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The effects of an incorrect assessment of a matriculation exam on college admission procedures in Poland*

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Access to undergraduate and graduate programs, unlike access to lower levels of education, is exclusive and limited as it is based on candidates' knowledge, skills, and talents. Hence, the matriculation exam underscores the pivotal role it plays in a prospective student's life and the decisions they make. The exam also determines the ultimate success of an admission procedure. Every point scored on the matriculation exam counts, as hundreds, and sometimes thousands of students compete in enrollment procedures, especially in high-profile majors. As a result, errors in the assessment of a matriculation exam which have been discovered after enrollment has already ended effectively disrupt the enrollment process in its entirety. The disruptions raise questions regarding the legal status of applicants whose scores were erroneously determined and subsequently corrected, as well as the

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status of other applicants placed on the same ranking list before the score of the former was increased. These issues have not yet been the subject of more extensive doctrinal analysis, including legal commentaries,¹ leaving the current literature scarce on the matter of an incorrect assessment of matriculation exams and its effects on admissions procedures. Therefore, the legitimacy of the issue at hand deserves a more thorough scientific analysis in order to fill in the gaps in the doctrine of Polish administrative law governing matriculation exams and admissions processes.

1. The role of a matriculation exam in admission procedures in Poland

External examinations are based on the rule of comparability of results, which are determined through standardized and nationally uniform examination forms and grading rules. For this reason, external examinations can perform both systemic and individual functions in the education system. The comparability rule resulted in the matriculation exam score becoming the sole criterion in admission processes, effectively replacing entrance exams before the establishment of the so-called “new matriculation exam.” This new sole criterion brought tangible benefits in securing (formally) equal access to education, as well as an opportunity to submit multiple applications to different majors at different institutions, and such applications were not time-barred.²

And so, the matriculation exam’s meaning remains unchanged. Issues pertinent to higher education admission processes are regulated by the Higher Education and Science Act (“p.s.w.n”),³ which

¹ See, for example: H. Izdebski, J.M. Zieliński, *Prawo o szkolnictwie wyższym i nauce. Komentarz*, Warszawa 2019, p. 152–153; P. Chmielnicki, P. Stec (ed.), *Prawo o szkolnictwie wyższym. Komentarz*, Warszawa 2017, p. 709–714.

² For more on the role and meaning of matriculation exams in Poland see: Ł. Kierznowski, *Egzaminy zewnętrzne w latach 2015-2018 w świetle zasady zaufania do państwa i prawa*, Warszawa 2021, p. 171–180.

³ Act of 20 July 2018 – Higher Education and Science Act (Journal of Laws item 1668, with further amendments); hereinafter: p.s.w.n.

stipulates that the basis for admission to undergraduate or graduate studies are the results of: 1) matriculation examination (“stara matura”); 2) matriculation examination (“nowa matura”); 3) matriculation examination (“stara matura”) or matriculation examination (“nowa matura”) and examination or examinations confirming professional qualifications; 4) matriculation examination (“stara matura”) or matriculation examination (“nowa matura”) and examination or examinations confirming professional qualifications (Article 70(3) p.s.w.n.).⁴ At the same time, p.s.w.n. specifies that a higher education institution may conduct entrance examinations only if it is necessary to verify artistic talents, physical fitness or special skills for majors otherwise not verifiable by a matriculation exam, a vocational exam or an exam confirming professional qualifications; these examinations may not concern subjects covered by a matriculation exam, a qualification covered by a vocational exam or an exam confirming professional qualifications (Article 70(4) p.s.w.n.). The possibility of admission through a confirmation of learning outcomes⁵ and transfer from another institution of higher education (Article 69(1) p.s.w.n.) are exceptions to the principle of a matriculation exam-based admission process. In the past, the Higher Education Act (“p.s.w.”) regulated the matter in a very similar fashion, i.e. providing for the leading role of the matriculation exam, before the enactment of

⁴ The Polish legal order differentiates between the old matriculation exam (“stara matura”) existing prior to 2005, and the new matriculation exam (“nowa matura”) effective after 2005. Though the term “matura” may be indistinguishable in certain contexts, it is important to explain whether one is referring to the old or new law. Distinguishing those two terms is crucial as it bears different consequences under the old and new law.

⁵ Universities may confirm learning outcomes acquired in the process of learning outside of the tertiary education system for graduate programs in a particular field, on a specified level and profile, under the conditions set forth by Article 71(1) and the following of p.s.w.n. Learning outcomes are confirmed in accordance with learning outcomes set forth in the study program (Article 71(2) p.s.w.n.). As a result of the confirmation of learning outcomes, no more than 50% of the ECTS credits assigned to courses included in the study program can be validated (Article 71(5) p.s.w.n.). The number of students who are admitted to a graduate program based on a confirmation of learning outcomes may not exceed 20% of the total number of students in a given field, on a given level and in a given profile (Article 71(7) p.s.w.n.).

p.s.w.n. (Article 169).⁶ Since 2005, the matriculation exam has been, and still is, not only an admission condition to undergraduate and graduate studies but also a selection criterion when the number of prospective candidates is greater than the number of available spaces in a given field of study. At the same time, the unfettered possibility of retaking the matriculation exam at any given time enables applicants to raise their scores multiple times, increasing their admission chances.

2. Determining a new matriculation exam score

Due to its significance and external nature, the matriculation exam is verified and evaluated under the double anonymity standard by examiners who are specifically selected and continuously trained for this purpose. When evaluating exams, the examiners are required to apply uniform exam evaluation rules (Article 44zzu of the Act on the Education System – u.s.o.).⁷ However, during its first years of existence, the Polish system of external examinations revealed substantial problems in evaluating matriculation exams. It soon became apparent that even though the process was unified and strongly standardized, it did not prevent evaluation mistakes from being made. Should such mistakes be unfavorable to the examinees, it puts the applicants in a serious legal and educational predicament.

Like any other human activity, examination processing activities may be subject to some degree of errors. However, the most surprising and disturbing issue was the scale of these errors. As a result, erroneous evaluations of matriculation exams became a social problem discussed in mainstream media and also the subject of scrutiny and intervention of the Polish Ombudsman and the Supreme Chamber of Control. Data presented by the Su-

⁶ Act of 27 July 2005 on Higher Education (Journal of Laws No. 164, item 1365 with further amendments) hereinafter: p.s.w.

⁷ Act of 7 of September 1991 on the Education System (Journal of Laws No. 95, item 425 with further amendments); hereinafter u.s.o.

preme Chamber of Control between 2009 and 2013 suggests that: “One in four examination papers reviewed by district examination commissions at the request of the examinee required a change in the result and the issuance of a new diploma.”⁸ Though those numbers cannot be inferred to all exam evaluations for several reasons, it clearly indicates that the phenomenon of errors in the evaluation process is not, as it might seem, marginal, but happens often enough to be described as a systemic problem. Therefore, attempts to address the issue must also be systemic. Controversies relative to the assessment issue were a result of the lack of an appeal mechanism under Polish law enabling applicants to challenge incorrectly assessed exams. In the last decade, laws pertinent to appeal mechanisms have changed significantly. The law has gone from being silent on the matter, all the while exam commissions were changing exam results, relaying on customary norms absent laws allowing them to do so. Later, two appeal mechanisms were introduced for examinees who argued they had erroneously been assigned lower scores.⁹

Being a consequence of this evolution, the current state of the law reflects and provides for two basic models of rescinding the result of the exam – verification of the total score and an appeal against the result of this verification. The prerequisite for using either mechanism is to first investigate the graded exam – this instrument is available to the examinee within 6 months from the date when the district examination board issues a relevant document confirming exam results (Article 44zzz(1) u.s.o.). Subsequently, the examinee may request a verification of the sum of points, which is submitted within 2 working days from the date of the review (Article 44zzz(3) u.s.o.). The verification of the sum

⁸ The Polish Supreme Chamber of Control, Information on the results of audits regarding external exams in higher education, KNO-4101-002-00/2014, p. 36.

⁹ For more on the problem of incorrect assessments of matriculation exams as well as legal instruments permitting to challenge such assessments see: Ł. Kierznowski, *Egzamin maturalny w Polsce. Analiza prawna*, Białystok 2016, p. 190–239; Ł. Kierznowski, *Prawne przyczyny nieprawidłowego oceniania egzaminów maturalnych*, Warszawa 2023.

of points is made within 7 days from the date of receipt of the request (Article 44zzz(4) u.s.o.), and the director of the district examination committee shall inform the examinee in writing of the result of the verification of the sum of points within 14 days from the date of receipt of the request (Article 44zzz(5) u.s.o.).

Assuming that at this stage the result of the verification of the total score does not satisfy the examinee, the examinee may appeal against the result of the verification of the total score of the written part of the matriculation exam to an appellate body specifically created for this purpose, the Examination Arbitration Panel, through the director of the district examination board, within 7 days from the date of the information referred to in paragraph 5 (Article 44zzz(7) u.s.o.) was received by the prospective candidate. If the director of the district examination board finds that the appeal deserves to be upheld in its entirety, he shall determine the new result of the written part of the matriculation examination within 7 days from the date of receipt of the appeal (Article 44zzz(10) u.s.o.).

However, if it is determined that the appeal deserves to be upheld only in part or that the appeal should be dismissed, the appeal shall be forwarded and submitted by the candidate, along with the decisions' rationale, to the Director of the Central Examination Commission within 7 days of receiving the appeal (Article 44zzz(11) and (12) u.s.o.). Next, the Director of the Central Examination Commission forwards the appeal to be considered by the Exam Arbitration Panel (Article 44zzz(14) u.s.o.). The rule is that the appeal shall be reviewed within 21 days from the date it is forwarded by the director of the district examination board to the director of the Central Examination Commission. The time of the review can be extended only once and by no more than 7 days (Article 44zzz(17) u.s.o.).

The analysis of the aforementioned state of the law suggests that appealing the result of the matriculation exam may take weeks after the results have been officially announced. All that is assuming is that the candidate would like to review their score immediately upon receiving the results and will not abstain from

doing so due to a large number of applicants, and none of the administrative bodies will exceed the instructional deadlines indicated in the above-mentioned regulations (also, the administrative bodies cannot be disciplined by candidates in this regard as the Code of Administrative Procedure¹⁰ regulation in this scenario does not apply, and claims in these matters are not admissible in courts).¹¹ Yet, regardless of whether an error has been discovered at the stage of verification of the sum of points or an appeal against the result of a verification procedure, any error discovered warrants the issuance of a new matriculation exam score along with any certificates or other document confirming these results (Article 44zzz(6) and (21) u.s.o.). Any such change, therefore, significantly affects the candidate's admission to his chosen major and higher education institution.

3. The effects and procedural aspects of determining a new score of the matriculation exam on the admission procedure

The point of departure for determining the relevance of the revision of a matriculation exam result is the examination and admissions schedule. The external nature of the matriculation exam results in prolonged assessment procedures, then it otherwise would be with internal exams graded by teachers of the examinees. Results of the matriculation exam conducted in the so-called main (May) and supplementary (June) terms are usually announced in the first days of July, shortly before admission deadlines for under-

¹⁰ Act of June 14 1960, Code of Administrative Procedure (Journal of Laws No. 30, item 168, with further amendments); hereinafter: k.p.a.

¹¹ More on admissibility issues see for example the decision WSA (Voivodeship Administrative Court) in Poznań, April 22, 2021, IV SA/Po 1815/20; decision of NSA (Supreme Administrative Court of Poland) of 26 November 2019, I OSK 1346/19; see also: T. Bąkowski, E. Kornberger-Sokołowska, *Opinia z 27.4.2016 r. o projekcie ustawy o zmianie ustawy o systemie oświaty oraz niektórych innych ustaw (RL-0303-11/16)*, "Przegląd Legislacyjny" 2017, No. 2, p. 154.

graduate and graduate programs at most universities in Poland. Spots fill out fast in the most popular programs and are distributed over the course of a few days during the first round of admission without the need to conduct additional rounds of admission (updating the ranking lists). Other, less popular programs keep their admission processes open until the last days of September, when the number of candidates is less than the number of seats available or when other candidates resign. Meanwhile, the weeks-long re-evaluation procedure of the matriculation exam (which is either a result of verification of the sum of points or an appeal against the result of this verification) means that if an examiner's error is discovered and the result of the exam is indeed underestimated, the change of the result will most often occur when enrollment is already complete, when the candidate in question is either admitted or is refused admission, or even when the decision on admission or a denial of admission becomes final.

The phenomenon of inaccurate grading of matriculation exams and its respective correction process long after they have been officially announced quickly gave rise to legal challenges for candidates who had their exam results changed in a way that affected the recruitment decision either during the admission procedure or once it had already been carried out. Importantly, however, this problem should be considered not only in the context of revoking a decision to refuse admission against a candidate but also in the context of other candidates. The end of admission for a degree with limited admission availability means that all the offered placements have already been filled and the candidates have been ranked according to admission criteria (i.e., most often according to the results of the matriculation exam). A change in the exam score of some candidates will therefore also potentially affect other candidates who applied to the same program.¹²

¹² A distinct problem present in the admissions procedures is the so-called "competitive co-participation" – more on issue see: A. Jakubowski, *Współuczestnictwo konkurencyjne w postępowaniu administracyjnym*, "Państwo i Prawo" 2013, No. 11, p. 46–61.

A key yet nuanced problem emerges as the statutory principle of correcting the results can be determined only in favor of the candidate who disputes these results applies (Article 44zzz(6) and (21) u.s.o.) both at the stage of verification of the sum of points and at the stage of the appeal against the result of this verification. The competitive environment of the admission procedure implies that if an error is discovered and a new exam result is established, the change is always made in favor of the candidate. In principle, said change should classify such a candidate higher on the ranking list established during the admission procedure. Thus, it seems that challenging matriculation exam scores can improve the status of the person who applied for an increase in their matriculation exam score, potentially to the detriment of candidates competing for admission to the same program.

Legal regulations pertaining to the impact of matriculation exam scores being assessed anew on admission processes as well as those procedures directly challenging matriculation exam scores have undergone an evolution of its own. In the first decade after the matriculation exam was established as an external exam which allows access to higher education in Poland, the law did not regulate these issues explicitly. In the past, however, both admission and admission refusal occurred through an administrative decision, to which according to Article 207(1) p.s.w., the provisions of the Code of Administrative Procedure were applied *mutatis mutandis*.¹³ In the case of a final administrative decision, it seemed acceptable to assume that an erroneous evaluation of the matriculation exam score constituted a factual circumstance relevant to the case, existing on the date of the decision and yet unknown to the recruitment authority. An erroneous evaluation coming to light through changing (increasing) the result by a competent authority and, consequently, issuing a new document revealing the correct (actual) result of the exam constituted grounds for the admissions authority to resume the proceedings,

¹³ Currently the form of an administrative decision is provided only on the basis of an admission refusal, Article 72(2) and (3) p.s.w.n.; provisions of the Administrative Code are expressly applied.

in accordance with Article 145 § 1 point 5 of the Code of Administrative Procedure,¹⁴ insofar as such a change would materially affect the admission outcome, and thus lead to an admission of a candidate who had previously been denied admission. When an increase in the matriculation exam score occurred before the decision was made final, it was possible to revoke the decision through a standard appeal. Literature on the subject matter¹⁵ affirms, and Paweł Sadowski rightfully stresses that: “this possibility applies only to matriculation exam results obtained during one and the same matriculation session, conducted in a given calendar year where all high school students are participating. Any changes in the results of the matriculation exam made later as part of the correction of the matriculation exam related to a person’s desire to obtain better results will not be treated as a new circumstance constituting a premise for revoking the admission results with an extraordinary procedure.”¹⁶

However, the law in the case of a final decision, providing only the possibility of reopening the proceedings, was highly problematic in light of the nature of the admissions procedure in higher education institutions. The admission process, as it has been already signaled, is highly competitive. Candidates are competing against each other, which means that the admission of some candidates where a limit of available openings is in place means that all those who did not fit within the limit, i.e., were below the “threshold,” must be denied admission. Seemingly, admitting candidates who had been previously denied admission because their matriculation score was too low, and whose score has now been subsequently increased to allow admission, affected the legal status not only of that candidate whose exam score was increased but also of other candidates ranked on the same admission list. If proceedings were reopened against one candidate and, as a re-

¹⁴ See: Ł. Kierznowski, *Egzamin*, p. 224.

¹⁵ P. Sadowski, *Zmiana wyniku egzaminu maturalnego jako przestępka wznowienia postępowania rekrutacyjnego na tle orzecznictwa*, in: *Specyfika postępowań administracyjnych w sprawach z zakresu szkolnictwa wyższego i nauki*, J.P. Tarno, A. Szot, P. Pokorny (ed.), Lublin 2016, p. 261–271.

¹⁶ *Ibidem*, p. 269.

sult of an increase in the matriculation exam score, they were classified above the “threshold,” which they had not exceeded before, this inevitably meant that someone who had been successfully admitted (i.e., the last one admitted above the “threshold”) had moved below the “threshold” by this change, and in this way such a person should have been denied admission (also by way of reopening proceedings) despite the original positive admission decision. This, in turn, raised serious reservations considering the principle of trust in the state and the law and the derived principle of protection of acquired rights, protection of undertakings in progress, and legitimate expectations. After all, these persons could, having confidence in the authority resulting from a positive admission decision, pursue their legal and factual interests related to their expected admission, for example, by moving to another city or resigning from other majors at other universities to which they have been admitted. Therefore, such a situation could have had irreversible negative consequences. Even a reasonable and prudent addressee of legal norms could not have expected such consequences. On the other hand, this is not an ethically unambiguous situation; objectively speaking, these people, due to the matriculation score they obtained, should not have been qualified, except that this circumstance was originally misjudged due to an error in the evaluation of the matriculation exam of other – as it turned out, better candidates.

A partial answer to this problem would be an assumption that resuming proceedings against such (previously wrongfully admitted) candidates’ conflicts with the above-mentioned rules, derived from the principles of trust in the state and the law as well as legal security. Thus, it would also mean that it would only be appropriate to resume proceedings against those candidates whose matriculation exam scores were increased without simultaneously resuming proceedings against those candidates who were originally admitted but who, in view of the increase in the score of other candidates, were moved under the admission threshold. However, accepting such an assumption also leads to problematic legal consequences. This could result in an increase in the num-

ber of candidates admitted to a major beyond an established limit, which not only raises the risk of the university violating its own internal acts regulating the limits of admission to different majors, but also potentially creates financial consequences.¹⁷ Further, there are practical implications of educating a larger number of students than the original admission limits, which deserve some attention in this analysis. Such practicalities concern the premises of the university, available equipment, laboratories, or staff. A prudent university could, of course, plan admission in such a way as to offset these problems, but the question is whether such an expectation does not appear naive, especially when the phenomenon of improper grading of matriculation exams has not yet been identified, and the academic community in Poland has demonstrated limited awareness of the problem.

Finally, investigating the problem today, it seems somewhat surprising that the legislature did not provide a solution for more than a decade. As a result, no procedures allowing challenging matriculation results existed, and in the event an error has been discovered, there are procedures allowing to alter it, but also for solving the problem with respect to admissions without resuming admission procedures to the detriment of those who have been already admitted but who – as a result of changes in the ranking list caused by the correction of the results of some of the examinees – turned out to be below the admission threshold. It was years later that the legislator decided to offer a solution allowing for altering matriculation results either during the admission procedure or after it had already taken place in the form of an additional admission.

¹⁷ See also: P. Sadowski, *op.cit.*, p. 270.

4. The course and subject matter of additional admission procedures

The law of June 23, 2016,¹⁸ added new provisions to the u.s.o. allowing appeals to the Arbitration Examination Panel against the result of the verification of the total score of the matriculation exam and thus creating, as has already been elaborated on, a “second instance” for prospective college students challenging their scores. Also, paragraph 2a was added to Article 169 of the p.s.w., making the resolution referred to in paragraph 2 (i.e., the resolution of the university senate specifying the conditions, procedure and date of the commencement and completion of the admission process – author’s note) enable conducting an additional admission process for graduates who applied for admission to undergraduate or graduate programs and who had their result of the matriculation examination in a given subject or subjects increased as a result of an appeal referred to in Article 44zzz(7) u.s.o.

This provision entered into force on September 1, 2016, and, at the same time, Article 29 of the June 23, 2016, statute mandated university senates to adapt the enrollment resolution adopted for the 2017/2018 academic year to the requirements of Article 169(2a) of the p.s.w. by January 31, 2017. Year 2017/2018 was thus the one in which, by virtue of the law, universities had to provide for an additional admission process, shifting the status quo, which provided for additional admission procedures only in the event when a lower than anticipated number of candidates applied. Now, an additional admission procedure was expected for candidates’ scores were raised by appeal against the result of the verification of the sum of exam points.

However, Article 169(2a) offered only a partial solution to the problem. Among two existing means of revoking the matriculation exam score – the verification of points and challenging said decision – Article 169(2a) invoked only the latter as a revocation

¹⁸ Act of June 23 2016 amending the Act on the Education System and other laws (Journal of Laws, item 1010 with further amendments).

premise. As such, it meant that while in the case of increasing scores through an appeal as provided in Article 44zzz(7) u.s.o., the law mandated conducting an additional admission procedure with respect to candidates whose scores have been raised through a verification of the sum of points. Now, the only solution offered in cases where a decision was made final was the resumption of the admission proceedings on the basis of Article 145 § 1 point 5 of the Code of Administrative Procedure.¹⁹ This, in turn, meant that the legal problems of candidates who have already been admitted and who, as a result of the correction of the score moved under the admission threshold, persisted. Considering the similarities of the effects both options had, differentiating the possibilities of taking part in additional admission procedures based on the procedure with which the change has been made lacked appropriate rationale.

In 2018, the p.s.w.n. law which sustained the order of organizing additional admission procedures, albeit in a non-identical form, was enacted. The provision of Article 70(2) p.s.w.n. stipulates that the university shall consider an additional admission procedure for candidates who have applied for undergraduate or graduate degrees in a given field of study for the academic year in which the admission took place and whose matriculation exam score has been increased because of the verification of the sum of points or an appeal referred to in Article 44zzz p.s.w.n. Still, the solution for such candidates was conducting additional admission, regulated by a resolution of the university's senate. However, comparing the former p.s.w. provisions with Article 70(2) p.s.w.n., it should be noted that Article 70(2) p.s.w.n. already applies to increasing the score with respect to an appeal against the result of the verification of the sum of points, as well as the verification itself, which in a sense "closes" the regulation and fixes its limited nature as suggested by p.s.w.

In addition, Article 70(2) p.s.w.n. and the former Article 169(2a) p.s.w. indicate the scope of *ratione personae* of eligibility to partici-

¹⁹ Ł. Kierznowski, *Egzamin*, p. 224.

pate in an additional admission process. It stipulates that enrollment is open to those who have applied to undergraduate or graduate programs in a major in the academic year in which enrollment is open and whose matriculation exam score in a given field has been increased. This means that a candidate may not partake in additional admissions in majors for which the person did not originally apply (or majors at other universities for which the person did not apply at all). Thus, this provision only offsets negative consequences with regard to an incorrect assessment of the exam, however, it does not increase admission opportunities in other majors as a result of the increased score.²⁰

Administrative law scholarship suggests that according to the provision of Article 70(2) p.s.w.n., two separate groups of persons entitled to participating in an additional admission process exist (meaning, all candidates who simply had their exam scores increased in accordance with Article 44zzz u.s.o. could then apply for admission to any major they wish).²¹ However, this view seems incorrect. The conjunction “and” prejudices that admission prerequisites relevant to undergraduate or graduate programs in a particular major in a given academic year, increasing the result of the matriculation exam as a result of verification of the sum of points, or an appeal against the result of this verification must be met by a candidate jointly. A conclusion to the contrary leads to an absurd question: why should a university be obligated to conduct supplementary recruitment for people who only unsuccessfully applied for admission to a particular major and did not increase their matriculation score, especially if there were no placements offered?

Some controversies exist regarding whether limiting the possibility of opening additional admission processes to candidates with increased matriculation results who previously took part in the “original” recruitment is justified. After all, a change in the score may prompt the examinee to make decisions different from those that were made based on the score before taking advan-

²⁰ Ibidem, p. 223–224.

²¹ M. Dokowicz, in: *Prawo o szkolnictwie wyższym i nauce. Komentarz*, J. Woźnicki (ed.), Warszawa 2019, p. 229–230.

tage of reviewing the exam, verifying the total score, or appealing the result of the verification. Further, the admissions timetable is relevant, as is the ability to investigate one's score. Ultimately, the decision is made most often without the candidate having the opportunity to investigate their score yet and, therefore, without knowing whether there are any grounds for claiming that the examination paper was scored incorrectly and there is a chance of obtaining a different, higher score.

Finally, another controversy relative to additional admission processes is the question of the permissible timeframe of the process. The provisions of the p.s.w.n. do not specify the date (as well as the process) of additional admissions. Such details must be determined by the Senate's resolution referred to in Article 70(1) p.s.w.n. However, subject matter literature suggests that: "the overriding goal is to set the date of the additional admissions so that admitted candidates have the opportunity to begin at the start of the academic year, which makes it virtually impossible to wait until the deadline for the completion of appeals on matriculation results set by the Education System Act has passed."²² From a systemic point of view, however, this argument seems to be far-fetched, as it would create a significant inconsistency. If the possibility to partake in the admissions process would be, as Marcin Dokowicz suggests, limited to the moment in which it is possible to commence education with the start of the academic year, it remains unclear as to why the u.s.o. allows for a verification (and later – a verification of the sum of points and appeal from the results of said verification) for a longer period of time, which is 6 months after an appropriate document with the matriculation exam score has been officially issued (Article 44zzz(1) u.s.o.). On the one hand, such a circumstance seems to lead to the conclusion that a senate resolution adopted pursuant to Article 70(1) of the p.s.w.n. cannot close off the possibility of participating in an additional admission process as long as the possibility of raising the matriculation score

²² M. Dokowicz, in: *Prawo o szkolnictwie wyższym*, p. 230; See also: M. Chałupka, *Rekrutacja na studia według ustawy 2.0*, Lex. Komentarz praktyczny.

exists, since such a resolution would not meet the requirements of Article 70(2) p.s.w.n. On the other hand, the increase in the exam score would not be legally “consumable” in a given year in the form of admission to a selected major (to which the newly established score should nevertheless apply), but only in the following year. Of course, this then raises the problem of student accountability and due diligence as far as student responsibilities (and making up for the lost time) are concerned. It can be the case of a student whose score has increased, for example, in November; yet, this dilemma should already be resolved by program regulations, which determine the organization of studies and the related rights and obligations of the student (Article 75(1) p.s.w.n.). It seems, though, that such heavily delayed changes to the matriculation result will be incidental.

5. Conclusion

As demonstrated in the article, the ever-changing legal landscape of issues concerning the impact of modifying the results of the matriculation exam on undergraduate and graduate admission procedures in Poland has evolved from a somewhat problematic complete legislative silence regarding the issue, next, to offering a partial solution – an appeal against the result of verification of the sum of points, and finally, to its comprehensive regulation in a way that respects the legitimate expectations and a sense of legal security for those who question the results of the exam, as well as other candidates who compete to be admitted to the same program.

The current solution to the problem of determining the new exam results after the official admission procedure has already been concluded seems apt and can be deemed complete. Still, some doubts may emerge with regard to the limits of the possibility of participation in the additional enrollment processes of those who took part in the “primary” enrollment process. However, it is not an argument alleging the inaccuracy of the enacted regulation, but rather a point regarding the legitimacy of the form of the

regulation itself. A distinct study regarding existing legal practices in the realm of amending matriculation exam scores would be highly appropriate and necessary, with special consideration given to the University Senates' resolutions defining the conditions, procedures and date of commencement and completion of admission, which for several years considered the possibility of additional enrollment procedures being available to candidates. It would be interesting to determine whether the rules of conducting such an additional admission process would allow for an unfettered mitigation of erroneously determined (and subsequently, after amending the errors, increased) matriculation exam results without detriment to the candidates, in light of the constitutional principle of equal access to education. This, however, is an issue ripe for a separate scientific analysis.

SUMMARY

The effects of an incorrect assessment of a matriculation exam on college admission procedures in Poland

For almost two decades, the current state of the law relative to undergraduate and graduate program admissions in Poland has been based on the results of the matriculation exam. Matriculation exam results are often the only criterion which determines the applicant selection process. However, the timeline of matriculation exams and admission procedures has revealed potential procedural obstacles for candidates whose results are determined anew after an official announcement has been made, due to mistakes made by examiners which are revealed many weeks after graduation. The fact that changes in exam scores may occur only after an admission process has already been concluded potentially impacts not only the prospective candidate whose exam has been assessed incorrectly, but potentially also to other applicants who took part in the same recruitment procedure. The paper discusses how an incorrect assessment of a matriculation exam impacts the legal status of a prospective college candidate in the context of graduate and undergraduate admission procedures in Poland.

Keywords: matriculation examination; university recruitment; renewal of recruitment procedures; supplementary recruitment

STRESZCZENIE

Wpływ nieprawidłowej oceny egzaminu maturalnego na procedury rekrutacyjne na studia w Polsce

W obecnym stanie prawnym, już od prawie dwóch dekad, rekrutacja na studia I stopnia oraz jednolite magisterskie oparta jest na wynikach egzaminu maturalnego, które w zdecydowanej większości przypadków stanowią jedyne kryterium selekcji kandydatów. Jednakże harmonogram egzaminów maturalnych i procedur rekrutacyjnych na studia szybko zrodził problem postępowania z kandydatami, których wyniki (po ich oficjalnym ogłoszeniu wszystkim zdającym) są ustalane na nowo z powodu błędów popełnionych przez egzaminatora, odkrywanych wiele tygodni po rozdaniu świadectw. Fakt, iż zmiana taka następuje najczęściej już po zakończeniu rekrutacji, może wywoływać skutki nie tylko dla zdającego, którego praca została błędnie oceniona, ale potencjalnie także dla innych kandydatów, którzy brali udział w tej samej rekrutacji. W artykule przedstawiono zagadnienie wpływu nieprawidłowej oceny egzaminu maturalnego na sytuację prawną maturzysty w kontekście rekrutacji na wybrany kierunek studiów.

Słowa kluczowe: egzamin maturalny; rekrutacja na studia; wznowienie postępowania rekrutacyjnego; rekrutacja uzupełniająca

BIBLIOGRAPHY

- Bąkowski T., Kornberger-Sokołowska E., *Opinia z 27.4.2016 r. o projekcie ustawy o zmianie ustawy o systemie oświaty oraz niektórych innych ustaw (RL-0303-11/16)*, "Przegląd Legislacyjny" 2017, No. 2.
- Chałupka M., *Rekrutacja na studia według ustawy 2.0*, Lex. Komentarz praktyczny.
- Chmielnicki P., Stec P. (ed.), *Prawo o szkolnictwie wyższym. Komentarz*, Warszawa 2017.
- Izdebski H., Zieliński J.M., *Prawo o szkolnictwie wyższym i nauce. Komentarz*, Warszawa 2019.
- Jakubowski A., *Współuczestnictwo konkurencyjne w postępowaniu administracyjnym*, "Państwo i Prawo" 2013, No. 11.
- Kierznowski Ł., *Egzamin maturalny w Polsce. Analiza prawna*, Białystok 2016.

- Kierznowski Ł., *Egzaminy zewnętrzne w latach 2015-2018 w świetle zasady zaufania do państwa i prawa*, Warszawa 2021.
- Kierznowski Ł., *Prawne przyczyny nieprawidłowego oceniania egzaminów maturalnych*, Warszawa 2023.
- Sadowski P., *Zmiana wyniku egzaminu maturalnego jako przesłanka wznowienia postępowania rekrutacyjnego na tle orzecznictwa*, in: *Specyfika postępowań administracyjnych w sprawach z zakresu szkolnictwa wyższego i nauki*, ed. J.P. Tarno, A. Szot, P. Pokorny, Lublin 2016.
- Woźnicki J. (ed.), *Prawo o szkolnictwie wyższym i nauce. Komentarz*, Warszawa 2019.