

STATUTORY REGULATION ON FINANCIAL MANAGEMENT IN THE SELF-GOVERNMENT OF ATTORNEYS-AT-LAW IN POLAND

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Abstract. The self-government of attorneys-at-law is a self-government associating persons exercising a profession of public trust. The Constitution of the Republic of Poland provides for the permissibility of the establishment of such self-governments and at the same time assigns functions to them. These functions are performed by means of tasks defined by law, including those of a public nature, in the performance of which the self-government of attorneys-at-law is independent. The essence of any normatively defined self-government is independence, including financial independence. The legal regulations on the financial management of attorneys-at-law are not extensive, but at the same time they are diverse. These regulations refer to several levels of financial management of such a self-government and concern: the basic sources of financing their activities, the competence of the self-government bodies to adopt internally binding normative acts, the adoption of budgets of the self-government of attorneys-at-law and the competence of the self-government bodies to carry out financial management in the broad sense, including its control. Financial management is carried out by the self-government of attorneys-at-law on the basis of regulations contained in the Act on Legal Attorneys-at-Law, which are not complete. They are supplemented by intra-authority legal acts issued, on the basis of statutory authorisations, by the self-government bodies operating at the national level. Bodies at the nationwide level are empowered in this respect, which has a unifying value.

Keywords: financial management; self-government of attorneys-at-law; public tasks; statutory regulations; law independence

INTRODUCTION

The self-government of attorneys-at-law is a professional self-government organization bringing together those who practice a profession of public trust, as defined in the Constitution of the Republic of Poland (Article 17(1)) established under the Act on attorneys-at-law.¹ An essential feature

¹ Constitution of the Republic of Poland of 2 April 1997, Journal of Laws No. 78, item 483 as amended [hereinafter: the Polish Constitution], and Act of 6 July 1982 on attorneys-at-law, Journal of Laws of 2022, item 1166 as amended [hereinafter: the Act on attorneys-at-law]

of self-government is independence shown in many areas. Concerning public trust profession self-government organizations, one should point to their ability to act in legal transactions, which is possible due to organisational units with legal personality and representative bodies appointed as a result of elections. Self-government organizations of this type perform tasks, including those of a public nature, thus contributing to the principle of decentralization, and have public-law authority, and their activities are also subject to auditing. An important manifestation of independence of self-government is financial management [Stahl 2011, 85ff; Kepe 2021, 894]. Financial management is pursued by the self-government of attorneys-at-law based on the normative framework contained in the Act on attorneys-at-law.

1. STATUTORILY DETERMINED SOURCES OF FINANCING THE OPERATION OF THE SELF-GOVERNMENT OF ATTORNEYS-AT-LAW

One of the fundamental provisions that governs the financial management of the self-government of attorneys-at-law is the provision listing the sources for financing its activities. The operation of that self-government are financed by two legally distinguished types of sources, which is reflected in the wording of the provision as two paragraphs.

First, the Act stipulates that the activity is financed with membership fees from attorneys-at-law and trainee attorneys-at-law, fees related to the procedure of registering in the list of attorneys-at-law and trainee attorneys-at-law, and from fines (Article 63(1) of the Act). This types of revenue must be classified as basic (organization's own) revenue. There are a few arguments behind this. The first, systematic one, is a linguistic interpretation of the content of the provision and the mutual relationship of its elements. Moreover, the self-government of attorneys-at-law has a statutorily-conferred right to determine the amount of the contributions and fees within that category by resolutions adopted by competent bodies. This is related to the existence of a distinct type of regulations relating to the self-government financial management in the area of powers to issue by-laws. The responsibilities of the National Bar Council of Attorneys-at-Law (KRRP), include setting the amount of the membership fee and the rules for its allocation, as well as the amount of fees related to fees related to the procedure of registering in the list of attorneys-at-law and trainee attorneys-at-law, and handling charges (Article 60(11) of the Act).² Pursuant to the Act, failure to pay

or the Act].

² Presently, relevant provisions are contained in the following regulations: Resolution of KRRP No. 7/VIII/2010 of 10 December 2010 on the amount of membership fee and insurance premium, rules of their payment and allocation, Resolution no. 782/XI/2022 of the Board

membership fees for more than one year is a reason for being struck off the list of attorneys-at-law (Article 29(4a) of the Act).³ The stipulation in the Act of the sanction in the form of being struck off the list and loss of licence to practice due to being struck off the list for non-payment of the membership fee confirms the importance of this obligation incumbent on members of the self-government. The obligation to pay membership fees to the self-government results directly from membership, while the culpable failure to pay them is also a ground for disciplinary liability.⁴ Despite the emerging discrepancies, this obligation must be considered as having civil-law nature [Świstak 2018, 324].⁵ The purpose of these proceeds is to provide financial resources for self-government operation. The category of sources of funding the self-government comprises also fines. Proceeds from this category differ to some extent from those mentioned above, because apart from other functions they perform, the element of repression is crucial. Fines are connected with disciplinary liability of attorneys-at-law for any conduct that is contrary to the law, ethical principles or the dignity of the profession, or for any breach of professional duties (Article 64 of the Act).⁶ Proceeds resulting from fines imposed by district disciplinary courts and the Higher Disciplinary Court (WSD), constitute a source of financing the activities of the self-government. The amount of the fine is determined by law, it has statutorily defined range and is charged in reference to the minimum salary. The fine shall be imposed between one-and-a-half and twelve times the minimum salary applicable on the date the disciplinary offence was committed (Article 65(2ba) of the Act).⁷

Irrespective of differences, the above-mentioned types of revenue to finance the self-government have significant common features that

of the National Bar Council of 9 November 2022 on the publication of the consolidated text of the Resolution on the amount of membership fee and insurance premium, rules of their payment and allocation, <https://biblioteka.kirp.pl/items/show/1361> [accessed: 20.05.2023] and Resolution of KRRP No. 144/VII/2010 of 17 September 2010 on the amount of fees related to the registration in the list of attorneys-at-law, list of trainee attorneys-at-law and list of foreign lawyers, <https://biblioteka.kirp.pl/items/show/25> [accessed: 20.05.2023].

³ Relevant acts are performed by a competent Regional Bar Council.

⁴ Resolution of the Supreme Court (7 judges) of 26 April 1990, ref. no. III PZP 2/90, OSNC 1990/12/142.

⁵ Resolution of the Supreme Court of 20 November 1987, ref. no. III PZP 42/87, OSNC 1989/7-8/115 and judgment of the Supreme Administrative Court of 12 April 2022, ref. no. II GSK 1837/18, Lex no. 3338550.

⁶ According to Article 65(2) of the Act, the fine shall not be imposed on trainee attorneys-at-law.

⁷ According to the Regulation of the Council of Ministers of 13 September 2022 on the amount of the minimum salary and the minimum hourly wage in 2023 (Journal of Laws item 1952), the minimum salary starting from 1 January 2023 is PLN 3 490 (§ 1), and from 1 July 2023 is PLN 3 600 (§ 3).

make it reasonable to classify them as one group. These are revenues of an organization's own (internal) nature, as they come entirely from members of the self-governing community – attorneys-at-law and trainee attorneys-at-law. The Act itself uses the concept of own funds, although not quite strictly.⁸ These types of proceeds constitute revenue of fundamental importance to the self-government also due to their size as compared with other proceeds. This relates in particular to membership fees paid by attorneys-at-law and trainee attorneys-at-law. This is a consequence of their compulsory nature, resulting in the possibility to claim and enforce their payment, which is another characteristic they have in common.

The Act provides that the activities of the self-government are also financed from other sources, in particular from grants and subsidies as well as donations and inheritances (Article 63(2) of the Act). Based on that regulation, there is no doubt about the open catalogue of sources of financing the activities of the self-government of attorneys-at-law. The linguistic and functional interpretation of the wording of the provision shows the secondary nature of such proceeds in relation to the first group. The Act clearly lists as income of this type, which can be described as complementary (external), the following: grants and subsidies, and donations and inheritances. This group is also internally heterogeneous.

The terms “grant” and “subsidy” have not been defined in the Act on attorneys-at-law, and they appear in particular in the Act on public finance as a category of state budget expenditure.⁹ Grants under the Act on public finance are funds from the state budget, budgets of local government units and from state earmarked funds, allocated pursuant to the Act on public finance, separate legislation or international agreements, for financing or co-financing the implementation of public tasks (Article 126 of the of the Act on public finance). Grants are considered a form of financial assistance involving transfer of money from a higher level to a lower level, usually for the purposes of implementation of specific tasks [Głuchowski 2001, 66-67], while the subsidy is recognized as a form of non-returnable financial support for various entities related to their activities. Subsidies are most often associated with state financial aid for various entities, including local government ones [Owsiak 2001, 290]. Units of the self-government of attorneys-at-law, due to the kind of activities they pursue, including

⁸ Article 32(5) of the Act provides that where a resolution is adopted on exempting a trainee attorney-at-law from payment of the fee in whole or in part, the cost of training of that trainee attorney-at-law shall be paid, proportionally to the amount of the exemption, from own funds of the competent Regional Bar Council, which should be understood however as own funds of the Regional Bar Association.

⁹ Article 124(1)(1) of the Act of 27 August 2009 on public finance, Journal of Laws of 2019, item 1634 as amended [hereinafter: Act on public finance].

the performance of public tasks, match the subjective and objective scopes of grants and subsidies, especially since the activity they carry out to a large extent is undoubtedly a form of substantive decentralization of public tasks [Fundowicz 2005, 230-31; Grzywacz 2022, 214-16].

A different category, expressly pointed out in the same provision, is proceeds from inheritance and donations. The admissibility of acquiring them by the self-government is a consequence of legal personality granted to the organisational units of the self-government – Regional Bar Associations of Attorneys-at-Law (OIRP) and the National Bar Association of Attorneys-at-Law (KIRP), i.e. the capability to acquire rights and assume obligations on their own behalf. The proceeds from these titles, of course, are of a voluntary nature and, given their specificities, only incidental, auxiliary. It should also be assumed that the size of such proceeds is marginal in relation to previously mentioned amounts and extent of expenditure.

A statutory category of income of self-government units, but defined in Chapter 4 of the Act concerning training and examination of trainee attorneys-at-law is the fees paid by trainee attorneys-at-law. The Act provides that the training is paid and the fees are payable to the competent Regional Bar Council, which is, however, to be regarded as a shortcut expression, since they in essence are paid in to the self-government unit which holds the training – the OIRP, not to its body. Pursuant to the Act, the training of trainee attorneys-at-law (understood as the cost of training) is covered by fees paid by trainees, which means that it is not permissible to spend these proceeds on other purposes.¹⁰ Conducting the training is considered in the case-law and doctrine as an important element of the constitutional function of self-governments of the professions of public trust to ensure that the profession is practised correctly within the limits of the public interest and for its protection [Tabernacka 2007, 58; Karcz-Kaczmarek 2017, 82-89].¹¹ At the same time, the Act on attorneys-at-law clearly states that the annual fee for training of trainee attorneys-at-law shall be set by the Minister of Justice by way of a regulation. By setting it, the Minister must be guided by the need to ensure the appropriate quality of education for the trainees. The Act sets a maximum limit for the annual fee, which refers to the minimum salary: it must not be higher than six times the minimum salary. Although it is the self-government units that are statutorily entrusted with the task to conduct attorney-at-law training, it has only an opinion-giving voice about determining the annual fee for applications – the Minister of Justice issues the regulation having consulted the KRRP.¹²

¹⁰ See Article 32¹(1) and (2) of the Act on attorneys-at-law.

¹¹ Judgments of the Constitutional Tribunal: of 19 April 2006, ref. no. K 6/06, OTK-A 2006/4/45 and 8 November 2006, ref. no. K 30/06, OTK-A 2006/10/149.

¹² According to the currently applicable Regulation of the Minister of Justice of 14 December

2. STATUTORY COMPETENCE NORMS THAT CONSTITUTE GROUNDS FOR ISSUING INTERNALLY APPLICABLE NORMATIVE ACTS IN TERMS OF FINANCIAL MANAGEMENT

The issue of statutorily-defined competence to issue internally applicable normative acts for the bodies of the self-government of attorneys-at-law has already been generally mentioned earlier in this study. In order to run the financial management by the self-government of attorneys-at-law, it is necessary to have regulations that develop and detail the statutorily-defined aspects of financial activity. Therefore, the Act on attorneys-at-law comprises the rules of competence for the adoption of by-laws concerning the financial management of the self-government of attorneys-at-law. This is a fully appropriate solution, for at least two basic reasons. Firstly, as a rule, there is no need for a more detailed statutory regulation of the financial issues of self-government and the existing framework should be considered sufficient. Secondly, giving the self-government the discretion to determine detailed rules of its activities in general, including in financial matters, corresponds to the very essence of self-government, which consists of self-determination in matters relevant to the self-government

Fundamental to the financial management of the self-government are two legislative delegations. It is up to the National Assembly of Attorneys-at-Law (KZRP) to determine the basic principles of financial management of the self-government (Article 57(8) of the Act). To implement the above-mentioned legislative delegation, Resolution No 7/99 of the 6th National Assembly of Attorneys-at-Law of 6 November 1999 on determining the basic principles of financial management of the self-government of attorneys-at-law was adopted.¹³ At the same time, under the Act on attorneys-at-law defining a closed catalogue of powers of another body – the National Bar Council of Attorneys-at-Law – it is within its scope of activity to lay down the rules of financial management of the self-government (Article 60(10) of the Act). To implement this authorisation, the Resolution No. 65/VII/2009 of 6 June 2009 on the Rules of Financial Activities of the Self-Government of Attorneys-at-Law was adopted¹⁴. An issue that requires separate consideration, but going beyond the scope of this paper, is the question of which financial management principles have the character of fundamental principles, all the more so as both these acts are issued by bodies at the national level and cover the entire National Bar [Pawłowski 2009, 141, 144].

2020 on the amount of the annual fee for training of trainee attorneys-at-law (Journal of laws of 2020, item 2273), § 1, the fee is PLN 5850.

¹³ Not published.

¹⁴ See <https://biblioteka.kirp.pl/items/show/1369> [accessed: 20.05.2023].

Regardless of the regulations concerning the power to determine the financial economy of the self-government, the Act also comprises provisions containing further delegations for the bodies of the self-government to adopt resolutions on financial management. One of the main sources of financing the operations of the self-government of attorneys-at-law is member fees paid by attorneys-at-law and trainee attorneys-at-law. The competence norm for the National Bar Council provides for the power to set the amount of the membership fee and the rules for its allocation, as well as the amount of fees related to the decision on registration in the list of attorneys-at-law and trainee attorneys-at-law, and handling charges (Article 60(11) of the Act). Regulations in this respect are contained in the aforementioned Resolution No. 7/VIII/2010 of the National Bar Council of Attorneys-at-Law of 10 December 2010 on the amount of membership fee and insurance premium, rules of their payment and allocation. Under the same provision, Resolution No. 144/VII/2010 of the National Bar Council of Attorneys-at-Law of 17 September 2010 on the amount of fees related to the registration in the list of attorneys-at-law, list of trainee attorneys-at-law and list of foreign lawyers was adopted.

Competence norms for self-government bodies to issue acts on financial management matters contained in the Act on attorneys-at-law include also further regulations which relate to specific aspects of self-government activities included in specific tasks. An important task falling within the scope of the duties of supervision over the proper practice of the profession of attorney-at-law is audits [Sołtys 2022, 337]. The Regional Bar Council has the power to review and assess how the profession is practised by an attorney-at-law registered in the list maintained by the Regional Bar Council concerned. The audit shall be carried out and assessed by inspectors appointed by the Council from among attorneys-at-law (Article 221 of the Act). The National Bar Council of Attorneys-at-Law adopts rules governing the scope, procedure and remuneration for the inspectors (Article 60(8)(b) of the Act). On this basis, Resolution 112/VII/2010 of the National Bar Council of Attorneys-at-Law of 30 January 2010 “Rules of the scope and procedure of operation and remuneration of inspectors”¹⁵ was adopted. The resolution, defined in the Act as “Rules”, comprehensively regulates organisation’s internal matters related to the audits. Activities in this field entails the questions of remuneration of members of the Bar who act in the capacity of inspectors.

The performance of an important task forming part of the supervision by the self-government of attorneys-at-law, which is the exercise of disciplinary authority for disciplinary offences, entails the duty to conduct

¹⁵ See <https://biblioteka.kirp.pl/items/show/1286> [accessed: 20.05.2023].

disciplinary proceedings (Article 64(1) and (1a) of the Act) [Przybysz 1998, 68; Koziulewicz 2023, 404-405]. The adjudication of disciplinary cases of attorneys-at-law and trainee attorneys-at-law is entrusted to bodies of the self-government: the district disciplinary courts and the Higher Disciplinary Court (WSD). Pursuant to the Act, the costs of disciplinary proceedings are of a lump sum character (Article 706(1) of the Act). The National Bar Council of Attorneys-at-Law is responsible for setting the amount of the lump-sum costs of disciplinary proceedings, which are set considering the average costs of the proceedings (Article 60(9b) and Article 706(3)). On this basis, Resolution No. 86/IX/2015 of the National Bar Council of Attorneys-at-Law of 20 March 2015 on the determination of the lump-sum costs of disciplinary proceedings was adopted.¹⁶

In accordance with the Act on Attorneys-at-Law, the scope of the National Bar Council's activity includes adopting rules for exempting trainees from paying the annual fee in whole or in part, as well as deferring its payment or allowing its payment in instalments (Article 60(11a)). Based on the competence norm, Resolution No. 43/VIII/2011 of the National Bar Council of Attorneys-at-Law of 21 May 2011 on the principles of exempting trainee attorneys-at-law from all or part of the annual fee, deferring its payment and allowing its payment in instalments was adopted.¹⁷ Pursuant to the Act and the aforementioned resolution, decisions are made that constitute the implementation of financial management, which have been classified into a different category.

3. STATUTORY REGULATION OF BUDGETARY RESOLUTIONS

Another group are statutory regulation governing the adoption of budgetary resolutions and related resolutions on the approval of reports on their implementation. Due to the lapse of time of the budget period and the expiry of the previous resolution, the need to adopt a new budgetary resolution arises. In particular, the Act provides for the need for cyclical adoption of budgetary resolutions, which results from their nature and essence. Budgetary resolutions cover the entirety of financial management of a given self-government unit, albeit on a closed, annual basis, including the activities of bodies and other entities involving actions that have effects as specified in the plan in a given budget period, which forms the basis of their operation [Scheffler 2022a, 780].

Powers in this area are conferred both on the national level body: the National Bar Council of Attorneys-at-Law, and regional bodies:

¹⁶ See <https://biblioteka.kirp.pl/items/show/1344> [accessed: 20.05.2023].

¹⁷ See <https://biblioteka.kirp.pl/items/show/137> [accessed: 20.05.2023].

assemblies of individual OIRPs (Article 60(4) and Article 50(4)(5) of the Act) [Świstak 2018, 373-75]. The above is a consequence of the two-tier structure of the self-government of attorneys-at-law and legal personality granted to entities located at the central and regional levels, together with specific tasks being entrusted to them in an exclusive manner to conduct independent financial management by these entities. As regards the statutory rules governing the adoption of budgets at central level, it is advisable to literally cite the relevant provision: “the responsibilities of the National Bar Council of Attorneys-at-Law include adopting the budget for the National Bar Council of Attorneys-at-Law”. This wording is not quite correct and should be considered inaccurate: the National Bar Council is an organ of a unit of the self-government of attorneys-at-law, namely the National Bar Association of Attorneys-at-Law. The budget, as a financial plan, covers revenue and expenditure related to the activities of not only the National Bar Council, but other bodies at national level, including, for example, the Higher Disciplinary Court or the Higher Audit Committee (WKR), which act as statutory bodies for the performance of the tasks of the self-government of attorneys-at-law, i.e. the KIRP (National Bar Association of Attorneys-at-Law).

One of the important powers of the OIRP assemblies in financial matters is the adoption of the budgets of the OIRP and the approval of the reports of the Regional Bar Councils on their implementation (Article 50(4)(5) *in princ.* of the Act). The Assembly of OIRP is a body of regional level consisting, as a rule, of all member attorneys of a given Regional Bar Association. Where the number of members of an OIRP exceeds 300, the OIRP Assembly is composed of delegates elected at meetings in particular districts covered by the Bar Association concerned (Article 50(4)(5) and Article 50(1) and (2) of the Act). The conferral of the power to adopt the OIRP's budget on that body is fully justified, since the budget is a basic plan covering the whole of the financial management of the OIRP concerned and the assembly is the most representative, close to direct democracy, expression of the will of members of the Bar Association concerned.

Resolutions on the approval of the report on budget implementation, as linked in substantive terms with budgetary resolutions, are adopted pursuant to the legal basis specified in the same provision. Resolutions on the approval of the report on Regional Bar Council budget implementation are adopted by OIRP assemblies (Article 50(4)(5) of the Act). With regard to the approval of the national-level reports, the Act provides that a responsibility of the National Bar Council is to approve the reports on the implementation of the budget and examine the requests submitted by the Higher Audit Committee (WKR) (Article 60(4) of the Act). The Act does not specify the consequences of the approval or non-approval of the reports, which applies to both levels of the self-government.

4. SELF-GOVERNMENT BODIES PERFORMING THE ACTS OF FINANCIAL MANAGEMENT AND AUDITING THEIR IMPLEMENTATION

The last group is made up of statutory regulations governing aspects related to the implementation of financial management. Most of the bodies of the self-government of attorneys-at-law have competence in this respect, but of a diverse nature.¹⁸ This is due to the detailed statutory catalogue of their duties and powers, further developed in the by-laws, which is related to the specific type of tasks they perform.

When considering this issue, it should be pointed out that some of the self-government bodies have been established solely for the purpose of performing activities related to its financial management. This category includes two bodies with auditing powers in financial matters. The responsibilities of regional audit committees includes auditing the financial activities of regional bar councils (Article 53 of the Act), while the scope of activity of the Higher Audit Committee includes auditing the financial activities of the National Bar Council (Article 61 of the Act). The audit committees are thus collective auditing bodies, but with a specialised scope of action, and this in a twofold sense. First, in the objective sense, as they audit the financial aspects of the activity. On the other hand, in the subjective sense, since the audit powers only cover the activities of regional bar councils and the National Bar Council respectively, but do not apply to the activities of other bodies, even if these are related to financial activities. Audit committees operating at both levels have, under the Act, a right, derivative from their audit powers. At the request of the Regional Audit Committee, the Regional Bar Council convenes the Extraordinary Assembly of the OIRP, while at the request of the Higher Audit Committee, the National Bar Council convenes the Extraordinary Assembly of Attorneys-at-Law.¹⁹ Scholars in the field rightly assume that the request to convene is obligatory, and the agenda may include all matters within the competences of these bodies. This should be considered right, but as regards the scope of activity of the audit committees, which covers auditing financial activities of bar councils at both levels, it appears that the reason for the request to convene are the irregularities found in the course of audit [Scheffler 2022b, 814; Klatka 1999, 324].

¹⁸ According to Article 42(1) of the Act, bodies of the self-government of attorneys-at-law include: National Assembly of Attorneys-at-Law, National Bar Council of Attorneys-at-Law, Higher Audit Committee, Higher Disciplinary Court, Chief Disciplinary Commissioner, assembly of the regional bar association of attorneys-at-law, regional bar council of attorneys-at-law, regional audit committee, regional disciplinary court and disciplinary commissioner.

¹⁹ Respectively: Article 51(1)(3) and Article 58(1)(2) of the Act.

With regard to other self-government bodies, activities related to financial management are not uniform, which is related to the scope of activities performed. At the regional level, the powers in financial matters are held in particular by regional bar councils. The regional bar councils manage the activities of individual OIRPs; this includes financial aspects of the activity of the bar associations (Article 52(1) of the Act)²⁰. The previously indicated category of proceeds received by individual OIRPs is related with the regulation of the competence of the Regional Bar Council to exempt trainee attorneys-at-law from paying the training fee in whole or in part and deferring its payment or spreading it in instalments (Article 32¹(4)). The basis for making decisions in this matter, which constitutes an act of applying the law, is the Act and the by-laws issued on its basis [Korybski 2001, 85]. The financial consequences of these decisions shall be borne by the unit of the self-government of attorneys-at-law, whose body made the decision on the exemption. Pursuant to the Act, if a resolution is adopted to exempt a trainee attorney-at-law from paying the fee in whole or in part, the training costs of that trainee are borne in proportion to the amount of the exemption, from the own funds of the Regional Bar Council concerned.²¹ Due to the civil-law nature of the fees, decisions regarding that category do not constitute an individual administrative case [Świstak 2018, 317].²²

At the national level, however, the KZRP has powers in the field of financial matters, for considering and approving the reports of the e.g. Higher Audit Committee (Article 57(6) of the Act). On the other hand, the National Bar Council represents the self-government before courts, state and local government bodies, institutions and organizations, which may have consequences in the financial sphere, and considers the requests of the Higher Audit Committee (Article 60(1) and (4) *in fine* of the Act).

Closing the question of the self-government bodies with financial management competence, it is worthwhile to point to the regional disciplinary courts and the Higher Disciplinary Court. These entities are appointed to rule on cases of disciplinary liability of self-government members. As part of their adjudicatory powers, as already indicated, they are entitled to impose a fine, which is a type of disciplinary penalty, the proceeds from which constitute one of the forms of financing the activities of the self-government. This also applies to the decision on the costs of disciplinary

²⁰ An additional conformation of the competence of the councils to act in the wording of paragraph 3 of that Article, which, when defining the scope of activities of the councils, determines them only to a basic extent, but only in the form of providing an example, as evidenced by the phrase "...in particular...".

²¹ Article 32¹(1) of the Act, actually the resources of OIRP.

²² Diverging rulings appear in this context, but the presented opinion prevails, as in e.g. ref. no. VI SA 1230/12, VI SA/Wa 1518/11.

proceedings, which are lump-sum in nature (Article 70⁶(1) of the Act on attorneys-at-law). In the event of sentencing, the costs of the proceedings are borne by the defendant, while the proceeds from that payment constitute one of the sources of financing the activities of the self-government; in other cases, the costs of the investigation and proceedings are borne by the respective unit of the self-government whose body conducted the proceedings – the OIRP in the case of proceedings before a regional disciplinary court or the KIRP in the case of proceedings before the Higher Disciplinary Court (Article 70⁶(2) of the Act on attorneys-at-law). These actions therefore also have financial consequences for the self-government.

Pursuant to the Act, the above are related in objective terms to the entrustment of enforcement of disciplinary penalties, and therefore also of fines, which constitutes an element of financial management, to the Dean of the Regional Bar Council (Article 71(2) of the Act on attorneys-at-law). In enforcement proceedings aimed at enforcing a fine and the costs of proceedings, the actions attributable to the creditor are taken by the Dean of the Regional Bar Council of the bar association whose member was the defendant as of the date when the decision concerning the fine and the costs of disciplinary proceedings became final (Article 71(2b) of the Act). These actions, as well as decisions made by disciplinary courts concerning the fine and the costs of proceedings, constitute an element of financial management of the self-government, but should be regarded as secondary to the primary purpose and tasks performed by these bodies and persons. The Act also distinguishes, without explicitly ascribing competence to them, the function of treasurers; they are part of the Board of Regional Bar Council of the OIRP and the Board of National Bar Council (Article 52(2) and Article 59(2) of the Act on attorneys-at-law).

5. FINAL CONCLUSIONS

The following conclusions can be drawn based on the analysis carried out. They differ in nature and degree of detail, which is a result of the considerable diversification of statutory regulations governing the financial management in the self-government of attorneys-at-law. Firstly, the statutory regulations on financial management in the self-government of attorneys-at-law are not exhaustive but nonetheless should be considered appropriate. They provide a sufficient framework for the financial management of the self-government by identifying the main sources of its financing, the competence norms on the basis of which by-law acts are issued by competent self-government bodies and entities with powers and responsibilities to implement financial management.

Secondly, under authorisations contained in the Act, the bodies of the self-government of attorneys-at-law have the power to complete the statutory framework by lawmaking activity: the adoption of internal normative acts. This confirms the legislature's belief in the self-government's ability to self-regulate and fully corresponds to the idea of self-governance and considerable autonomy. This is a consequence of the fact that the self-government represents people practising a profession of public trust: attorneys-at-law, and the possession of such features and degree of institutionalisation so as to guarantee that the financial management regulations, related the fulfilment of tasks, will be properly regulated and remain within the limits of statutory regulation. The rule for all areas of self-government activity should be that the statutory framework for its activities be only determined to the extent as necessary in a democratic state ruled by law.

Thirdly, it is reasonable that the competences in the field of issuing internally applicable normative acts on financial management to the bodies of the self-government of attorneys-at-law are conferred on the national level. This is related to the fact that the Act delegates the performance of specific tasks, the implementation of which is related to financial aspects, to the self-government as such. Although these tasks are largely performed by individual self-government units, it is necessary to standardize the rules according to which they are carried out, which has the value of coordination [Świstak 2018, 319, 338].

Fourthly, self-government is a single normative category, by performing entrusted public tasks it implements the principle of decentralization, and the essence of decentralization is determined by autonomy specified by law [Starościak 1960, 10-11]. It should be pointed out that specifying the sources of financing the activities of the self-government of attorneys-at-law is not only unfavourable in comparison to local government, but also to other professional self-government organizations [Karcz-Kaczmarek 2017, 61-63; Idem 2011, 100-10]. Despite the fact that the self-government of attorneys-at-law carries out a number of activities within the public *imperium* entrusted to it, it is not subsidized from the state budget [Misiejuk 2019, 63-64]. Part of the tasks performed by the self-government is the fulfilment of the statutory tasks making up constitutionally defined functions, which are performed with a view on the public interest. This applies, for example, to the running of attorney-at-law training, the carrying out of audits or disciplinary justice. This justifies the public financing or co-financing of such tasks from the State budget. This conclusion is confirmed by a provision in the Act, according to which the activity of the self-government is also financed from revenue from other sources, and in particular from grants and subsidies. Here comes to mind a proposal for the law as it should stand regarding the rules

governing the transfer and settlement of such funds, which has its justification and origin in the currently applicable Act on attorneys-at-law.

Fifthly, it is advisable to introduce to the Act changes of an orderly and clarifying nature. This includes stating that the prerogative of the National Bar Council of Attorneys-at-Law is to adopt the budget of the National Bar Association of Attorneys-at-Law, not the National Bar Council of Attorneys-at-Law. It is also appropriate to make it more specific that the annual fees for attorney-at-law training paid to the OIRP, and the costs of training the trainee attorney-at-law who has been exempted from the fee, shall be covered in proportion to the amount of the exemption, from the own resources of the relevant OIRP (Regional Bar Association of Attorneys-at-Law), and not from the Regional Bar Council of Attorneys-at-Law

The last comment arising from the analysis is the need for further in-depth research into the regulations of financial management in the self-government of attorneys-at-law. Some issues have only been identified and noted in relation to a specific research area relating only to the statutory regulations. This is undoubtedly an important matter not only from the perspective of the self-government of attorneys-at-law itself, to which it directly refers, and its members, but also of the state and society. This is due to the fact that the self-government of attorneys-at-law independently carries out statutory tasks deriving from constitutional functions determined by the public interest, its limits and its protection. To carry out these tasks, financial resources are necessary, and thus one can notice the link between the financial management of the self-government of attorneys-at-law and its constitutional functions.

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