


Landscape after the battle (judicial)

The city of Poznań has finally said “Enough!”. By August 5, 2024, ads that did not meet the requirements of the Poznań Landscape Resolution were to disappear from the city's landscape. As in other places in Poland, Poznań took action against the ubiquity of advertisements, which often obscure what is valuable, if only for architectural reasons. But have the ads disappeared?

To clean up public space and bring advertising chaos under control, a law was passed in 2015, one of the goals of which was to clean up ads in public space. Along with the amendment of certain laws in connection with the strengthening of landscape protection tools, a package of amendments was introduced to, among others, the Law on Planning and Spatial Development. Understanding the problem and inefficiency of implementation of landscape provisions in local spatial development plans - municipal councils were authorised to determine, in the form of so-called landscape resolutions, the principles and conditions for the location of small architectural objects, billboards and advertising devices and fences, their dimensions, quality standards and types of construction materials from which they can be made.

The main problem turned out to be the provision according to which landscape resolutions specify the conditions and time limit for adjusting small architectural objects, fences and billboards and advertising devices existing on the effective date of the resolution to the restrictions, rules and conditions specified in the resolution, not shorter than 12 months from the effective date of a given resolution. Unhappy with the new changes, entrepreneurs who installed advertisements before the landscape resolutions came into force began to question their legality, arguing that the implementation in landscape resolutions of adjustment obligations (which can take the form of an obligation to remove them) is a form of expropriation, inconsistent with the Polish Constitution.

The Poznań Landscape Resolution, which entered into force on August 5, 2023, and provided for an adjustment period for advertising media until August 5, 2024, was not spared. The owner of the well-known Biedronka chain of stores filed a complaint with the Provincial Administrative Court in Poznań to declare the Poznań landscape resolution invalid. On January 25, 2024, the Provincial Administrative Court in Poznań (ref. no.: II SA/Po 547/23) issued a verdict stating, among other things, the invalidity of part of the provisions of the Poznań Landscape Resolution with regard to the deadline and conditions for adjusting advertising media existing on the

A large, abstract architectural structure composed of stacked, colorful geometric blocks in shades of teal, blue, and purple. The structure is set against a background of a sunset or sunrise sky with soft, warm colors. The blocks are arranged in a way that creates a sense of depth and complexity, with some blocks having rectangular cutouts or openings.

effective date of the resolution to comply with the provisions of the resolution (and dismissing the complaint in the remaining scope). In the justification, the Provincial Administrative Court in Poznań indicated that in its ruling it relied on the judgment of the Constitutional Tribunal of December 12, 2023 (ref. no.: P 20/19), which ruled that the provision of the aforementioned law was unconstitutional to the extent that it provides for the obligation to specify in the landscape resolution the conditions and deadline for adjusting advertising signs and advertising devices existing on the effective date of the resolution, erected on the basis of a building permit, without providing compensation, as unconstitutional. A cassation complaint has been filed with the Supreme Administrative Court against the aforementioned judgment; however, according to the information provided to us by the Poznań City Hall, the judgment of the Provincial Administrative Court to the extent that it concerns the invalidity of certain provisions of the landscape resolution is valid as of March 26, 2024.

What does this mean? The provisions of the Poznań Landscape Resolution have ceased to apply to the extent that they obliged businesses to adjust their advertising media, created before it entered into force, i.e. before August 5, 2023, and the resolution has become “toothless”. On the other hand, advertising media created after August 5, 2023, must comply with the requirements of the Poznań Landscape Resolution.

The fate of the Poznań landscape resolution may also be shared by analogous resolutions in force in other cities. The situation is similar, for example, in Gdynia where the adjustment period for the landscape resolution expires in October. In Warsaw, on the other hand, after the Voivode within its supervisory competencies declared the landscape resolution invalid, his position with regard to the substantial violation of the mode of adoption of the resolution was shared by the administrative courts, and work on a new resolution in connection with the judgment of the Constitutional Tribunal has come to a standstill.

The basic question, then, is how (and when) the problem will be solved by the legislature. Meanwhile, the current state of the landscape after the Battle of Poznań: all quiet on the the western front.

Do you want to know more? Contact us!

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