

Administrative and Legal Instruments of Disciplining Maintenance Debtors in Poland - A Critical Analysis of Their Effectiveness

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Abstract : The subject of the presentation will be the administrative and legal instruments of disciplining maintenance debtors adopted by the Polish legislator, the substantive legal bases of which were adopted in the Act of 7 September 2007 on assistance to persons entitled to maintenance (Journal of Laws of 2022, item 1205). These provisions are complemented by procedural regulations resulting from the Act of 14 June 1960 - Code of Administrative Procedure (Journal of Laws of 2021, item 735, as amended). The first part of the paper will focus on the administrative proceedings regarding the recognition of the debtor as evading maintenance obligations. The initiation of this procedure ex officio is preceded by a number of actions by public administration bodies, including Conducting a maintenance interview with the debtor, during which his health and professional situation and the reasons for non-payment of maintenance are determined, Professional activation in a situation where the lack of payment of maintenance results from the lack of employment. The reasons for initiating the above-mentioned administrative proceedings ex officio will be indicated, taking into account the current views of the judicial decisions. The second part of the paper will focus on the instrument of retaining the driving license of the debtor, who was previously found to be evading maintenance. The author points out that the detention of the driving license is one of the types of administrative sanctions of a very severe nature. Doubts of a constitutional nature will also be highlighted, as well as those concerning the effectiveness of this legal instrument and the protection of the debtor's rights. The thesis will be presented that the administrative procedure for the retention of a driving license does not fulfill its role and especially does not affect the collection of maintenance obligations from debtors. All the considerations will be based on the current and most representative views of the literature on the subject and the jurisprudence of Polish administrative courts.

Keywords : maintenance debtor, administrative proceedings, detention of driving license, administrative sanction, polish administrative law, public administration

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