

A PENAL TICKET FOR COMMON AND FISCAL MISDEMEANOURS IN POLISH LAW AND THIS PUNISHMENT QUASHED BY COURT AFTER THE AMENDMENTS OF 2013 AND 2015

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1.

In Polish law, misdemeanours are prohibited acts carrying a punishment and are subject to adjudication by criminal courts, however, due to the level of their harmfulness, they are not crimes but constitute a separate category of punishable behaviour. They are subject to prosecution by the authorised state bodies, and in case of misdemeanours violating common law (common, non-fiscal ones) also by the aggrieved. The bodies authorised to prosecute are also competent to fine perpetrators by issuing a ticket or a fiscal ticket, i.e. a pecuniary penalty, and in case of a perpetrator's refusal to accept it, to bring a prosecution before court.

In common offence cases, presently laid down in the Misdemeanour Code of 1971¹ (hereinafter referred to as MC) and over 150 other acts,² a penal ticket was known in the inter-war period as well as after World War II. On the other hand, it has been used in the fiscal penal law since the fiscal penal codification of 1999. The Fiscal Penal Code of 10 September 1999³ (hereinafter referred to as FPC), penalising crimes and misdemeanours against tax and duty obligations in relation to foreign trade, currency

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¹ Journal of Laws [Dz.U.] of 1971 No. 12, item 114; uniform text in Journal of Laws of 2015, item 1094, as amended.

² For more, see e.g. M. Bojarski, W. Radecki, *Kodeks wykroczeń. Komentarz* [Misdemeanour Code: Commentary], C.H. Beck, Warsaw 2011, pp. 37–47, or W. Kotowski, B. Kurzępa, *Wykroczenia pozakodeksowe. Komentarz* [Non-statutory offences: Commentary], LexisNexis, Warsaw 2008.

³ Journal of Laws [Dz.U.] of 1999 No. 83, item 930; at present uniform text in Journal of Laws of 2013, item 186, as amended; for more about the ticketing proceedings in FPC at that time, see T. Grzegorzczak, *Kodeks karny skarbowy. Komentarz* [Fiscal Penal Code: Commentary], Wolters Kluwer, Warsaw 2000, pp. 452–461.

exchange and organisation of gambling and lotteries, adopted a penal ticket for misdemeanours basing on the Misdemeanour Procedure Code of 1971⁴ (hereinafter referred to as former MPC), which was amended in August 1998⁵ with respect to the new codes: the Criminal Code and the Criminal Procedure Code coming into force on 1 September 1998, introducing such a fine as non-judicial prosecuting bodies' response to a fiscal misdemeanour. A penal ticket as such was obviously maintained in the new Misdemeanour Procedure Code of 24 August 2001⁶ (hereinafter referred to as MPC).

A penal ticket is issued to a perpetrator of a misdemeanour in non-judicial proceedings but, as a rule, its amount is lower than the penalty for an act adjudicated by a court after a trial. In case of common offences, a fine adjudicated by a court may reach PLN 5,000 (Article 24 §1 MC) and in case of offences against employees' rights even PLN 30,000 (Articles 281–283 Labour Code). However, if the penalty is imposed as a ticket, the maximum amount is PLN 500 or PLN 1,000, or exceptionally PLN 2,000, and in case of offences against employees' rights up to PLN 5,000 (Article 96 §1-1c MPC). In case of fiscal offences, a penalty is always a fine accounting for up to 20-fold minimum remuneration⁷ (Article 48 §1 FPC), but a maximum fiscal penal ticket may be up to twofold minimum remuneration (Article 48 §2 FPC). Thus, a fine for a fiscal offence imposed as a ticket is favourable for the perpetrator, however, it is a fast penal response to an infringement and meets the preventive aim of a penalty. A ticket is a non-judicial adjudication of a perpetrator's liability, which is not, however, the same as a court's sentence for this liability and is not a conviction.

2.

The condition for ticketing a perpetrator, provided it is admissible and in the opinion of the authorised body constitutes an adequate response to an act, in accordance with both discussed regulations, is the perpetrator's consent to it (Article 97 §2 MPC and Article 137 §3 FPC). If the perpetrator refuses to accept it, a motion to

⁴ Journal of Laws [Dz.U.] of 1971, No. 12, item 116; for more about this code, see M. Siewierski, J. Lewiński, Z. Leoński, J. Gościcki, *Komentarz do kodeksu postępowania w sprawach o wykroczenia oraz do ustawy o ustroju kolegiów do spraw wykroczeń* [Commentary on Misdemeanour Procedure Code and Act on the system of misdemeanour boards], Warsaw 1973; T. Grzegorzczak, *Kodeks postępowania w sprawach o wykroczenia. Komentarz* [Misdemeanour Procedure Code: Commentary], Warsaw 1995.

⁵ It was the Act amending the Act: Misdemeanour Procedure Code, the Act on the system of misdemeanour boards, the Act: Labour Code and some other acts, Journal of Laws [Dz.U.] of 1998, No. 113, item 717; for more, see T. Grzegorzczak, *Nowela do prawa wykroczeń. Komentarz* [Amendment to misdemeanour law: Commentary], Zakamycze, Kraków 1999, and by the same author, *Kodeks postępowania w sprawach o wykroczenia. Komentarz* [Misdemeanour Procedure Code: Commentary], Warsaw 1999, pp. 283–285.

⁶ Journal of Laws [Dz.U.] of 2001, No. 106, item 1149; at present uniform text in Journal of Laws of 2013, item 395, as amended.

⁷ In 2017, the remuneration was PLN 2,000 per month (see, the Regulation of the Council of Ministers of 9 September 2016, Journal of Laws [Dz.U.] of 2016, item 1456), which means that a fine for a fiscal misdemeanour may reach PLN 40,000 but a fiscal penal ticket may impose a fine of up to PLN 4,000.

punish is brought before court (Article 99 MPC), and in fiscal cases, proceedings are conducted in accordance with general rules (Article 139 §1 FPC), i.e. an indictment is placed before court.

Bodies authorised to issue a penal ticket for common offences include: (a) in accordance with the Misdemeanour Procedure Code, the Police (police officers) in cases concerning all types of misdemeanours and the Labour Inspector in cases concerning violation of employees' rights and relating to work, and against regulations promoting work and labour market institutions (Article 95 §1 and §3 MPC), and (b) under special acts and the executive regulation to the Code of the Prime Minister (Article 95 §5 MPC), more than 20 other bodies, including Military Police, Border Guard, municipal police forces, Trade Inspectorate, Sanitary Inspectorate, Road Transport Inspectorate, Environment Protection Inspectorate, State Fire Brigade, State Fishery Guard and State Hunting Guard, however, only in relation to offences that are under their jurisdiction.⁸

On the other hand, in case of fiscal offences, imposing a fine in the form of a fiscal penal ticket is within the competence of a financial body conducting preparatory proceedings, i.e. the head of the tax office or the customs office and a fiscal control inspector or an authorised representative of such a body, i.e. an authorised employee of a tax office or a customs officer (Article 136 §1 *in principio* FPC). It is also admissible that non-financial bodies conducting preparatory proceedings in relation to misdemeanours are the Police, the Border Guard and the Military Police (Article 118 §1 (4)–(6) FPC), but only if a special provision stipulates that (Article 136 §1 *in medio* FPC), and such a special provision has not been passed so far,⁹ although there were such proposals.¹⁰

The mode of imposing a fine by issuing a ticket laid down in those codifications is also different. In the law on misdemeanours, the proceedings are initiated when a president of a court receives a motion to punish an act filed by a competent prosecutor and directs it to adjudication (Article 59 §2 MPC). No formal pre-judicial proceedings are conducted in relation to the revealed misdemeanour. The only preparatory proceedings admissible are the explanatory proceedings conducted at the scene in order to establish grounds for the motion to punish the act and to collect data necessary to its development, which should be completed, as a rule, in a month's time from the moment they were undertaken (Article 54 §1 MPC). If the circumstances of the act do not raise any doubts, they are filed in an official record. If there are doubts, the collection of necessary evidence should be performed by

⁸ See, e.g. T. Grzegorzcyk, *Kodeks postępowania w sprawach o wykroczenia. Komentarz* [Misdemeanour Procedure Code: Commentary], Wolters Kluwer, Warsaw 2012, pp. 331–336; or J. Lewiński, *Kodeks postępowania w sprawach o wykroczenia. Komentarz* [Misdemeanour Procedure Code: Commentary], LexisNexis, Warsaw 2011, pp. 291–204.

⁹ For more, see e.g. T. Grzegorzcyk, J. Tylman, *Polskie postępowanie karne* [Polish criminal procedure], LexisNexis, Warsaw 2014, pp. 923–924; see also, e.g. T. Oczkowski, [in:] V. Konarska-Wrzošek, T. Oczkowski, J. Skorupka, *Prawo i postępowanie karne skarbowe* [Fiscal penal law and procedure], Wolters Kluwer, Warsaw 2013, pp. 401–402.

¹⁰ See, e.g. M.R. Tużnik, *Postępowania szczególne w postępowaniu karnym skarbowym* [Special procedures in fiscal penal proceedings], Wolters Kluwer, Warsaw 2013, p. 330.

interviewing the aggrieved, witnesses and the accused and taking the minutes of the interviews still before a trial (Article 54 §3–7 MPC).

Due to such a solution, it was laid down in Article 97 §1 MPC that a penal ticket is applicable only: (a) where a perpetrator was caught red-handed or just after the commission of a misdemeanour, thus in a pursuit after an offence, or (b) where an officer authorised to issue a ticket recognises a misdemeanour personally but in a perpetrator's absence, and there is no doubt who the perpetrator was, and (c) where the commission of a misdemeanour was established with the use of a measurement-monitoring or registering devices, a perpetrator was not caught red-handed or just after an offence commission but there are no doubts who he was. In cases when a perpetrator was caught red-handed or directly after the commission, a ticket as a sort of penal response is admissible only if the explanatory proceedings after the apprehension of a perpetrator take up to 14 days, when a misdemeanour is established by an officer in person but in a perpetrator's absence – 90 days, and a misdemeanour is established with the use of the above-mentioned devices – 180 days (Article 97 §1 *in fine* MPC).

On the other hand, in accordance with the fiscal penal law, where in cases of both fiscal crimes and misdemeanours, as a rule, the provisions of the Criminal Procedure Code are applied (Article 113 §1 FPC), pre-trial preparatory proceedings are carried out, however, in misdemeanour cases it is just an inquiry limited to an interrogation of a suspect and other activities necessary in order to file an indictment or close the proceedings in another way, e.g. discontinue them (Article 152 FPC). Due to that, it is assumed that a former initiation of such an inquiry does not prevent the application of ticketing proceedings and fining a perpetrator (Article 136 § 1 *in fine* FPC). As a result, there are doubts what should be done with the formerly initiated inquiry when the ticketing proceedings are used in its course. Some authors believe that a ticket alone finishes the initiated fiscal penal proceedings.¹¹ Others believe that the inquiry should be discontinued due to a procedural obstacle such as another circumstance excluding prosecution (Article 17 §1 (11) CPC in connection with Article 113 §1 FPC). This is because in the situation discussed a ticket was issued in separate proceedings initiated in the course of a formerly initiated inquiry, so it should be discontinued due to the fact that imposing a fine in the form of a ticket excludes further prosecution of the perpetrator.¹²

Nevertheless, in accordance with the fiscal penal law, a ticket is applicable directly when a fiscal body or its officer (employee) reveals a fiscal misdemeanour, e.g. minor smuggling (Article 86 §4 FPC), failure to submit a tax return (Article 56 §4 FPC) or impeding a less important fiscal control (Article 83 §2 FPC), also in the course of an inquiry into the case concerning a given person. On the other hand, the conditions for *in concreto* ticketing are: (a) a requirement that the circumstances of

¹¹ See, e.g. G. Skowronek, *Ewolucja instytucji procesowych w prawie karnym skarbowym* [Evolution of procedural institutions in fiscal penal law], C.H. Beck, Warsaw 2005, p. 170; or J. Zagrodnik, [in:] L. Wilk, J. Zagrodnik, *Kodeks karny skarbowy. Komentarz* [Fiscal Penal Code: Commentary], C.H. Beck, Warsaw 2007, p. 666.

¹² See, e.g. T. Grzegorzczuk, *Kodeks karny skarbowy. Komentarz* [Fiscal Penal Code: Commentary], Wolters Kluwer, Warsaw 2009, p. 570.

a fiscal misdemeanour and its perpetrator should be unquestionable, and (b) there is no need to impose *in concreto* a fine that is higher than the amount admissible in the ticketing proceedings (Article 137 §1 FPC).

In both discussed regulations, some restrictions on the application of penal tickets are also envisaged.

In the misdemeanour law, ticketing is excluded:

- a) if a given misdemeanour also carries, apart from a fine, another penal measure, e.g. a ban on driving, forfeiture of objects, compensation or damages (Article 96 §2 second sentence *in principio*), thus always when such a measure is obligatory (e.g. a ban on driving in case of driving under the influence of alcohol or a narcotic drug – Article 87 §3 MC, or redress to theft or appropriation of wood from a forest – Article 120 §3 *in principio* MC), and when it is facultative (e.g. forfeiture of goods sold in a prohibited place Article 60³ §2 MC or a ban on driving because of careless driving on a public road – Article 86 §3 MC), if in a ticketing body's opinion, it should be applied in the case; and
- b) where there is the concurrence of a misdemeanour and a crime (Article 96 §2 first sentence *in fine* CPC in connection with Article 10 §1 MC), i.e. when a perpetrator violated the provisions of the criminal law and misdemeanour law at the same time, which is connected with the fact that in such cases there is a separate "adjudication" on a crime and on a misdemeanour, thus a case must be heard before court; and also
- c) if there is a concurrence of the provisions of the same misdemeanour law, i.e. when a perpetrator has violated a few provisions of the same law at the same time and ticketing proceedings are not applicable to some of them (Article 96 §2 second sentence MPC in connection with Article 9 §1 MC), which is applicable to situations where a ticketing body recognising a misdemeanour violating a few provisions of the misdemeanour law is not authorised to prosecute all the committed *in concreto* violations as well as where it is an authorised body to prosecute all the violations but the ticketing proceedings are not admissible in all these cases because of the reasons mentioned earlier, e.g. because of the obligation to use a penal measure for one of the misdemeanours.

However, if it is recognised that a given person has committed a few misdemeanours and a fine imposed in the ticketing proceedings is a sufficient response, a ticketing body authorised to prosecute in each case issues a separate ticket for each misdemeanour. It is also applicable to fiscal misdemeanours.

On the other hand, statutory limitations to the application of a ticket in accordance with the fiscal penal law are the following:

- a) where diminution in dues to the State (e.g. tax or duty) occurs in connection with this misdemeanour, unless it has been already fully settled (Article 137 §2(1) FPC); and
- b) where there is a concurrence of fiscal penal provisions, thus where a perpetrator violates a few provisions of FPC at the same time, some of which are misdemeanours and some constitute fiscal crimes (Article 137 §2(2) in connection with Article 7 §1 FPC), when he/she should be liable for one fiscal misdemeanour or one fiscal crime; and

c) where a penal measure of forfeiture of objects (Article 137 §2(4) FPC) should be a penalty imposed for a fiscal misdemeanour, however, with regard to fiscal misdemeanours, forfeiture is obligatory only in case of a misdemeanour committed in the activity of an exchange office that is not registered or in case of statutory violation if it is an act of minor significance (Article 49 §4 in connection with Article 106d §2 FPC), and in other cases the forfeiture is facultative. Thus, a ticketing body decides whether its adjudication is necessary *in concreto*, which excludes the application of a ticket, or whether it is not necessary, which allows the limitation of the penal response to imposing a fine in the form of a ticket.

The differences between the misdemeanour law and the fiscal penal law also concern the types of tickets applicable to perpetrators of common misdemeanours and fiscal misdemeanours. In case of common misdemeanours, there are three types of tickets: a cash payment ticket, a credit ticket and an *in absentia* ticket (Article 98 §1 MPC), and in fiscal penal law, there are only the first two types of tickets applicable (Article 138 §1 FPC).

A cash ticket is, in accordance with both regulations, a ticket issued after a fine is paid directly to an officer (an authorised body) who has imposed it. It becomes valid and final with the moment of its settlement, however, it can “only” be applied to persons who stay in Poland temporarily or do not have a permanent domicile or place of residence (Article 98 §2 MPC and Article 138 §2 and §4 FPC), and in case of fiscal misdemeanours committed by persons who stay in Poland permanently but are leaving the country temporarily (Article 138 §3 FPC), e.g. tourists and persons leaving the country to take part in internships or conferences who commit customs- or currency-related misdemeanours while crossing the Polish border.

On the other hand, a credit ticket, also in accordance with both statutes, is issued to fine a perpetrator signing its receipt, with an obligation to settle it within seven days from the date of receipt. It becomes valid and final with the moment the perpetrator signs its receipt so, in case of his/her failure to settle it on time, it is subject to enforcement following the administrative execution mode (Article 98 §3 and Article 100 §12 MPC and Article 138 §4 *in fine* and §5 and Article 187 §2 FPC). The ticket is issued in cases of fiscal misdemeanours only to fine a person different than the one who can be punished with a cash ticket (Article 138 §4 in connection with §2 FPC), i.e. has a permanent domicile or place of residence. The same situation took place under the misdemeanour law¹³ before the Act of 10 March 2014 amending the Act: Law on road traffic and some other acts.¹⁴ Due to this Act, passed in order to implement the Directive 2011/82/EU of the European Parliament and of the Council of 25 October 2011 facilitating the cross-border exchange of information on road safety related traffic offences, since 30 April 2014 the number of entities who may be punished with a credit ticket instead of only a cash ticket, as it was before, has increased.¹⁵ At present, in case of common misdemeanours, a credit ticket may

¹³ See, e.g. T. Grzegorzczak, *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], 2012, pp. 347–348.

¹⁴ Journal of Laws [Dz.U.] of 2014, item 486.

¹⁵ For more on the same change, see T. Grzegorzczak, *Postępowanie w sprawach o wykroczenia po zmianach z końca poprzedniej dekady i z lat 2011–2016* [Misdemeanour procedure after amendments

be applied to punish a person who has a permanent domicile or place of residence in Poland and a person who does not have it in Poland but has it in another EU state (new §3 of Article 98 MPC).

An *in absentia* ticket, on the other hand, provided for only in the misdemeanour law, is applicable in situations where a ticketing body visually recognises a misdemeanour while a perpetrator is not present at the scene (e.g. an owner's or administrator's failure to mark the real estate or to illuminate its number – Article 64 MC, or parking a vehicle in a way that obstructs traffic on a public road or in a prohibited place – Article 90 or Article 97 MC), provided that there is no doubt who that person is. A ticket is then left in a place visible to the perpetrator immediately when he/she returns and can collect it (Article 96 §4 MPC). It must be settled within seven days from the date of issue, not the date of receipt. Thus, the document must clearly indicate this date and the place where the ticket may be settled, i.e. into which institution's account the money is to be paid, as well as instruct the perpetrator about the consequences of failing to settle the fine in time (Article 96 §5 first sentence MPC). The consequence is bringing a motion to punish the perpetrator before court (Article 99 MPC). However, in case of settling a ticket in the place and time indicated, it becomes valid and final (Article 96 §5 second sentence MPC). In case of late settlement of a ticket but before a ticketing body, which is a prosecuting one, files a motion at court, further prosecution should be abandoned. However, if a fine is paid after a motion to punish was filed, the fact that the fine was settled is not an obstacle to judicial proceedings because the ticket is not valid and final as it was not settled in due time laid down in statute.¹⁶

3.

If a ticket becomes valid and final when it is settled/paid directly to the body imposing a fine or when it is settled within the time indicated, or at the moment of signing its receipt, a question arises concerning situations when it turns out that it has been defectively issued with a violation of law.

In accordance with the former MPC of 1971, from March 1991 there was a solution, introduced by the Regulation of the Minister of the Interior of 5 March 1991 on imposing, settling and enforcing fines within the ticketing proceedings,¹⁷ which was an executive regulation to this Code. Based on it, in case of imposing a fine "for an act not being a misdemeanour", the settled amount should be returned

of the late 2000s and 2011–2016], [in:] T. Grzegorzczuk and R. Olszewski (ed.), *Verba volant, scripta manent. Proces karny, prawo karne skarbowe i prawo wykroczeń po zmianach z lat 2015–2016. Księga Pamiątkowa poświęcona Profesor Monice Zbrojewskiej* [Verba volant scripta manent. Criminal trial, fiscal penal law and misdemeanour law after the amendments of 2015–2016. Commemorative book dedicated to Professor Monika Zbrojewska], Wolters Kluwer, Warsaw 2016, p. 75.

¹⁶ See, e.g. T. Grzegorzczuk, *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], 2012, p. 350; M. Rogalski, [in:] A. Kiełtyka, J. Praškiewicz, W. Rogalski (ed.), A. Ważny, *Kodeks postępowania w sprawach o wykroczenia. Komentarz* [Misdemeanour Procedure Code: Commentary], Wolters Kluwer, Warsaw 2009, pp. 168–169.

¹⁷ Journal of Laws [Dz.U.] of 1991, No. 20, item 87.

to the punished person (§6(2) of the Regulation) by the ticketing body that imposed the fine. In case a fine was imposed with the infringement of other provisions concerning the ticketing proceedings, e.g. concerning the grounds for its imposition, the party involved had to institute an administrative or civil law action in order to recover the amount settled due to the receipt of the ticket.¹⁸

No sooner than on 1 September 1998, did the amendment to the Code of August 1998 introduce a possibility of quashing a valid penal ticket directly to the common misdemeanour procedure. The new Article 67a §1 of the former MPC laid down that a valid penal ticket “is subject to quashing” if a fine was imposed “for an act not being a misdemeanour”, and that the quashing shall be done on the punished person’s demand within seven days from the moment when it became valid or *ex officio*, and that the body that is authorised to quash a ticket is the one at that time adjudicating on misdemeanours, i.e. the misdemeanour board, under the jurisdiction of which the fine was imposed. It adjudicated on this during a session and could order checking the grounds for quashing a ticket (Article 67a §2 of the former MPC). When the ticket was quashed, the board should order the institution that collected a fine to return it to the punished person (§3 of Article 67a of the former MPC). Thus, quashing a ticket was obligatory but, as it was indicated, it did not concern a ticket defectively issued, e.g. with the infringement of the ticketing rate or a defective classification of a given act or even in relation to an act that was not subject to then limited ticketing proceedings, but only concerned a ticket imposing a fine for an act that was not a misdemeanour in the light of misdemeanour law,¹⁹ therefore it constituted either non-punishable behaviour or a crime.

The Fiscal Penal Code adopted the solution in 1999 and laid down that quashing of a valid ticket was possible in case it imposed a fine “for an act not being a fiscal misdemeanour”, where the requirement was interpreted in the way similar to common misdemeanour interpretation as the one concerning a situation in which the given behaviour was neutral from the point of view of criminal law, i.e. it constituted a fiscal crime or a common crime, or a common misdemeanour.²⁰ However, quashing of a ticket was in the competence of courts, which were entirely authorised to adjudicate in fiscal penal cases.

Also the Misdemeanour Code of 2001, as a rule, adopted the solution introduced to the ticketing proceedings of 1998. Quashing of a valid ticket, due to the dissolution of misdemeanour boards, was assigned to a regional court under the jurisdiction of

¹⁸ For more, see T. Grzegorzczak, *Kształtowanie się instytucji uchylania prawomocnego mandatu karnego w sprawach o wykroczenia i jego postać po nowelizacji z 20 lutego 2015 r.* [Development of the institution of quashing a valid ticket for misdemeanours and its form after the amendment of 20 February 2015], [in:] J. Sawicki and K. Łuczczak (ed.), *Na styku prawa karnego i prawa o wykroczeniach. Zagadnienia materialnoprawne oraz procesowe. Księga jubileuszowa dedykowana Profesorowi Markowi Bojarskiemu* [At the contact point of criminal law and misdemeanour law: substantive and procedural legal issues. Professor Marek Bojarski jubilee book], Wrocław 2016, Vol. I, pp. 331–332.

¹⁹ See, T. Grzegorzczak, *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], 1999, pp. 283–284.

²⁰ See, e.g. A. Świątłowski, [in:] G. Bogdan, A. Nita, Z. Radzikowska, A. Świątłowski, *Kodeks karny skarbowy z komentarzem* [Fiscal Penal Code with commentary], Info-Trade, Gdańsk 2000, p. 480; T. Grzegorzczak, *Kodeks karny skarbowy...* [Fiscal Penal Code...], 2000, p. 459.

which a ticket was issued (Article 101 §2 first sentence in connection with Article 9 MPC). It adjudicated on the matter upon the punished person's demand filed before the end of the absolute seven-day period from the date when a ticket became valid or *ex officio* (Article 101 §1 MPC). In the latter case, it also concerned a punished person's late motion, without justified reasons for re-establishing the missed deadline, as well as a court's activity *ex officio* as a result of e.g. adequate information from a ticketing body or a prosecutor about imposing *in concreto* a fine for the behaviour that was not prohibited as a misdemeanour. Quashing *ex officio* was not restricted to any time limit, thus it could take place also after the limitation of a misdemeanour prosecution as laid down in Article 45 §1 MC.²¹ Before adjudication on the matter of quashing a ticket, a court could order respective activities be undertaken in order to check the grounds for this decision (Article 101 §2 third sentence MPC). These involved evidence collection supervisory activities envisaged in the newly introduced Article 97 MPC (Article 32 §5 MPC), hence e.g. interrogation of an officer who issued a ticket or a witness of the incident, including the aggrieved or the punished person, as well as getting acquainted with the documents submitted by these parties, which might be important for the adjudication.²²

At the beginning a court adjudicated, as the misdemeanour board before, during a session in the parties' absence (Article 101 §2 second sentence in connection with Article 33 MPC). However, as of 3 August 2005, the punished person as well as a body or its officer who issued a ticket imposing a fine, or a representative of this body as well as the aggrieved by this act (a new third sentence added in §2 of Article 101 MPC) have had the right to take part in the session. This is a result of the Act of 6 May 2005 amending the Misdemeanour Procedure Code²³ passed as a consequence of the Constitutional Tribunal judgement No. SK 38/03 of 18 May 2004,²⁴ recognising this provision as incompliant with Article 45 of the Constitution because it did not provide the aggrieved with an opportunity to take part in the discussed court's session, which infringes their right to a court hearing.

In the regulation introduced by MPC of 2001, it was clearly emphasised that it concerned quashing of a ticket imposing a fine for an act "not being an act prohibited as a misdemeanour", and not for an act "not being a misdemeanour" as it had been formulated before. It was the legislator's response to legal practitioners' opinions that a requirement that the ticket should be issued for an act "not being a misdemeanour" provides an opportunity to refer, in a motion to a court to quash it, to such circumstances as the lack of guilt or the exclusion of unlawful behaviour or the lack

²¹ See, e.g. T. Grzegorzcyk, *Kodeks postępowania w sprawach o wykroczenia. Komentarz* [Misdemeanour Procedure Code: Commentary], Warsaw 2002, p. 342; or J. Lewiński, *Mandat karny* [Penal ticket], LexisNexis, Warsaw 2003, p. 35.

²² See, e.g. T. Grzegorzcyk, *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], 2002, p. 343; J. Lewiński, *Mandat...* [Penal ticket...], p. 35.

²³ Journal of Laws [Dz.U.], No. 132, item 1103.

²⁴ OTK ZU 5A/2004, item 45; Journal of Laws [Dz.U.] of 2004, No. 128, item 1351, Lex No. 1130-1; for more, see e.g. T. Grzegorzcyk, *Kodeks postępowania w sprawach o wykroczenia. Komentarz* [Misdemeanour Procedure Code: Commentary], DW ABC, Warsaw 2005, p. 354 and by the same author, *Kodeks postępowania w sprawach o wykroczenia. Komentarz* [Misdemeanour Procedure Code: Commentary], Wolters Kluwer, Warsaw 2008, pp. 382-383.

of *in concreto* social harmfulness of an act, which could change the proceedings aimed at quashing the ticket voluntarily accepted by a perpetrator into a trial concerning liability for a misdemeanour which the perpetrator already accepted when receiving the ticket.²⁵ Therefore, from September 2001, a ticket subject to quashing has been the one imposing a fine for an act that does not have the features of an act prohibited by misdemeanour law, i.e. imposed for behaviour that is legally neutral or penalised but not as a common misdemeanour, but e.g. as a fiscal misdemeanour or a common crime or a fiscal crime.²⁶ The solution was also introduced to the Fiscal Penal Code but not sooner than on 17 December 2005 as a result of the Act of 28 July 2005 amending Fiscal Penal Code.²⁷ Thus, it started to be applicable to fiscal misdemeanours.²⁸

In connection with that, mainly based on common misdemeanours, it was raised that there were still no grounds for quashing a ticket in case a given behaviour was classified under a different provision of the misdemeanour law than the one used by a ticketing body as well as where a body imposing a fine in this mode was not entitled to issue a ticket in connection with the prohibited behaviour concerned or where the imposed fine exceeded the limit for a punishment admissible in ticketing proceedings, and where it was imposed in conflict with limitations laid down in the provisions regulating this proceedings.²⁹ Thus, the solution raised various doubts in the literature, where far-reaching proposals *de lege ferenda* were sometimes made, e.g. to limit the issue of tickets in misdemeanour law to *in absentia* tickets, which, if failed to be settled in time, results in placing a case before court and so eliminates a ticket.³⁰ This suggestion, however, is difficult to be recognised as well-grounded. At that time, however, some of the doubts could be solved with the use of systemic and not linguistic interpretation.³¹

²⁵ See, e.g. T. Grzegorzczak, *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], 2002, p. 343; J. Lewiński, *Mandat...* [Penal ticket...], p.34.

²⁶ See, e.g. T. Grzegorzczak, *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], 2002, p. 343, and *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], 2008, p. 381; Z. Świda, [in:] M. Bojarski, Z. Świda, *Podstawy materialnego i procesowego prawa o wykroczeniach* [Substantive and procedural misdemeanour law], UW, Wrocław 2002, p. 293; M. Rogalski, [in:] A. Kieltyka, J. Pańkiewicz, M. Rogalski (ed.), *A. Ważny, Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], pp. 370–371; J. Lewiński, *Mandat...* [Penal ticket...], p. 34; J. Lewiński, *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], pp. 313–314; M. Zbrojewska, [in:] M. Błaszczak, W. Jankowski, M. Zbrojewska, *Prawo i postępowanie w sprawach o wykroczenia* [Misdemeanour law and procedure], C.H. Beck, Warsaw 2013, p. 314.

²⁷ Journal of Laws [Dz.U.] of 2005, No. 178, item 1479.

²⁸ For more about this change in FPC, see, e.g. G. Skowronek, *Kodeks karny skarbowy. Art. 113–191. Komentarz* [Fiscal Penal Code: Articles 113–191. Commentary], C.H. Beck, Warsaw 2006, p. 270, or T. Grzegorzczak, *Kodeks karny skarbowy. Komentarz* [Fiscal Penal Code: Commentary], Warsaw 2006, p. 572.

²⁹ See, e.g. T. Grzegorzczak, *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], 2008, p. 381; M. Rogalski, [in:] A. Kieltyka, J. Pańkiewicz, M. Rogalski (ed.), *A. Ważny, Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], p. 371; J. Lewiński, *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], p. 314.

³⁰ See, e.g. J. Jodłowski, *Postępowanie mandatowe – wątpliwości konstytucyjne* [Polish ticketing proceedings – constitutional doubts], *Palestra* 2008, No. 1–2, pp. 92–98.

³¹ For more, see T. Grzegorzczak, *Kształtowanie się instytucji...* [Development of the institution...], [in:] J. Sawicki and K. Łuczak (ed.), *Na styku prawa karnego...* [At the contact point...], pp. 134–135.

The Constitutional Tribunal drew attention to one more aspect of quashing a valid ticket in its judgement No. P 13/06 of 15 May 2007,³² in which it was stated that “the concept of ‘an act not being an act prohibited as a misdemeanour’ requires taking into consideration that a punishable act must be a culpable one, i.e. at the moment of commission, a perpetrator may be required to comply with an obligation or prohibition resulting from a legal norm”, which was connected with the fact that *in concreto* a ticket accepted by the perpetrator imposed a fine on a totally incapacitated person due to a serious mental disorder. The Tribunal, although it discontinued the proceedings in the case, indicated that the subject matter of the judicial review in the ticket quashing proceedings should also include consideration whether a given act committed by a person “may be classified as a misdemeanour” and highlighted that a prohibited act is not one if guilt cannot be attributed to a perpetrator in the course of its commission, and that maybe also an issue concerning “quashing unlawfulness or social harmfulness of an act” should be analysed.³³ As far as the latter issue is concerned, i.e. the need to analyse social harmfulness of an act during the ticket quashing proceedings, the Constitutional Tribunal’s opinion cannot be approved of. In accordance with misdemeanour law, unlike in criminal common and fiscal law, there is no gradation of harmfulness, thus there is no minimum limit excluding liability, i.e. the so-called insignificant harmfulness (Article 1 §2 CC and Article 1 §2 FPC) is absent in the Misdemeanour Code (Article 1 MC). This area of law deals with insignificant acts, i.e. resulting in harmfulness that is lower than negligible, and legal liability may only be excluded in case of total lack of *in concreto* this harmfulness of the given behaviour.³⁴ However, a perpetrator can refuse to collect a ticket if he/she believes that his/her behaviour is totally harmless, and this way makes a ticketing body agree with him/her or place the case before court where the accused can prove harmlessness of his/her act.

Regardless of the above-mentioned reservations, it is not possible to approve of the solution adopted in this subject matter in 2001 because it raised justified doubts in the doctrine and in practice, and required systemic interpretation and intervention of the Constitutional Tribunal. However, the activities were insufficient to eliminate all problems occurring in the practical application of law. The state required the intervention of the legislator, as this was the only way to eliminate deficiencies of the vague regulation adopted in 2001.

³² OTK–A 2007, No. 8, item 57; for more about this judgement see also, e.g. T. Grzegorzcyk, *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], 2012, p. 354.

³³ For more about this judgement, see T. Grzegorzcyk, *Kształtowane się instytucji...* [Development of the institution...], [in:] J. Sawicki and K. Łuczarski (ed.), *Na styku prawa karnego...* [At the contact point...], pp. 135–136.

³⁴ For more, see e.g. M. Bojarski, [in:] M. Bojarski, W. Radecki, *Kodeks wykroczeń...* [Misdemeanour Code...], pp. 99–105; T. Bojarski, [in:] T. Bojarski, J. Michalska-Warias, J. Piórkowska-Fliieger, M. Szwarczyk, *Kodeks wykroczeń. Komentarz* [Misdemeanour Code: Commentary], Warsaw 2007, p. 29, or T. Grzegorzcyk, [in:] T. Grzegorzcyk, W. Jankowski, M. Zbrojewska, *Kodeks wykroczeń. Komentarz* [Misdemeanour Code: Commentary], Wolters Kluwer, Warsaw 2013, pp. 32–34; see also the Supreme Court judgement of 17 December 2003, V KK 222/03, Lex No. 83772.

4.

This was the direction of work of the Criminal Law Codification Committee appointed in 2009 to prepare the amendment to the substantive and procedural criminal law *sensu largo*, which also covered the substantive and procedural misdemeanour law and fiscal penal law. The work resulted in the development of Bills amending procedural law and substantive law of 2012 and 2014, respectively, which were adopted by the government and passed by the Sejm as two acts: the Act of 17 September 2013 amending Act: Criminal Procedure Code and some other acts³⁵ (hereinafter referred to as the Amendment of September 2013) and the Act of 20 February 2015 amending Act: Criminal Code and some other acts³⁶ (hereinafter referred to as the Amendment of February 2015). Both amendments entered into force on 1 July 2015. At the same time, the latter also modified some solutions adopted in the former amendment, including in the field of quashing of valid tickets issued for common misdemeanours (Article 8(2) of the Amendment of February 2015).

The changes concerning quashing of a penal ticket issued in cases concerning common misdemeanours, however, entered into force earlier than other solutions of those amendments, because already 14 days after the publication of the Amendment of February 2015 (Article 29(2) of the Act in connection with its Article 8(2)), i.e. on 4 April 2015. Since that date on, quashing of tickets in accordance with misdemeanour law has had a new form. However, the new solution in fiscal penal law adopted in the Amendment of September 2013 entered into force on 1 July 2015.

Due to the fact that the solution concerning quashing of valid penal tickets adopted in the Amendment of September 2013 was the same in the two fields of law where they are applicable and then the Amendment of February 2015 changed the way of quashing tickets for common misdemeanours, the analysis of these solutions should be started with the presentation of the solution adopted in the Amendment of September 2013.

The Bill of the Amendment of September 2013 assumed the same solution in the new wording of Article 101 §1 MPC and Article 140 §1 FPC,³⁷ laying down that a penal ticket shall be quashed in case “a fine was imposed for an act not being prohibited as a misdemeanour or on a person who did not commit that act or who is not liable for a misdemeanour”.³⁸ Justifying the need to adopt such a solution, the

³⁵ Journal of Laws [Dz.U.] of 2013, item 1247.

³⁶ Journal of Laws [Dz.U.] of 2015, item 396.

³⁷ On the assumptions of this Bill with respect to the scope discussed, see T. Grzegorzczak, *Postępowanie mandatowe jako pozasądowy sposób rozstrzygnięcia spraw o wykroczenia po ponad 10 latach obowiązywania procedury wyktoczeniowej z 2001 r.* [Ticketing proceedings as a non-judicial way of settling misdemeanour cases after over 10 years of Misdemeanour Code of 2001 being in force], [in:] A. Błachnio-Parzych et al. (ed.), *Problemy wymiaru sprawiedliwości karnej. Księga Jubileuszowa Profesora Jana Skupińskiego* [Criminal justice issues. Professor Jan Skupiński jubilee book], Wolters Kluwer, Warsaw 2013, p. 687.

³⁸ See Article 101 §1 first sentence MPC in the wording suggested in Article 16(22) of the government Bill and Article 140 §1 FPC in the wording suggested in Article 14(13) of the Bill – VII term Sejm paper No. 870.

legislator then³⁹ referred to the above-mentioned judgements of the Constitutional Tribunal and the opinions of the doctrine and agreed that the grounds for quashing a ticket, apart from a situation when it was issued for an act that is not prohibited as a misdemeanour, should also cover, in accordance with the constitutional requirements, cases where it was issued for an act prohibited as a misdemeanour but imposed on a person who was actually not a perpetrator, as well as where it was imposed on a perpetrator who cannot be attributed with liability, including guilt. Thus, it was raised that in the former regulation "it is difficult to find, without special interpretation and regardless of the historical interpretation and the former wording of the statute, requirements indicated by the Constitutional Tribunal in the present grounds for quashing a ticket", and that was the reason for amending it. The provision also assumed clarification that this quashing takes place "on the punished person's or his/her statutory representative's or his/her guardian's motion, filed seven days after a ticket became valid at the latest or *ex officio*" (new second sentence of §1 of both discussed provisions). It was connected with the assumption of admissibility of applying for quashing a ticket also when it was issued to a minor or another person who is not liable for a misdemeanour (e.g. an insane person), but also meant the abandonment of the attitude that the time limit for filing this motion is absolute, i.e. non-extendable but subject to reinstatement.

The discussed Bill also proposed supplementing Article 101 MPC with a new §1a, which stipulated that a valid penal ticket should be quashed also in case a fine was imposed against bans laid down in the formerly discussed Article 96 §2 MPC (§1a first sentence) and in case it was imposed in the amount exceeding what is laid down in Article 96 §1-1b MPC presented above, however, in this case only in the amount exceeding the admissible volume of punishment (§1a second sentence). The same assumption constituted grounds for supplementing Article 140 FPC discussed above with the new §1a introducing quashing of a penal ticket in case it was issued against bans laid down in Article 137 §2(2) and (4) FPC, and in case it imposed a fine higher than the one stipulated in Article 48 §2 FPC, i.e. higher than admissible in the ticketing proceedings.

The legislator in general accepted the above-mentioned proposals passing the amending Act of 27 September 2013. No changes were introduced to the suggested new provisions of §1a of Article 101 MPC and Article 140 FPC. However, as far as the new §1 of Article 101 MPC and §1 of Article 140 FPC are concerned, the first sentence about the grounds for quashing a ticket adds a clear indication that a valid penal ticket "is subject to immediate" quashing, indicates the necessity of fast judicial response to a motion to quash it or any information on the grounds for quashing it and obliging a court to act *ex officio*. Also the second sentence but only of §1 of Article 101 MPC was supplemented with respect to initiating ticket quashing proceedings by authorising a body whose officer issued a ticket imposing a fine to file a motion to quash the ticket, however, this body is not bound by the seven-day period after the ticket became valid, which means the time limit is applicable only to a person punished. Also the form of one of the new prerequisites

³⁹ See justification for the Bill in the Sejm paper No. 870 (17).

for quashing a ticket proposed in the Bill was modified in both codes. The legislator adopted a solution that, instead of the suggested circumstances of imposing a fine “on a person who has not committed a misdemeanour”, the fact that a fine was imposed “on a person who did not sign a penal ticket” constituted grounds for quashing.

Therefore, after the amendment entered into force, the grounds for quashing a valid ticket for a common as well as fiscal misdemeanour by court were to take place “in case a fine was imposed for an act not being prohibited as a misdemeanour or on a person who did not sign a penal ticket, or who is not liable for a misdemeanour”. However, the indication of a person who did not sign a ticket was misleading. It might suggest that it concerned a situation when a fine was imposed without the punished person’s consent to collect a ticket because the person punished signs a ticket to confirm his/her consent to the ticketing proceedings applied to a misdemeanour in question, so the ticket cannot be issued if a perpetrator refuses to give this consent. However, the Bill aimed to create a possibility of quashing a ticket in case it was issued for an act prohibited as a misdemeanour but imposed a fine on a person who did not commit the act due to the fact that the real perpetrator provided a ticketing body with false personal data as his/her own and signed the document with somebody else’s name. It does not raise any doubts, however, that in the Amendment of September 2013, the legislator abandoned the idea behind the codification of 2001 that quashing of a valid ticket should be applicable only to cases where a fine was imposed for an act not carrying a penalty as a misdemeanour. Maintaining this reason for quashing, the legislator also added other specific situations in which a ticket is issued for an act prohibited as a misdemeanour but with the infringement of substantive or procedural misdemeanour law or fiscal penal law.

However, as has been mentioned earlier, still before the solution entered into force, the Amendment of February 2015 modified it with respect to common misdemeanours and the earlier date of its entry into force. Formally, Article 8 of the Act changed all the editorial units of Article 101 CPC, which were subject to the Amendment of September 2013, and added the new §1b. However, the new solutions were in fact included in §1, §1b and §4 of Article 101 MPC and the present §1a is equivalent to the provision adopted in the Amendment of 2013, but as far as the mode of quashing is concerned, it refers to §1 of Article 101 MPC. On the other hand, in the provision of §1 of Article 101 MPC, maintaining the requirement of quashing a ticket “without delay” and stipulating that it concerns first of all a situation in which a fine was imposed for an act not being a misdemeanour, the legislator broadened and defined grounds for its quashing by adding the following situations: (a) where a fine was imposed on a perpetrator who is under 17 years of age, and (b) where a punished perpetrator is over 17 years of age but he/she is not liable for the commission of a misdemeanour because of the reasons laid down in Articles 15–17 MC, i.e. due to the right of self-defence, necessity or insanity. The solution is still supplemented by new grounds for quashing a ticket stipulated in §1a of Article 101 MPC adopted in the Amendment of September 2013, i.e. where it was issued to impose a fine against limitations under Article 96 §2 MPC or over

the penalty limit admissible in this mode laid down in Article 96 §1–1b MPC. The legislator also adopted the modified solutions for initiating court proceedings to quash a ticket, which was provided for in the Amendment of September 2013, including the one based on a motion filed by a ticketing body that issued a defective ticket (Article 101 §1 second sentence MPC).

On the other hand, the new provision of §1b of Article 101 MPC added by the Amendment of February 2015 is connected with the controversial issue of reopening the ticket quashing proceedings.⁴⁰ In the above-mentioned Constitutional Tribunal judgement No. SK 38/03 of 18 May 2004 in relation with the recognition of Article 101 §1 MPC as unconstitutional, the Tribunal indicated a possibility of making use of the right laid down in Article 190(4) of the Constitution of the Republic of Poland, i.e. the basis for reopening quashing proceedings. However, the Supreme Court expressed a justified opinion that neither reopening of the ticketing proceedings nor the proceedings ending with the issue of a decision refusing to quash a ticket is admissible; the latter because the refusal does not finish court proceedings in accordance with Article 113 §1 MPC.⁴¹ A refusal to quash a ticket means that the ticket validly finished the proceedings at the prejudicial stage and there are no grounds for quashing it. The problem was noticed in connection with the Amendment of September 2013. As it was indicated in the justification for the Bill,⁴² “in order to eliminate these differences”, it was proposed to “change the content of Article 113 §1 MPC so that it clearly showed that it concerned reopening of the validly finished proceedings in accordance with the provisions of Chapters 11–16, i.e. in the standard (...) and summary as well as writ proceedings (...), and under Part X MPC, i.e. appellate proceedings”. The legislator approved of the solution and since 1 July 2015, i.e. since the Amendment of September 2013 (in the scope not changed by the Amendment of February 2015) entered into force, there should be no doubts that neither ticketing proceedings nor court proceedings to quash a valid ticket are subject to reopening due to the provisions of CPC on reopening proceedings.

In accordance with the above, in the Amendment of February 2015, it was decided to create procedural possibilities for the court to interfere in ticketing proceedings finished with a valid receipt of a ticket in relation to some situations, which are grounds for reopening of the criminal proceedings. The circumstances recognised as such are laid down in Article 540 §2 and §3 of the Criminal Procedure Code (CPC) and they are, in relation to misdemeanour law, a judgement of the Constitutional Tribunal on the incompliance with the Constitution, an international agreement or statute of a normative act on the basis of which a ticket imposing

⁴⁰ See, e.g. T. Grzegorzcyk, *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], 2005, p. 355.

⁴¹ Already so in the Supreme Court judgement of 30 September 2003, I KZP 25/03, OSNKW 2003, No. 9–10, item 81, or in the Supreme Court judgement of 1 December 2003, II KZ 46/03, LEX No. 185473; for approval of this opinion, see e.g. T. Grzegorzcyk, *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], 2005, p. 355; M. Rogalski, [in:] A. Kiełtyka, J. Pańkiewicz, M. Rogalski (ed.), *A. Ważny, Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], p. 373; or J. Lewiński, *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], pp. 315–317.

⁴² See justification for the Bill in VII term Sejm paper No. 870.

a fine was issued (new §1b(1) of Article 101 MPC), and a case where the need to reopen the proceedings results from the settlement issued by an international body acting in accordance with an international agreement ratified by Poland (§1b(2) of Article 101 MPC). At the same time, it was decided that in both cases a valid penal ticket should be subject to quashing “at any time” upon the punished person’s or his/her statutory representative’s or his/her legal guardian’s motion or a motion of the body whose officer imposed a fine, and *ex officio*. In addition, the new §4 of Article 101 MPC made a reservation that in case of quashing a ticket due to reasons laid down in §1b, when a new judgement is issued in the case in which a ticket was quashed, it cannot be unfavourable for the accused, i.e. that the prohibition of *reformatio in peius* is applicable.⁴³

However, the solution was not adopted into the field of quashing tickets for fiscal misdemeanours. Although adequate application of the provisions of CPC to misdemeanours is laid down in FPC (Article 113 §1 FPC), for instance in connection with reopening criminal proceedings, it must be remembered that such reopening is tantamount to the return to a validly finished trial in which a “judgement” was issued based on a provision then recognised by the Constitutional Tribunal as not being in conformity with the Constitution of the Republic of Poland or an international agreement ratified by Poland or when the need to reopen the proceedings results from a judgement of an international court. However, in accordance with fiscal penal law, a fiscal penal ticket is not a “judgement” as provided for in Article 540 §2 CPC in connection with Article 113 §1 FPC, regardless of whether it imposed a fine just after the recognition of a fiscal misdemeanour or whether the ticketing procedure, as a prejudicial response to a misdemeanour, was applied in the course of an inquiry conducted in a given case. A court judgement that earlier refused to quash a ticket is not subject to reopening because it is an extraordinary measure of appeal against the judgement that became valid and final earlier, and there is no provision in FPC that allows reopening of the ticketing proceedings because it is not provided for in Article 540 §2 and §3 CPC in connection with Article 13 §1 FPC.

5.

As a result of the amendments presented above, two different models of quashing valid penal tickets by a court are present in Polish law.

As far as common misdemeanours are concerned, the grounds for quashing a valid ticket include the following circumstances:

- a) as before, imposing a fine for an act not carrying a penalty as a misdemeanour (Article 101 §1 first sentence *in principio* MPC), i.e. for the behaviour that is legally neutral, does not match the features of any punishable acts laid down in

⁴³ On this solution, see e.g. T. Grzegorzczak, *Kształtowanie się instytucji...* [Development of the institution...], [in:] J. Sawicki and K. Łuczak (ed.), *Na styku prawa karnego...* [At the contact point...], pp. 139–145; or P. Gensikowski, *Postępowanie w sprawach o wykroczenia. Komentarz* [Misdemeanour procedure: Commentary], C.H. Beck, Warsaw 2017, pp. 398–400.

the provisions of misdemeanour law or punishable but not as common misdemeanours; and

- b) imposing a fine for an act punishable as a misdemeanour but on a person who at the moment of its commission was not yet 17 years old (Article 101 §1 first sentence *in medio* MPC), thus a minor, i.e. a person who is not liable for misdemeanours in accordance with misdemeanour law but in the mode and following the rules laid down in the Act on proceedings concerning minors of 1982;⁴⁴ or
- c) imposing a fine where a statute stipulates that a perpetrator does not commit a misdemeanour because of the reasons laid down in Articles 15–17 MC (Article 101 §1 first sentence *in fine*), i.e. due to self-defence (Article 15), necessity (Article 16) or insanity (Article 17 §1 MC⁴⁵);⁴⁶ thus, the situation discussed earlier, i.e. where a ticket was issued to a person other than the actual perpetrator who accepting a ticket used somebody else's identity documents, is not envisaged here as possible and justified; however, it should be acknowledged, with the use of systemic and functional interpretation, that there are grounds for quashing a ticket even in such a situation because a fine was imposed on a person who did not commit an act indicated in the decision, and as a ticket is to be a penalty for an actual perpetrator and it can be quashed if it is issued for an act that is not punishable as a misdemeanour, it should also be done if a person indicated in a ticket as a perpetrator is not one because has not committed any punishable act at all; as well as
- d) in case of imposing a fine for an act being a misdemeanour but against a ban on its application laid down in Article 96 §2 MPC, i.e. when (1) it concerns a misdemeanour carrying a penal measure (e.g. ban on driving or forfeiture of objects) because this is in the competence of a court and a ticket would eliminate a possibility of such adjudication; and (2) where given behaviour matches the features of a misdemeanour and a crime (Article 10 MC) as it requires separate adjudication of every aspect of that act by court; as well as (3) when a perpetrator's behaviour matches the features of misdemeanours laid down in more than one provision of misdemeanour law (Article 9 §2 MC) and ticketing proceedings by a given body are not possible in connection with all the infringed provisions (new §1a *in principio* of Article 101 MPC);⁴⁷ and

⁴⁴ See Article 1 §2(2)(b) and Articles 2 and 6 of the Act of 26 October 1982, uniform text: Journal of Laws [Dz.U.] of 2010, No. 33, item 179; see also, e.g. T. Bojarski, [in:] T. Bojarski, E. Kruk, E. Skrętowicz, *Ustawa o postępowaniu w sprawach nieletnich. Komentarz* [Act on proceedings concerning minors: Commentary], LexisNexis, Warsaw 2014, pp. 36–80.

⁴⁵ Although in the provision of Article 101 §1 MPC there is a general reference to Article 17 MC, regardless of the fact that only §1 of this provision concerns exclusively liability in connection with insanity, as Article 101 §1 MPC lays down cases where the statute stipulates that a perpetrator “does not commit a misdemeanour”, the reason for quashing a ticket is applicable only in a situation indicated in §1 of Article 17 MC, and limited sanity (Article 17 §2 MC) as well as insobriety or drug intoxication resulting in temporary insanity (§3 of Article 17 MC) do not constitute such grounds.

⁴⁶ On these reasons, see e.g. M. Bojarski, [in:] M. Bojarski, W. Radecki, *Kodeks wykroczeń...* [Misdemeanour Code...], pp. 178–202; or T. Grzegorzczuk, [in:] T. Grzegorzczuk, W. Jankowski, Z. Zbrojewska, *Kodeks wykroczeń...* [Misdemeanour Code...], pp. 83–95.

⁴⁷ On this, see e.g. T. Grzegorzczuk, *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], 2012, p. 342; J. Lewiński, *Kodeks postępowania w sprawach...* [Misdemeanour

- e) where a fine was imposed in the amount higher than defined in Article 96 §1–1b MPC (Article 101 §1a *in fine* MPC); thus, this does not concern a ticket imposing a fine higher than envisaged in the list of fixed fines⁴⁸ (therefore, a motion in this area is not legally admissible) but imposing it at the level that exceeds the limits of the penalty laid down in the statute⁴⁹ and, at the same time, only in the scope of the amount that exceeds those limits, without any considerations and arguments whether the limit of punishment resulting from the statute was *in concreto* adequate; and
- f) where the provision on the basis of which a fine was imposed was considered by the Constitutional Tribunal incompatible with the Constitution, an international agreement or a statute (new §1b(1) of Article 101 MPC), and where the need to quash the penalty results from a judgement of an international body acting based on an international agreement ratified by Poland (Article 101 §1b(2)), hence in situations that, in a criminal trial, are grounds for reopening proceedings laid down in Article 540 §2 and §3 CPC, respectively.

As concerns the last of the conditions, it should be noted that, as it was indicated in the Supreme Court resolution No. I KZP 14/14 of 16 June 2014,⁵⁰ the “need” to reopen criminal proceedings specified in §3 of Article 540 CPC, i.e. in the equivalent of present Article 101 §1b(b) MPC, may result not only from proceedings in a case referred to in a judgement of the European Court of Human Rights (ECtHR) on the infringement of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) but also from other criminal proceedings [here on common misdemeanours – note by T.G.], in which an infringement of the provisions of ECHR took place, as far as factual and legal circumstances are concerned, identical with the ECtHR judgement issued against Poland. Thus, the above opinion is binding at present not only in connection with reopening validly finished proceedings in cases concerning misdemeanours (Article 113 §1 MPC) but also in connection with quashing valid penal tickets. Therefore, it is important whether the ECtHR judgement indicating that a given body’s action constituted an infringement of the

Procedure Code...], pp. 299–301, M. Rogalski, [in:] A. Kiełtyka, J. Pańkiewicz, M. Rogalski (ed.), *A. Ważny, Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], pp. 359–360.

⁴⁸ See the Regulation of the Prime Minister of 24 November 2003 on the amount of fines imposed in ticketing proceedings for selected misdemeanours issued in accordance with Article 95 §6 MPC, *Journal of Laws [Dz.U.]* of 2003, No. 208, item 2023.

⁴⁹ On the other hand, the Code stipulates at present, after the amendments of this decade, that a fine for a misdemeanour as a rule cannot exceed PLN 500, and in case of the infringement of a few provisions of the statute at the same time – PLN 1,000 (§1 of Article 96 MPC); however, in case of misdemeanours where State Labour Inspectorate is a prosecuting body and in case of some infringements of obligations and conditions of road transport where Road Transport Inspectorate or the Police are prosecuting bodies, and in some infringements of construction law – PLN 2,000 (§1a and §1c of Article 96 MPC); a fine in such an amount is also envisaged for misdemeanours under the Act on mass gatherings security of 2009 (§1aa of Article 96 MPC), and in case of a relapse into misdemeanour involving infringement of employees’ rights – even PLN 5,000 (§1b of Article 96 MPC). On this, see e.g. T. Grzegorzczak, *Kodeks postępowania w sprawach...* [Misdemeanour Procedure Code...], 2012, pp. 338–341; T. Grzegorzczak, *Postępowanie w sprawach o wykroczenia po zmianach...* [Misdemeanour procedure after amendments...], pp. 75–76; and P. Gensikowski, *Postępowanie...* [Misdemeanour procedure...], pp. 382–385.

⁵⁰ OSNKW 2014, No. 8, item 59.

ECHR provisions, which is also raised in another case, has been issued against Poland.

On the other hand, as far as fiscal penal tickets are concerned, quashing of a valid ticket by court is presently possible only where it has imposed a fine: (a) for an act that is not prohibited as a fiscal misdemeanour; or (b) on a person who did not sign a ticket (in the sense indicated above); or (c) on a person who is not liable for a fiscal misdemeanour (including e.g. because of being a minor); and where it was imposed (d) although an act should have been punished with the use of forfeiture of objects or there was a concurrence of a fiscal misdemeanour and a fiscal crime; or (e) where a fine was imposed in the amount higher than admissible in ticketing proceedings (Article 140 §1 and §2 in connection with Article 7, Article 48 §2(2) and (4) FPC).

6.

In both proceedings, the body competent to quash a ticket is a regional court that has jurisdiction in the area where a fine was imposed. Thus, it adjudicates based on different prerequisites for quashing a ticket, depending on whether it is a ticket for a common misdemeanour or a fiscal misdemeanour. A court may act based on a motion filed by the person punished or his/her statutory representative or a legal guardian before the expiry of the preclusive time limit of seven days after the ticket becomes valid, or *ex officio*, and in cases concerning common misdemeanours also upon the motion of a body or its officer who imposed a fine in penal ticketing proceedings. A court's action *ex officio* takes place, inter alia, as a result of information provided by a person punished when he/she fails to meet the deadline to apply for quashing a ticket, or by a ticketing body when it is not entitled to apply for quashing a ticket (in accordance with FPC). A person punished (and his/her representative) and a representative of a ticketing body that imposed a fine, and in cases concerning common crimes also the aggrieved party, and in fiscal penal cases the revealed intervening party, i.e. a person who brought claims to objects that are subject to forfeiture⁵¹ (Article 101 §2 second sentence MPC and Article 140 §2 second sentence FPC) may take part in a court session in both proceedings. Should a ticket be quashed, the ticketing body is ordered to return a fine to the punished person (Article 101 §3 MPC and Article 140 §3 *in principio* FPC). However, in fiscal penal cases, when this takes place because a given act is found to be a fiscal crime or a common crime or a misdemeanour, the settled fine is retained until the end of the proceedings concerning this act as an advance settlement of the future penal measures and cost of the trial (Article 140 §3 *in fine* FPC).

⁵¹ On this issue, see e.g. R. Olszewski, *Pozycja procesowa interwenienta w postępowaniu karnym skarbowym* [Procedural position of an intervening party in fiscal penal proceedings], [in:] T. Grzegorzczak, J. Izydorczyk and R. Olszewski (ed.), *Z problematyki funkcji procesu karnego* [Some issues concerning criminal trial functions], Wolters Kluwer, Warsaw 2013, pp. 455–462.

BIBLIOGRAPHY

- Błaszczyc M., Jankowski W., Zbrojewska M., *Prawo i postępowanie w sprawach o wykroczenia* [Misdemeanour law and procedure], C.H. Beck, Warsaw 2013.
- Bogdan G., Nita A., Radzikowska Z., Światłowski A.R., *Kodeks karny skarbowy z komentarzem* [Fiscal Penal Code with commentary], Info-Trade, Gdańsk 2000.
- Bojarski T., Kruk E., Skrętowicz E., *Ustawa o postępowaniu w sprawach nieletnich. Komentarz* [Act on proceedings concerning minors: Commentary], LexisNexis, Warsaw 2014.
- Bojarski T., Michalska-Warias J., Piórkowska-Flieger J., Szwarczyk M., *Kodeks wykroczeń, Komentarz* [Misdemeanour Code: Commentary], Warsaw 2007.
- Bojarski M., Radecki W., *Kodeks wykroczeń. Komentarz* [Misdemeanour Code: Commentary], C.H. Beck, Warsaw 2011.
- Bojarski M., Świda Z., *Materialne i procesowe prawo o wykroczeniach* [Substantive and procedural misdemeanour law], Wydawnictwo Uniwersytetu Wrocławskiego, Wrocław 2002.
- Gensikowski P., *Postępowanie w sprawach o wykroczenia. Komentarz* [Misdemeanour procedure: Commentary], C.H. Beck, Warsaw 2017.
- Grzegorzyc T., *Kodeks karny skarbowy. Komentarz* [Fiscal Penal Code: Commentary], Wolters Kluwer, Warsaw 2000.
- Grzegorzyc T., *Kodeks karny skarbowy. Komentarz* [Fiscal Penal Code: Commentary], Warsaw 2006.
- Grzegorzyc T., *Kodeks karny skarbowy. Komentarz* [Fiscal Penal Code: Commentary], Wolters Kluwer, Warsaw 2009.
- Grzegorzyc T., *Kodeks postępowania w sprawach o wykroczenia. Komentarz* [Misdemeanour Procedure Code: Commentary], Warsaw 1995 and 1999.
- Grzegorzyc T., *Kodeks postępowania w sprawach o wykroczenia. Komentarz* [Misdemeanour Procedure Code: Commentary], Warsaw 2002.
- Grzegorzyc T., *Kodeks postępowania w sprawach o wykroczenia. Komentarz* [Misdemeanour Procedure Code: Commentary], DW ABC, Warsaw 2005.
- Grzegorzyc T., *Kodeks postępowania w sprawach o wykroczenia. Komentarz* [Misdemeanour Procedure Code: Commentary], Wolters Kluwer, Warsaw 2008.
- Grzegorzyc T., *Kodeks postępowania w sprawach o wykroczenia. Komentarz* [Misdemeanour Procedure Code: Commentary], Warsaw 2012.
- Grzegorzyc T., *Kształtowanie się instytucji uchylania prawomocnego mandatu w sprawach o wykroczenia i jej postać po nowelizacji z 20 lutego 2015 r.* [Development of the institution of quashing a valid ticket for misdemeanours and its form after the amendment of 20 February 2015], [in:] J. Sawicki and K. Łucarz (ed.), *Na styku prawa karnego i prawa o wykroczeniach. Zagadnienia materialnoprawne oraz procesowe. Księga jubileuszowa dedykowana Profesorowi Markowi Bojarskiemu* [At the contact point of criminal law and misdemeanour law: substantive and procedural legal issues. Professor Marek Bojarski jubilee book], Vol. I, Wrocław 2016.
- Grzegorzyc T., *Nowela do prawa wykroczeń. Komentarz* [Amendment to misdemeanour law: Commentary], Zakamycze, Kraków 1999.
- Grzegorzyc T., *Postępowanie mandatowe jako pozasądowy sposób rozstrzygania spraw o wykroczenia po ponad 10 latach obowiązywania kodyfikacji procedury wykroczeniowej z 2001 r.* [Ticketing proceedings as a non-judicial way of settling misdemeanour cases after over 10 years of Misdemeanour Code of 2001 being in force], [in:] A. Błachnio-Parzych, J. Jakubowska-Hara, J. Kosonoga and H. Kuczyńska (ed.), *Problemy sprawiedliwości karnej. Księga jubileuszowa Profesora Jana Skupińskiego* [Criminal justice issues. Professor Jan Skupiński jubilee book], Wolters Kluwer, Warsaw 2013.

- Grzegorzcyk T., *Postępowanie w sprawach o wykroczenia po zmianach z końca poprzedniej dekady i z lat 2011–2016* [Misdemeanour procedure after amendments of the late 2000s and 2011–2016], [in:] T. Grzegorzcyk and R. Olszewski (ed.), *Verba volant scripta manent. Proces karny, prawo karne skarbowe i prawo wykroczeń po zmianach z lat 2015–2016. Księga Pamiątkowa poświęcona Profesor Monice Zbrojewskiej* [Verba volant scripta manent. Criminal trial, fiscal penal law and misdemeanour law after the amendments of 2015–2016. Commemorative book dedicated to Professor Monika Zbrojewska], Wolters Kluwer, Warsaw 2016.
- Grzegorzcyk T., Jankowski W., Zbrojewska M., *Kodeks wykroczeń. Komentarz* [Misdemeanour Code: Commentary], Wolters Kluwer, Warsaw 2013.
- Grzegorzcyk T., Tylman J., *Polskie postępowanie karne* [Polish criminal procedure], LexisNexis, Warsaw 2014.
- Jodłowski J., *Postępowanie mandatowe – wątpliwości konstytucyjne* [Polish ticketing proceedings – constitutional doubts], *Palestra* No. 1–2, 2008.
- Kiełtyka A., Paśkiewicz J., Rogalski M. (ed.), Ważny A., *Kodeks postępowania w sprawach o wykroczenia. Komentarz* [Misdemeanour Procedure Code: Commentary], Wolters Kluwer, Warsaw 2009.
- Konarska-Wrzosek V., Oczkowski T., Skorupka J., *Prawo i postępowanie karne skarbowe* [Fiscal penal law and procedure], Wolters Kluwer, Warsaw 2013.
- Kotowski W., Kurzepa B., *Wykroczenia pozakodeksowe. Komentarz* [Non-statutory offences: Commentary], LexisNexis, Warsaw 2008.
- Lewiński J., *Kodeks postępowania w sprawach o wykroczenia. Komentarz* [Misdemeanour Procedure Code: Commentary], LexisNexis, Warsaw 2011.
- Lewiński J., *Mandat karny* [Penal ticket], LexisNexis, Warsaw 2003.
- Olszewski R., *Pozycja procesowa interwenienta w postępowaniu karnym skarbowym* [Procedural position of an intervening party in fiscal penal proceedings], [in:] T. Grzegorzcyk, J. Izydorczyk and R. Olszewski (ed.), *Z problematyki funkcji procesu karnego* [Some issues concerning criminal trial functions], Wolters Kluwer, Warsaw 2013.
- Siewierski M., Lewiński J., Leoński Z., Gościcki J., *Komentarz do kodeksu postępowania w sprawach o wykroczenia oraz do ustawy o ustroju kolegiów do spraw wykroczeń* [Commentary on Misdemeanour Procedure Code and Act on the system of misdemeanour boards], Warsaw 1973.
- Skowronek G., *Ewolucja instytucji procesowych w prawie karnym skarbowym* [Evolution of procedural institutions in fiscal penal law], C.H. Beck, Warsaw 2005.
- Skowronek G., *Kodeks karny skarbowy. Art. 113–191. Komentarz* [Fiscal Penal Code: Articles 113–191. Commentary], C.H. Beck, Warsaw 2006.
- Tużnik M.R., *Postępowania szczególne w postępowaniu karnym skarbowym* [Special procedures in fiscal penal proceedings], Wolters Kluwer, Warsaw 2013.
- Wilk L., Zagrodnik J., *Kodeks karny skarbowy. Komentarz* [Fiscal Penal Code: Commentary], C.H. Beck, Warsaw 2007.

Legal regulations and other sources of law

- Act of 26 October 1982 on proceedings concerning minors, uniform text: *Journal of Laws* [Dz.U.] of 2010, No. 33, item 179.
- Act of 6 May 2005 amending the Misdemeanour Procedure Code, *Journal of Laws* [Dz.U.], No. 132, item 1103.
- Act of 28 July 2005 amending the Fiscal Penal Code, *Journal of Laws* [Dz.U.] of 2005, No. 178, item 1479.
- Act of 17 September 2013 amending the Act: Criminal Procedure Code and some other acts, *Journal of Laws* [Dz.U.] of 2013, item 1247.

- Act of 10 March 2014 amending the Act: Law on road traffic and some other acts, Journal of Laws [Dz.U.] of 2014, item 486.
- Act of 20 February 2015 amending the Act: Criminal Code and some other acts, Journal of Laws [Dz.U.] of 2015, item 396.
- Amendment of the Act: Misdemeanour Procedure Code, the Act on the system of misdemeanour boards, the Act: Labour Code and some other acts, Journal of Laws [Dz.U.] of 1998, No. 113, item 717.
- Constitutional Tribunal judgement of 18 May 2004, No. SK 38/03, OTK ZU 5A/2004, item 45; Journal of Laws [Dz.U.] No. 128, item 1351; Lex No. 1130-1.
- Kodeks karny skarbowy* [Fiscal Penal Code] of 10 September 1999, Journal of Laws [Dz.U.] of 1999 No. 83, item 930.
- Kodeks postępowania karnego* [Criminal Procedure Code] of 1 September 1998, Journal of Laws [Dz.U.] of 1997, No. 89, item 555, as amended.
- Kodeks postępowania w sprawach o wykroczenia* [Misdemeanour Procedure Code] of 1971, Journal of Laws of 1971, No. 12, item 116, amended by Misdemeanour Procedure Code of 24 August 2001, Journal of Laws [Dz.U.] of 2001 No. 106, item 1149; at present uniform text in Journal of Laws [Dz.U.] of 2013, item 395 as amended.
- Kodeks wykroczeń* [Misdemeanour Code] of 1971, Journal of Laws [Dz.U.] of 1971 No. 12, item 114; uniform text in Journal of Laws of 2015, item 1094, as amended.
- Regulation of the Minister of the Interior of 5 March 1991 on imposing, settling and enforcing fines within the ticketing proceedings, Journal of Laws [Dz.U.] of 1991, No. 20, item 87.
- Regulation of the Prime Minister of 24 November 2003 on the amount of fines imposed in ticketing proceedings for selected misdemeanours issued in accordance with Article 95 §6 MPC, Journal of Laws [Dz.U.] of 2003, No. 208, item 2023.
- The Supreme Court judgement of 30 September 2003, I KZP 25/03, OSNKW 2003, No. 9-10, item 81.
- The Supreme Court judgement of 1 December 2003, II KZ 46/03, LEX No. 185473.
- The Supreme Court resolution of 16 June 2014, I KZP 14/14, OSNKW 2014, No. 8, item 59.

A PENAL TICKET FOR COMMON AND FISCAL MISDEMEANOURS IN POLISH LAW AND THIS PUNISHMENT QUASHED BY COURT AFTER THE AMENDMENTS OF 2013 AND 2015

Summary

The paper presents the current Polish ticketing proceedings for misdemeanours in the field of common misdemeanour law and fiscal penal law. Misdemeanours are not a category of crimes in Poland but separate offences carrying punishment regulated by statute and also subject to adjudication by courts. At the same time, as they can be punished by fines, and ruling imprisonment or limitation of liberty is only possible in accordance with the common misdemeanour law, there is a possibility of imposing a fine in a non-judicial mode by penal ticket and fiscal penal ticket issuing bodies, based on different prerequisites and in different amounts. A ticket becomes valid when a perpetrator signs its receipt or settles it, but he/she can then apply to court for quashing it for different reasons defined by law. Over the last decade, many important changes have been introduced to the ticketing proceedings in both discussed regulations and the paper presents the current picture of the mode of ticketing and quashing of such tickets by courts.

Key words: misdemeanours, fiscal misdemeanours, ticket, penal ticket, fiscal penal ticket, quashing of a ticket

MANDAT KARNY ZA WYKROCZENIA POWSZECHNE I SKARBOWE
W PRAWIE POLSKIM ORAZ UCHYLANIE TAKIEGO MANDATU PRZEZ SĄD
PO NOWELIZACJACH Z 2013 I 2015 R.

Streszczenie

W opracowaniu zaprezentowano funkcjonujące w prawie polskim postępowanie mandatowe za wykroczenia ze sfery powszechnego prawa wykroczeń i prawa karnego skarbowego. Wykroczenia nie są w Polsce kategorią przestępstw, lecz odrębnymi czynami zagrożonymi przez ustawę pod groźbą kary, ale podległymi obecnie także orzecznictwu sądów. Jednocześnie, ponieważ grozi za nie grzywna i tylko w powszechnym prawie wykroczeń możliwe jest też orzeczenie tu także kary aresztu lub ograniczenia wolności, przewiduje się możliwość nakładania grzywny pozasadowo przez organy ścigania na drodze mandatu karnego i karnego skarbowego, ale w oparciu o różne przesłanki i w zróżnicowanych rozmiarach. Mandat taki staje się prawomocny z chwilą jego przyjęcia lub zapłacenia, ale można następnie wystąpić do sądu o jego uchylenie z określonych przez prawo powodów. W ostatniej dekadzie doszło jednak do istotnych zmian postępowania mandatowego w obu tych regulacjach, a opracowanie to przedstawia aktualny obraz trybu mandatowego i uchylania przez sąd takich mandatów.

Słowa kluczowe: wykroczenia, wykroczenia skarbowe, mandat, mandat karny, mandat karny skarbowy, uchylenie mandatu