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SUMMARY OF DOCTORAL DISSERTATION

A non-public beneficiary of funds from the European Social Fund

A measurable benefit of Poland's integration with the European Union is access to European Funds. They are used to achieve the objectives of cohesion policy - common to all The Member States. The EU treaties and strategies emphasize the need to invest in social development by supporting education, lifelong learning, professional activity, health care, and social inclusion. The oldest structural fund, the European Social Fund (ESF), plays the most important role in achieving the social goals of cohesion policy. Its importance will be even greater in the post-pandemic reality, in the new EU multiannual financial framework for 2021-2027 as part of the renewed ESF+. On the other hand, according to the subsidiarity principle, funds from the EU budget, including the ESF, are also spent by non-state entities.

The topics discussed in the dissertation have cognitive and practical value. Cognitive, because the basic scientific assumption of the work and research area is to learn and explain the essence of legal relations in the process of obtaining European funds and the implementation of co-financed projects. The legal situation of a non-public applicant and beneficiary of ESF funds is, as in the case of many legal entities, complex and arises as a result of establishing legal relations (quasi relations) with public and private entities in the area of administrative, financial, and civil law. The main research objective is to conduct an analysis of their structure, the way of establishing and durability, as well as the sources of rights and obligations constructing the legal situation of non-public applicants and beneficiaries. The practical dimension of the work is reflected in the number of submitted applications for co-financing and concluded contracts. In the years 2007-2020, under national programs and priority axes of regional programs co-financed from the ESF, over 250,000 were assessed. applications and subsidized over 80 thousand. projects where 40% of beneficiaries were non-public entities.

The conducted research, in which the functional and dogmatic-legal methods were used in conjunction with the analysis of the literature on the subject and jurisprudence contributed to the conclusion that the legal system in the area of operational programs implementation should fulfill five essential functions: effectiveness, dexterity, efficiency, and flexibility. The fifth, superior function is related to ensuring adequate protection of public funds (European and national from the state budget) financing projects.

On the one hand, the legal system is intended to contribute to the proper use of these funds (in formal and substantive terms), i.e. to protect the financial interests of the EU and the Member State. On the other hand, legal regulations serve to ensure the effectiveness of their distribution, i.e. they are not only to enable quick and efficient allocation but also to guarantee the achievement of the objectives of the cohesion policy and the lasting and long-term effects of EU aid. As programs and projects are implemented in changing socio-economic and legal conditions, the manner of their implementation must be flexible. Flexibility is ensured by the contractual form of transferring co-financing and determining the legal situation of the beneficiary in legal acts that are not generally applicable.

The research area is reflected in the structure of the dissertation and the content of its individual parts. The work consists of six chapters. The first one is introductory and is a substantive extension of the introduction. It presents the objective and subjective scope of the research as well as methodological assumptions, including hypotheses and research questions verified in the main part of the work (chapters 2-5).

The second chapter discusses the legal relationship between the applicant and the institution organizing the competition and the legal situation of the entity applying for European funds. Since this relation is aimed, from the applicant's point of view, of qualifying the project for funding, the term qualification relation was used. The nature of this quasi-legal relationship has been analyzed by attempting to define its subjects, subject, and content, in line with the elements of legal relationships.

The third chapter is an attempt to define the structural elements of the subsidy relationship (the concept of the co-financing relationship was used as more precise because it refers to funds from the EU budget), the establishment of which results in obtaining the status of a beneficiary. The project co-financing agreement, terms of its conclusion, objectively and subjectively significant elements as well as legal nature (in terms of its civil and administrative features) were analyzed. The issues of the durability of the co-financing relationship, its time aspect, and modification in the case of the implementation of qualified forms of projects - partnership and grant projects were also discussed. Complementing the considerations in this part of the work was the classification of the rights and obligations of the beneficiary.

The fourth chapter of the work is devoted to specific sources of the beneficiary's rights and obligations. An important issue is the legal nature of the various elements of the delivery systems that determine the legal situation of the beneficiary. Apart from the documents creating the operational program implementation systems, the rights and obligations of this entity are shaped by specific contractual obligations. The subject of the considerations is the construction of contracts concluded by the beneficiary in connection with the implemented project and the legal relations established through them (partnerships, grants, participation in the project) and their nature.

The fifth chapter analyzes the individual acts of applying the law issued to the applicant and the beneficiary in the course of applying for European funds and in connection with the implementation of the project (information on a negative assessment of the application for co-financing, a decision on the return of funds, sanction of exclusion from the possibility of receiving

European funds, liability for violation of public finance discipline). The considerations undertaken this part of the work focus on the rationale on which these acts are made and their legal consequences for the applicant and the beneficiary.

The summary which concludes the work (chapter six) contains two types of conclusions. Conclusions of general nature concern the function of the legal system of managing EU funds (effect of the functional test). On the other hand, detailed conclusions, containing *de lege ferenda* postulates were derived on the basis of the verification of hypotheses and answers to research questions (the effect of the dogmatic and legal research).

The work is in legal status as of August 31, 2021.

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