**Abstract of doctoral dissertation entitled “Suspension of decision enforcement in proceedings before the administrative courts as exemplified by tax decisions”.**

One of the characteristic features of the judiciary, also in matters concerning the administration control, is its effectiveness understood as“the ability to use the results of control to improve the activities of the administrative apparatus, a condition for which are the legal opportunities to improve the process of administration or prevent the emergence of errors committed in this process”. Effectiveness is also one of the four basic requirements that the Council of Europe European Committee on Legal Co-operation considers as a component of the right to a fair trial in the sphere of control of the public administration. It is, therefore, desirable to create a system of administrative court procedure regulation that would ensure the exercise of judicial review in an effective manner.

The problems of the effectiveness of legal protection granted in the course of administrative court proceedings comes down to the necessity to establish the practical implementation of the requirement of effectiveness. A measure of the effectiveness of legal protection in the course of the pending proceedings may be the speed and efficiency of the proceedings, and the procedure which guarantees accurate conduct of a dispute about the right and that the control effectiveness is ensured. There is no denying that a regulation laid down in order to guarantee the effectiveness of the proceedings before the administrative courts is Article 61 § 1–6 of the Act of 30 August 2002 Law of proceedings before administrative courts (consolidated text: Journal of Laws of 2017 item 1369) – hereinafter “LPAC”, providing for the possibility to suspend the enforcement of an act or action during the administrative court proceedings. Pursuant to Article 61 § 1 of the LPAC, filing an appeal with the court shall not stay the enforcement of the act or action. However, in certain circumstances determined by the Act, it is possible to grant the appellant protection by suspending the enforcement of an act or action in administrative court proceedings, the legal basis for which is Article 61 § 2 and § 3 the LPAC. Rulings on the suspension of the enforcement of an act or action issued on the basis of Article 61 § 2 and § 3 of the LPAC may be amended or repealed by the Court at any time in the event of a change in circumstances, which is provided for in Article 61 § 4 of the LPAC. Whereas the suspension of the enforcement of an act or action shall become ineffective as of the date of issue by the Court of a ruling allowing the appeal or as of the date of the ruling dismissing the appeal becoming final and binding (Article 61 § 6(1) and § 6(2) of the LPAC).

The right to a fair administrative trial is defined as the right to granting an individual legal protection against unlawful action of the administration, in the cases and under the conditions laid down in the Act. It may be, therefore, considered that the right to suspension of the enforcement of an act or action in proceedings before administrative courts in the mode and under the conditions provided for in Article 61 § 1–6 of the LPAC is covered by the concept of the right to a fair trial and applies to ensuring the protection of the interests of parties to such proceedings against the adverse effects of the enactment and thus the enforcement of an arbitrary, and deemed unlawful, action of the public administration. A thesis may also be put forward that the primary objective of the administrative court proceedings is the granting to an individual of legal protection by an administrative court appointed for that purpose. Whereas the objective of suspension of enforcement of an act or action on the basis of Article 61 § 2–6 of the LPAC is to ensure that this legal protection may be granted in an effective manner. The extent of achievement of this objective is the subject matter of considerations described herein. In particular it is considered whether the legal protection measure guaranteed by an Act, i.e. the suspension of enforcement of an act or action, actually and completely ensures the protection against negative results of its enforcement, in connection with the probability of declaration that such act or action has been issued unlawfully. Another objective of this dissertation is to establish whose interest (individual or public of the State Treasury) is protected under the provisions of Article 61 § 2–6 of the LPAC, and whether the concept in question provides equally to each party to the proceedings due protection against the adverse effects of the enforcement and suspension of the enforcement of an act (action) subject to judicial control, pending its completion.

Dissertation provides a detailed analysis of the regulation defined in Article 61 § 2–6 of the LPAC for the suspension of the enforcement of an administrative act, one of which is an administrative decision issued in matters concerning tax obligations, also referred to as a tax decision. The study is primarily theoretical in nature, therefore, the primary method of research is the dogmatic method that allows for the analysis of the currently in force regulation of Article 61 § 1–6 of the LPAC. Moreover, as a support the analytical method was used primarily in respect to the views of legal academics and commentators and judicial decisions Historical legal and comparative methods were used when needed. In one case the method of statistical analysis was used.

Theoretical findings resulting from the application of the above research methods have been categorised in five chapters, creating three essential parts of the dissertation. The first, which includes the first chapter, presents the basic assumptions of the administration judicial control model, and the focuses on defining the notion of decision enforcement suspension as a means of interim protection in proceedings before the administrative courts.

The second part of the dissertation, provided in the second chapter, focuses on determining the meaning of a tax decision. This issue is developed with an attempt to answer the question of what are the enforceability, enforcement and suspension of enforcement of a tax decision. The third part of the dissertation covers the third, fourth and fifth chapters. These chapters describe a division of administrative court proceedings concerning cases on the basis of an appeal against a tax decision into three stages, and analyses the possibility of suspension of tax decision enforcement on each of them.

The first stage covers the time from filing an appeal with the Court through the authority that issued the appealed act or carried out the appealed action until the time of the transferring the appeal to the Court along with the complete and ordered files of the case and the response to the appeal (Article 54 § 2 of the LPAC). The possibility to suspend the enforcement of a decision by an administration authority at this stage of the proceedings (Article 61 § 2(1) of the LPAC) is the subject of the third chapter. The next stage of the proceedings lasts from the moment of sending the appeal by the authority to the Court until a ruling terminating the proceedings in first instance is issued. Suspension of the enforcement of a decision by a court at this stage of the proceedings (Article 61 § 3–6 of the LPAC) was examined in the fourth chapter. The third stage of the administrative court proceedings includes the proceedings before the Supreme Administrative Court on the basis of a cassation appeal or an appeal against a decision terminating the proceedings before the Court of the first instance. The issue of suspension of the enforcement of a decision at this stage of the proceedings (Article 61 § 3–6 in connection with Article 193 of the LPAC) was described in the fifth chapter. This chapter outlines the issues of the appeal proceedings against the ruling of the Court of the first instance, the subject matter of which is the suspension or refusal to suspend the enforcement of the decision (Article 194 § 1(2) of the LPAC). The scope of the dissertation required the examination of possibility to apply a protection measure in the form of suspension of enforcement of an act or action (decision) also in proceedings on the basis of an appeal for the resumption of the proceedings terminated with a final and binding ruling of the administrative court (Article 270-285 of the LPAC), and on the basis of an appeal for declaration of a final and binding ruling unlawful (Article 285a–Article 285l of the LPAC). These issues were also described in the fifth chapter.