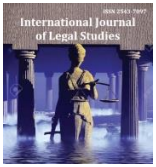

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REGULATION AS A GENERALLY APPLICABLE LEGAL ACT ISSUED FOR THE IMPLEMENTATION OF A STATUTE

ROZPORZĄDZENIE JAKO AKT PRAWA POWSZECHNIE OBOWIĄZUJĄCEGO WYDAWANY W CELU WYKONANIA USTAWY

Roman Stec
PhD, Legal Office Hubertus in Piaseczno / Poland
ORCID: https://orcid.org/0000-0002-4152-3962
* *Corresponding author:* e-mail: roman.stec@onet.pl

Łukasz Ciołek
MA., Faculty of Humanities, University of Natural Sciences and Humanities in Siedlce / Poland
ORCID: https://orcid.org/0000-0001-6433-2555
* Corresponding author: e-mail: lukasz_ciolek89@wp.pl

Marcin Roliński
PhD., Faculty of Law and Administration, Maria Curie-Sklodowska University in Lublin / Poland
ORCID: https://orcid.org/ 0000-0001-5824-2553
* Corresponding author: e-mail: mrolin@op.pl

Abstract:
The regulation shall be issued by the bodies indicated in the Constitution, based on a detailed authorization contained in the statute and for its implementation. The authorization should specify the body competent to issue a regulation, the scope of delegated issues and guidelines for the content of the act. The body authorized to issue a regulation shall not sub-delegate its competence in this area to another body (Article 92 of the Constitution). Such provision contained in the Constitution clearly defines the nature of regulations as implementing acts, requiring the detailed statutory authorization. The authorizing statute indicates that the regulation

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shall be issued by various bodies in cooperation. Cooperation may be based on consent (law specifies that the regulation will be issued "in agreement" or "in consultation"), or only on the expression of opinion.
Keywords: regulation, statute, the Constitution of the Republic of Poland, sources of law

Streszczenie:
Rozporządzenia wydawane są przez organy wskazane w Konstytucji, na podstawie szczegółowego upoważnienia zawartego w ustawie i w celu jej wykonania. Upoważnienie powinno określać organ właściwy do wydania rozporządzenia i zakres spraw przekazanych do uregulowania oraz wytyczne dotyczące treści aktu. Organ upoważniony do wydania rozporządzenia nie może przekazać swoich kompetencji w tym zakresie innemu organowi (art. 92 Konstytucji). Takie postanowienie zawarte w Konstytucji jednoznacznie określa charakter rozporządzeń jako aktów wykonawczych do ustaw, wymagających każdorazowo szczegółowego i wyraźnego upoważnienia ustawowego. Przepisy upoważniające mogą również wskazywać, że przy wydawaniu rozporządzeń mają współdziałać podmioty administracyjne wskazane w Konstytucji i wtedy współdziałanie to wydanie rozporządzenia „w porozumieniu". Projekty rozporządzeń przed ich wejściem w życie przechodzą proces uzgodnień międzyresortowych i konsultacji społecznych.
Słowa kluczowe: rozporządzenie, ustawa, Konstytucja RP, źródła prawa

Statement of the problem in general outlook and its connection with important scientific and practical tasks.

According to E. Gdulewicz, the regulation is an act strictly related to the statute issued by the bodies indicated in the Constitution, based on a detailed authorization contained in the statute and for its implementation. In the doctrine of constitutional law, such a definition does not raise any doubts. As can be seen from the abovementioned argument, the essence of the regulation is described by the exhaustive list of features that should contain a normative act in order to meet the requirements reserved for universally applicable sources of law issued by the bodies indicated in the Constitution (Ustacz L., 1968, p. 30, See Gdulewicz E., 2003). Regulation is, therefore, a normative act in accordance with the definition referred to above. Pursuant to Article 92 of the Constitution of the Republic of Poland, only the body specified in its provisions may obtain statutory authorization. These include: The President of the Republic of Poland, the Council of Ministers, the Prime Minister, the minister heading the government administration department, the minister appointed to the Council of Ministers, the committee chairman (Article 147 paragraph 4 of the Constitution)

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and the National Council of Radio Broadcasting and Television. In addition, in the event of emptying the office of the President of the Republic of Poland, pursuant to Article 131 of the Constitution, the right to issue regulations is vested in the Speaker of the Sejm of the Republic of Poland, who performs President's duties, and if he or she cannot perform the duties of the President, such authority is vested in the Speaker of the Senate of the Republic of Poland. Regulation, in accordance with Article 87 (1) of the Constitution, is one of the sources of universally binding law, apart from the Constitution, ratified international agreements, statutes, regulations with the power of the statute, which are indicated in Article 234 of the Constitution and acts of local law (Działocha K., 2001, p. 28–29). The condition of proper authorization is to indicate the body that should issue the implementing regulation. The scope of issues that shall be regulated in the regulation and guidelines regarding the content of the act should be included in the statutory authorizing provision. The body designated to issue a regulation shall not delegate this power to another body (there is a legal prohibition of subdelegation), however, it is legal to indicate two or more bodies that should issue the regulation in cooperation. According to the jurisprudence of the Constitutional Tribunal, the body that has obtained authorization to issue a regulation may bear constitutional liability for non-performance of such duty. The regulation shall aim to implement provisions of the statute. It shall not either be contrary to the statute (e.g. by introducing solutions unknown to the statute), nor exceed the scope of statutory authorization. In the jurisprudence of the Constitutional Tribunal, there was established the view that the regulation issued on the basis of the invalid authorization (deprived of the scope of issues that shall be regulated and guidelines) is also noncompliant with the statute. It is unacceptable to use blanket authorization, i.e. when the legislator (the Sejm and the Senate) allows too much scope of freedom for the author of the regulation in the scope of its content. The control of the legality (compliance of the regulation with the statute) is exercised by the constitutional court - the Constitutional Tribunal (Działocha K., 1990).

The historical continuity of the legal structure of the regulation in Polish law is mainly the constitutionality of the conditions for the issuance of regulations issued before the 1997 Constitution entered into force. The regulations issued then shall be assessed in the light of the constitutional provisions regarding the conditions for their issuance which were in force at the time they were issued. The constitutionality of the content of regulations issued before the entry into force of the Constitution shall be assessed through the prism of the provisions of the new Constitution (the judge-

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ment of the Constitutional Tribunal of November 25, 1997 U 6/97; the judgement of the Constitutional Tribunal of May 25, 1998, U 19/97; the judgement of the Constitutional Tribunal of December 8, 1998, U 7/98). As it was noted by L. Ustacz „there is no doubt that in the Republic of Poland, as a democratic state of law, in which the Constitution of April 2, 1997, is the highest law (Article 2 and Article 8), there should be no sub-constitutional level provisions inconsistent with this constitution, regardless of the time of their issuance (See Ustacz L. 1968).

Analysis of latest research where the solution of the problem was initiated.

From the point of view of law-making, there can be distinguished the facts of behavior and events with which the lawmaker connects creation, amendment or repealing of legal relations and facts that do not cause such relations at all. The first of them constitute the applicable law while the latter is not the law. Therefore, the rational legislator is obliged to examine the applicable law as well as to observe facts and events that are not legal subject. In relation to the applicable law, the legislator is obliged to conduct constant observation and analysis of law-making processes on the basis of which there can be gained answers for the questions: how the law is implemented, enforced and respected and if the law produces the intended and desirable effects when it is created and implemented. The results of such assessments and observations of these processes should be taken into account in the course of legislative decisions regarding the necessity of maintaining the state of law, the necessity to amend it or the necessity of repeal certain provisions. The judicature and the doctrine of law should play an important role in this process; however, this is not happening which lead to the question why? There is probably only one answer - the public authority does not care about the good legislation. These processes are faulty and, in fact, there is not any current information about how the law is applied. Thus, such a system makes the decision-making process on maintaining, amending or repealing the state of law not based on any rational basis. This happens in various branches of law including tax law, public finances law, administrative law, economic law, agricultural law, social security law, environmental protection law, medical law, etc. Therefore, if the legislator – the Parliament and the bodies authorized in the Constitution of the Republic of Poland to issue regulations – despite the lack of information on the state of applicable law and legislative procedures, makes legislative decisions, such decisions are made ad hoc in an irrational, random and partial manner without any concern for coherence and completeness of law. The literature and the jurispru-

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dence of the Constitutional Tribunal, mainly until 2015, in this scope are extensive and the views of the doctrine established. However, there is a lack of comprehensive research on these issues due to the lack of political will and care for the good legislation. The same applies to local law.

Aims of paper. Methods.

The methodological framework of introduced problems that are connected with the institution of the regulation was presented in the context of selected issues of constitutional and administrative law. The authors intended to avoid the interdisciplinarity of considerations, which is the reason why the main emphasis was placed on dogmatic legal research and analysis. The considerations concerning the researched issue were conducted in the theoretical approach and they present the goals and intends of the Polish law-making model mainly in a static manner. The main method used in the paper was the dogmatic legal method, which involves exegesis and interpretation of applicable legal acts regulating the principles of lawmaking as well as the views of the doctrine of law and the opinions (judgments) of the judicature. There was also used the combined method, which is called the problem-descriptive method. Therefore, the research was conducted in the field of selected issues from the scope of constitutional and administrative law as well as legislation. On the basis of such consideration, the aim of the study appears which is the dogmatic analysis and theoretical characteristics of the process of issuing regulations for the implementation of statutes by the bodies indicated in the Constitution. The analysis of normative materials determines de lege lata conclusions while the studies of source materials concerning regulations as generally applicable legal acts serve as the basis for de lege ferenda recommendations.

Exposition of main material of research with complete substantiation of obtained scientific results. Discussion.

Dependencies and legal relations between the regulation and the statutory provisions authorizing to issue the regulation.

Article 92 paragraph 1 of the Constitution of the Republic of Poland of 2 April 1997 states that regulations are issued by the bodies indicated in the Constitution, on the basis of a detailed authorization contained in the statute and for the purpose of its implementation. The authorization should specify the body competent to issue the regulation and the scope of matters that should be regulated, as well as the guidelines

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regarding the contents of the act. In paragraph 2, it is indicated that the body authorized to issue a regulation cannot delegate such power to another body. Therefore, there is a prohibition on subdelegation. The close relationship between constitutional rules defining and characterizing the regulation is primarily the logical consequence of the principle that it is issued "on the basis of a detailed authorization contained in the statute," and the principle "for its implementation". Thus, there is the difference between the regulation and other sub-statutory acts issued on the basis of the statute (Article 93 of the Constitution) or „ on the basis of and within limits specified by the statute" (Article 94 of the Constitution). If the principle "in order to implement the statute" has not been consumed by the constitutional obligation to determine the guidelines regarding the content of the Regulation, the provision that contains statutory authorization without such guidelines is unconstitutional. Guidelines are a separate element of the legal construction of the regulation. According to the Constitution, other elements of the legal construction of the regulation include the substantive and functional relationship between the regulation and the statute; the content's compliance with the purpose of the statute and the requirement that norms of the regulation expand statutory norms. Therefore, the Constitution introduces a clear prohibition on issuing regulations that do not implement the statute.

There is also the prohibition on issuing regulations without statutory authorization, as well as regulations contrary to the Constitution and applicable statutes. The judgment of the Constitutional Tribunal of July 26, 2004 (U 16/02.) clearly settled these matters and indicated that the violation of the purpose of the statute is tantamount to exceeding statutory authorization. Moreover, the purpose of the statute is the basis for the interpretation of the content of the authorization and the assessment of the legality of the regulation itself. There is the obligation of literal (grammatical) interpretation of provisions concerning the rules governing the authority and the prohibition on making the extensive interpretation. Specifying a detailed statutory authorization is essential for the issuance of regulations which purpose is nothing more than the implementation of the statute. The requirements of Article 92 of the Constitution are violated, if the body issues the regulation reaching beyond the matter granted in the authorization or if such authorization is used for other purposes than the implementation of the statute. The judgment of the Constitutional Tribunal of May 11, 1998 (P 9/98) states that it is constitutionally unacceptable to formulate the authorization that, in fact, authorizes not to issue a regulation for the implementation of the statute, but to regulate independently a whole complex of issues, which are not cov-

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ered by direct norms or guidelines in statutory provisions. The jurisprudence of the Constitutional Tribunal is undoubted of key importance for the understanding of the essence of the statutory authorization to legislate in sub-statutory acts. From the very beginning, the Constitutional Tribunal consistently accepted the view that the regulation issued by authorized bodies is an executive act, issued on the basis of the statute and for its implementation. Regulation is considered legal if it meets several important conditions. First of all, it shall be issued on the basis of a clear specific statutory authorization to the extent specified in the authorization. It cannot be issued based only on a presumption or a teleological interpretation. Secondly, the lack of a legislator's clearance in a certain matter, manifested in the imprecise authorization, shall be interpreted as not granting a normative competence in a given area. Authorization shall not be based on the presumption of taking into account the scope of matter which was not mentioned in its content. It is also not subject to expanding or teleological interpretation (U 3/87). Thirdly, if the regulation specifies a certain procedure, it should be done in such a manner as to ensure consistency with provisions of the statute (U 7/98). Fourthly, the act of this kind, apart from the compliance with the legislative act on the basis of which was issued, shall not be contradictory to constitutional norms, as well as statutes which directly or indirectly concern the subject matter of the regulation. Fifth, the area of rights and freedoms is a constitutional matter, which derogations can be introduced in favor of constitutionally permissible statutory interference, however, it shall not be regulated in sub-statutory acts (regulations issued by the President, the Council of Ministers, the Prime Minister or the departmental minister) (U 6/93). There are no exceptions from the principle of statutory completeness. In relation to the area of freedom and human rights, the Constitutional Tribunal in its judgment of May 19, 1998, stated that the principle of solely statutory provisions introducing limitations in this scope shall be understood literally, excluding the admissibility of sub-delegation, ie. the transfer of legislative competence to another body, analogically to the exclusion of such possibility in relation to regulations. The Constitutional Tribunal believes that in the matter concerning legislation on freedom as well as human and civil rights, statutory provisions which are obligatory, necessary or even only permissible on the basis of the Constitution shall be absolutely complete. In case of a dispute between an individual and a public authority concerning the scope or the manner of exercising freedom and rights, the legal basis for resolving this dispute shall not be separated from the constitutional provisions or have a lower rank than the statute (U 5/97).

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With respect to such conditions of the legality of regulations, a consistent line of the Constitutional Tribunal's jurisprudence has been formed. Noteworthy is the fact that, as indicated in the judgment of 5 January 1998 (P. 2/97, OTK ZU Nr 1/1998, p. 7), "Article 92 paragraph 1 of the Constitution, took over the previously existing structure of the regulation of ministers, further tightening the requirements necessary for issuing them (...). It should be stated in any case that the regulation that has not been issued for the implementation of the statute and (or) under the authorization contained in the statute is undoubtedly inconsistent with the requirements indicated in Article 56 of the Interim Constitution". It is therefore visible that the state of constitutional law in this matter has not been fundamentally changed. Such terms and conditions involve prohibitions on the issuance of regulations that would be in contradiction with them. Their violation gives the basis to raise the plea of non-compliance of the regulation with the statute (the judgement of the Constitutional Tribunal of September 2,1997, K 25/97, the judgement of the Constitutional Tribunal of November 13, 1999, K 12/99, the judgement of the Constitutional Tribunal of May 20, 2003, K 56/020). Such an argument stems from the principle of the division of powers and from the principle of the primacy of the statute. The regulation as an act issued for implementing the statute is not an autonomous act. The term "implementation of the statute by regulation" is explained by A. Bałaban, who claims that: "the process of specifying statutory provisions, within the limits introduced by the authorization or their complex, is always determined by the entirety of the provisions of the statute, aimed at introducing it as soon as possible without the need to issue additional specific provisions". The density and depth of provisions of the statute and the regulation depend on the type of the regulated matter (construction law, forest law, environmental law or hunting law). To determine whether such a state of affairs is present, it is always necessary to analyze a given provision of the regulation in the context of the statutory provision. Regulations often contain provisions concerning procedures, however, the content of such provisions shall not reach beyond the scope of the statutory authorization and the material scope of the regulation. Therefore, it shall not be concluded that provisions of the regulation are in accordance with the provision of the statute because they merely clarify statutory provisions. Such reasoning is not acceptable since the problem concerns the relationship between the provisions of different rank (the statutory provision and the regulation of the minister). Regulations are not autonomous normative acts, which means that their provisions shall not have such a status. They are always issued based on the specific statutory authorization.

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Such authorization shall not be modified or supplemented during its implementation. Exception from the content of the statutory authorization shall not be justified by practical (eg social or economic) needs for faster resolution of legal decision problems (Działocha K., Skwara B., 2007, p. 22, 24-25).

Specification of the content of the statute by regulations.

The regulation contains general and abstract legal norms, which are necessary for the implementation of the statute and supplement the provisions introduced in its content. Regulation specifies and provides details concerning legal concepts and norms with a broad subject matter, which are not specified in the statute. The regulation contains provisions that define the conditions necessary to apply the norms included in the statute itself. Reconstruction of statutory norms by the norms contained in the regulation is a kind of supplementation of the statute (the judgment of the Constitutional Tribunal of April 26, 2004, K 50/02, the judgment of the Constitutional Tribunal of November 6, 2007, U 8/05). The regulation shall not regulate the statutory matter, which is not explicitly authorized to regulate. Elaborating a draft of the regulation, there is an absolute prohibition on supplementing or expanding the conditions for the implementation of statutory norms or elements of the procedure that do not comply with the statutory content. There is an argument in favor of supplementing the statute when there is a gap in the authorization, incomplete authorization or conviction of the body issuing the regulation that it is purposeful and reasonable. It is forbidden to provide the specification of the statute by including individual and specific norms in the regulation. Statutory authorization, which is the basis for the regulation, shall not allow the interpretation of norms of the statute in individual cases (the area of application of law), while it is permissible to interpret the provisions of the statute in the regulation by means of general and abstract norms (Działocha K., Skwara B., 2007, p. 22, 24-25).

The purpose of the specification of the statute leads to the conclusion that it is unacceptable for the decisions of the bodies of executive power to make the condition for the shaping of essential elements of a citizens' legal situation. The requirement to include all essential elements of legal regulation directly in the content of the statute shall be applied with the special rigor if such regulation concerns the imperial forms of public administration bodies' actions towards citizens, rights and obligations of administrative and civil authorities under public law or citizens' rights and freedom. The judgment of the Constitutional Tribunal of November 6, 2007 (U 8/05), states that the statute should regulate "all matters of importance, while the executive act

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shall, at most, regulate specific matters in the areas regulated in a given statute. Authorization to include certain matters in the regulation is permissible only if the legislator has regulated the matters relevant to the given area in the statute." Moreover, in the judgment of the Constitutional Tribunal of December 5, 2007 (K 36/06), it is indicated that the norms contained in the regulation shall not intrude into the area of legal matters regulated by other statutes and repeat, modify, transform or synthesize norms contained in statutes. The function of the guidelines related to the content of the regulation is primarily constitutionalizing of the obligation to include guidelines in the statutory provisions authorizing to issue the regulation. Article 92 paragraph 1 of the Constitution indicates that the authorization should specify the body competent to issue the regulation and the scope of matters which should be regulated, as well as guidelines regarding the content of the act. Therefore, there is a necessary element of the competence relationship between the statute and the regulation. Incorrect formulation of guidelines is the basis for the unconstitutionality of statutory authorizations to issue regulations and the regulations themselves. Guidelines provide a material aspect of the executive nature of the regulation. L. Garlicki indicates that: 1/ guidelines shall relate to the material scope of the regulation; 2 / they may take various editorial forms; 3 / the level of detail of guidelines depends on the regulated matter and the relationship with the principle of statutory exclusivity, 4 / they must refer separately to each of specific matters, which should be introduced in the regulation and 5 / they shall, but do not have to be included in the authorizing provision.

According to the jurisprudence of the Constitutional Tribunal, the lack of guidelines in the content of the statute results in the unconstitutionality of the authorizing provision and the regulation issued on its basis. Guidelines are the constitutive element of the statutory authorization and they determine the content of the regulation; however, they do not specify the detailed elements of the procedure of issuing the regulation. The detailed specification of matters delegated to the regulation does not replace guidelines. Guidelines for statutory authorization may take various editorial forms. It can be a negative character - the exclusion of specific legal solutions in the executive act or a positive character - an indication of criteria, which the author of the regulation should follow introducing norms from the scope delegated to regulation, by the means of indication of purposes that it should serve. The Act of July 20, 2000 on the publication of normative acts and some other legal acts in Article 28 b states that the Journal of Laws and the Polish Monitor or normative acts and other legal acts contained therein, including judgments, are available free of charge for inspection and

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downloading in the form of an electronic document on the websites of the Government Legislation Centre and by means of electronic communication or IT data carriers understood in accordance with the provisions of the Act of February 17, 2005 on computerization of entities performing public tasks, pursuant to the application of the entity concerned, on the terms and in the manner specified in the Act of 6 September 2001 on the access to public information. (Journal of Laws of 2016 item 1764 and 2017 item 933). Official journals other than those mentioned in Article 28b paragraph 1a and collections of local law acts enacted by a district or a commune or normative acts contained therein and other legal acts are made available: free for inspection and downloading in the form of an electronic document on the websites of authorities issuing these journals and collections, using means of electronic communication or IT data carriers within the meaning of the Act of 17 February 2005 on computerization of entities performing public tasks, pursuant to the application of the entity concerned, on the terms and in the manner specified in the Act of 6 September 2001 on the access to public information.

On the basis of Article 28c of the Act on the publication of normative acts and some other legal acts, the Prime Minister will specify, in the regulation, technical requirements concerning: electronic documents containing normative acts and other legal acts published in officials journals, official journals issued in electronic form, electronic communication means and IT carriers data used to make official journals and collections of local law acts enacted by a district or a commune or normative acts and other legal acts contained therein available, taking into account the need to maintain uniformity of electronic documents submitted for publication and the possibility of processing them for the purpose of issuing the official journal, as well as the need to ensure universal availability of official journals and collections of local law acts enacted by a district or a commune or normative acts contained therein and other legal acts. Thus, making official journals, collections of local law acts established by a district and collections of communal regulations or normative acts and other legal acts published therein available on IT data carriers, taking into account the universality of access to these publications and normative acts and other legal acts published therein, as well as justified costs related to making these documents available incurred by the authority issuing the official journal, the body maintaining the collection of official journals, the body maintaining the collection of local law acts established by a district and the body maintaining the collection of municipal regulations. The manner of formulating the guidelines shall be in accordance with general princi-

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ples regarding the exclusivity of the statute. Guidelines shall not be blank, the minimum content of guidelines is not permanent and should be determined a casu ad casum, according to the specificity of legal regulation. Several matters with a separate subject delegated to regulation shall be specified in separate guidelines (See Działocha K., 1989).

Therefore, the issue of the proper statutory authorization is probably the most practically important aspect of the legislative process related to the issuance of regulations and, at the same time, the field where the principles of correct legislation are most often violated. The mentioned violations are the lack of submission of projects of the most important executive acts together with the draft of the statute, vagueness of guidelines, the lack of specific guidelines and directives concerning the content of the regulation. It is worth noting that regulations are used to fill legislative gaps, without the amendment of the statute. The Constitution and statutes prohibit the regulation to modify the statute, however, an exception to this principle is permitted. The absolute exception can be established based on the explicit and specific authorization of the statute, which contains precise guidelines regarding the content of the regulation, but then it is necessary to specify in the Constitution the conditions of the legality of such a regulation.

The loss of binding force of the regulation as a consequence of its executive nature occurs in case of the repeal of the statute authorizing to issue the regulation, the repeal of the provision authorizing to issue the regulation and the change in the content of the provision authorizing to issue the regulation. Therefore, such a situation takes place in case of the change in the content of the provision authorizing to issue the regulation, the change in the type of implementing act indicated in the authorization, the change of the scope of matters delegated to regulation or the change of guidelines concerning the content of the regulation (Wronkowska S., 2012, p. 37, 74). In § 32 (1) of the principles of legislative technique, it is indicated that if the statute on the basis of which the executive act was issued is repealed, or the provision of the statute authorizing the issuing of an executive act is repealed, it is assumed that such an executive act loses its validity on the day of entry into force of the repealing act or on the day of entry into force of the provision repealing the authorization to issue this act. Moreover, the provision of § 32 (2) of the beforementioned act states that if the content of the provision authorizing to issue the implementing act is changed in such a way that the type of implementing act is changed or the matters referred to in the implementing act are changed or guidelines concerning the content of this act are

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changed, such an executive act shall cease to be binding on the date of entry into force of the statute amending the content of the authorizing provision. § 32 (3) indicates that if the change in the content of the authorizing provision consists in the change of the body authorized to issue the implementing act, it is assumed that such act remains in force. In such a case, the body authorized to amend or repeal the implementing act issued on the basis of the amended provision is the authority indicated in the amended authorization. Therefore, the loss of validity of the entire statute leads to the break of the competence and content relationship between the statute and the regulation issued on its basis. The loss of the binding force of the statutory provision authorizing to issue the regulation also results in the loss of competence relationship.

Maintenance of the existing implementing provisions in force.

Principles of Legislative Technique in § 33 (1) indicate that if the implementing act issued on the basis of the repealed or amended authorization is not inconsistent with the new or the amended act, it may exceptionally be kept in force temporarily, giving the transitional provision the following wording: "Existing implementing provisions issued on the basis of Article ... of the Act ..... (title of the current act) remain in force until new implementing regulations are issued on the basis of Article ... of the Act." Only certain provisions of the implementing act issued on the basis of a repealed or amended authorizing provision do not remain in force temporarily. Such a solution shall be introduced only in the repealing statute or the statute amending the statute on the basis of which the previous executive act has been issued. This solution is not applied in subsequent statutes that repeal or amend the repealing statute or the amending statute. In the statute that temporarily maintain the existing executive act in force, there may be made settled the term for the authorized body to issue a new executive act. The regulation remains in force when the legal basis of its application changes and then such a basis is the transitional provision. The prohibition of sub-delegation of powers to issue a regulation results from Article 92 paragraph 2 of the Constitution, which indicates that the body authorized to issue the regulation shall not delegate its powers referred to another authority. In the theory of legislation, however, there is the acceptable exception - the act itself in the provision authorizing to issue the regulation may allow introducing provisions concerning specific issues in local law acts (Wronkowska S. 2005, p. 71, See Gwiżdż A. 1998 p. 103, Rozmaryn S., 1953, p. 435, Działocha K, 2001, p. 1.).

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Conclusions.

Statutory and sub-statutory regulation shall be in accordance with the principle of sufficient determination and stability of legal regulations, which is a derivative of the principle of the democratic state of law, expressed in Article 2 of the Constitution (the judgment of the Constitutional Tribunal of February 18, 2004, P 21/02). The requirement of specificity of legal regulation finds its constitutional basis in the principle of the democratic state of law. It refers to all regulations (directly or indirectly) shaping the legal situation of a citizen. The principle of legal certainty is one of the directives of correct legislation. It is also an element of the principle of protection of the citizen's trust in the state and the law, expressed in Article 2 of the Constitution (judgments of: September 15, 1999, K 11/99, January 11, 2000, K 7/99, March 21, 2001, K 24/00, October 30, 2001, K 33/00, May 22, 2002, K 6/02, November 20, 2002, K 41/02, December 3, 2002, P 13/02, October 29, 2003, K 53/02, October 9, 2007, SK 70/06, October 28, 2009, K 32/08, May 29, 2012, SK 17/09 and July 29, 2014, P 49/13).

The judgment of October 28, 2009, Kp 3/09 summarized the jurisprudence in this scope. The full court of the Constitutional Tribunal noted there that: "The constitutional norm requiring the preservation of appropriate specificity of legal regulations is the rule of law. It imposes the obligation to optimize it in the law-making process on the legislator and the bodies authorized in the Constitution to issue normative sub-statutory acts of law. The legislator and the bodies authorized in the Constitution to issue sub-statutory acts should strive to achieve the maximum possible extent of the requirements that constitute this principle. Thus, the degree of specificity of certain regulations is subject to the respective relativization in relation to the factual and legal circumstances that accompany the introduction of regulation. This relativization is a natural consequence of the language defect, in which the legal texts and the diversity of matter subject to normalization are expressed." (judgment of 19 December 2012, K 9/12 and the decision of 11 February 2014, P 50/11). The significance of this principle, (...) manifests itself above all in the fact that it refers - as one of the directives of the proper legislation - to all regulations shaping the legal position of an individual.

The principles of proper legislation include, among others, the requirement to specify the provisions that must be formulated correctly, precisely and clearly. The correctness of the provision means that it has a proper construction from a linguistic and logical point of view. It is the basic condition that allows the assessment of the provi-

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sion in terms of other criteria - clarity and precision. The clarity of a provision means its clarity and comprehensibility for recipients who have the right to expect the rational legislator to create legal norms that do not raise doubts concerning the content of imposed obligations and granted rights (judgment of 11 December 2009, Kp 8/09). The Constitutional Tribunal uses the notion of "the rules of decent legislation" in a broad sense, defining it with all indications of how to correctly make legislative decisions that are addressed to the entity creating the law, and in a narrow sense, defining only those indications, the violation of which causes that the normative act is fraught with an essential defect and, as a consequence, is unconstitutional. At the same time, the rules of decent legislation in the narrow sense are addressed to both the legislator and the body who controls its constitutionality. Therefore, the amendment of the provision that would not be binding on the day the amendment statute enters into force must obviously raise doubts concerning the correctness of the used legislative technique and the legal consequences of the contested regulation. It creates the ambiguity of such interpretation and its results, which should be consistent with the general rules of legal certainty. The rules of proper legislation also require extremely careful redrafting of provisions repealing or amending other provisions, as well as provisions determining the date when a normative act enters into force (Banaszak B., 2007, p. 14, Ustacz L., 1968, p. 30).

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