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Restriction of economic freedom within generation, collection, transport and recycling of waste

(Abstract)

Legislation concerning environmental protection, with special regards to legal acts dealing with waste, bear strong significance in the processes of establishing, running and terminating business activity in Poland. It is not, however, exclusively the matter of subjects whose main function is waste management, but also any other enterprise generating waste, or executing its collection, transport and processing. This scope of business activity, as well as the rights and duties imposed on subjects running a business activity have been assessed in correlation with the constitutional principle of economic freedom.

This doctoral dissertation tackles the legal solutions made by the legislator critically, mainly due to the hypothesis' assumption that unsanctioned restrictions appear to exist. The arguments advocating for this approach are overly general and frequently contradictive legal regulations, disproportionate allocation of duties depending on the type, amount or the method of handling waste, as well as high administrative fines, frequently imposed for offences of only formal characteristics, despite their lack of negative influence on the environment.

The critical view on legal aspects related to the business activity and their responsibilities within the matter of handling waste has been discussed in four chapters, first of which constitutes the introduction to the consideration of potential restrictions. The primary objective of the first part titled *Introductory Aspects* is to synthetically present the constructive basis for economic freedom in Poland and present the signals of limiting it.

The second chapter called *Waste Generation* is based on an assessment of legal regulations, with a particular highlight of the ones stemming from the improper waste amount and type planning. Aspects of issue, which might also be coined as unfounded restrictions of one's economic freedom, also include classifying waste as a by-product, the question of alleged waste generation and the duty of ridding a property of waste, as well as withholding the activity of the waste generator.

What is discussed in the third chapter *Collection and Waste Transport* are two factual and legal actions, interconnected in economic practice. The basic aspects analyzed in this part are the issue of waste classification by the collecting or transporting party, the receiving municipal waste and administrative fines.

Waste Generation is the fourth chapter, which contains an analysis of waste processing beyond the area of municipal economy, where it was generated, the nullification of the waste status, as well as the issue of withholding activity and responsibilities in terms of an external audit.

The results of the conducted research have concluded that the quality of the legislator-passed laws concerning waste generation, collection, transport and processing, does not reflect the duty of shaping the law in a way which would determine it as the ultimate means to an end, here being the protection of the environment. The presented dissertation and the restriction highlighted therein conclude that the assessment of by-results had been conducted unscrupulously, resulting in restricting economic freedom within the analyzed area of waste economy.

