

ADMINISTRATIVE PENALTY PROCEEDINGS IN THE LIGHT OF THE PROPOSED CHANGES TO THE FISCAL PENAL CODE

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ABSTRACT

This study explores the assumptions of the Bill of 13 April 2022 amending the Act – Fiscal Penal Code and Certain Other Acts in the scope of administrative penalty ticket proceedings conducted in cases of fiscal petty offences. The primary focus of the analysis is the presentation of the proposed changes (ultimately withdrawn) regarding the extension of the catalogue of bodies authorised to conduct administrative penalty proceedings to include the Municipal Police and the Trade Inspection Authority, and to define their competence. Furthermore, the article presents the positions submitted by various entities as part of public consultations on the draft in question. The publication concludes with the author’s evaluation of the currently applicable legal regulations concerning the issue under discussion.

Keywords: administrative penalty proceedings, fiscal petty offences, Municipal Police, Trade Inspection Authority

INTRODUCTION

Administrative penalty proceedings as well as the proceedings concerning consent to the voluntary submission to penalty are governed by the provisions of Section 2 of the Penal Fiscal Code¹ entitled “Liability with the consent of the offender”. Both types of proceedings are characterised by the offender’s consent to be held liable for the offence under the penal fiscal provisions. Both may be considered as the

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¹ The Penal Fiscal Code Act of 10 September 1999, i.e. Journal of Laws of 2002, item 859, as amended, hereinafter “the PFC”.



manifestations of the consensual methods used to terminate penal fiscal proceedings where the conflict caused by the fiscal offence or the fiscal petty offence is resolved (i.e. the dispute is settled) by way of an understanding which, in the penal fiscal proceedings, is based on balancing the interest of the individual (offender) with the public financial and legal good (interest) undermined or threatened because of the prohibited act included in one of the listed categories. Legally speaking, these proceedings were introduced in the Penal Fiscal Code in order to unburden the judiciary which would no longer need to examine cases of lesser gravity as they could be settled without court involvement or the need for traditional, lengthy proceedings, which would enable courts to focus on more serious cases. Therefore, the proceedings in question are in fact special forms of penal fiscal proceedings intended to make the procedure less formal and to streamline the examination of offences under the penal fiscal law by speeding up the criminal response and by avoiding several, often time-consuming, procedural steps, and thus, to comply with the principle of procedural economy.²

Administrative penalty proceedings were first introduced to the penal fiscal proceedings in the provisions of Articles 136–141 of the applicable Penal Fiscal Code,³ in contrast to the proceedings concerning the consent to the voluntary submission to penalty which have a long-established legal tradition. The latter were provided for in all subsequent normative acts which governed the penal fiscal legislation, starting from the Penal Fiscal Act of 2 August 1926,⁴ the Penal Fiscal Act of 18 March 1932,⁵ the decree of the President of the Republic of Poland on the Penal Fiscal Law of 3 November 1936,⁶ the decree of 11 April 1947 on the Penal Fiscal Law,⁷ the Penal Fiscal Act of 13 April 1960,⁸ the Penal Fiscal Act of 26 October 1971,⁹ and finally the provisions of the Penal Fiscal Code of 1999.

Administrative penalty proceedings apply in cases concerning prohibited acts of the least gravity, defined as fiscal petty offences. In essence, under these proceedings, the non-judiciary procedural body or its authorised representative proposes, in a specific set of circumstances, to impose the penalty of a specific amount as the criminal fine, and in the next step issues a relevant procedural decision (imposition of the criminal fine) provided that the offender consents that their liability for the fiscal petty offence will be settled in such a manner.¹⁰

Administrative penalty proceedings are mostly characterised by its moderate formalism. They are less formal for the following reasons:

² Wilk, L., Zagrodnik, J., *Kodeks karny skarbowy. Komentarz*, Legalis, 2021, thesis 1 to Chapter II.

³ Tużnik, M., 'Postępowanie mandatowe w postępowaniu karnym skarbowym', *Ius Novum*, 2011, No 3, p. 55; Sawicki, J., Skowronek, G., *Prawo karne skarbowe. Zagadnienia materialnoprawne, procesowe i wykonawcze*, Warszawa, 2021, p. 361.

⁴ Journal of Laws of the Republic of Poland, No. 105, item 609, as amended.

⁵ Journal of Laws of the Republic of Poland, No. 34, item 355, as amended.

⁶ Journal of Laws No. 84, item 581, as amended.

⁷ Journal of Laws No. 32, item 140, as amended.

⁸ Journal of Laws No. 21, item 123, as amended.

⁹ Journal of Laws No. 28, item 260, as amended.

¹⁰ Wilk, L., Zagrodnik, J., *Kodeks karny skarbowy...*, op. cit., thesis 1 to Chapter 15; Skowronek, G., *Kodeks karny skarbowy. Komentarz*, Legalis, 2020, thesis 1 to Chapter 15.

- 1) no formal decision is issued to initiate such proceedings;
- 2) no minutes are taken of any steps in the proceedings;
- 3) they are not adversarial, and the authority disclosing the offence is authorised to impose the penalty as criminal fine.¹¹

Administrative penalty proceedings are a facultative mode of procedure. In other words, the decision to rely on administrative penalty proceedings is left at the discretion of the penalty-imposing body. The Penal Fiscal Code does not provide for the situation where the authorised body or its representative would be required to settle the case by imposing the fine as an obligation to settle the case under administrative penalty proceedings would be contrary to their substitutive nature.¹²

CATALOGUE OF BODIES AUTHORISED TO CONDUCT ADMINISTRATIVE PENALTY PROCEEDINGS AND THEIR HIGHER-LEVEL AUTHORITIES

Administrative penalty proceedings may be conducted by financial bodies in preparatory proceedings (head of the tax office, head of the customs and revenue office and the Head of the National Revenue Administration) or their authorised representatives, as well as by non-financial bodies in preparatory proceedings (Border Guards, Police and Military Police¹³) provided that this is stipulated in specific provisions (see Article 136 § 1 of the PFC).¹⁴ However, it should be stressed that under the current legal framework there is no specific provision that would grant such powers to non-financial bodies in preliminary proceedings.¹⁵

The Bill of 13 April 2022 amending the Penal Fiscal Code Act and Certain Other Acts,¹⁶ submitted on the initiative of the Ministry of Finance, proposes to broaden the catalogue of bodies authorised to conduct administrative penalty proceedings by adding non-financial bodies in administrative penalty proceedings, i.e. the Trade Inspection Authority and the Municipal Police. These bodies would be granted such powers solely for the purpose of administrative penalty proceedings, and therefore

¹¹ See also Zgoliński, I. (ed.), *Kodeks karny skarbowy. Komentarz*, Warszawa, 2021, p. 882; Lisek, E., Mazalewska, M., 'Postępowanie mandatowe', in: Dziembowski, R., Pieńkowska, M., Opalska, A. (eds), *Prawo karne skarbowe. Wybrane zagadnienia teorii i praktyki*, Olsztyn, 2016, p. 87.

¹² Tużnik, M.R., 'Postępowania szczególne w postępowaniu karnym skarbowym w świetle noweli z dnia 27 września 2013 r.', *Ius Novum*, 2015, No. 3, p. 61; Światłowski, A., *Jedna czy wiele procedur karnych*, Sopot, 2008, pp. 190–191.

¹³ Considering their competences, other non-financial bodies in preliminary proceedings included in the list, i.e. the Internal Security Agency and the Central Anti-Corruption Bureau, are not authorised to impose the penalty in the form of the criminal fine (Article 134, § 1, points 3 and 5 of the PFC).

¹⁴ Sawicki, J., Skowronek, G., *Prawo karne skarbowe...*, op. cit., p. 362.

¹⁵ See the Regulation of the Council of Ministers of 28 April 2011 on the imposition of penalty in the form of the criminal fine for fiscal misdemeanours (Journal of Laws of 2018, item 1160).

¹⁶ Numbered as UD269 in the list of legislative and programming works of the Council of Ministers, Sejm of the 9th term.

could not be defined as bodies in preliminary proceedings as they would not be empowered to conduct the latter.

The explanatory memorandum to the Bill notes that the aim of the amendment would be to enhance the prosecution of selected types of fiscal petty offences. In fact, in order to effectively combat crime, including economic crime, some closer cooperation is required between agencies and bodies involved in counteracting and combating such illegal acts. According to the Promoter of the Bill, the proposed amendment would broaden the group of bodies authorised to prosecute fiscal petty offences under administrative penalty proceedings, namely the breaches of obligation to issue transaction receipts, which is reasonably justified considering the scope of such prohibited acts and their financial impact on the state budget.¹⁷

On the legislative level, the amendment would entail the addition, in Article 53 of § 38a of the PFC,¹⁸ which stipulates that the Trade Inspection Authority and the Municipal Police shall become non-financial bodies in administrative penalty proceedings, and of § 39b¹⁹ in the same Article, which complements the aforesaid regulation and stipulates that the higher-level authority for non-financial bodies in administrative penalty proceedings, tasked with the assessment of the regularity of administrative penalty proceedings in cases concerning fiscal petty offences, shall be the head of the revenue chamber of the relevant territorial jurisdiction. Please note that the head of the revenue chamber is also the head of the tax authority and the head of the customs and revenue authority and as such has adequate resources to monitor the regularity of administrative penalty proceedings conducted by such new bodies.

Furthermore, the Ministry of Finance stresses that the proposed regulation would help shorten the time between the disclosure of the prohibited act and the appropriate criminal response, as no additional bodies would have to be involved.

The Promoter of the Bill highlights that since 2020 the bodies of the National Revenue Administration acting as financial bodies in preliminary proceedings, i.e. heads of tax authorities and heads of customs and revenue authorities imposed 2,789 criminal fines for fiscal petty offences under Article 62 § 5 and 4 of the PFC. In 2021, their number rose to 10,474.

These statistics show the massive scale of prohibited acts, i.e. the failure to register sale transaction in cash registers or to issue transaction receipts. The gravity of individual offences is not significant but taken together, because of unpaid public dues, they generate a considerable decrease in revenue.

According to the Ministry, there is no doubt that assuming control over these areas is a preventive measure, as it prompts the belief that whatever the scale and type of irregularities, there is always a possibility of inspection and the resulting consequences. Hence, it is important to step up efforts to fight such conducts and to increase the numbers of inspections concerning the issuance of proper receipts

¹⁷ Explanatory Memorandum to the Bill of 13 April 2022 amending the Penal Fiscal Code Act and Certain Other Acts, numbered UD269, Sejm of the 9th term, p. 7.

¹⁸ Article 1(1)(a) of the Bill.

¹⁹ Article 1(1)(b) of the Bill.

and dealing in excise goods, even in places where such operations are done on a smaller scale.

The Promoter of the Bill assumes that, once established, the catalogue of non-financial bodies in administrative penalty proceedings will help reduce “the shadow economy” in the unregistered course of trade. On the one hand, armed with new powers, such bodies will be able to settle cases by simply imposing the penalty as the criminal fine. On the other hand, if the fiscal offender refused to accept the fine, the case would be referred to the competent bodies of the National Revenue Administration, which, under general terms, would take appropriate action to hold such offender liable under penal fiscal provisions.

In the opinion of the Ministry of Finance, the introduction of the recommended amendment supplements the package of regulations devised to tighten the trade transaction registration system in a comprehensive manner. Therefore, it would be wrong to consider that the amendment is solely intended to extend the powers of other authorities and, as a result, to restrict the freedom of economic transactions, or that it duplicates the authorisations conferred to the bodies of the National Revenue Administration in the form of new powers granted to the Trade Inspection Authority and the Municipal Police.²⁰

Moreover, the extension of the catalogue of bodies authorised to conduct administrative penalty proceedings would require some modified wording of the provisions which directly govern these proceedings. This would affect the provisions of Article 117 § 3,²¹ Article 136,²² Article 137 § 4²³ and Article 139 § 3 of the PFC.²⁴

The first of the regulations in question stipulates that the criminal fine penalty may be imposed for fiscal petty offences by authorised representatives of the non-financial body in administrative penalty proceedings, along with the bodies in preliminary proceedings or their representatives.

In their amended wording, the provisions of Article 136 § 1 of the PFC, which list the bodies in administrative penalty proceedings, stipulate that such list should include financial bodies in preliminary proceedings or their authorised representative, authorised representatives of the non-financial body in administrative penalty proceedings, as well as non-financial bodies in preliminary proceedings, provided that this is laid down in specific provisions.

Meanwhile, Article 136 § 2 of the PFC, which empowers the Council of Ministers to adopt delegated legislation in the form of regulation, stipulates that the modalities under which the authorisation is issued to impose the penalty as criminal fine for the fiscal petty offence applies equally to officials of financial bodies in preparatory proceedings, non-financial bodies in preparatory proceedings and non-financial bodies in administrative penalty proceedings. The term ‘official’ used in the provisions of Article 136 § 2 of the PFC will remain unchanged, still referring to officials of various bodies and meaning public officials without any reference to

²⁰ Explanatory Memorandum to the Bill..., *op. cit.*, pp. 7–8.

²¹ Article 1(2) of the Bill.

²² Article 1(3) of the Bill.

²³ Article 1(4) of the Bill.

²⁴ Article 1(5) of the Bill.

their employment status. Therefore, the term will still refer to officials on duty and to employees who provide work.

Moreover, amendments have covered Article 137 § 4 of the Penal Fiscal Code, which, according to its wording, stipulates that, in addition to the authorised body in preliminary proceedings or its representative, the alleged fiscal offence will be determined, and the conditions of admissibility of administrative penalty proceedings and, in particular, the legal consequences of refusal to accept the criminal fine will also be explained by the authorised representative of the non-financial authority in administrative penalty proceedings.

Meanwhile, according to the assumptions to the said Bill, the provisions of Article 139 § 3 of the PFC are added in order to define the mode of procedure for non-financial bodies in administrative penalty proceedings when the offender refuses to accept the criminal fine. In such a case, after the material evidence of the fiscal petty offence has been secured, to the extent necessary, against their loss, disfigurement or destruction, non-financial bodies in administrative penalty proceedings will transfer cases for further examination to competent financial bodies in preliminary proceedings. The proposed provision will by default grant to non-financial bodies in administrative penalty proceedings the power to secure, to the extent specified therein, the material evidence of a fiscal petty offence if the perpetrator of the fiscal petty offence refuses to accept the criminal fine.²⁵

COMPETENCE OF NON-FINANCIAL BODIES IN ADMINISTRATIVE PENALTY PROCEEDINGS AND BENEFICIARIES OF AMOUNTS COLLECTED FROM FINES IMPOSED IN ADMINISTRATIVE PENALTY PROCEEDINGS BY THE MUNICIPAL POLICE OFFICERS

As a result of the proposed modifications regarding the addition of non-financial bodies in administrative penalty proceedings to the catalogue of bodies authorised to conduct administrative penalty proceedings, the competences of the former were defined in a new Chapter 15a, entitled “The competence of non-financial bodies in administrative penalty proceedings”, as added to the provisions of the Penal Fiscal Code.

The relevant scope of that Chapter would encompass two provisions, namely Article 141a of the PFC and Article 141b of the PFC.

The first one was intended to define the power of new non-financial bodies in administrative penalty proceedings to prosecute fiscal offenders under such administrative penalty mode. The proposed provisions granted the Trade Inspection Authority and the Municipal Police the power to prosecute perpetrators of specific fiscal petty offences defined in Article 62 § 5 of the PFC in the scope referred to in Article 62 § 4 of the PFC, Article 65 § 4 of the PFC, and Article 91 § 4 of the PFC, i.e. failure to register business operations, in particular failure to use cash registers

²⁵ Explanatory Memorandum to the Bill..., op. cit., p. 9.

to record sale transaction, or failure to issue a receipt from the cash register, dealing in stolen excise goods or dealing in contraband goods.

Therefore, it was proposed that such bodies be granted with powers to prosecute prohibited acts of minor social harm under administrative penalty proceedings. In the case of dealing in so-called illegal excise goods or goods which have not been subject to obligatory custom clearance, this would apply solely to acts where the amount of public dues which may decrease in consequence, does not exceed the threshold defined by law.

It should be noted that failure to register a sale transaction in the cash register or to issue a receipt from the cash register as a proof of the sale transaction is subject to liability for the fiscal petty offence defined in Article 62 § 5 of the PFC, within the scope referred to in Article 62 § 4 of the PFC, as an incident of lesser gravity.

Meanwhile, the new Article 141b of the PFC stipulated that the proper conduct of administrative penalty proceedings by non-financial bodies in administrative penalty proceedings should be supervised by the higher-lever authority with territorial jurisdiction over the non-financial bodies in administrative penalty proceedings, i.e. the head of the revenue chamber.²⁶

The last of the amended provisions regarding administrative penalty proceedings were included in Article 187 of the PFC where a new § 1a was added which stipulated that the amounts collected from penalties imposed under administrative penalty proceedings by the Municipal Police officers subsidiary to the local government body would be allocated to such unit.²⁷

COMMENTS SUBMITTED IN PUBLIC CONSULTATIONS TO THE BILL OF 13 APRIL 2022 AMENDING THE PENAL FISCAL CODE ACT AND CERTAIN OTHER ACTS

Under public consultations, several stakeholders made comments to the Bill, including the National Chamber of Commerce, the Polish Chamber of Liquid Fuels, the Polish Trade and Distribution Organisation, and the Association of Polish Cities.

The National Chamber of Commerce (KIG) posited that introducing possibility for the Trade Inspection Authority to conduct administrative penalty proceedings in cases of lesser gravity would help unburden the tax administration system. The KIG believed that cases concerning failure to register sale transactions in the cash register, failure to issue the sale receipt, aiding and abetting in dealing in illegal excise goods, or failure to pay customs duties, if these are acts of lesser gravity subject to a penalty for petty fiscal offence, could be settled on the local level.

On the other hand, the National Chamber of Commerce expressed its reservations regarding the amendment to Article 11(2) of the Municipal Police Act of 29 August 1997²⁸ concerning powers of the Municipal Police to conduct observations and to

²⁶ Ibidem, pp. 9–10.

²⁷ Article 1(7) of the Bill.

²⁸ I.e. Journal of Laws of 2021, item 1763.

record, using technical equipment, images of incidents in public spaces (Article 4(1b) of the Bill). Considering how the Municipal Police used speed cameras in the past, The KIG believed that, reasonable doubts existed that the solution in question could be misused and could serve other purposes than those assumed by the Promoter of the Bill.²⁹

As an aside to the present considerations, it should be stressed that amendments included in Article 11(2) of the Municipal Police Act excluded from the list of tasks in the course of which the Municipal Police is empowered to observe and record images of incidents in public spaces, the power to identify, prevent and detect some selected types of fiscal petty offences defined in the Penal Fiscal Code and to prosecute the offenders. As indicated by the Promoter of the Bill in the explanatory memorandum, this exclusion was put forward because of the legal framework which defines powers of relevant agencies entrusted with detection and prosecution of prohibited acts. In fact, the said legal framework limits the power to observe and record images of events in public spaces exclusively to offences and fiscal offences, and defines such authorisation as a special power subject to specific requirements. Therefore, it would be unreasonable to grant such power to the Municipal Police in order to combat acts of much lesser gravity.³⁰

Moreover, the National Chamber of Commerce is of the opinion that the transfer of powers to conduct proceedings to non-financial bodies in administrative penalty proceedings needed to be combined with an in-depth training of the relevant procedural staff. However, the training should go beyond a simple presentation of relevant provisions to relevant officers. The latter need hands-on knowledge on how to conduct such cases, focusing on pro-fiscal measures and on the rights of businesses and citizens. This was particularly relevant for the modalities of observation, which until that date had been the reserved powers of specialised agencies.

In its analysis of the contents of Article 1(7) of the Bill, the National Chamber of Commerce assessed that the Promoter of the Bill was driven by disproportionately small benefits and used the pathological mechanism, known from the time when the Municipal Police managed speed cameras, and revenue from speed tickets was used to feed local governments' budgets. This gave rise to a number of abuses by municipalities and the Municipal Police. For reasons which are hard to understand, the Promoter of the Bill now reintroduced that widely criticised mechanism in the proceedings on fiscal petty offences. The National Chamber of Commerce noted that this was a wrong and that such a solution would distort the role of the Municipal Police within the public order supervision system in municipalities.³¹

Critical comments to the proposition to add the Municipal Police and the Trade Inspection Authority to the list of bodies authorised to conduct administrative penalty proceedings in cases concerning fiscal petty offences were also made by the Polish Chamber of Liquid Fuels. It noted that if sanctions under the Penal Fiscal Code

²⁹ <https://legislacja.rcl.gov.pl/docs//2/12359803/12879992/12879995/dokument568645.pdf>, accessed on 26 January 2023.

³⁰ Explanatory Memorandum to the Bill..., *op. cit.*, p. 14.

³¹ <https://legislacja.rcl.gov.pl/docs//2/12359803/12879992/12879995/dokument568645.pdf>, accessed on 26 January 2023.

were to be imposed by more institutions this could pose a threat to many businesses which were already subject to inspections by numerous institutions. Businesses were concerned that because of market-tightening measures, inspections and obligations had grown in size and number, as had the variety of sanctions for failure to meet the requirements. As a result, penalties were most often imposed on businesses who operated in a legal and fair manner. They did highlight that the existing sanction system affected righteous taxpayers who are liable even for the tiniest errors and mistakes (often formal mishaps and spelling mistakes). For these reasons, businesses had concerns regarding the proposal to grant further inspection powers to bodies and institutions (Trade Inspection Authority, Municipal Police), including the right to impose sanctions provided for in the Penal Fiscal Code, as envisaged in the Bill under discussion. Please note that several institutions and state bodies, including law enforcement authorities, already hold wide inspection powers in this respect, and existing solutions and the multitude of inspection bodies with relevant powers seem to be sufficient. Entrepreneurs did not challenge the need to typify incidents and irregularities under the penal legislation but had reservations regarding the broadened scope of bodies empowered to conduct such proceedings (and to impose sanctions).³²

Similar comments were formulated by the Polish Trade and Distribution Organisation (POHiD), which stated that granting powers to impose the criminal fine to authorities other than the bodies of the National Revenue Administration, instead of improving detection rates of fiscal petty offences would create additional uncertainty for trading entities as they would need to have extra knowledge on how to identify inspectors from outside the National Revenue Administration, and about their scope of powers. In the POHiD's opinion, tax authorities already had means and resources to ensure better detection rates of fiscal petty offences; therefore, it was not necessary to introduce new bodies in order to perform relevant prevention duties; on the contrary, it would add to the chaos and uncertainty among inspected entities.³³

In turn, in its negative opinion to the said Bill, the Association of Polish Cities stressed that the relevant scope of actions went beyond the statutory scope of powers granted to the Municipal Police (City Police officers), which, in accordance with the Municipal Police Act of 29 August 1997 were limited to the protection of public peace and order, and such scope did not include penal-fiscal powers.

In the opinion of the Association of Polish Cities, the amendments in question would add a number of procedural obligations in respect of administrative penalty proceedings in fiscal cases, which was different from administrative penalty proceedings conducted so far by the Municipal Police, based solely on the Codes of

³² <https://legislacja.rcl.gov.pl/docs//2/12359803/12879992/12879995/dokument568648.pdf>, accessed on 26 January 2023.

³³ <https://legislacja.rcl.gov.pl/docs//2/12359803/12879992/12879995/dokument568650.pdf>, accessed on 26 January 2023.

Proceedings on Petty Offences,³⁴ which in turn could interfere with the course of action of the Municipal Police.³⁵

On 22 September 2022, based on all the comments to the Bill of 13 April 2022 amending the Penal Fiscal Code Act and Certain Other Acts, made in negotiations with external stakeholders and in public consultations, the Management of the Ministry of Finance took the decision to withdraw this piece of legislation, claiming that the works on the Bill amending the Penal Fiscal Code, the Municipal Police Act and the Act on the Trade Inspection Authority, intended to grant the Municipal Police and the Trade Inspection Authority powers to impose criminal fines for selected fiscal petty offences were cancelled because in order for them to be effectively enforced, the Penal and Fiscal Code would first need to be modified as proposed by the Bill amending the Penal and Fiscal Code and Certain Other Acts of 3 March 2022,³⁶ for which legislative works had been suspended by the Ministry of Justice.³⁷

CONCLUSIONS

When assessing administrative penalty proceedings in cases concerning fiscal petty offences, as proposed in the Bill of 13 April 2022 amending the Penal Fiscal Code Act and Certain Other Acts, I believe that the amendments discussed above, i.e. adding the Municipal Police and the Trade Inspection Authority to the catalogue of bodies authorised to conduct administrative penalty proceedings would have an negative impact on the goals set forth for administrative penalty proceedings under the penal fiscal procedure. In fact, these goals would be distorted because administrative penalty proceedings would be reduced to the sole “patching up” of the local budget, while in principle, as a special mode of procedure, they are intended to enforce the principle of procedural speed and economy.

Additionally, it should be highlighted that the officers of the Municipal Police and the Trade Inspection Authority have not been properly trained to conduct administrative penalty proceedings. We are not convinced by the Promoter of the Bill’s argumentation that

“there should be no increase in expenditure by local government units to cover the training costs of municipal police officers and possible extra jobs. The training for municipal police staff would be provided free of charge by experts from the National Revenue Administration. Petty offences will be prosecuted by the Municipal Police officers under administrative penalty proceedings as part of disclosures made within the scope of their

³⁴ Code od Proceedings on Petty Offences of 24 August 2001, i.e. Journal of Laws of 2022, item 1124.

³⁵ <https://legislacja.rcl.gov.pl/docs//2/12359803/12879992/12879995/dokument569512.pdf>, accessed on 26 January 2023.

³⁶ Numbered as UD357 in the list of legislative and programming works of the Council of Ministers, Sejm of the 9th term.

³⁷ <https://www.gov.pl/web/premier/projekt-ustawy-o-zmianie-ustawy-kodeks-karny-skarbowy-oraz-niektorych-innych-ustaw2>, accessed on 26 January 2023.

statutory duties; therefore, it is not assumed that the Municipal Police officers would be specially deployed to disclose and prosecute the said fiscal petty offences. In consequence, it is not expected that the employment in the Municipal Police will go up following the addition of this new duty”.³⁸

Indeed, it is hard to assume that the said goals would be achieved “free of charge”, i.e. even if the new non-financial bodies in administrative penalty proceedings were trained without any costs, such trainings would anyway consume the working time of the National Revenue Administration units, diverting them from the performance of their key statutory tasks, including the conduct of administrative penalty proceedings.

The proposed amendments which we have discussed and which eventually did not enter into force could open the way for further reflexions on how the group of bodies authorised to conduct administrative penalty proceedings in cases concerning fiscal petty offences is broadened. Some years ago, we formulated the *de lege ferenda* postulate on the granting of powers to conduct administrative penalty proceedings to the Police, the Military Police and the Border Guards; therefore, now, it would be interesting to reconsider this suggestion as the examination of cases under administrative penalty proceedings by such bodies would be faster and more economical, and would ensure compliance with the principle of procedural speed and economy. Moreover, it would not require any special training for such group of bodies in order for them to be able to effectively conduct administrative penalty proceedings in cases concerning fiscal petty offences.³⁹

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³⁸ <https://www.zpp.pl/storage/library/2022-05/1245fde00709e5d19fe50093e0d2b35d.pdf>, accessed on 30 January 2023.

³⁹ See Tużnik, M.R., *Postępowania szczególne w postępowaniu karnym skarbowym*, Warszawa, 2013, p. 368.

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Uwagi Polskiej Izby Paliw Płynnych do projektu ustawy z dnia 13 kwietnia 2022r. o zmianie ustawy – Kodeks karny skarbowy oraz niektórych innych ustaw: <https://legislacja.rcl.gov.pl/docs//2/12359803/12879992/12879995/dokument568648.pdf>.

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