PRZEGLĄD PRAWA ADMINISTRACYJNEGO
(5)2022 • DOI: 10.17951/ppa.2022.5.79-89

MARIA CURIE-SKŁODOWSKA UNIVERSITY IN LUBLIN
DAWID NIEMCZYCKI
dawidniemczycki@o2.pl
ORCID ID: https://orcid.org/0000-0001-8176-3066

# Legal Interest in a Lawsuit for Declaring the Nullity of Marriage before the Ecclesiastical Court

*Interes prawny w procesie o stwierdzenie nieważności małżeństwa przed sądem kościelnym*

## Introduction

The provisions of the canon law stipulate that anyone who wants to bring someone to trial must present to a competent judge a *libellus* which sets forth the object of the controversy and requests the services of the judge (can. 1502 of the Code of Canon Law[1] and Art. 115 § 1 of the *Dignitas connubii* Procedural instruction[2]). The *libellus* should indicate the domicile or quasi-domicile of the

[1] *Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus* (25.01.1983), AAS 75 (1983), pars II, pp. 1–317; [further quoted: CIC/83], can. 1502.

[2] Pontificium Consilium de Legum Textibus, Instructio servanda a tribunalibus dioecesanis et interdioecesanis in pertractandis causis nullitatis matrimonii *Dignitas connubii* (25.01.2005),

respondent (can. 1504 n. 4 of the Code of Canon Law and Art. 116 § 1 n. 5 of the *Dignitas connubii* Procedural instruction).

The concept of a canonical domicile and its types was emphasized in can. 100–107 CIC/83. The doctrine indicates that these canons generally define the canonical consequences resulting from the connection of a natural person with a specific place on earth.[3] The definition of domicile is articulated in can. 102 § 1 CIC/83, where it is indicated that domicile is acquired by staying in the territory of a parish or diocese, which is connected with the intention to stay there permanently or lasted for a full five years. On the other hand, the quasi-domicile – as indicated by can. 102 § 2 CIC/83 – is acquired by staying in a parish or diocese with the intention of staying there for at least three months or actually extended to three months.

The fact worth highlighting is that the Code of Canon Law and the *Dignitas connubii* procedural instruction refer to "residence", while the Population Records Act[4] uses the term "registration". Of course, these terms should not be equated and used interchangeably. The definition and construction of the place of residence in the secular legal order is articulated in Art. 25 of the Civil Code, where it is indicated that the place of residence of a natural person is the place where that person resides with the intention of permanent residence.[5] In the proceedings for declaring the nullity of marriage, canonical residence is important, especially since the Civil Code does not distinguish – unlike CIC/83 – the permanent and temporary residence.

It is also important to point to the jurisprudence of administrative courts, where it was stated that the legal construction of the "place of residence" includes actual residence in a certain place in the physical sense and the will, intention of permanent residence.[6] The registration is only the fulfilment of the administrative obligation to register the population and is not always consistent with the *de facto* place of residence.[7]

In trials to declare the nullity of marriage with the jurisdiction of an ecclesiastical court – based on can. 1673 CIC/83 and Art. 10 § 1 DC – domicile according to CIC/83 is decisive, and not registration or residence, which occurs in

„Communicationes" 37 (2005), pp. 11–92, Polish text in: T. Rozkrut (red.), *Komentarz do Instrukcji procesowej „Dignitas connubii"*, Sandomierz 2007 [further quoted: DC], Art. 115 § 1.

[3] Cf. R. Sobański, *Komentarz do kan. 100*, [in:] J. Krukowski, R. Sobański, *Komentarz do Kodeksu Prawa Kanonicznego*, t. 1: *Księga I. Normy ogólne*, Poznań 2003, p. 169.

[4] Cf. Act of 24 September 2010 on Population Records, Journal of Laws of 2010, No. 217, item 1427.

[5] Act of 23 April 1964 – Civil Code, Journal of Laws of 1964, No. 16, item 9, Art. 25.

[6] Cf. Decision of the Supreme Administrative Court of June 28, 2012. I OW 82/12, LEX No. 1334606.

[7] *Ibidem*.

secular law within the meaning of Art. 25 CC. The correct determination of the jurisdiction of the court is as important as the subsequent citation. That is why it is so important to confirm the address of the respondent.

## The key approach to the legal interest

It often happens that the person presenting the *libellus* to declare the nullity of marriage does not have the current domicile of the respondent. However, this person is not aware of the fact that the lack of a citation, i.e. a summons from the respondent, raises serious procedural complications, as it may even be the basis for filing a complaint or an allegation of invalidity of the judgment (cf. can. 1620 CIC/83 and Art. 270 DC). The canonical doctrine perceives these consequences in a heterogeneous way. Carlo Gullo,[8] Grzegorz Leszczyński,[9] and Janusz Gręźlikowski[10] indicate that the lack of citation entails the remediable nullity of the judgment. On the other hand, Manuel J. Arroba Conde[11] and Grzegorz Erlebach[12] are of the opinion that failure to summon the respondent implies the existence of non-remediable nullity of the judgment of the ecclesiastical court.

The petitioner, who does not know the consequences of such a state of affairs, provides the last known place of domicile in the *libellus* and submits a request to the appropriate ecclesiastical court. The Tribunal will quote the respondent when determining whether to respond in writing to the claimant's claims or to appear before the Tribunal in person. Due to the incorrectly indicated address, the respondent does not receive correspondence from the ecclesiastical court. The Tribunal not having such information sends another summons (can. 1676 § 2 MIDI[13]), which also remains unanswered.

[8] Cf. C. Gullo, *Prassi processuale nette cause canoniche di nullità del matrimonio*, Città del Vaticano 2001, p. 93.

[9] Cf. G. Leszczyński, *Gwarancje prawa do obrony w świetle Instrukcji Dignitas connubii*, „Ius Matrimoniale" 2008, vol. 13(19), p. 113.

[10] Cf. J. Gręźlikowski, *Racje i sens „prawa do obrony" w procesie o nieważność małżeństwa*, „Prawo Kanoniczne" 2010, vol. 53(3–4), p. 210.

[11] Cf. M.J. Arroba Conde, *Diritto processuale canonico*, Roma 1993, p. 301.

[12] Cf. G. Erlebach, *Il giudice e il diritto di difesa delle parti*, [in:] *Il diritto di difesa nel processo matrimoniale canonico*, Città del Vaticano 2006, pp. 104–106.

[13] Franciscus, Litterae apostolicae motu proprio datae *Mitis Iudex Diminus Iesus* quibus canones Codicis Iuris Canonici de causis ad matrimonii nullitatem declarandam reformantur (15.08.2015); Polish text in: List apostolski motu proprio *Mitis Iudex Dominus Iesus* reformujący kanony Kodeksu Prawa Kanonicznego dotyczące spraw o orzeczenie nieważności małżeństwa, Wydawnictwo Diecezji Tarnowskiej Biblos, Tarnów 2015 [further quoted: MIDI], can. 1676 § 2.

Ecclesiastical courts, in the face of the inability to determine the domicile of the respondent, require the petitioner to determine the place of registration of the opposing party, because it only – pursuant to Art. 8 of the Population Records Act – is verifiable. Such prudent and rational action of the ecclesiastical courts results from the possible negative consequences of the failure to effectively deliver information about the pending proceedings to the respondent, as well as the recognition of the court as competent on the basis of an incorrect address of residence of the parties. Then the judgment may be affected by the defect of invalidity.

The claimant, wishing to comply with the law, was launching an administrative procedure to obtain individual data in the form of a permanent residence address or a temporary residence address. When submitting the relevant application, she indicated her legal interest, stating that he or she was a party to proceedings for the declaration of nullity of marriage. It is also worth noting that the practice in many ecclesiastical courts was that ecclesiastical courts also addressed the offices directly and the offices provided information to the petitioner or directly to the courts, even if the applicant was a natural person.

However, majority of these applications was treated similarly, i.e. it was indicated that the interested party did not have a legal interest,[14] because ecclesiastical courts do not administer justice in the Republic of Poland and are not a judicial authority, but only an institution of the religious community.[15] This resulted in the existence of a factual interest only, and it was associated with the need to obtain the consent of the person whose data was to be obtained. As one can guess, the person concerned met with the refusal of his or her former spouse. Therefore, an administrative decision was issued refusing to provide the indicated personal data, like the decision of the Minister of the Internal Affairs, discussed below, refusing to disclose the data of L.K.

Most people resigned at this stage or applied for reconsideration of the case. However, the decision of the public administration body remained unchanged. Some of them, wanting to obtain the data of the respondent, lodged a complaint against the decision with the competent administrative court. However, court rulings were argued in a similar way, pointing out that while conducting proceedings before an ecclesiastical court, one cannot demonstrate a legal interest in a request to obtain personal data based on a specific, generally applicable legal norm.[16]

---

[14] "The demonstration of the legal interest in the request to obtain personal data consists in indicating the circumstances that, in the light of the provisions of substantive law, create this legal interest, and not in directly indicating the provision". Cf. Judgment of the Supreme Administrative Court of 9 February 2011, Court Record Number II OSK 180/10, LEX No. 992500.

[15] Cf. Judgment of the Voivodeship Administrative Court in Warsaw of 27 May 2013, Court Record Number IV SA/Wa 2049/12, LEX No. 1609353.

[16] *Ibidem*.

The doctrine indicates that the old law stipulated that if, despite a diligent search, it was impossible to determine the whereabouts of the respondent, the summons had to be made by public announcement (edict), hanging the summons on the door of the curia for the time determined by the judge, and additionally by announcing it in some journal, although it was enough to use only one of these possibilities (can. 1720 CIC 1917; *Instr. Provida Mater*, Art. 83).[17] Although the draft of the 1976 procedural law provided for one more way of edict summons, namely the posting on the door of the parish church of the party's last known place of residence, ultimately the new Code does not mention the edict summons at all,[18] though it is practiced in individual ecclesiastical courts.

On May 8, 2015, the perception of the legal interest was highlighted in a key way. The Supreme Administrative Court in Warsaw stated that the legal interest conditioning the disclosure of personal data can be had not only in the proceedings before the secular court, but also in the proceedings before the ecclesiastical court.[19] This judgment confirmed the legal interest of the party in the proceedings before the ecclesiastical court.[20]

## The factual and legal justification of the judgment

In December 2011, L.K. submitted an application to the Minister of the Internal Affairs (currently the Minister of the Internal Affairs and Administration) for access to address data from the PESEL file in the form of the permanent residence address of A.K – the respondent in the process for declaring the nullity of marriage before the Metropolitan Court.

On the basis of an administrative decision issued in June 2012, the Minister of the Internal Affairs refused to provide the data requested by L.K., as stated that L.K. did not have a legal interest, which was required on the basis of the, now repealed, Act of 10 April 1974 on registering the population and identity cards. The public administration body referred to the separation of the jurisdiction of

[17] Cf. P. Majer, *Niestawiennictwo strony pozwanej w procesie o stwierdzenie nieważności małżeństwa*, „Ius Matrimoniale" 2002, vol. 7(13), p. 173.

[18] *Ibidem*, pp. 173–174.

[19] Cf. Judgment of the Supreme Administrative Court of 8 May 2015, Court Record Number II OSK 2416/13, LEX No. 1678944.

[20] The concept of "legal interest" has been widely discussed in the legal doctrine. Cf. A.S. Duda, *Interes prawny w polskim prawie administracyjnym*, Warszawa 2008; M. Jaśkowska, *Pojęcie interesu prawnego jako kryterium wyznaczenia pojęcia strony w postępowaniu przed Naczelnym Sądem Administracyjnym*, [in:] Z. Niewiadomski, Z. Cieślak (red.), *Prawo do dobrej administracji. Materiały ze Zjazdu Katedr Prawa Postępowania Administracyjnego, Warszawa–Dębe 23–25 września 2002 r.*, Warszawa 2003.

the secular and ecclesiastical courts. The public administration body pointed out also that the ecclesiastical court is only an institution of the religious community, which means that only the provisions of canon law, which is valid only in the Catholic Church, apply to sacramental marriage.

The Minister of the Internal Affairs considered only that L.K. had a factual interest in obtaining data from the PESEL file and recognized his application. Such an approach to the case made it necessary to obtain the consent of person, whose data was requested. The public administration body asked A.K. for consent to disclose her data, but until the decision was issued, it did not obtain the appropriate consent. Ultimately, this was treated as a failure to meet the legality of the provision of data, as a result of which a decision was issued refusing to disclose the requested data.

L.K. applied for re-examination of the case, but the Minister of Internal Affairs, by virtue of an administrative decision, upheld the previously expressed position. L.K. filed a complaint against the decision of the public administration body. In response to the complaint, the Minister upheld the arguments presented in the contested decision and requested that it be dismissed.

The Voivodeship Administrative Court in Warsaw, in its judgment of May 2013[21] dismissed the complaint. The court stated that the Minister had reasonably concluded that L.K. had not demonstrated the existence of a legal interest. In justifying the judgment, the Voivodeship Administrative Court referred to the provisions of the Constitution of the Republic of Poland (Art. 10 § 2, Art. 25 § 4 and Art. 175 § 1) and the Concordat (Art. 1). In conclusion, the Voivodeship Administrative Court stated that ecclesiastical and secular courts are characterised by separation of jurisdiction, which means that the institution of the religious community – as defined by the Voivodeship Administrative Court – does not administer justice in the Republic of Poland and is not a judicial authority. This leads to the conclusion that L.K. cannot demonstrate a legal interest in the request to obtain personal data based on a specific, generally applicable legal norm.

The Voivodeship Administrative Court repeated the Minister's suggestion, pointing out that L.K. may demand the disclosure of personal data on the basis of a factual interest in receiving such data, but it is necessary to obtain consent to disclose the data of the data subject. However, L.K. did not obtain this consent. Taking all this into account, the Voivodeship Administrative Court dismissed the complaint.

L.K. filed a cassation appeal against the judgment, demanding that the contested judgment be set aside and the complaint examined, or that the contested

[21] Cf. Judgment of the Voivodeship Administrative Court in Warsaw of 27 May 2013, Court Record Number IV SA/Wa 2049/12, LEX No. 1609353.

judgment be set aside and the case be remitted to the Voivodeship Administrative Court in Warsaw for re-examination. He also expected to be awarded the costs of the proceedings, including the costs of legal representation in accordance with the prescribed standards.

He based his complaint on the allegation of violation of Art. 44h sec. 2 point 1 – already repealed – of the Act of 10 April 1974 on population records and identity cards. The complainant argued that the Voivodeship Administrative Court wrongly assumed that he had no legal interest, and therefore he could not obtain A.K.'s address data in the manner provided for in that provision. In response, the Minister of the Internal Affairs requested that it be dismissed.

## Precise argumentation of the Supreme Administrative Court

At the outset, the Supreme Administrative Court pointed out that the cassation appeal was based on a justified basis, as the allegation of violation of Art. 44h sec. 2 – already repealed – of the Act of 10 April 1974 on population records and identity cards is justified.

Subsequently, the Supreme Administrative Court precisely highlighted the conceptual differences in the "narrow" and "broad" definition of the legal interest. The justification states that a legal interest understood in a narrow way takes place when, on the basis of the applicable provisions of law, a person interested in a decision seeks to specify the entitlement or a public authority undertakes authoritative interference with respect to that person by limiting or revoking the entitlement, as well as imposing a certain obligation. The Supreme Administrative Court pointed out that a legal interest in the broad sense is the legal possibility to take up defence in the broadly understood way of law – not only on the basis of Polish and European Union law, but also before the authorities of other countries.

The Supreme Administrative Court, when arguing its position, relied primarily on the catalogue of sources of generally applicable law listed in the Constitution of the Republic of Poland,[22] pointing to ratified international agreements existing in the Polish legal order. In particular, it drew attention to the Concordat, which was signed on 28 July 1993 and ratified on 28 February 1998. The Supreme Administrative Court explicitly stated that since the international agreement is part of the Polish legal system, the Concordat is a part of it.

Moreover, it was indicated that not only the mere defence before the ecclesiastical court in cases of declaring the nullity of marriage is the basis for granting

[22] Cf. Constitution of the Republic of Poland of 2 April 1997, Journal of Laws of 1997, No. 78, item 483, Art. 87 § 1.

a legal interest, but also is the "legal possibility" to initiate such proceedings. The Supreme Administrative Court added that the legal interest was not affected by the fact that the competence of the church authority – and not a secular entity, was adopted in the scope of the subject matter.

In the further part of the justification reference is made to the jurisprudence of the Constitutional Tribunal.[23] It was noted that specified in Art. 25 of the Constitution of the Republic of Poland, the principle has the attribute of a constitutional principle, which means that all other constitutional provisions must be interpreted in an "amicable" manner, thus, ensuring their maximum possibility of implementation. Therefore, the omission of an individual's right violates the constitutional principle of the political system, depriving this individual of the right to defence, which can only be exercised before the organs of church authority, in this case before the ecclesiastical court.

In a conclusion, the Supreme Administrative Court pointed out that the place of defence is not legally significant. Whether they are secular judiciary bodies or ecclesiastical courts is legally indifferent to the deriving of a legal interest, which in the case of declaring the nullity of a marriage is based on a ratified international agreement.

## Analysis of the judgment

The Supreme Administrative Court highlighted several fundamental issues. Firstly, it aptly distinguished the notion of legal interest in its dichotomous meaning, pointing to a narrow and a broad conceptual scope. The narrow understanding of the legal interest by public administration authorities so far was illegitimate and limited the rights of the individual. In addition, the Supreme Administrative Court linked the legal interest in a broad sense with the right to defence, as it pointed out that the correct understanding of this issue occurs when the person concerned has the legal opportunity to take up defence on a multi-faceted basis, and not only on the basis of enumerated authorities.

The judgment of the Supreme Administrative Court is also an accurate indication of the source of the legal norm on the basis of which an individual may demand the admission of a legal interest. Although the church process is regulated by the norms of canon law, it should be remembered that the legitimacy of its validity in the Polish legal order is indirectly based on the catalogue of sources of law generally applicable in the Republic of Poland. Although Art. 87

[23] Cf. Judgment of the Constitutional Tribunal of 2 December 2009, Court Record Number U 10/07, LEX No. 562823.

sec. 1 of the Constitution of the Republic of Poland does not mention the Code of Canon Law or the *Dignitas connubii* Procedural instruction, however, there is a ratified international agreement, which is the Concordat,[24] that provides a real opportunity to adjudicate on the validity of the sacramental marriage to the ecclesiastical court without any interference from the secular authorities.[25]

The provisions contained in the Concordat affect the recognition of a legal interest in obtaining an official confirmation of the address by a party. This is because the Concordat grants the Catholic Church exclusive jurisdiction over a Catholic marriage in its own right. Therefore, since the Concordat, as a ratified international agreement, provides such a possibility, and the Polish state recognizes such entitlements of the Church, it must provide legal guarantees for the exercise of the Church's entitlements resulting from the Concordat. Otherwise, the provisions would be impossible to implement, and thus only an apparent guarantor of the rights and powers of the Catholic Church.

## Conclusion

The judgment of the Supreme Administrative Court is of a declarative nature, as it confirmed the existence of a party's legal interest in the proceedings before the ecclesiastical court. The decision indicated that an individual may demand the protection of his rights not only against public authorities, but also in church structures. It is absolutely inappropriate to apply restrictions when deriving a legal interest solely on the basis of legal norms defining the manner of functioning of public authority in the Polish political system.

A person who has the legal opportunity to initiate a process for declaring the nullity of a marriage has a legal interest in obtaining individual data of the other party, in particular in terms of information on the address and date of registration of the domicile[26] of the other party and about the address and date of registration of the quasi-domicile along with the date of expiry of the declared stay period. The mode and functioning of this procedure are specified in the Population Records.[27]

[24] Cf. M. Winiarczyk-Kossakowska, C. Janik, P. Borecki (red.), *Konkordat polski 1993*, Warszawa 2019.

[25] Cf. Konkordat między Stolicą Apostolską i Rzecząpospolitą Polską, podpisany w Warszawie dnia 28 lipca 1993 r., Journal of Laws of 1998, No. 51, item 318, Art. 10 § 3.

[26] The registered address often coincides with the residential address. In a different case, the registered address usually hides the address of the family home of the litigant, which may also guarantee the transfer of the petitioner's complaint by family members and thus meet the procedural requirements.

[27] Cf. Act of 24 September 2010 on Population Records, Journal of Laws of 2010, No. 217, item. 1427.

Considering the above, in particular the procedural consequences of failure to cite, it is impossible to share the view that failure to indicate the permanent or temporary residence of the respondent enables the normal conduct of the case.[28] In court practice, this is impossible due to the need to proceed against a respondent while ensuring its right to defence (can. 1620 n. 4 and n. 7 Code of canon law), which is manifested by the need for the petitioner to provide the current address of residence of the former spouse.

Therefore, ecclesiastical courts, in the event of obtaining information about the lack of a current address of the domicile of the respondent, should immediately issue a certificate to the claimant or a church attorney acting on its behalf, confirming the impossibility of making a citation due to the opposing party's outdated address, while indicating that this person is the petitioner in the pending proceedings for the declaring the nullity of marriage. Thanks to this solution, the interested person will be able to substantiate their current procedural situation and present an appropriate document to the public administration body.

In conclusion, law as an inseparable element of community life should respond to its needs, regulate relations in the community and solve emerging problems.[29] The judgment of the Supreme Administrative Court discussed above fits perfectly into these requirements.

## References

Arroba Conde M.J., *Diritto processuale canonico*, Roma 1993.

Duda A.S., *Interes prawny w polskim prawie administracyjnym*, Warszawa 2008.

Erlebach G., *Il giudice e il diritto di difesa delle parti*, [in:] *II diritto di difesa nel processo matrimoniale canonico*, Città del Vaticano 2006.

Gręźlikowski J., *Racje i sens „prawa do obrony" w procesie o nieważność małżeństwa*, „Prawo Kanoniczne" 2010, vol. 53(3–4), DOI: https://doi.org/10.21697/pk.2010.53.3-4.10.

Gullo C., *Prassi processuale nette cause canoniche di nullità del matrimonio*, Città del Vaticano 2001.

Jaśkowska M., *Pojęcie interesu prawnego jako kryterium wyznaczenia pojęcia strony w postępowaniu przed Naczelnym Sądem Administracyjnym*, [in:] Z. Niewiadomski, Z. Cieślak (red.), *Prawo do dobrej administracji. Materiały ze Zjazdu Katedr Prawa Postępowania Administracyjnego, Warszawa–Dębe 23–25 września 2002 r.*, Warszawa 2003.

Kamiński R., *Zakończenie*, [in:] H. Stawniak, R. Kamiński (red.), *Chrzest i małżeństwo – harmonizacja ustawodawstwa*, Warszawa 2018.

[28] Cf. H. Stawniak, *Komentarz do art. 116 Dignitas connubii*, [in:] T. Rozkrut (red.), *op. cit.*, p. 183.

[29] Cf. R. Kamiński, *Zakończenie*, [in:] H. Stawniak, R. Kamiński (red.), *Chrzest i małżeństwo – harmonizacja ustawodawstwa*, Warszawa 2018, p. 193.

Krukowski J., Sobański R., *Komentarz do Kodeksu Prawa Kanonicznego*, t. I, *Księga I. Normy ogólne*, red. J. Krukowski, Poznań 2003.

Leszczyński G., *Gwarancje prawa do obrony w świetle Instrukcji Dignitas connubii*, „Ius Matrimoniale" 2008, vol. 13(19), DOI: https://doi.org/10.21697/im.2008.13(19).07.

Majer P., *Niestawiennictwo strony pozwanej w procesie o stwierdzenie nieważności małżeństwa*, „Ius Matrimoniale" 2002, vol. 7(13), DOI: https://doi.org/10.21697/im.2002.7(13).09.

Rozkrut T. (red.), *Komentarz do Instrukcji procesowej „Dignitas connubii"*, Sandomierz 2007.

Sobański R., *Komentarz do kan. 100*, [in:] J. Krukowski, R. Sobański, *Komentarz do Kodeksu Prawa Kanonicznego*, t. 1: *Księga I. Normy ogólne*, Poznań 2003.

Stawniak H., *Komentarz do art. 116 Dignitas connubii*, [in:] T. Rozkrut (red.), *Komentarz do Instrukcji procesowej „Dignitas connubii"*, Sandomierz 2007.

Winiarczyk-Kossakowska M., Janik C., Borecki P. (red.), *Konkordat polski 1993*, Warszawa 2019.

**Abstract:** The judgment of the Supreme Administrative Court of 8 May 2015 confirmed the existence of a legal interest already at the stage of "legal possibility" to initiate proceedings for declaring the nullity of marriage. This interest determines the trouble-free – in contrast to the actual interest – disclosure of personal data of the opposing party. In addition, implementing the provisions of the Concordat, the fact was emphasized that a legal interest can be had not only in a trial before a secular court, but also in proceedings before an ecclesiastical court. What is more, the judgment of the Supreme Administrative Court draws attention to the importance of the fundamental procedural principle *audiatur et altera pars*. It enables the respondent to defend itself by presenting its position, which in the process of declaring the nullity of marriage takes a special form, because the overriding value is the objective truth about the existence or non-existence of a given marriage.

**Keywords:** legal interest; process of declaring the nullity of marriage; personal data of the opposing party; Concordat

**Abstrakt:** Wyrok Naczelnego Sądu Administracyjnego z dnia 8 maja 2015 r. potwierdził istnienie interesu prawnego już na etapie „możliwości prawnej" zainicjowania postępowania o stwierdzenie nieważności małżeństwa. Interes ten warunkuje bezproblemowe – w przeciwieństwie do interesu faktycznego – udostępnienie danych osobowych strony przeciwnej. Ponadto – realizując postanowienia Konkordatu – uwypuklono fakt, że interes prawny można mieć nie tylko w procesie przed sądem świeckim, lecz także w postępowaniu przed sądem kościelnym. Co więcej, wyrok Naczelnego Sądu Administracyjnego zwraca uwagę na doniosłość podstawowej zasady procesowej *audiatur et altera pars*. Umożliwia ona stronie pozwanej prawo do obrony poprzez przedstawienie swojego stanowiska, które w procesie o stwierdzenie nieważności małżeństwa przybiera szczególną postać, albowiem nadrzędną wartością jest prawda obiektywna o istnieniu albo nieistnieniu danego małżeństwa.

**Słowa kluczowe:** interes prawny; proces o stwierdzenie nieważności małżeństwa; dane osobowe strony przeciwnej; Konkordat