human life or health or severe damage to the national economy or a public interest of special significance.¹⁶ The coercion in question is aimed at enforcing directly issued oral orders, while the simplification of proceedings consists in the non-issuance of an enforcement order with a writ of execution and the absence of any obligation to serve the obliged party with the order for the application of an enforcement measure.

It should be noted, however, that the legislator does not neglect here the obligation to serve the obliged party with a warning notice, thus acting in line with the principle of threat. The above should be considered as a legislative inconsistency on the part of the legislator because given the purpose of the legal institution analysed, the requirement that the creditor serve a warning notice would deprive the enforcement authorities of the possibility of immediate use of enforcement measures (including direct coercion under this provision) despite the existence of relevant grounds – Including the occurrence of a threat to human life or health.¹⁷ In contrast to Article 150 § 3, there is also the absence of the need to verbally summon the enforcement authority to carry out an obligation under the law in a situation of direct coercion. Under these circumstances, it seems reasonable to warn the obliged party before initiating the procedure of enforcement that if they do not fulfil their obligation, direct coercive measures will be used.

This type of summary proceedings is only applicable when important human values – such as human life and health – are threatened. Such proceedings can also be applied when there is a threat of severe damage to the national economy. The third instance in which it is permissible to take enforcement action in the form of summary proceedings is when it is justified by a public interest of special significance. Analysing the provisions concerning immediate coercion, it is not difficult to come to the conclusion that while the state of threat to human life and health is a measurable and easily diagnosed phenomenon, the criteria of severe damage to the national economy or public interest of special significance are undefined expressions that may be subject to various interpretations. In such circumstances, the activities undertaken by competent bodies take the form of discretionary authority, which in turn involves the risk of excessive interference with fundamental human rights and freedoms. To act within the boundaries of the law in

¹⁶ Ibidem, p. 597.

¹⁷ I. Jaworska, *Stosowanie przymusu bezpośredniego w postępowaniu egzekucyjnym w administracji*, „Studia Prawno-Ekonomiczne” 2017, CIV(104), Łódź 2017, p. 51–52.

force, administrative enforcement must, on the one hand, guarantee the security of the public interest, while on the other hand, protect the interest of the individual.¹⁸

One of the enforcement measures applicable under immediate coercion is substitute execution, the aim of which is purely to satisfy the unfulfilled obligations. Substitute execution is taken advantage of when enforcement concerns an obligation to perform an act that can be ordered to be performed by another person for the obliged party and at that party's expense.¹⁹ The basic prerequisite for the application of this measure as part of summary proceedings is the possibility of occurrence of threat to human life or health or other values specified in the AEPA and the concern that delay in action could result in harmful consequences. This enforcement measure can only be used in situations where the fulfilment of an obligation is not purely personal, i.e. when another entity can fulfil it for and on behalf of the party actually obliged.

Enforcement in summary proceedings can sometimes take the form of a measure referred to as the seizure of movable property. According to Article 136 §1 of the AEPA, if the obliged party evades the obligation to hand over a designated movable asset, the asset may be taken from them by the enforcement authority in order to hand it over to the creditor. This includes the obligation to release items for a certain period of time. In this case, enforcement may concern a movable item of a certain kind or type, as well as a situation of the existence of an obligation to destroy an item for sanitary or social reasons. Here, although the movable asset may be in the possession of entities other than the party obliged, it is also subject to seizure. The seizure of a movable asset with omission of standard proceedings must satisfy the criteria set for immediate coercion.

The literature very often uses the expression 'immediate coercion' in relation to the special form of direct coercion. This type of summary proceedings is grounded in Article 150 § 3 of the AEPA and, given its prominence, shall be analysed carefully in detail.

Direct coercion

The analysis of summary proceedings requires focusing in particular on the nature and possibilities of direct coercion exercised by authorised entities. "Direct coercive measure" developed as a separate concept through the transformation of the activities of the police, which had to have a tool to enforce the obedience of citizens in

¹⁸ L. Klat-Wertelecka, *op. cit.*, p. 313.

¹⁹ Article 127 of the AEPA.

peaceful conditions.²⁰ The fact that the state has the right to exercise mechanisms of coercion is sometimes also considered a quality of unilateral shaping of the legal situation of the subjects of administrative actions.²¹ This coercion takes usually two forms – administrative punishment and administrative enforcement. It should be emphasised that the very concept of administrative enforcement contains the most significant element of coercion, applied to implement the relevant legal standard.²² This element of coercion is most evident in the application of direct coercion and in the use of the means and measures of direct coercion. It is enforcement as a form of administrative coercion that reveals the rich range of coercive measures designed to compel the party obliged to perform their obligation.²³

The set of the statutory enforcement measures available suggests that direct coercion finds its application in enforcement proceedings concerning non-monetary obligations. It is – along with fines for coercion, substitute execution, seizure of movable property, seizure of real estate, and vacating premises – the most oppressive but at the same time the most effective tool to bring about the fulfilment of the indicated obligations. It is an enforcement measure that aims to satisfy the unfulfilled obligations.²⁴ The use of direct coercion itself is a factual (material-technical) action taken by the relevant (competent) enforcement authorities.

According to Article 148 of the AEPA, “Direct coercion consists in bringing about the performance of an enforceable obligation through the threat of application or through an actual application of directly effective measures – including physical force – to eliminate the resistance of the obliged party and the resistance of other persons who stand in the way of the performance of the obligation in question”. This means that the solution can be applied not only to the party obliged but also to persons who are not subjects or participants in the enforcement proceedings. The legislator stipulated that “in particular, direct coercion shall be applied to make the obliged party leave real estate or premises, release assets, abandon activities or not disturb another person in the exercise of their rights, as well as in cases where, due to the nature of the obligation, the use of other enforcement measures

²⁰ A. Chodorowska, J. Stopińska, *Stosowanie środków przymusu bezpośredniego w świetle przepisów prawa polskiego*, [in:] P. Stanisz, M. Czuryk, K. Ostaszewski, J. Świącicki (eds.), *Sprawność a legalność działania administracji publicznej w sferze ochrony porządku i bezpieczeństwa publicznego*, Lublin 2014, pp. 284–285.

²¹ K.M. Ziemiński, *Podział form prawnych działania administracji na działania władcze i niewładcze*, [in:] R. Hauser, Z. Niewiadomski, A. Wróbel (eds.), *System prawa administracyjnego. Prawne formy działania administracji. Tom 5*, Warszawa 2013, p. 57.

²² A. Skoczylas, *Pojęcie i rodzaje przymusu administracyjnego*, [in:] R. Hauser, Z. Niewiadomski, A. Wróbel (eds.), *System prawa administracyjnego. Prawo procesowe administracyjne. Tom 9*, Warszawa 2010, p. 312.

²³ J. Radwanowicz, *Metoda przymusu administracyjnego*, [in:] J. Łukasiewicz (ed.), *Nauka administracji wobec wyzwań współczesnego państwa prawa*, Rzeszów–Cisna 2002, p. 457.

²⁴ J. Służewski, *Postępowanie administracyjne*, Warszawa 1974, p. 189.

is not possible". This measure is also applied in situations provided for in the footnotes included in other acts.

The enforcer may also use direct coercion in the course of enforcement proceedings that have been initiated for the application of another enforcement measure listed under Article 1a item 12 letter b, when this enforcement measure has proved ineffective, and the application of direct coercion may result in the fulfilment of the enforced obligation.²⁵ Such an approach results in a distinction between the use of direct coercion as the primary means of enforcement or as a means that supplements or substitutes other measures used in the enforcement of non-monetary obligations. In such circumstances, this measure is ancillary and used only when other measures fail – to make sure the actions undertaken are effective.

The enforcer, proceeding with enforcement actions, shall serve the obliged party: a copy of the enforcement order with a writ of execution (if it has not been previously served) and a decision of the enforcement authority to summon the obliged party to fulfil the obligation indicated in the enforcement order, with a warning of use of direct coercion.²⁶ In this situation, the obliged party may take advantage of legal remedies such as the right to object to the conduct of enforcement proceedings, as well as the possibility of filing a complaint against the decision to use the enforcement measure applied.

Finally, it is important to consider the third function of this enforcement measure – that of summary proceedings applied in emergency situations. The basis for such action is the aforementioned Article 150 § 3 of the AEPA, which stipulates that "if delay in the fulfilment of an obligation may endanger health or life or cause an inability or significant impediment to the obliged party's fulfilment of their obligation, as well as in other cases specified in separate regulations, direct coercion of the obligation required under the law may be immediately applied after the relevant enforcement authority requests the obliged party orally to fulfil the obligation in question, without a prior warning served to the obliged party and without serving them with a copy of the enforcement order with a writ of execution and an order calling them to fulfil the obligation". Under this procedure, direct coercion applies only in situations prescribed by law; individual administrative acts cannot serve as the grounds for its application.

The essence of such proceedings is to prevent the emergence of threats to life or health, but also to limit the possibility of the obliged party's effective evasion of their obligations. A distinguishing feature thereof is the possibility to omit the procedures used in standard proceedings – in particular the so-called pre-initiation

²⁵ Article 151 of the AEPA.

²⁶ *Ibidem*, Article 150 § 1 in conjunction with Article 32 of the AEPA.

activities. It appears that values of lesser importance are sacrificed in order to secure or uphold those that rank higher in the hierarchy.

When applying this measure, it is important to keep in mind the principles governing enforcement proceedings – especially the principle of respect for human dignity. This is of particular importance due to the nature of this measure, which is particularly repressive and interferes with the freedom of an individual against whom it is applied. According to the provisions of the Constitution of the Republic of Poland, “freedom of the person shall receive legal protection. Everyone shall respect the freedoms and rights of others. No one shall be compelled to do that which is not required by law”.²⁷ In addition, the measure in question should always aim at the least possible damage to the interests of the subject against whom the measure is applied.²⁸ The condition for such restrictions is expressed in the law in force and takes the form of the need to ensure public safety or order, the protection of the environment, public health and morals, or the freedoms and rights of others. The main purpose of enforcement proceedings is to bring about the fulfilment of the required obligations, which means that coercion is used only until a specific obligation is fulfilled as expected.

The correct use or application of means of direct coercion depends on compliance with the rules and recommendations indicated explicitly or implicitly in the law as to the manner of implementation and course of the activities found within the scope of direct coercion, referred to as the principles of use of such means.²⁹ The act of 24 May 2013 on direct coercion and firearms³⁰ can serve as the source of the principles of the use or application of direct coercive measures – such as competence, warning, expediency, necessity, minimisation of effects, or special caution. Due to the volume limitations of the paper, the aforementioned principles will not be analysed.

It should be emphasised that the Act on Enforcement Proceedings in Administration refers to direct coercive measures very generally, indicating the possibility of making use of “effective measures – including physical force”. It is only the statutory provisions on individual enforcement authorities that specify the forms and possibilities for the use of direct coercive measures. From this perspective, it

²⁷ Article 31 (1) and (2) of the Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws of the Republic of Poland no. 78, item 483 as amended).

²⁸ A. Skoczylas, *Środki egzekucji administracyjnej*, [in:] R. Hauser, Z. Niewiadomski, A. Wróbel (eds.), *System prawa administracyjnego. Prawo procesowe administracyjne. Tom 9*, Warszawa 2010, p. 455.

²⁹ L. Dyduch, *Zasady użycia lub wykorzystania środków przymusu bezpośredniego*, [in:] L. Dyduch, K. Świerczewski, W. Biedrzycki (eds.), *Użycie lub wykorzystanie środków przymusu bezpośredniego przez policjantów*, Legionowo 2014, p. 26.

³⁰ Uniform text in the Journal of Laws of the Republic of Poland of 2023, item 202 as amended.

becomes important to pay attention to the entities that are referred to in the AEPA as authorities of enforcement of non-monetary obligations.

The enforcement authority for administrative enforcement of non-monetary obligations can be: 1) a province governor; 2) the competent authority of a local government unit with respect to its own tasks, delegated tasks, government administration tasks, as well as obligations arising from decisions and orders issued in the area of public administration by local government organisational units; 3) the head of a provincial service, inspection or guard with respect to obligations arising from decisions and orders issued on its own behalf or on behalf of the provincial governor; 4) the head of a regional service, inspection or guard with respect to obligations arising from decisions and orders issued within its competence.³¹ In cases indicated in specific laws, authorities of enforcement of non-monetary obligations also include numerous administrative police bodies. The legislator names especially any body of the Police, the Internal Security Agency, the Foreign Intelligence Agency or the Border Guard, the President of the Personal Data Protection Office, the State Labour Inspection authority issuing the decision in the first instance, the fire department authority in charge of rescue operations, as well as other authorities established to protect the peace, security, order, public health or property. The enforcement authority for administrative enforcement of non-monetary obligations arising from government administration decisions issued by state enterprises and other state organisational units, cooperatives, as well as by associations, professional and local government organisations, and other community organisations is the province governor.

Although certain public tasks have been shifted to the private sector or outsourced to entities generally from outside the public administration domain, the relevant regulations in force do not allow these entities to make use of enforcement measures – especially direct coercion. Exception include, for instance, situations provided for in the act on security of mass events,³² which stipulates that event safety personnel may use direct coercion.³³ Based on the analysis of the source material and more than fifty years of experience with the current Act on Enforcement Proceedings in Administration, it seems appropriate to conclude that the list of authorities competent to use direct coercion is fairly complete. The system so designed

³¹ Article 20 § 1 of the AEPA.

³² Act of 20 March 2009 on security of mass events (uniform text in the Journal of Laws of the Republic of Poland of 2023, item 616).

³³ According to Article 21 section 2 of the act of 20 March 2009 on security of mass events, “in the cases referred to in Article 11 items 1 and 2 of the act of 24 May 2013 on direct coercion and firearms, event safety personnel may use the direct coercion measures referred to in Article 12 section 1 item 1 letters a) and b), item 2 letter a), and item 12 letter a) of that act”.

guarantees the effectiveness of enforcement, as well as control of said authorities' discretionary interference with human rights.

When making use of direct coercion in a special manner, it is important to keep in mind the subjective restrictions that stem mainly from Articles 14 and 153 of the AEPA. This means that execution may not be applied against persons who have diplomatic privileges and hold immunities (immunity from execution) or are outside the country. Even if these persons waive such privileges or immunities, it is impossible to use enforcement measures – including direct coercion – against them. Restrictions also apply to soldiers and officers of the services listed in the act.³⁴ The application of direct coercive measures is subject to the prohibitions imposed by provisions concerning persons who are pregnant or cannot be subjected to such measures due to their age or health.

The existing numerous restrictions on the use of direct coercion are designed to protect basic human rights and freedoms from undue interference on the part of public administration. In the case of uniformed officers, it is a matter of preserving their dignity and the application of this measure by those with adequate training, so that the resistance can be effectively overcome. The use of summary proceedings leads to the shortening of the duration of enforcement in special situations that require a quick response from authorised bodies provided that the standards guaranteed by the law are followed and adhered to.

Final remarks

According to Z. Leoński, "enforcement is the state's performance of a certain activity that can be carried out with the use of various forms".³⁵ In carrying out this activity, enforcement authorities are allowed to use a variety of enforcement measures, but they also have the right to undertake administrative enforcement

³⁴ In line with Article 153 § 1 of the AEPA. Direct coercion against a soldier in active military service or an officer of the Police, the State Protection Service, the Internal Security Agency, the Foreign Intelligence Agency, the Military Counterintelligence Service, the Military Intelligence Service, the Central Anti-Corruption Bureau or the Border Guard may be applied only by the Military Gendarmerie or a military policing authority or a body of the Police, the State Protection Service, the Internal Security Agency, the Foreign Intelligence Agency, the Military Counterintelligence Service, the Military Intelligence Service, the Central Anti-Corruption Bureau or the Border Guard, respectively. § 2. The provision of § 1 shall not apply when, for sanitary or other social reasons, there is a need for immediate execution of the enforced duty, and the Military Police or military order authority or the competent authority of the Police, the State Protection Service, the Internal Security Agency, the Intelligence Agency, the Military Counterintelligence Service, the Military Intelligence Service, the Central Anti-Corruption Bureau or the Border Guard is not on site.

³⁵ Z. Leoński, *Istota administracyjnych czynności egzekucyjnych w świetle przepisów ustawy z 17 czerwca 1966 roku, „Ruch Prawniczy, Ekonomiczny i Socjologiczny” 1969, 31(3), p. 57.*

in emergency situations, disregarding the procedures prescribed by the law in force. Summary proceedings is the simplest and most effective way to have an obliged party fulfil their obligations in situations of significant threats.

The use of immediate and direct coercion results from the need to protect human life and health, and safeguard the vital interests of the state and society. When comparing the two solutions, it appears that there are specific differences in the regulations as to the issue of protection of specific states and values. In the case of immediate compulsion as set forth in Article 117 of the AEPA, its purpose is to protect the national economy from severe damage and to safeguard a public interest of special significance. Direct coercion applied under Article 150 § 3 of the AEPA, in turn, aims to bring about the immediate fulfilment of an obligation when delay may result in the impossibility or significant impediment to the obliged party's performance of the obligation in question. It can also be used in other cases defined in separate regulations.

What both types of proceedings have in common is the overarching goal of countering possible threats to human life or health. The extensive analysis of the research material carried out proves that the claim that summary proceedings mainly serve to bring about the fulfilment of obligations which may result in significant threats to human life or health if delayed is correct. From this point of view, it seems justified to omit certain procedures – which are the rights granted to the obliged party – in order to avert and prevent dangers to higher human values of life and health. The restriction of the set of entities authorised to make use of summary proceedings – with a clear narrowing of the number of enforcement bodies that can use immediate coercion – is especially noteworthy.

The legal inconsistencies raised and addressed in the paper result in the need to offer a conclusion *de lege ferenda* on the necessity of amendments to Article 117 of the AEPA. The changes should consist in waiving the need for the obliged party to be served a reminder before initiating the proceedings in question. The current provision omits such a possibility, and the waiver itself may be the result of the need for emergency rescue of essential values.

The final conclusion is that simplified proceedings, despite their extraordinary form, are a guarantee of the effectiveness of enforcement authorities in situations beyond ordinary situations. The rational use of immediate and direct coercion makes it possible to address – and prevent – significant threats to humans. Despite some restrictions on the rights of the obliged party, the use of summary proceedings is fully legitimate – especially for the purpose of the protection of human health and life.

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