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SECRET INVENTION AS A FORM OF SECURING STATE INTERESTS IN THE FIELD OF DEFENSE AND STATE SECURITY

The purpose of this paper is to characterize a secret invention and to evaluate and analyze this legal institution in the context of security protection. A secret invention is an exception to the principle of disclosure of inventions, commonly used in both Polish and international patent law. This special solution is of great importance in the field of national defense and security, enabling control over the effects of research and development in the area of broadly understood security. The main research methods that were used in this work are the method of analysis, the legal-empirical method and the method of synthesis. System analysis allowed establishing patent protection principles and distinguishing the principle of public transparency in this area. A critical analysis based on the analysis of the texts of legal acts from the studied area allowed determining the essence of a secret invention, understand and interpret legal procedures related to the classification of the invention. On the other hand, legal and empirical studies were used to clarify doubts in the practical application of provisions of statutory law. In order to make the necessary generalizations and present the final conclusions, the synthesis method was applied.

Keywords: security management, state security, secret invention, special services.

1. PRINCIPLES OF PATENT PROTECTION

In the Polish Industrial Property Law of June 30, 2000 (OJ of 2017, item 776 (as amended) (hereinafter referred to as Industrial Property (I.P.) modeled on international patent conventions, the definition of the invention was abandoned. The current provisions do not contain a definition of the invention "as such", however, they refer to inventions which patents are granted for, taking them from the positive side – by listing the constitutive features of the invention, and from the negative side – by indicating solutions that cannot be qualified as inventions or cannot be patented (Skubisz, 2012). In accordance with art. 24 I.P. "Patents are granted – regardless of the field of technology – for inventions that are new, have an inventive level and are suitable for industrial use".

The invention in the subjective sense refers to the creation of the human mind. However, they are not inventions of "the discovery of phenomena and processes occurring in nature or society or the laws governing these fields, as well as the results of purely manual work,

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it is a requirement of mental creativity" (Szewc, Jyż, 2003). In contrast, the invention with the subject matter refers to a mode of action indicating "all means necessary to achieve a practical goal and through an application it allows to achieve this goal (completeness of the solution)". General ideas are not considered inventions: only the formulation of the problem, the initial concept of its solution which do not contain full and detailed instructions for effective conduct" (Szewc, Jyż, 2003).

An extremely interesting definition of the invention should be attributed to the English historian L. Bender, according to whom the invention is something that was invented and constructed, in contrast to the discovery of something that already existed but was not known (Bender, 1995). The invention is usually associated with something new, revealing, presented never before. This is a special solution to the problem, considered by the creator to be completely new and innovative. The essence of the invention is often identified with a technical solution to any problem (Szewc, Jyż, 2003).

The literature on the subject pointed out that the greatest development of inventiveness always occurred during the war. Aggression or defense against aggression increases creative effort and accelerates the development of technology. The living needs of man were also an equally important driving force of progress, and the first inventions in this field were farm tools used and gradually improved for almost 2 million years (Orłowski, 1999).

In accordance with art. 24 of the I.P., an invention needs to meet certain requirements to be patentable. Patents are granted only for technical solutions regardless of the field of technology which are new, have an inventive level and are suitable for industrial use. An invention is new if it does not form part of the state of the art. The term "prior art" refers to technical knowledge and means, in accordance with Article 25 of the Public Procurement Law, everything that before the date on which priority is given to obtain a patent has been made available to the public in the form of a written or oral description, by use, issuing or disclosing otherwise (Decision KO EUP T 144/83, Official Journal of the EUP of 1986 No. 301). In the event of independent applications for the same solution, priority is given to the earlier one (Vall, 2008).

An invention is considered to have an inventive level (Article 26 of the Public Procurement Law) if it is not obvious to a person skilled in the art and it does not result directly from the state of the art. On the other hand, the expert is a person who, in the field covered by the invention, has at least knowledge and skills that can be described as common and generally recognized achievements in this field of technology (Sieńczyło-Chlabicz, 2011). The requirement to have an appropriate inventive level is to ensure that patents are granted only for creative and ingenious solutions and not for those that are already publicly known.

The industrial applicability of the invention (Article 27 of the Public Procurement Law) occurs when, according to the invention, a product or a method can be obtained, in a technical sense, in any industrial activity without excluding agriculture. The invention needs to be able to be implemented, be able to be used with identical effect in a repetitive manner, and must also achieve the specific practical purpose indicated in the application.

A patent may be granted for an invention that meets the above requirements. The word patent is derived from the Latin language, being the commonly accepted abbreviation for the term *litterae patentes*, meaning (open letters)[2], in other words: confirming with an official document the giving of the entities listed therein certain rights, privileges or titles (Vall,

[2] In French, the Latin abbreviation has also been used, but neither the meaning nor the wording corresponds to the phrase *litterae patentes.* From the phrase *litterae breves* (i.e. short letter) only the

2008). The provision of art. 63 par. 1 of the Public Procurement Law, provides that by obtaining a patent, one may acquire the exclusive right to use the invention in a profitable or professional manner throughout the entire territory of the Republic of Poland. This regulation undoubtedly contains the most important provision of patent law (Szajkowski, 2003). The patent gives the right holder the exclusive right to manufacture use, offer for sale or import a product or process based on the invention, thus prohibiting such activities to other entities without the prior consent of the patent owner. The doctrine claims that the exclusive right to use the invention specified in the cited provision is a positively defined sphere of the possibilities of using it, consisting in the possibility of using the invention and reaping the benefits of "owning" and "disposing" (Szajkowski, 1990).

A patent is an important tool used by enterprises in business activities, including raising the company's reputation as well as obtaining additional income, e.g. from licenses granted for the use of a given invention.

Patents are granted by national offices, in Poland by the Patent Office of the Republic of Poland or regional offices – the European Patent Office and other regional and international offices (the patent is granted in the countries designated by the applicant).

It is advisable to submit a notification immediately after the development of a technical solution, the earlier the notification is filed, the lower the risk of losing the patentability of the invention due to the fact that another entity will sooner apply the same technical solution in any country. In most countries around the world, patents are granted on a first-come, first-served basis (Source: www.uprp.pl). An application called a patent application can be filed by both a natural and legal person. In practice, patents are the result of investments made by enterprises in the field of innovation. The fact of having a patent entitles its holder to prevent others from producing, selling or using the invention without the permission of its creator, as well as making commercial use of the patent. The exclusive right to use the invention in a profitable manner is granted to the patent owner, for a maximum of 20 years from the date of filing.

One of the key principles relating to the protection of inventions is the principle of openness of the invention. It means that the applicant is obliged to publicly disclose the essence of the invention in its description, which is part of the application documentation. The essence of the patent system is to grant the monopoly (exclusive rights) to the creator more precisely – the patent holder, to use the invention in a specific territory and at a specified time. These monopolies are granted in exchange for full disclosure to virtually the entire world of the solution that has been made. Information about the patent application and about the granted patent is published by Patent Offices around the world in official publications, in Poland in the Patent Office Bulletin (an application) and Patent Office News (obtaining the patent), respectively. In accordance with legal regulations in most countries, including Poland, disclosure should be made in such a way that both the essence of the invention and the solution itself are understood to the extent necessary to implement it. Published patent applications are a valuable source of knowledge about the results of scientific research in a given field, ahead of the arrival of a specific product on the market. Considering the procedure for granting patents, it should be noted that it is time consuming, usually it takes several years, the earlier the application is filed, the earlier the holder of the invention will be able to pursue his claims against infringers who would like to unlawfully obtain his hand

word *breves* (the French word brevet derived from it) is left, and then the word "Invention", resulting in the term *brevet d'invention* (Machlup, 1958).

and obtain undue benefit from someone else's idea. However, the creator may not always enjoy his invention. It may turn out that the invention regarding some special solutions will be kept secret by the state.

2. THE CONCEPT OF SECRET INVENTION

A secret invention is an exception to the principle of disclosure of inventions. It serves to protect against public access to solutions that can be used for specific purposes, especially in fields related to defense and security.

According to art. 56 of the I.P. an invention made by a Polish citizen may be considered secret if it relates to national defense or security. An invention may be classified as secret if it was made by a Polish citizen, regardless of where they reside or who has the right to a patent (Miklasiński, 2001). The invention is not secret by itself, but only after a specific procedure (Vall, 2008). Inventions regarding state defense include, in particular, types of weapons, explosives, listening and eavesdropping systems, command methods and procedures, as well as technical means legally used by the services of the Polish state (Article 56 (2) I.P.). Inventions regarding state security are technical measures used by special services authorized to perform operational and reconnaissance activities, as well as modern types of equipment and fittings, and methods of use by these services (Article 56 (3) of the I.P.).

The detailed types of solutions that may be subject to confidentiality have been specified in § 2 of the Regulation of the Council of Ministers of July 23, 2002 on inventions and utility models regarding state defense or security (OJ of 2002 No. 134, item 1338). Such solutions may include, in particular, solutions in the field of weapons, ammunition, explosives or direct coercion measures, sights, observation and range devices used in combat equipment, combat motor vehicles, airplanes, helicopters and warships means of detecting and destroying sea and land mines, means and methods of masking combat equipment and detecting masked equipment, crossing and landing means, fortifications and combat shelters of transport infrastructure facilities, anti-aircraft and missile defense systems, means and means of command of troops, special IT measures, special means of information, communication, land, air or water applicable in combat operations, or using operational reconnaissance activities, methods of counteracting radio-electronic diversion, means of detecting and measuring radioactive contamination chemical, microbiological, special wired and wireless means of communication, special technical means, equipment and devices suitable for carrying out operational reconnaissance activities, as well as protection of classified information (Czarnocka, 2018).

The submission of a secret invention to the Patent Office is only intended to claim priority to the patent obtained. While the patent application has a security classification, the Patent Office does not consider this application (Article 58 of the Civil Code). The Patent Office also decides not to recognize the invention as secret. The decision on the secrecy of the invention regarding the defense and security of the State is made by the Minister of National Defense, minister competent for internal affairs or the Head of the Internal Security Agency, respectively (Article 57 (2) of the I.P.). In most cases, even before filing the patent application with the Patent Office, the person entitled to obtain a patent for the invention applies to an authorized state body with a request to obtain the status of the secret. Very often it is an entity covered by the Act on the Protection of Classified Information, and the studies under which the invention was created were previously also classified. You can also apply for a status of secrecy after filing with the Patent Office. In such a situation,

the decision to recognize the invention as secret should be attached to the previously filed application, and only from that moment will the invention be treated as secret. However, it seems that the submission of a decision on the secrecy of an invention should be provided at an early stage of the patent procedure, and in particular prior to the announcement of the invention application (Article 43 of the Public Procurement Law). Upon application, the invention is disclosed and becomes part of the state of the art (Demendecki, Niewęgłowski, Sitko, Szczotka, Tylec, 2015).

In accordance with art. 57 section 1 I.P. secret invention is classified information within the meaning of the Act on the Protection of Classified Information of August 5, 2010 (OJ of 2019, item 742). After the invention is recognized as secret, the competent authority gives it one of the following clauses: "top secret", "secret", "confidential" or "proprietary". In practice, the procedure for obtaining this clause depends on the type of invention and the holder. The degree of protection of classified information depends mainly on its classification. Its consequence is to provide classified information with an appropriate confidentiality clause. If the entire document has a specific security classification, all its elements are equally protected (Wyrok Naczelnego Sądu Administracyjnego w Warszawie z dnia 26 marca 2013 r.).

The highest confidentiality clause is the "top secret" clause, which is given to classified information if their unauthorized disclosure could cause exceptional serious damage to the Republic of Poland in that it could: threaten the independence of the sovereignty or territorial integrity of the Republic of Poland; threaten the internal security or constitutional order of the Republic of Poland; threaten alliances or the international position of the Republic of Poland; weaken the defense readiness of the Republic of Poland; identify officers, soldiers or employees of services responsible for the implementation of intelligence or counterintelligence tasks who perform operational intelligence activities, if this would threaten the security of the activities performed or could identify the persons assisting them in this regard; threaten the life or health of officers, soldiers or employees performing operational intelligence, or persons providing assistance to them in this respect; threaten the life or health of crown witnesses or their relatives or the so-called anonymous witnesses or persons close to them, i.e. in a situation where there is a justified fear of danger to life, health, freedom or property in significant intentions of the witness or a person closest to them (Sakowicz, 2017).

Another type of "secret" clause is classified information, if its unauthorized disclosure could cause serious damage to the Republic of Poland by preventing the implementation of tasks related to the protection of the sovereignty or constitutional order of the Republic of Poland; would deteriorate the relations of the Republic of Poland with other countries or international organizations; would disrupt the state's defense preparations or the functioning of the Armed Forces of the Republic of Poland; would impede the performance of operational and reconnaissance activities conducted to ensure state security or prosecute perpetrators of crimes by services or institutions authorized to do so; would significantly disrupt the functioning of law enforcement and judicial authorities would result in a loss of considerable size in the economic interests of the Republic of Poland (Hałas, 2017).

In turn, classified information is given the "confidential" clause if its unauthorized disclosure causes damage to the Republic of Poland by: that it impedes the current foreign policy of the Republic of Poland; impedes the implementation of defense projects or negatively affects the combat capability of the Armed Forces of the Republic of Poland; disturbs

public order or threaten the security of citizens; impedes the performance of tasks by services or institutions responsible for protecting security or the basic interests of the Republic of Poland; impedes the performance of tasks by services or institutions responsible for protecting public order, the security of citizens or prosecution of perpetrators of fiscal offenses and criminal offenses, and judicial authorities would threaten the stability of the financial system of the Republic of Poland; adversely affects the functioning of the national economy (Leciak, 2011).

The lowest type of clause given to classified information is the "restricted" clause, which is granted when classified information has not been given a higher classification and their unauthorized disclosure may have a detrimental effect on the performance of national defense tasks by public authorities or other organizational units, foreign policy, public security, compliance with the rights and freedoms of citizens, the judiciary or the economic interests of the Republic of Poland (Hoc, 2017).

The consequence of the decision on the secrecy of the invention is the inability to take up and pursue proceedings leading to obtaining a patent, the Patent Office also does not publish an announcement about the submitted invention. As a result, the holder cannot be granted a patent for such an invention. A secret invention may be filed at the Patent Office only to reserve priority to a patent (Article 58 (1) of the I.P.). This will prevent any possible grant of a patent in another country due to the earlier priority date of filing a secret invention in Poland.

The right to obtain a patent for a secret invention submitted to the Patent Office in order to claim priority passes for compensation to the State Treasury, represented by the authorized body, which decided to recognize it as a secret invention (Article 59 (1) of the I.P.). A natural or legal person who filed an application for an invention loses the exclusive rights to the patent to the Treasury. The amount of compensation is determined according to the market value of the invention. Payment of compensation is paid out of the state budget one time or in parts every year, but not longer than for 5 years. If the entitled party does not agree with the amount of compensation determined, in accordance with art. 284 point 5 of the p.p. he has the right to bring a claim for damages before a common court, which in civil proceedings will determine both the amount and the rules for payment of damages (Doliński, https). The classification of the solution as a secret invention and the deprivation of the right to a patent should be considered a case of expropriation (Nowińska, 1982). It should be noted that secret inventions apply only to a given country.

The recognition that an invention has ceased to be secret is decided by the same authority that decided on its secrecy, and accordingly the Minister of National Defense, the minister competent for internal affairs or the Head of the Internal Security Agency. In this case, at the request of the relevant entity, the Patent Office may initiate or resume the procedure for granting a patent, especially if the period of 20 years has not expired since the date of filing the invention (Doliński, https). The entity entitled to obtain a patent for a declassified invention is the State Treasury, it may transfer the right to the patent to another entity (e.g. a State Treasury company). Completion of the proceeding with a positive decision will allow the use of the invention, e.g. the sale of the device containing the invention, while maintaining the monopoly arising from the patent. It should be noted, however, that all forms of prior disclosure of the invention harm its novelty and patentability. Such disclosure of the invention should be considered its use in covert operations carried out by security services, or to clarify the principles of its operation in specialist literature (Demendecki, Niewęgłowski, Sitko, Szczotka, Tylec, 2015).

Similar patent procedures apply in most European countries, the USA and Great Britain. In the United States in 1951, the American Secrecy Invention Act was created, which imposed a government "secrecy order" on patent applications that contain confidential information, thus restricting access to the invention and withholding the grant of a patent. Very similar to Poland, there are several types of secret orders that differ in secrecy. At the end of the fiscal year 2016, the number of patents covered by the security classification was around 6,000 and was the highest since 1993 (https://zmianynaziemi.pl/wiadomości /rząd-amerykański…).

3. CRIMINAL ASPECTS OF THE INVENTION WITH THE "SECRET" CLAUSE

When analyzing the problem of a secret invention in the light of the applicable provisions of criminal law, it seems that the simplest form of protection of intangible assets is to keep secret the fact of the creation of the good. However, it is difficult to reconcile with the fact that the inventor creates their work in order to be used by a fairly broadly understood social environment. However, there is a need to create various forms of protection so as to disseminate these intangible goods while not exposing the artist to moral and material damage. A group of intangible goods subject to exceptional protection is a secret invention.

As previously mentioned, a secret invention is classified information. This concept was formulated in the provisions of the Act of August 5, 2010 on the protection of classified information (OJ of 2019, item 742) and replaced the concept of state secrets, commonly used in earlier regulations. Referring to the Act on the protection of classified information, it should be assumed that classified information is one whose unauthorized disclosure may cause serious damage to the security and defense of the Polish state, or would be unfavorable from the point of view of its interests, also during its development and regardless of the form and the way they are expressed (Article 1 (1) of the Act on the protection of classified information).

A secret invention is a special type of solution that is of strategic importance for national security, it cannot be made public, it is subject to special legal protection, and the creator cannot disclose it. It should be borne in mind that in the case of unlawful disclosure of information about a secret invention and disclosure of the technical solution itself, which is a secret invention, you may be guilty of the offense of disclosing or using classified information under Art. 265 of the Penal Code. This provision regulates the inadvertent disclosure of such information that has been acquainted in connection with the performance of a public function or the authorization received, as well as a qualified type covering the situation when such information was disclosed to a person acting on behalf or on behalf of a foreign entity.

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The offense specified in art. 265 § 1 of the Criminal Code (basic type) is intentional, the perpetrator of this crime must be aware of the information he discloses or uses. They carry the features of classified information regarded as "secret" or "top secret". Committing this crime is also possible with the possible intention, when the perpetrator, taking certain actions and is aware that they can with high probability lead to getting acquainted with classified information by an unauthorized person. The offense specified in art. 265 § 2 of the Criminal Code (qualified type) is intentional, it is possible to commit with both direct and eventual intention. The offense specified in Art. 265 § 3 of the Criminal Code as an unintentional crime, it may be committed if the perpetrator, without intent to commit it, commits it as a result of failure to observe the caution required in the given circumstances, although the possibility of committing this act was foreseen or could have foreseen.

For committing the offense specified in art. 265 § 1 of the Criminal Code (basic type) a penalty of imprisonment from 3 months to 5 years is foreseen. The statutory penalty for this act entitles the court to order a fine or a penalty of restriction of liberty instead of a penalty of imprisonment. The qualified type of the offense of disclosure of classified information classified as "secret" or top secret (art. 265 § 2 of the Criminal Code) is punishable by imprisonment from 6 months to 8 years. For the offense provided for in art. 265 § 3 of the Criminal Code a fine, restriction of liberty or imprisonment of up to one year has been imposed. As regards criminal measures, the court may order a ban on holding a specific position or exercising a specific profession. The offense specified in art. 265 of the Criminal Code are prosecuted for public prosecution (Kamuda, 2018).

4. CONCLUSIONS

The classification of the secret invention is of great importance in the field of defense and security of the state. It enables the state to maintain control over the effects of research and development in the sphere of state security and defense. This applies to both research carried out by entities operating on the basis of the Act on the protection of classified information, as well as any other entities outside this system. It can be assumed that these regulations, contained in the Industrial Property Law, are consistent with other regulations that are the basis for conducting business activity in the field of state security and defense (Dana, 2016). By classifying the invention, the state has the ability to quickly take direct control over all technical solutions that will be used by state services to protect internal and external security. The effectiveness of actions in the sphere of security protection depends largely on the use of modern equipment, current procedures and methods of operation, and the use of new strategies.

The justification for classifying and depriving one of the right to protect an invention is to protect the security of the state and to obtain an adequate response in the face of danger. State security is one of the basic existential values whose goal is to ensure the integrity of the state, the smooth functioning of its own citizens and other entities, and to enable them all to develop effectively. The existence of the state security of the state is inseparably connected with the internal sense of security of individual people who make up the state, a necessary condition for maintaining state security is the creation of an organizational system capable of maintaining and protecting these values in all conditions (Pomykała, 2011). State security is here an example of the public interest that should be put before the protection of the individual interest.

It should also be emphasized that the design of the secrecy of inventions does not definitively prevent a patent from being obtained. It provides for the situation of further processing of the notification, when it turns out that the security classification is no longer needed. The rightholder may, therefore, acquire exclusive rights to the invention, which in turn gives him the right to make commercial use of the invention (by selling products or granting a license). The inventor of the invention, which as a result of secrecy has lost the right to a patent, has been provided compensation for claims arising from the loss of the invention and consequential damages. The provisions of the Act also guarantee the possibility of any disputes arising from this in court.

REFERENCES

Bender, L. (1995). *Wynalazki.* Warszawa: Arkady.

Czarnocka, O. (2018). *Wynalazek tajny. „Automatyka"* nr 5.

Dana, A. (2016). *Wynalazek tajny jako komponent bezpieczeństwa państwa*. „Secretum" nr 1(4).

Demendecki, T., Niewęgłowski, A., Sitko, J., Szczotka, J., Tylec, G. (2015). *Prawo własności przemysłowej. Komentarz.* System Informacji Prawnej LEX 2015, e-version.

Doliński, J.M. *Wynalazki z klauzulą „tajne"*. Access on the internet: https://www.rp.pl/artykul/986816-Dolinski--Wynalazki-z-klauzula--tajne-.html

Hałas, R.G. (2017). *Komentarz do art. 265 k.k.* [in:] Grześkowiak, A., Wiak, K., red., *Kodeks karny. Komentarz.* Warszawa.

Hoc, S. (2017). *Komentarz do art. 266 k.k.* [in:] Grześkowiak, A., Wiak, K., red., *Kodeks karny. Komentarz.* Warszawa.

Kamuda, D. (2018). *Wybrane aspekty przestępczości skierowanej przeciwko informacjom niejawnym – art. 265 and 266 P.C. „Modern Management Reviev"*, Vol. XXIII, 25, No. 1.

Leciak, M. (2011). *Prawnokarne aspekty nowej ustawy o ochronie informacji niejawnych*. „Studia Iuridica Toruniensia", Vol. IX, Toruń.

Miklasiński, Z. (2001). *Prawo własności przemysłowej. Komentarz.* Warszawa: Urząd Patentowy RP.

Nowińska, E. (1982). *Wywłaszczenie patentu w prawie polskim.* „Zeszyty Naukowe UJ Prace a Wynalazczość i Ochrony Własności Intelektualnej", No. 29.

Orłowski, B. (1999). *Technika*. Ossolineum, Wrocław–Warszawa–Kraków: Ossolineum.

Pomykała, M. (2011). *Bezpieczeństwo państwa jako ważny interes publiczny uzasadniający reglamentację działalności gospodarczej* [in:] Karpiuk, M., red., *Wolność działalności gospodarczej i jej ograniczenia. Problematyka prawna i aksjologiczna.* Warszawa: AlmaMer.

Sakowicz, A. (2017). *Komentarz do art. 265 k.k.* [in:] Królikowski, M., Zawłocki, R., red., *Kodeks karny. Część szczególna,* Vol. II: *Komentarz do artykułów 222–316.* Warszawa.

Sieńczyło-Chlabicz J. (2011). *Prawo własności intelektualnej*. Warszawa: LexisNexis.

Skubisz, R. (2012). *System Prawa Prywatnego. Prawo własności przemysłowej*, Vol. 14A, Warszawa: C.H. Beck.

Szajkowski A. (2003). *Prawo do patentu* [in:] Szewc, A., Jyż, G., red., *System prawa własności intelektualnej*, t. 3. Warszawa: C.H. Beck.

Szajkowski A. (1990) [in:] S. Sołtysiński, A Szajkowski, T. Szymanek, *Komentarz do prawa wynalazczego.* Warszawa.

Vall, du M. (2008). *Prawo patentowe.* Warszawa: Wolters Kluwer business.

Machlup, F. (1958). *An Eeconomic Review of the Patent System*, Washington D.C.

Decision KO EUP T 144/83, Official Journal of the EUP of 1986 No. 301.
OJ of 2019, item 742.
OJ of 2002 No. 134, item 1338.
OJ of 2017, item 776.
OJ of 2019, item 742.
Wyrok Naczelnego Sądu Administracyjnego w Warszawie z dnia 26 marca 2013 r., I OSK 2863/12, LEX No. 1332343.

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