

# Activities of Self-Governing Organizations of Legal Professions of Public Trust in Poland

## Діяльність органів професійного самоврядування юридичних професій, які користуються суспільною довірою в Польщі

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**Purpose.** To determine the scope of operation of self-governing organizations of legal professions of public trust in Poland (of advocates, attorneys-at-law, notaries, court enforcement officers). The constitutional position and functions of these self-governing organizations will be presented, as well as the implementation of the principle of decentralisation through the transfer of public tasks to be carried out. For the activities of entities, including self-governing ones, it is necessary to have organisational structures consisting of organisational units with legal personality and their governing bodies.

**Method.** The formal-dogmatic method, legal-theoretical method and, on an auxiliary basis, the intra-systemic comparative method.

**Findings.** The analysis points to the relationship between constitutionally defined functions of self-governing organizations of legal professions of public trust and the responsibilities entrusted to individual organizations. The functions of organizations of this type are the same, but the tasks and organisational structures of individual organizations are not fully identical, which stems from the historical process of formation of self-governing entities, corresponding to their essence.

**Theoretical implications:** The study is focused on the analysis of normative regulations on the activities of self-governing organizations of legal professions of public trust, which constitute a normative concept. An important conceptual category in the context of this study is the public interest and its protection as a legal-theoretical construct that determines the activities of self-governing organizations of professions of public trust.

**Practical implications.** The analysis points to the practical nature of the tasks, including those of public importance, performed by self-governing organizations of legal professions of public trust and their significance for the members of each of the organizations under consideration and individuals for whom professional activities are performed, but also society as a whole and the functioning of the state.

**Type of article:** descriptive and analytical.

**Мета дослідження.** Визначення повноважень органів професійного самоврядування юридичних професій, які користуються суспільною довірою в Польщі (адвокатів, правових радників, нотаріусів, судових виконавців). Будуть висвітлені конституційне становище та функції цих органів, а також реалізація принципу децентралізації шляхом передачі їм повноважень з виконання завдань публічного характеру. Функціонування суб'єктів, у тому числі самоврядних, потребує наявності організаційних структур, що охоплюють організаційні одиниці з правосуб'єктністю юридичної особи та їхні органи.

**Метод дослідження.** Формально-догматичний, теоретично-правовий, внутрішньо системний допоміжно-порівняльний.

**Результати дослідження.** Проведений аналіз показує зв'язки між конституційно визначеними функціями органів професійного самоврядування юридичних професій, які користуються суспільною довірою, та завданнями, покладеними на окремі органи самоврядування. Функції таких органів самоврядування є однаковиими, але завдання та організаційна структура окремих органів не є повністю ідентичними, що є наслідком процесу формування самоврядних суб'єктів, що відповідає їхній сутності.

**Теоретична цінність дослідження.** Дослідження зосереджене на аналізі нормативних регуляцій, які визначають порядок діяльності органів професійного самоврядування юридичних професій, які користуються суспільною довірою, що виступають як нормативне поняття в юридичній системі. У контексті проведеного аналізу особливе значення має категорія публічного інтересу та його захисту, яка виступає як теоретико-правова конструкція, що слугує визначальним критерієм діяльності органів професійного самоврядування юридичних професій, які користуються суспільною довірою.

**Практична цінність дослідження.** Проведений аналіз вказує на практичний характер завдань, що реалізуються органами професійного самоврядування юридичних професій, які користуються суспільною довірою, та їх значення для членів кожного з досліджуваних органів самоврядування, окремих осіб, на користь яких здійснюється професійна діяльність, а також для суспільства та функціонування держави в цілому.

**Тип статті.** Описова та аналітична.

**Key words:** self-governing organizations of professions of public trust, advocate, attorney-at-law, notary, court enforcement officer.

**Ключові слова:** органи самоврядування професій, які користуються суспільною довірою, адвокат, правовий радник, нотаріус, судовий виконавець.

## **Introduction**

Self-governments, including non-territorial ones, play a systemic role, constituting an important legal institutions and are one of the foundations of the state system, while the activity of self-governing associations of professions of public trust constitutes an important element of democratic states ruled by law, one of which is the Republic of Poland (Article 17 (1) of the Constitution of the Republic of Poland of 2 April 1997, Journal of Laws No. 78, item 483, as amended, judgment of the Constitutional Tribunal of 23 April 2008, file no. SK 16/07, OTK-A 2008, No. 3, item 45). Through the establishment of professional self-governments, the state entrusts specific groups with the implementation of specific public tasks, which constitutes their decentralisation; and in order to allow them perform delegated tasks, local governments are equipped with appropriate competences consisting of powers and duties assigned to normatively regulated organisational structures (judgment of the Constitutional Tribunal of 7 March 2012, file no. K 3/10, OTK- A 2012, No. 3, item 25). The autonomy and activity of professional self-governments is a factor affecting the guarantee of independence in the performance of professional activities of their members.

Among professional self-governments, due to the nature of the activities performed by the individuals affiliated with them, an important category is the group of self-governing organizations of legal professions of public trust. Self-governments of legal professions of public trust should be regarded as those professional associations that play roles provided for by the Constitution and bring together practitioners of professions that have the status of public trust professions, for the practice of which the completion of higher legal education is a necessary, albeit not sufficient, condition.

## **Methodology**

The article employs classic methods developed in legal sciences. The primary method is the formal-dogmatic method, which operates with the rules of linguistic interpretation, but also with the rules of teleological and systemic interpretation. The analysis covers constitutional and statutory regulations governing the positions and tasks of legal professional associations bringing together persons performing professions of public trust. This made it possible to link the constitutional functions of such self-governing organizations with the tasks entrusted to them by law, including those of a public nature. On an auxiliary basis, an analysis of judicial decisions concerning professional self-governments was carried out, in particular the case law of the Polish Constitutional Tribunal.

As a supplementary measure, the legal-theoretical method was used, e.g. for the position of the analysed form of functional self-governments – professional self-governments bringing together people with legal education who perform professional activities of particular importance for the recipients of these activities, but in a broader sense also for the proper functioning of the state. Moreover, the intra-systemic comparative method was used in the research on an auxiliary basis. This applies to listing the scope of tasks performed by individual self-governing organizations of legal professions of public trust and their organisational structures.

As regards the subject-matter of analysis, the literature lacks any study that would directly address this issue in a comprehensive manner. The foregoing question, together with the recognition of the topicality and relevance of the subject-matter, justifies undertaking the research. The legal scholarly literature used herein generally concerns the status of individual legal professions of public trust and the position of associations of professions of public trust in the systemic area and in terms of the tasks entrusted to them. The prevailing forms include excerpts from larger studies, commentaries on legal acts that govern the functioning and structure of individual self-governing organizations and scientific papers.

## **Results and Discussion**

### **I. Self-governing organizations of legal professions of public trust**

When discussing the activities of self-governing organizations of legal professions of public trust, it is appropriate to first describe this category (Smarż, 2025). It is necessary to make exclusions from the circle of legal professional self-governments bringing together practitioners of public trust professions. The exclusions from this category are heading towards two directions.

A. There are professions that have the status of public trust professions for which the legislature has established professional self-governments, and representatives of which carry out certain activities that are essential for their clients and, in a broader sense, for the correct functioning of the state, but cannot be classified as legal professions.

The profession of a statutory auditor consists of performing financial audits, providing attestation services other than financial audits, not reserved for statutory auditors, and providing related services in accordance with national professional standards (Article 3 (1) of the Act of 11 May 2017 on statutory auditors, audit firms and public supervision, consolidated text Journal of Laws of 2024, item 1035). Regardless of other statutory requirements, a holder of a diploma of completion of studies in the Republic of Poland or a diploma of completion of studies issued in another country, recognised in the Republic of Poland as equivalent to a diploma obtained in the Republic of Poland, and who is fluent in spoken and written Polish (Article 4 2 point 4 of the Act of 11 May 2017 on statutory auditors, audit firms and public supervision).

Tax advisory activities include providing taxpayers, tax remitters and tax collectors, at their request or on their behalf, with consultancy, opinions and explanations on the scope of their tax and customs obligations and in matters of administrative enforcement related to these obligations; keeping, on behalf of and for the benefit of these entities, accounting books, tax books and other records for tax purposes and providing them with assistance in this regard, preparing, on their behalf and for their benefit, statements and declarations or providing them with assistance in this regard, as well as representing them in proceedings before public administration authorities and in the judicial review of decisions, orders and other administrative acts in tax matters (Article 2 (1) of the Act of 5 of July 1996 on tax advisory, consolidated text Journal of Laws of 2021, item 2117). A natural person is registered with the list of tax advisors if they meet all the conditions specified in the Act, including higher education (Article 6 (1) of the Tax Advisory Act, Münnich, 2022).

The profession of patent attorney involves providing assistance in industrial property matters (Article 4 (1) of the Act of 11 April 2001 on patent attorneys, consolidated text Journal of Laws of 2024, item 749). A patent attorney provides legal and technical assistance; the legal assistance involves essentially providing legal advice and consultations, preparing legal opinions, examining the legal status of industrial property objects, legal and litigation representation, while technical assistance consists in particular in developing technical descriptions of applications for the protection of objects of creative activity intended for industrial use, examining the scope of their protection, conducting searches concerning the state of the art (Article 8 (1) to (3) of the Act on patent attorneys). A person may be entered on the list of patent attorneys who, among other requirements, has completed a master's degree in a field useful for practicing the profession of a patent attorney, in particular technical or legal studies (Article 1919 point 4 of the Act on patent attorneys).

**Probation officers** perform statutorily defined tasks of an educational, rehabilitative, diagnostic, preventive and supervisory nature, related to the enforcement of court rulings (Article (1) of the Act of 27 of July 2001 on probation officers, consolidated text Journal of Laws of 2023, item 1095, Strózewski, 2019). A professional probation officer may be appointed a person who holds a master's degree obtained after completing studies in psychology or law or in a field related to education in psychology, pedagogy, sociology or law, or a master's degree, master's degree in engineering or equivalent obtained after completing studies in another field and has completed

postgraduate studies in psychology, pedagogy, sociology or law (Article 5 (1) point 4 of the Act on probation officers).

The above-mentioned professions can therefore be practiced by people who have graduated from higher education institutions, including, but not necessarily legal studies. For all these professions, the law also lays down other prerequisites concerning e.g. citizenship, full capacity to perform acts in law, impeccable character and attested qualifications and skills to practice the profession concerned.

B. On the other hand, professions that are undoubtedly legal professions, such as judges and public prosecutors, are a different category. In order to practice the above professions, apart from meeting other high formal and substantive requirements, it is necessary to complete legal studies.

**Pursuant to the Constitution of the Republic of Poland**, justice is administered in the Republic of Poland by the Supreme Court, common courts, administrative courts and military courts, while the Law on the system on common courts provides that judges perform tasks in the field of justice, and thus adjudicate i.e. settle legal disputes in matters falling within the jurisdiction of courts (Article 175 (1) of the Constitution of the Republic of Poland and Article 2 §1 of the Act of 27 July 2001 Law on the system of common courts, consolidated text Journal of Laws of 2024, item 334). **A judge (of a district court) may be appointed those who** have completed higher law studies in the Republic of Poland or obtained a foreign master's degree in law, recognised in the Republic of Poland, and also has fulfilled further statutory conditions (Article 61 §1 point 3 of the Law on the system of common courts).

The Public Prosecutor's Office performs its tasks in the field of prosecution of crimes and guards the rule of law, while within its units, prosecutors perform their duties in this area by, among other things, conducting or supervising pre-trial proceedings in criminal matters and acting as a public accuser before courts (Article 2 in conjunction with Article 3 §1 of the Act of 28 January 2016 Law on public prosecutors, consolidated text Journal of Laws of 2024, item 390). A person who has completed legal studies in Poland and obtained a master's degree or who completed legal studies abroad, recognised in Poland, and meets other statutory requirements may be appointed as a public prosecutor (Article 75 §1 of the Law on public prosecutors).

The practicing of the above professions are associated with public trust, and the relevant laws provide for the establishment of self-governments for those exercising these (Jamróz, 2021). According to the Law on the system of common courts, judges form the self-government of judges, while the Law on prosecutors provides for the establishment of a self-government of prosecutors (Article 3 §1 of the Law on the system of common courts and Article 44 et seq. of the Law on prosecutors). At the same time, they cannot be considered self-governing organizations of professions of public trust within the meaning of the Constitution of the Republic of Poland, to which tasks constituting constitutional functions of this type of self-governments have been delegated, including especially in the scope of exercising care over the proper practice of these professions (Godlewska- Michalak, 2013, and Sarnecki, 2002).

The following should be considered as legal professions of public trust, for which the Constitution of the Republic of Poland provides for the establishment of professional self-governments of a special type: the bar association of advocates, the bar association of attorneys-at-law, the self-government of notaries and the self-government of court enforcement officers. In order to practice these professions it is required, among other conditions, to complete higher legal studies in the Republic of Poland and obtain a master's degree or to complete foreign legal studies recognised in the Republic of Poland (Article 65 point 3 of the Act of 26 May 1982 Law on advocates, consolidated text Journal of Laws of 2024, item 1564, Article 24 (1) point 1 of the Act of 6 July 1982 on attorneys-at-law, consolidated text Journal of Laws of 2024, item 499, Article 11 point 3 of the Act of 14 February 1991 Law on notaries, consolidated text Journal of Laws of 2024, item (1001) and

Article 11(1) point 6 of the Act of 22 March 2018 on court enforcement officers, consolidated text Journal of Laws of 2024, item 1458).

## **II. Position and constitutional functions of self-governing organizations of legal professions of public trust in Poland**

Pursuant to the Constitution of the Republic of Poland, self-governments may be statutorily established for a profession in which the public repose confidence (Article 17 (1) of the Constitution of the Republic of Poland, and Granat, 2004). It is worth noting the elevated constitutional status of such self-governing bodies, which determines their systemic nature. The Constitution of the Republic of Poland points out two functions of professional self-governing organizations of professions of public trust: representing people who practise a given profession of public trust and taking care of the proper practice of that profession within the limits of the public interest and for its protection (Article 17 (1) of the Constitution of the Republic of Poland and Sypniewski, 2013).

The function of representation by the self-government of associated practitioners of a profession of public trust is directed mainly to the outside, as it concerns the relations of the self-government with entities located outside its structure (Judgment of the Constitutional Tribunal of 22 May 2001, file no. K 37/00, OTK 2001, vol. 4, item 86). Representation is understood here in the broad sense as the entirety of activities undertaken by the self-government, which involves external action, including towards state bodies, local government and other self-governments or entities. The establishment and activity of professional self-governments means the existence of a quasi-link between the public administration and practitioners of individual professions associated in the self-government. Representation may concern both the interest of an individual person – a member of the self-government who practices a given profession, as well as a group of these people bound by a community of collective professional interests resulting from a group bond concentrated in the self-government (Szydło, 2016). Representation in this meaning includes e.g.: formulating by professional self-governments towards other entities specific interests or expectations of practitioners of a given profession, settling on behalf of or for the benefit of these persons matters important to them, striving to protect these persons' interests, acting as a recipient of complaints or demands. In performing the above function, the self-government acts as the advocate and representative of the interests of the self-government community in question, acting on its behalf and for its benefit (Borowicz, 2012).

It can be assumed that the implementation of this function will take a similar form regardless of the specific nature of the professional activities typical for a given profession. At the same time, it is not ruled out that the governing bodies of individual self-governments may represent their members only in areas relevant to their specific self-government due to the nature of professional activities.

The function of caring of the proper practice of the profession concerns the relationship between the self-government and its members, thus primarily its internal relations. In general terms, the care of the practice of the profession can be understood as activities aimed at ensuring high quality and culture in the practice of a given profession, as well as an appropriate level of ethics among the members of the self-government (Tabernacka, 2007).

This care cannot be equated only with auditing or supervision over the exercise of the profession as it is a broader concept. Care undoubtedly include activities of an auditing nature, but not only them, including also preventive activities that are to prevent inappropriate forms of professional activity also before their possible occurrence (Szydło, 2002). Care includes, on the one hand, enforcing liability for improper practice of the profession, but on the other hand, providing support and assistance to members of the self-government in the performance of their duties (Judgment of the Constitutional Tribunal of 14 December 2010, file no. K 20/08, OTK-A 2010, vol. 10, item 129). When determining the objective scope of the exercise of care over the proper practice of the profession by individual professional self-governments, it should be pointed out that it is the legislature's decision that determines the detailed definition of the tasks of the self-government

falling within the concept of care over the proper practice of the profession. The tasks constituting the exercise of care include, in particular, regulation of access to the profession by granting authorisations to practise it, shaping deontological and other rules concerning the practice of the profession by issuing normative acts applicable to members of the self-government, conducting inspections or holding disciplinary liability (Judgment of the Constitutional Tribunal of 19 April 2006, file no. K 6/06, OTK-A 2006, Issue 4, item 45). K 6/06, OTK-A 2006, vol. 4, item 45).

The fulfilment of these constitutional functions forms the rationale behind the statutory establishment of professional self-governments for specific professions that have this special attribute. The public interest and its protection are fundamental determinants of the activities of self-governments of professions of public trust. Under the current systemic conditions, both functions are considered equally important, and in a democratic and pluralistic society, there is no reason to give priority to either of them (Tkaczyk, 2011). The directionally determined constitutional functions are fulfilled through decentralisation – the statutory entrusting of tasks to individual self-governing organizations, including tasks of public importance related to the exercise of public authority. Decentralisation is linked to the idea of self-governance and is close to the essence of democracy as indicated in the Polish Constitution, being its logical consequence and practical implementation (Article 2, Article (4) and Article 15 of the Constitution of the Republic of Poland, and Kępa, 2021).

### III. Activities of the self-government of advocates

The profession of advocate (Polish: *adwokat*, sometimes translated also as attorney, lawyer or attorney-at-law) consists of providing legal assistance, particularly in legal advice, drafting legal opinions, preparing draft legal acts, and appearing before courts and public authorities (Article 4 (1) of the Law on advocates). The aforementioned activities are not exhaustively listed in the Law on advocates but merely represent an open list of the activities most commonly encountered in practice.

In accordance with the Act governing the rules of practising the profession of advocate and the activities of their self-governing organization, the bar association of advocates is organised as a professional self-government and consists of all advocates and trainee advocates (Article 1 2 in conjunction with Article (2) of the Law on advocates). Within the structure of this self-government, legal personality is only attributed to the Supreme Bar Council and regional bar associations as units of self-government (Article (10) of the Law on advocates). The governing bodies of the bar association of advocates are: the National Assembly of the Bar Association, the Polish Bar Council, the Higher Disciplinary Court, the Advocates' Disciplinary Officer and the Higher Audit Committee (Article 9 (1) of the Law on advocates). On the other hand, the governing bodies of district bar associations are: the assembly consisting of practising advocates and representatives of other advocates, the District Bar Council, the Disciplinary Court, the Disciplinary Officer and the Audit Committee (Article (39) of the Law on advocates). The bodies of the national bar association and the bodies of district bar associations constitute the complete structure of the professional self-government of advocates (Trela, 2016).

The statutory tasks of the professional self-government of advocates include:

- 1) providing conditions for the performance of statutory tasks of the Bar;
- 2) representing the Bar and protecting its rights;
- 3) supervising compliance with the regulations on the practice of the profession of advocate;
- 4) professional development of advocates and training of trainee advocates;
- 5) determination and promoting the principles of professional ethics and ensuring their compliance;
- 6) cooperating with local government units in ensuring the provision of legal aid as referred to in the Act on free legal assistance, free civic counseling and legal education (Act of 5 August 2015 on free legal assistance, free civic counseling and legal education, consolidated text Journal of Laws of 2024, item 1534);

- 7) managing and disposing of the assets of the bar association of advocates (Article 3 (1) of the Law on advocates ).

It is pointed out in the literature that the statutory catalogue of tasks of the bar association of advocates is of a closed nature (Eysymontt and Piesiewicz, 2023, and Świstak, 2018). The tasks of the bar association in the aforementioned provision have been defined in general terms, are complex in nature and constitute the scope of activity of this self-government. Their implementation takes place through the specific competences of the relevant bodies. Tasks that are not of a sovereign nature, particularly in the area of representation, may be carried out in a variety of ways, including informal ones.

#### **IV. Activities of the self-government of attorneys-at-law**

Practicing the profession of attorney-at-law (Polish: *radca prawny*, sometimes translated also as legal adviser or legal counsel) involves providing legal assistance, which includes in particular providing legal advice and consultancy, drafting legal opinions, drafting legal acts and appearing before public offices and courts as a representative or defence counsel (Article 4 in conjunction with Article 6 (1) of the Act on attorneys-at-law). As in the case of the professional activities of advocates, the listing of the areas which constitute the provision of legal assistance by attorneys-at-law is not a closed one, but contains the most typical activities. In the current legal situation, the scope of professional activities of advocates and attorneys-at-law should be considered the same.

The Act on attorneys-at-law stipulates that attorneys-at-law are organised according to the rules of professional self-government, and the affiliation of attorneys-at-law and trainee attorneys-at-law and legal trainees to the bar of attorneys-at-law is mandatory (Article 5 (1) and Article 40 (2) of the Act on attorneys-at-law). The organisational units of the self-government with legal personality include district bar associations of attorneys-at-law and the National Bar Association of Attorneys-at-Law (Article 5 (2) of the Act on attorneys-at-law). At the national level, the following are the governing bodies of the self government of attorneys-at-law: the National Assembly of Attorneys-at-Law, the National Bar Council of Attorneys-at-Law, the Higher Audit Committee, the Higher Disciplinary Court, the Chief Disciplinary Officer, and at the regional level: the assembly of the district bar association of attorneys-at-law, the district bar council of attorneys-at-law, the district audit committee, the district disciplinary court and disciplinary officer (Article 42 (1) of the Act on attorneys-at-law).

The Act on attorneys-at-law defines the tasks of the self-government of attorneys-at-law, pointing out in particular the following tasks:

- 1) participating in ensuring the conditions for the performance of the statutory tasks of attorneys-at-law;
- 2) representing members of the self-government and protecting their professional interests;
- 3) cooperating in the development and application of law;
- 4) preparing trainee attorneys-at-law for the proper practice of the profession of attorney-at-law and improving the professional skills of attorneys-at-law;
- 5) supervising the proper practice of the profession by attorneys-at-law and trainee attorneys-at-law;
- 6) cooperating with local government units in ensuring the provision of legal aid (Act of 5 August 2015 on free legal assistance, free civic counselling and legal education);
- 7) conducting research on the functioning of legal aid (Article 41 of the Act on attorneys-at-law, Patyra, 2022).

These tasks are considered public tasks (Judgment of the Regional Administrative Court in Warsaw of 3 June 2015, file no. II SAB/Wa 573/15, LEX no. 1819283). It is assumed that this list is not exhaustive, as indicated by the wording of the provision which states that the tasks of local government “include in particular”, followed by the aforementioned list. This is also in line with the essence of self-governance, which is based on autonomy. The self-government is statutorily

independent in performing its tasks and is subject only to the provisions of law (Article 40 (1) of the Act on attorneys-at-law).

#### **V. Activities of the self-government of notaries**

A notary is appointed to perform acts with regard to which the parties are obliged to give or wish to give a notarial form; notarial acts performed by a notary in accordance with the law have the character of an official document, which means that notarial documents are attributed the value of public faith by virtue of law (Article 1 §1 and Article 2 § 2 of the Law on notaries, and Oleszko, 2016). The scope of notarial activities includes e.g. drawing up notarial deeds, certified copies of documents, accepting documents for safekeeping, drawing up drafts of deeds, drafting protests for bills of exchange and cheques, receiving statements of acceptance or rejection of inheritance (Article 79 of the Law on notaries).

Notaries form the self-government of notaries (Article 26 §1 of the Law on notaries). The self-government of notaries includes chambers of notaries and the Polish National Council of Notaries, which have legal personality (Article 26 § 2 and § 3 of the Law on notaries). The governing bodies of the chamber of notaries are the general assembly of notaries of the chamber and the council of the chamber of notaries (Article 27 of the Law on notaries). The organizational structure of this self-government corresponds to the needs of the functioning of the state and the notariat (Oleszko, 2016).

The Law on notaries does not specify in one provision the tasks of the self-government of notaries. However, this does not mean that it does not regulate them, as these tasks can be inferred from many provisions of this law, and they are defined in various ways, especially as to the degree of their specificity. In order to determine them, it may be helpful to refer, on an auxiliary basis, to the tasks of other self-governing organizations of legal professions of public trust. Especially the following should be considered to be the tasks of the self-government of notaries:

1. representation of the notaries,
2. supervision over the performance of notaries' duties,
3. training of trainee notaries,
4. expressing opinions on the principles of professional ethics of notaries,
5. cooperation with organizations of notaries of other countries (Article 35 point 2 and point 3, Article 38, Article 40 §1 point 2, point 3, point 4 and point 7, Article 44 of the Law on notaries).

The self-government of notaries performs tasks as an exercise of the statutory competences granted under laws and within the limits of regulations generally applicable in the Republic of Poland (Judgment of the Supreme Court of 26 February 2004, file no. III SZ 2/03, OSNP 2004, no. 22, item 395). Their scope and nature come from the characteristic, complex status of notaries who are persons of public trust linked with the administration of justice. The above translates into the scope of tasks of this self-government, which are primarily public tasks (Greguła, 2014, and Oleszko, 2016).

#### **VI. Activities of the self-government of court enforcement officers**

The court enforcement officer is a public authority in performing activities during enforcement proceedings and proceedings to secure claims (Article 3 (1) of the Act on court enforcement officers). They carry out, among other things, the enforcement of judicial decisions in cases concerning pecuniary and non-pecuniary claims, securing claims and the enforcement of other enforceable titles and writs of execution which are enforceable by way of judicial enforcement without providing them with an enforcement clause (Article 3 (3) of the Act on court enforcement officers).

Court enforcement officers and assistant court enforcement officers form the self-government of court enforcement officers (Article 195 (1) of the Act on court enforcement officers). The National Council of Court Enforcement Officers and chambers of court enforcement officers have legal personality (Article 196 (3) of the Act on court enforcement officers). The governing bodies of the self-government of court enforcement officers are: the National Council of Court Enforcement Officers, the National Audit Committee and chambers of court enforcement officers,

while the bodies of the chamber of court enforcement officers are: the general meeting of the chamber of court enforcement officers, the council of the chamber of court enforcement officers and the audit committee (Article 196 (1) and Article (206) of the Act on court enforcement officers). The literature indicates that in this case, the legislature does not properly differentiate between organisational units and the governing bodies that operate within them (Rączka, 2020).

The tasks of the self-government of court enforcement officers include in particular:

- 1) supporting administrative supervision authorities in the area of care over diligent performance of duties by court enforcement officers and proper performance of duties by assistant court enforcement officers and trainee court enforcement officers;
- 2) participation in providing conditions for the performance of the statutory tasks of court enforcement officers;
- 3) representation of court enforcement officers and assistant court enforcement officers;
- 4) professional development of court enforcement officers and assistant court enforcement officers and participation in the training of trainee court enforcement officers;
- 5) determination and promoting the principles of professional ethics and ensuring their compliance;
- 6) conducting research on the functioning of court enforcement (Article 195 (2) of the Act on court enforcement officers).

This list of tasks is open. It is assumed that the specification by the legislature of examples of the tasks entails the need to determine the scope of operation of this self-government based on an analysis of regulations defining the competences of self-government bodies (Rączka and Kosiński, 2022).

## **Conclusion**

The institution of self-government, including in the form of professional self-governments, constitutes an intermediary element between the state and citizens, being placed closer to the individuals on behalf of whom it acts and for whom it works. This is related to the implementation of specific tasks, including those of public significance, important both for the members and for the functioning of the state. The activities of self-governing organizations of legal professions of public trust is an embodiment of the constitutional principle of decentralisation of public authority through the statutory delegation of public tasks, combined with granting autonomy in the performance of these tasks. The element of public interest in the construct of public tasks of self-governments of professions of public trust implies a legal obligation to implement them (Article 15 (1) of the Constitution of the Republic of Poland, Tabernacka, 2007).

Based on constitutional regulations, there is no doubt that the functions entrusted to self-governments of professions of public trust are identical. However, the tasks of individual self-governing organizations of this type are partly similar, and even identical, which results from the nature of the professional activities performed by the persons associated in them; this applies in particular to the professions of advocate and attorney-at-law. However, there are also notable differences in this regard. These result primarily from differences in the professional activities performed, the development of individual professions and their associations over the years, and the self-governing nature of the organisations themselves and the resulting independence.

Due to the essence of self-governance, which consists of autonomy, as well as the fact that units of individual self-governments have legal personality combined with legal capacity and capacity to perform acts in law, it is possible for professional governments to perform the tasks entrusted to them (Mrozek, 2019). The organisational structures of self-governments of professions of public trust are not completely the same, and in relation to some of them, the legislature has applied not quite consistent and coherent constructions in which the given entity is both a legal person and a governing body of the particular self-government (Bereza, 2022). This is due to historical and evolutionary conditions concerning these self-governments, and the literature on the

subject indicates that the legal nature of governing bodies of self-government is not homogeneous, proposing amendment to relevant regulations (Rączka, 2020). The organisational structure of the bar association of attorneys-at-law should be considered an example of coherence. At the same time, for all the analysed local governments a two-tier structure of these self-governments has been defined. Specific competences that make up the fulfilment of statutory tasks have been assigned to the various governing bodies of competent professional self-governments. A noticeable significant difference is the statutorily governed membership of trainee advocates and trainee attorneys-at-law in the relevant self-government, and the failure to include trainee notaries and trainee court enforcement officers in the self-governments of notaries and court enforcement officers respectively. This is considered to be justified by the nature of the professional activities and the position of the persons practicing these professions.

It should be noted that the Minister of Justice supervises the activities of these self-governing organizations within the scope and forms specified in the law, which in relation to the self-government of court enforcement officers is defined as supervision by a superior authority (Article 3 (2) of the Law on advocates, Article 5 (3) of the Act on attorneys-at-law, Article 42 § 1 of the Law on notaries, Article 214 (1) of the Act on court enforcement officers). This is justified by the nature of the professional activities performed by the members of individual self-governments and the tasks delegated to the local governments through centralisation. For the Minister of Justice to perform supervisory activities, a clear normative basis is necessary and the catalogue of supervisory powers is close-ended. Supervision does not imply the existence of a hierarchical relationship of subordination of the supervised entity to this single-person public administration body. The competences in this area cannot be interpreted broadly, as this could lead to a violation of the principle of decentralisation and the systemic position of self-governing organizations of professions of public trust.

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