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Axiological and Juridical Bases of Authorities' Interference with Activities of Sport Clubs Functioning as Associations

This thesis consists of seven chapters, the first of which is an introduction, while the final presents concluding remarks. An integral part of the thesis is an analysis of judicial decisions and court rulings, illustrating further findings reached and formulated in this paper. This paper endeavours to identify the characteristics and consequences of public authorities' interference into the activities of a particular category of entities, namely sport clubs operating as associations. It undertakes to examine this issue by looking at standard notions and by confronting and comparing them to the axiology sphere as well as pointing to the primary issues that derive from this comparison. The axis of deliberation constitutes a parallel analysis of normative and axiological issues concerning sports clubs operating in the form of associations in a way that it provides a point of reference to the conclusions regarding the activities of public authorities.

The consequence of this assumption is the incorporation of notions connected to the activity of the judicature to the description - insofar as it relates to the research field of the public administration functions.

The second chapter deals with issues concerning the juridical registration of an association, and describes the functions of such a register determined by rules of law, while simultaneously aiming to reconstruct the axiological principles of existing regulations. The presentation of this function fulfilled by a starost, acting as a consultative organ in the registration procedure of an association, constitutes a very important element. This section is also an introduction to subsequent reflections concerning the registration of certain groups of entities in the administration process.

The third chapter focuses on the issue of supervision of associations sanctioned in the so-called 'Law of Associations Act' in Polish: "*Prawo o stowarzyszeniach*"). It is an attempt to reconstruct the values which are subjected to protection by the legislature and

through means of introducing established regulations. An essential instrument of this reconstruction is the analysis of legal formalities of public administration activities in this area.

Chapter four touches upon issues concerning the registration of associations under the administrative procedure, illustrating the unique solutions adopted by the legislator, containing a basis in the law on sport (Sports Act) and reserved exclusively for two specific categories of sports clubs, namely student clubs and sports clubs operating in the form of associations whose statutes do not foresee conducting any potential business activities. A particularly important element of this part of the paper identifies key procedural problems as a consequence of subjecting the specific field of registering an association to the rules of the Code of Administrative Proceedings (In Polish: "*Kodeks postępowania administracyjnego*").

The fifth chapter presents issues involving the correlation between the supervisory function of the public administration organs and their cadastral (evidential) function. The key question, above all, concerns the outline of primary correlations between these functions, their axiological foundations and the formulation of a directive that would be indispensable to achieve the objectives set out by the legislator.

The sixth chapter includes an analysis of court rulings and judicial decisions referring to the fundamental conclusions contained in the preceding chapters. Independently, references to the *acquis* of the judiciary have been evoked and included in particular chapters.

Within the framework of discussed and cited issues, the thesis embodies, the following values:

- the realisation of the constitutional principle of freedom of association (purposefulness aspect, double approach: corporative and individual membership),

- the optimal outcome of public tasks, guaranteed by the state (purposefulness aspect), enshrinement of the legal and economical reliability,
- enshrinement of the values known from outside of legal zone (i.e. the efficiency in eliminating anomalies in associations' functioning, efficiency of interference in their activity, observing the rule of proportionality).
- The above axiological notions were emphasised, although they weren't cited as exclusive.

The thesis attempts to answer the following questions:

- in which categories the values protected in an analysed range should be judged and by which rules they should be differentiated?
- following the above logic, under these circumstances, how should the public interest be defined, if we assume that it is represented by the state? Therefore, in practice, how should its various agencies, functioning according to various procedures (administration law, civil law) be defined?
- in the context of public interest, how is the individual interest of a citizen placed?
- is there a possibility to distinguish one dominating "axiological current", which the legislator would put under special protection by legislating some code rules, mentioned in the Law of associations act (Polish: *Prawo o stowarzyszeniach*)?
- would it be necessary to refer to other "unnamed" rules while analysing the system of association law norms? The "unnamed" rules would explain the values which are outside of the system of norms directly aligning questions of non- governmental organisations (law norms). Nevertheless, they would be values legally monumental and publicly important(i.e. the equality of entrepreneurs in the light of their competitiveness), and finally,

- taking into consideration all of the aspects mentioned above, how they relate to particular category of associations which are simultaneously sport clubs.

The comprehensive analysis leads to the view that regulatory objectives undertaken by the legislator are not effectively carried out, because their given realisation is not guaranteed by adequate normative instruments.

In a relatively more radical approach, it can be argued that it is not due the lack of this normative instrumentation that determines the given state of affairs, but the failure to establish a homogeneous and consistent axiological foundation for these regulations. As a consequence, various values are amalgamated. However, they do not necessarily resolve the conflict due to the legislator's shortcomings in principles that could unambiguously designate a unequivocally desirable course of action.