

## **SUMMARY**

### *Conditions for settlement agreements made by public finances sector units*

My PhD thesis focuses on the considerations relating to settlements agreements concluded by the public finances sector units. Article 54a of the Public Finances Act which came into effect on 1 June 2017 and which also involved the amendment to the Responsibility of Public Finance Discipline Breach Act lies at heart of my deliberations. The purpose of the thesis is to find an answer to the following questions: whether or not the application of a settlement agreement which is a civil law construct is justified in the case of public entities; what was the reason behind the non-conclusion of settlement agreements by the public finances sector units prior to the amendment to the Public Finances Act of 2017. The choice of the thesis topic was primarily dictated by the need to capture the line between the rights and the freedoms existing under private law, where business entities are focused primarily on profits and their own benefits, as opposed to the restrictions on and responsibilities of public administration bodies which operate within law, in the interest of the citizens and with special care about the state assets. Thus, I carried out my deliberations within the frames of acceptability of the process of making the public entities more aligned with the market practices, which to me is the implementation of constructs typical of the private sector to the state administration. It is a relatively new practice; however, it has gained popularity in recent years and it has occurred more and more frequently not only in Polish legislation but in Europe too.

Out of the many research methods I applied, such as the analytical, comparative or teleological one, the empirical method which allowed for the interpretation of regulations from a practical perspective was the most important one. To that effect, I held interviews with representatives of the addressees of the legal norm set out in Article 54a of the Public Finances Act, notably with: attorneys-at-law at the General Counsel to the Republic of Poland, representatives of the Social Insurance Institution and of the General Directorate for National Roads and Motorways, and representatives of the Supreme Audit Office. Furthermore, I submitted applications for access to public information to find out how matters concerning access to the language of settlement agreements concluded by the public finances sector units and to opinions referred to in Article 54a(2) of the Public Finances Act are handled in practice. I also verified selected audit proceedings carried out by the Supreme Audit Office and compared the approach of the audit authorities to that issue before and after the amendment of 2017. While searching for an

answer to the questions presented in the opening, I also addressed non-legal aspects, that is social sciences and psychology, by evaluating the effectiveness of the said regulations from the perspective of human nature, social conditions or the prevailing stereotypes.

My thesis has been subdivided into three sections. In the first section (“Alternative Dispute Resolution Methods and Practice”) I analysed the development of constructs regulating amicable dispute resolution. I described mediation and settlement agreement under civil- and administrative law. In the second section (“Definition and Preconditions of Settlement Agreement under Polish Law”), I focused on the conditions of settlement agreements concluded by the public finances sector units after 2017. I analysed the preconditions and the form of settlement agreements concluded on terms and conditions set out in the Public Finances Act. In the third section (“Co-existence of Norms regarding Settlement Agreements”), I characterised conflicts of regulations that may occur in connection with the application of Article 54a of the Public Finances Act in relation to other norms of public law, such as: access to public information, public procurement orders or state aid. Each section consists of chapters which describe key issues relating to the topic of the thesis. The conclusions include the requests *de lege ferenda*, amongst others.