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CONDITIONS FOR THE REINSTATEMENT OF THE STATUTE OF LIMITATIONS IN CIVIL COURT PROCEEDINGS AND IN GENERAL ADMINISTRATIVE PROCEEDINGS (COMPARATIVE REMARKS)

1. INTRODUCTORY REMARKS

All proceedings before the organs of public administration and the administration of justice are characterized by formalism, which is a necessary prerequisite for respecting the principle of equality of both interested parties. Another aspect of this formalism is – both in civil court proceedings and in general administrative proceedings – adherence to a time limit concerning undertaking certain actions by participants in legal proceedings. The fact that in the aforementioned legal procedure the legislator clearly stipulated the ineffectiveness of an act which was not made within the requisite time limit (Art. 167 of the code of civil proceedings), while in the general administrative proceedings this sanction which is in a doubtless and unequivocal way derived from the regulations of the code of administrative proceedings[1] allows for further far-reaching comparisons. They are

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[1] Cf. R. KĘDZIORA, *Ogólne postępowanie administracyjne*, Warszawa 2008, p. 157. At the same time, it is pointed out in jurisdiction that infringing the regulations of administrative procedure establishing final dates for actions in connection with legal proceedings consisting in conducting appeal proceedings by the second instance, despite an appeal beyond the time limit and there was no basis to reinstate the time limit is gross infringement of law in the understanding of Art. 156 § 1 item 2 of the code of administrative proceedings and is at the same time the basis to declare invalidity of an

not contradicted by different characters of the procedures themselves and the time limits stipulated in them or the fact that the subject of the analysis will be both the court procedures and the proceedings before the organs of public administration. Including the latter to the present paper will enrich it as the court administrative procedure in the subjective scope largely copies the solutions adopted in civil proceedings.[2]

In the analyzed proceedings, the legislator consistently perceived a possibility of not adhering to a time limit caused by reasons independent of the parties interested. Acknowledging procedural formalism in such cases – which is assumed to serve the interests of the parties – would unfairly burden the latter with negative consequences, the legislator allowed for the possibility of reinstating the time limit.

2. REINSTATING TIME LIMITS

The source of the time limit in the procedures under discussion can be both the law itself and a decision of the procedural organ; besides, the source of the time limit in civil proceedings can be the will of the parties.[3] Courts or administrative organs have no influence on the binding nature and length of the statutory time limit; in particular, they can neither extend or shorten it.[4] Those time limits follow from the regulations of the code and they start at the moment indicated in the former. On the other hand, the time limits established by the procedural organ, which are called court deadlines in civil proceedings[5] and official deadlines in administrative proceedings,[6] start running at the moment they are announced or when a decision on the establishment of the time limit is delivered. Regulations of the code of civil procedure clearly allow for their lengthening or shortening by the chairman on the motion justified by an important cause and lodged before the

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administrative decision (cf. The resolution of the Supreme Administrative Court from 12.10.1998, "Orzecznictwo Naczelnego Sądu Administracyjnego" 1999, No. 1, item 4 and the Decision of the Supreme Administrative Court from 14.04.1999, I SA 1823/98, "Orzecznictwo Naczelnego Sądu Administracyjnego" 2000, No. 2, item 70).

[2] The most important difference seems to be the admissibility of appealing against the decisions in the field of reinstatement of time limit (Art. 86 § of the Act of 30 June 2002 on Proceedings before Administrative Courts, "Dziennik Ustaw" [Journal of Laws] 2002, No. 153, item 1270, as amended), which is excluded in civil procedure.

[3] M. WALIGÓRSKI, *Polskie prawo procesowe cywilne. Funkcja i struktura*, Warszawa 1947, p. 598.

[4] R. KĘDZIORA, *Ogólne postępowanie administracyjne*, p. 157.

[5] Art. 164 of the code of civil proceedings.

[6] Cf. A. WRÓBEL, [in:] M. JAŚKOWSKA, A. WRÓBEL, *Kodeks postępowania administracyjnego. Komentarz*, Kraków 2005, p. 391, R. KĘDZIORA, *Ogólne postępowanie administracyjne*, p. 157.

deadline passes (Art. 166 of the code of civil proceedings). There is no analogous normative solution in the administrative procedure although it is assumed that if the authority that established the official time limit is its administrator, then it can extend or shorten the appointed time for important reasons on the justified motion of the party lodged before the time limit passes.[7] Moreover, the functioning of the principle of the objective truth in these proceedings allows for the recognition of the action performed after the expiration of the official time limit as effective if the interest protected by the aforementioned principle speaks for it.

The procedures under analysis allow for the extension of time limits set either by the court or by administrative organs as well as of the time limits fixed by the law. Extended (or "reinstated") time limits are characterized by the fact that although they have technically expired, the activity for which they were anticipated can be effectively undertaken should the court or an organ so decide.

In the field of civil proceedings, reinstated time limits may only be those which are provided for the actions connected with legal proceedings of the parties and participants in the proceedings which have their source in the law[8] or a decision of aprocedural organ. Not all statutory time limits, however, can be reinstated. After a year has passed since the failure to comply with a mandatory time limit obligatory for the court, reinstated time limits subject to extension or reinstatement are transformed into relatively fixed time limits. This modification follows from the norm included in Art. 169 § 4 of the civil code, according to which the reinstatement of the expired time limit after one year is permissible only in exceptional cases. This means that each procedural time limit which can potentially be reinstated becomes fixed one year after it has expired unless an exceptional case should occur. Absolutely fixed time limits are all instructive time limits, which are the time limits for the court, although they are procedural time limits following from the law. The impossibility of their reinstatement follows from the fact that the action performed by the procedural organ after the instructive period retains its effectiveness. The code of civil procedure , on the other hand, does not contain any such absolutely fixed time limits.

In general administrative proceedings, the party interested can also demand the reinstatement of both statutory and official time limits in order to perform proce-

[7] R. KĘDZIORA, *Ogólne postępowanie administracyjne*, p. 157.

[8] On the other hand, there are also absolutely fixed statutory time limits provided for the parties, e.g. a 5-year period since the validation of a judgment provided for lodging an appeal to institute the trial a novo (art. 408 of the code of civil proceedings) or a 2-year period since the validation of a decision to lodge an appeal from the statement of the unlawfulness of a valid decision. Cf. the decision of the Supreme Court from 15.06.2007, I CNP 28/07, "Orzecznictwo Sądu Najwyższego Izba Cywilna" 2008, No. C, item 61.

dural actions. It is not admissible to reinstate time limits of a substantive character, e.g. the time limit to state invalidity of a decision (Art. 156 § 2 of the code of administrative proceedings) or the time limits to sue for damages (Art. 160 § 6 of the code of administrative proceedings).[9] Time limits for procedural actions performed by the organs of public administration, which in their function refer to instructive time limits in civil proceedings, are not subject to reinstatement either.[10]

3. PREREQUISITES TO REINSTATE THE TIME LIMIT

3.1. FORMAL REQUIREMENTS FOR A MOTION TO REINSTATE THE TIME LIMIT

A motion to reinstate the time limit should satisfy the applicable formal requirements for such a motion, the fulfillment of which is determined by a further examination of the motion in view of its admissibility and relevance. In the event of finding some formal failures, the chairman or the administrative organ will advise the movant to cure such defects within one week. In civil proceedings, the penalty for failing to cure the defective motion is returning the motion in the form of the chairman's order, whereas in administrative proceedings it is leaving the request unexamined, which takes the form of a notation in the files or a note included with the reasons in the protocol (in case the request was lodged orally). A motion returned because of formal defects that were not corrected or supplemented does not have any consequences that are connected with lodging a written statement of claim in a court action (Art. 130 § 1 and 2 of the code of civil proceedings).

The motion for reinstatement of the time limit lodged in civil proceedings is connected with heightened formal requirements, exceeding those necessary for similar request made in administrative proceedings. The formal requirements for a motion to reinstate the time limit lodged in civil proceedings include the following:

a) keeping the conditions of a written statement of claim in a court action;

as generally stipulated in art. 126 of the code of civil proceedings for each kind of a written statement of claim in a court action, as specially and exclusively stipulated for a motion for reinstatement of the time limit, i.e.:

– substantiation of the circumstances justifying the motion (Art. 169 § 2 of the code of civil proceedings), i.e. setting forth the excusing circumstances:

– admissibility of the motion (above all, related to keeping the time limit),

– lack of guilt in failing to comply with the time limit.

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[9] B. ADAMIAK, [in:] B. ADAMIAK, J. BORKOWSKI, *Kodeks postępowania administracyjnego. Komentarz*, Warszawa 2004, p. 291.

[10] R. KĘDZIORA, *Ogólne postępowanie administracyjne*, p. 158.

b) a simultaneous action in connection with legal proceedings which was not undertaken within the time limit (Art. 169 § 3 of the code of civil proceedings); this action is also subject to assessment regarding the fulfillment of formal requirements; in case of some defects, the chairman calls the party to correct it or supplement under penalty of returning the motion for reinstatement of the time limit.

A request for reinstatement of the time limit in administrative proceedings is directed to the appropriate authority in the form of an application within the meaning of Art 63 of the code of administrative proceedings. Naming the application as "a request for reinstatement of the time limit" does not have – as in civil proceedings – any importance in qualifying the application by the authority which assesses the essence of the request in accordance with its content.[11] The will of the party interested expressed in the content of the document should be clear and understandable to the authority, whereas the form of the request is of lesser importance. It can be included in a separate document or in the content of another document (e.g. an appeal, a complaint) for the lodging of which the failed time limit was determined. It can also be orally entered in the protocol.[12] Therefore, it suffices if the interested party cites the argumentation excusing the fact of exceeding the time limit and expresses their will to have the matter examined despite the delay; on the other hand, it does not matter in what form (including the oral one) this will is expressed.[13] However, contrary to the practice in civil procedure, the requirement for simultaneous performance of an action in connection with legal proceedings for which a time limit was fixed is not a formal condition for the motion, the non-fulfillment of which would result in leaving the motion to be examined. In such a case, the authority refuses to reinstate the time limit.[14]

The merits of the content included in the motion is not assessed at the initial stage of examining it in formal respects. If no such content is included in the motion at all, then the party should be called to supplement it. On the other hand, the

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[11] R. KĘDZIORA, *Ogólne postępowanie administracyjne*, p. 158.

[12] Cf. The decision of the Supreme Administrative Court from 14.05.1998, IV SA 1153/96, *System informacji prawnej LEX* [Computer legal research system LEX], No. 45637.

[13] Z. R. KMIECIK (*Strona jako podmiot oświadczeń procesowych w postępowaniu administracyjnym*, Warszawa 2008, p. 245) accepts the presumption that performing an action after the time limit, the party asks to have it reinstated. He indicates, however, that even such an interpretation does not free the party from the duty to substantiate the lack of guilt in failing to comply with the time limit. Nevertheless, the judiciary clearly emphasizes the requirement for the party interested to express the request for reinstatement of the time limit. Cf. the decision of the Supreme Administrative Court from 5.06.1998, II SA 567/98, *System informacji prawnej LEX* [Computer legal research system LEX], No. 41412.

[14] A. WRÓBEL, [in:] M. JAŚKOWSKA, A. WRÓBEL, p. 403.

movant cannot be called under the penalty of returning the motion or leaving it unexamined to supplement the cited but unconvincing argumentation supposed to substantiate the relevance of the motion.

3.2. CONDITIONS FOR THE ACCEPTANCE OF A MOTION FOR REINSTATING THE TIME LIMIT

The motion for reinstatement of the time limit lodged in civil proceedings is subject to assessment from the point of its admissibility as well. Recognizing the motion as inadmissible results in issuing an unenforceable decision on rejecting the motion (Art. 171 of the code of civil proceedings).

The motion for reinstatement of the time limit should be recognized as inadmissible if:

a) failing to comply with the time limit is not followed by any negative consequences for the party (Art. 168 § 2 of the code of civil proceedings), which occurs when the fact of not performing an action does not have a negative effect on the legal situation of the party, e.g. due to the possibility of replacing a delayed action with another action of the same effect;[15]

b) a week has passed since the disappearance of the cause of failing to comply with the time limit (Art. 169 § 1 of the code of civil proceedings);

c) due to the state of the case, the reinstatement of the time limit became moot and as such pointless;

d) the party petitions for reinstatement of the time limit to lodge an appeal from a sentence proclaiming the nullification of a marriage, a divorce or the nonexistence of a marriage if at least one party contracted a new marriage after the sentence became valid;

e) the party petitions for reinstatement of a stage of the proceedings and not the time limit connected with legal proceedings.

It is also inadmissible on the ground of civil proceedings to reinstate the time limit exclusively in order to pay the court fee, since the latter is not a separate legal action but a constituent of a legal action. Introducing a remedy at law is an independent legal action which should fulfill definite formal requirements and

[15] Negative consequences do not result, for example, from: the fact of not submitting an answer to the appeal because submitting such a document is a facultative action and the law does not bind its abandonment with any legal consequences negative for the party (except economic issues); besides, the party to be sued can present their position together with citing factual circumstances and evidence during a trial; formal defects of the claim that was returned because the latter does not bring any consequences that the law binds with lodging it in court; hence it can be lodged in the same case again unless the claim is subject to limitation due to the return of the claim.

should be paid duly. The possibility of reinstating the time limit, on the other hand, concerns a legal action, and not the elements making its form. For those reasons, reinstatement of the time limit exclusively in order to pay the court fee or to supplement formal defects of the remedy at law is pointless since the unpaid remedy at law was already rejected; then, all legal consequences connected with introducing it are erased.[16]

Separating the aforementioned prerequisites of the admissibility of a motion for reinstatement of the time limit is justified by a decision to refuse the motion due to the fact that such prerequisites were not satisfied. Such a decision, on the other hand, is not pronounced on the grounds of administrative proceedings, which does not, however, mean that none of the above requirements has to be satisfied in such proceedings. On the contrary, a request for reinstatement of the time limit in administrative proceedings should be lodged within seven days since the cause of failing to comply with the time limit ceases to exist (Art. 58 § 2 of the code of administrative proceedings); besides, it should concern a time limit subject to extension or reinstatement, and not, for example, a stage of the proceedings. No regulation of the code of administrative proceedings, on the other hand, stipulates that a negative effect of failing to comply with the time limit should be a condition of reinstating the time limit as is required by Art 168 § 2 of the code of civil procedure.[17] Hence, administrative procedure accepts a broad interpretation, which is positive for the party, of the "negative effects" of failing to comply with the time limit identified with the loss of the possibility to effectively perform an action.[18] In any case, the fact that these requirements have not been fulfilled does not justify issuing a decision which is separate in its content. As in the case of an unjustified motion, the authority in such a case issues a decision on refusing to reinstate the time limit.

3.3. CONDITIONS FOR THE RELEVANCE OF A MOTION

The conditions to allow a motion for reinstatement of the time limit in the analyzed procedures include the following:

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[16] Cf. The decision of the Supreme Court from 9.07.2008, V CZ 44/08, "Orzecznictwo Sądu Najwyższego Izba Cywilna. Zeszyt dodatkowy" 2009, No. 2, item 55.

[17] Nevertheless, E. Iserzon states that a condition to reinstate the time limit is the statement that a loss of the procedural right, which – from the point of view of the party – can have a negative effect on the decision (E. ISERZON, [in:] E. ISERZON, J. STAROŚCIAK, *Kodeks postępowania administracyjnego. Komentarz, teksty, wzory, formularze*, Warszawa 1970, p. 133).

[18] Z. R. KMIECIK, *Strona jako podmiot oświadczeń procesowych*, p. 233.

A. Substantiation of the lack of guilt of the party that did not perform an action within the time limit (Art. 168 § 1 of the code of civil proceedings, Art. 58 § 1 of the code of administrative proceedings), which frees the party from providing strict, doubtless evidence of those circumstances.[19]

A lack of guilt should be assessed in the light of an objective measurer of the care of the person looking after their interests. In administrative proceedings, this measurer is also perceived rigorously as it is accepted that the notion of the lack of guilt in the lack of fulfillment of a procedural action within the time limit includes the existence of an obstacle that the party was not able to overcome using the accessible power and means adequate to the situation.[20] Nevertheless, even then the time limit will not be reinstated if the party was guilty in creating the obstacle.[21] The requirement that the obstacle should last throughout the period stipulated for the performance of the action appears in neither of the analyzed procedures.[22]

The circumstances that may justify the conviction on the lack of guilt in failing to comply with the time limit include the following:

– a natural disaster,

– the party's illness making it impossible to undertake the action within the determined time limit, i.e. when the symptoms of this illness appeared suddenly and made it impossible to perform the action independently, and the party could not be relieved by another person,[23]

– wrong instruction by the court, the authority or the secretariat's worker on the admissibility, manner and time limit of a remedy at law,

– defective proceeding of the court or the authority (e.g. issuing the decision in the form of a sentence instead of a decision, which suggested the admissibility of lodging an appeal at a longer term if the party is not represented by a professional agent).

On the other hand, the factors that do not justify restitution of the time limit are considered to be the following:

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[19] Cf. R. KĘDZIORA, *Ogólne postępowanie administracyjne*, p. 159.

[20] E. ISERZON, [in:] E. ISERZON, J. STAROŚCIAK, *Kodeks postępowania administracyjnego*, p. 136; Z. R. KMIECIK,*Strona jako podmiot oświadczeń procesowych* p. 247. Also, cf. The decision of the Supreme Administrative Court from 25.05.1998, IV SA 2162/96, *System informacji prawnej LEX* [Computer legal research system LEX] No. 43285.

[21] Cf. Z.R. KMIECIK, *Strona jako podmiot oświadczeń procesowych*, p. 247.

[22] E. ISERZON, [in:] E. ISERZON, J. STAROŚCIAK, *Kodeks postępowania administracyjnego*, p. 138; H. KNYSIAK-MOLCZYK, *Uchybienie i przywrócenie terminu w postępowaniu sądowoadministracyjnym*, "Przegląd Sądowy" 2006, No. 7-8, p. 133.

[23] Cf. The decision of the Supreme Administrative Court from 3.12.1998, III SA 1259/98, *System informacji prawnej LEX* [Computer legal research system LEX], No. 44754.

– bad internal organization of the subject, appearing in the character of a party in the scope of the circulation of correspondence,[24]

– culpable activity of the staff used by the person responsible for the performance of the action,[25]

– inability to work which in an of itself does not deprive the party of the possibility to act,

– culpable activity of the legal representative, also when the motion for reinstatement of the time limit is lodged by the party themselves,

– a notice to terminate the power of agency within the time limit unless the representative did not inform the party that the time limit started running,

– ignorance of the law, but only in civil proceedings.[26]

B. The right of action – the motion should be lodged by the subject that was supposed to perform the action in connection with legal proceedings, or by their agent for litigation; hence, the right of action belongs not only to the party but also to all subjects performing legal actions, i.e. – in civil proceedings – the participants in non-litigious proceedings, the entitled person, the obliged person, the curator, the prosecutor, statutory representatives of the parties as well as witnesses or experts introducing a remedy at law in connection with the decisions concerning them; in administrative proceedings, on the other hand, it belongs to each person interested (the party, a participant having the right of the party, other participants) who are entitled or obliged to perform the action in connection with legal proceedings;

C. Additionally, in civil proceedings, the occurrence of an exceptional case in a situation when the motion was lodged a year after the time limit which had expired (Art. 169 § 4 of the code of civil proceedings).

No substantiation of the lack of guilt in failing to comply with the time limit and a lack of the right of action justify a decision on dismissing the motion for

[24] Cf. The decision of the Supreme Administrative Court from 20.08.2001, IV SA 1340/99, *System informacji prawnej LEX* [Computer legal research system LEX], No. 54141.

[25] Cf. B. ADAMIAK, [in:] B. ADAMIAK, J. BORKOWSKI, *Kodeks postępowania administracyjnego*, p. 330.

[26] In general administrative proceedings, the principle ignorantia iuris nocet was radically limited by the principle of informing from Art. 9 of the code of administrative proceedings, which means that ignorance of the law does not justify the lack of guilt of the party in administrative proceedings only when the authority fulfilled all its duties in the sphere of informing the parties. Cf. the sentences of the Supreme Administrative Court from 29.08.1997, III SA 101/96, *System informacji prawnej LEX* [Computer legal research system LEX], No. 30857 and from 10.12.1999, V SA 946/99, *System informacji prawnej LEX* [Computer legal research system LEX], No. 49950.

reinstatement of the time limit lodged in civil proceedings or – in case of administrative proceedings – on refusal to reinstate the time limit.

4. THE POSSIBILITY OF REINSTATING THE TIME LIMIT TO LODGE A MOTION ON REINSTATEMENT OF THE TIME LIMIT

In civil proceedings, there is no clear regulation excluding the admissibility of reinstating the time limit to lodge a motion for reinstatement of the time limit. Hence – due to the procedural and statutory character of this time limit – its reinstatement should be considered as admissible.[27] The subjective issue was regulated differently in general administrative proceedings. Article 58 § 3 clearly stipulates that reinstatement of the time limit to lodge a request for reinstatement of the time limit is not admissible.

5. CONCLUSIONS

The analyzed procedures are characterized by relative similarity in the sphere of prerequisites to reinstate the time limit, with the major differences focusing around the manner of proceeding and deciding upon the subject matter of the motion. The remarks presented above lead to the conclusion that the requirements placed for the person interested in reinstating the time limit are less rigorous in general administrative proceedings where the motion can be lodged orally in the protocol and it is not burdened with the prerequisites of the admissibility of the motion that are as numerous as in civil proceedings.

In both procedures, the motion burdened with formal defects is subject to supplementation or correction within a week, in civil proceedings under the penalty of return (Art. 130 § 2 of the code of civil proceedings), whereas in administrative proceedings under the penalty of leaving the motion unexamined (Art. 64 § 2 of the code of administrative proceedings).

On the other hand, both procedures are similar in having a relatively suspensory character of the motion (request) for reinstatement of the time limit (Art. 172 of the code of civil proceedings, Art. 60 of the code of administrative proceedings) and the possibility of discontinuing the proceedings or execution of the decision or judgment by the authority or the court (in general administrative

[27] M. JĘDRZEJEWSKA, K. WEITZ, [in:] *Kodeks postępowania cywilnego. Komentarz. Część pierwsza. Postępowanie rozpoznawcze*, vol. 1, ed. T. ERECIŃSKI, Warszawa 2009, p. 474.

proceedings, only at the request of the party). The assessment of the relevance of discontinuing the proceedings or the execution of the decision or judgment is left to the recognition of the court or the organ of public administration; however, the latter should be guided by the principle that does not occur on the ground of civil procedure of considering the rightful interests of the party or the social or public interest (Art. 7 of the code of administrative proceedings).[28]

In neither of the analyzed procedures is the court nor the administrative organ entitled to reinstate the time limit ex officio even if the prerequisites to issue such a decision follow from the contents of the files of the case.

A significant difference concerning the analyzed proceedings is the issue of appealability of the decision concerning the time limit. In civil proceedings, the decision to reject or dismiss the motion – as not being mentioned in Art. 394 § 1 of civil proceedings and not closing the proceedings in the case as a whole, but only closing the incidental proceedings – is not subject to appeal and it becomes valid at the moment it is announced (during the trial) or at the moment it is signed (when the court is sitting in camera). Therefore, an appeal from such a decision is rejected as inadmissible.

In administrative proceedings, the decision to refuse reinstatement of he time limit is, on the other hand, subject to challenge with a complaint (Art. 59 § 1 of the code of administrative proceedings) or a complaint to the administrative court.

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[28] A. WRÓBEL, [in:] M. JAŚKOWSKA, A. WRÓBEL, *Kodeks postępowania administracyjnego*, p. 406.

CONDITIONS FOR THE REINSTATEMENT OF THE STATUTE OF LIMITATIONS IN CIVIL COURT PROCEEDINGS AND IN GENERAL ADMINISTRATIVE PROCEEDINGS (COMPARATIVE REMARKS)

S u m m a r y

All proceedings before the organs of public administration and the administration of justice are characterized by formalism, which is a necessary condition of respecting the principle of equality of both interested parties. One of the most significant aspects of this formalism is – both in civil procedure and in general administrative proceedings – undertaking procedural actions with an adherence to a time limit. The importance of fulfilling this condition is strictly connected with the problem of effectiveness of procedural actions performed by the participants of litigation. The comparison of time limitations and its consequences in civil procedure and general administrative procedure reveals a relative similarity in the sphere of prerequisites to reinstate the time limit, with the major differences focusing on the manner of proceeding and deciding upon the subject matter of the motion. Both procedures provide a relatively suspensory character of the motion for reinstatement of the time limit and the possibility of discontinuing the proceedings or execution of the decision or judgment by the authority or the court. Despite many similarities, there is a significant difference concerning the issue of appealability of the decision referring to the reinstatement of the time limit.

Key words: civil procedural law; general administrative proceedings; procedural formalism; reinstatement of the time limit.

WARUNKI PRZYWRÓCENIA PRAWA O PRZEDAWNIENIU W CYWILNYM POSTĘPOWANIU SĄDOWYM I W POWSZECHNYM POSTĘPOWANIU ADMINISTRACYJNYM (UWAGI KOMPARATYWNE)

S t r e s z c z e n i e

Wszelkie postępowania przed organami administracji publicznej i wymiaru sprawiedliwości charakteryzuje formalizm, który jest warunkiem koniecznym dla respektowania zasady równości obu zainteresowanych stron. Jednym z najbardziej znaczących aspektów tego formalizmu jest – zarówno w procedurze cywilnej, jak i w powszechnym postępowaniu administracyjnym – podejmowanie działań proceduralnych z zastosowaniem ograniczenia czasowego. Waga spełnienia tego warunku jest ściśle związana z problemem efektywności działań proceduralnych dokonywanych przez uczestników postępowania. Porównanie ograniczeń czasowych i ich konsekwencji w procedurze cywilnej i powszechnej procedurze administracyjnej pokazuje relatywne podobieństwo w sferze warunków wstępnych dla przywrócenia ograniczenia czasowego, przy czym główne różnice skupiają się w sposobie procedowania i decydowania o temacie wniosku. Obie te procedury przewidują raczej zawieszający charakter wniosku o przywrócenie ograniczenia czasowego i możliwość przerwania postępowania albo wykonanie decyzji czy wyroku przez władzę lub sąd. Pomimo wielu podobieństw istnieje znacząca różnica dotycząca kwestii możliwości apelacji od decyzji odnoszącej się do przywrócenia ograniczenia czasowego.

Słowa kluczowe: cywilne prawo materialne; powszechne postępowanie administracyjne; formalizm materialny; przywrócenie ograniczenia czasowego.

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