

Summary of doctoral thesis

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Title of dissertation: The legal situation of the entrepreneur collecting municipal waste

The subject of doctoral thesis is the analysis of the issues concerning the process of rationing activity in the field of municipal waste collection and the evolution of legal regulations, from rationed activity to regulated activity. The changes in the way of rationing refer primarily to the entrepreneur collecting municipal waste as the entity responsible for the process of municipal waste disposal. In the current legal status, this activity represented an important pillar of municipal waste management system. The changes introduced in the municipal waste management system refer to the entrepreneur to a large extent. Therefore, the main research problem of the dissertation is the assessment of the protection of the legal interest and the individual entity collecting municipal waste and its effectiveness. The need to protect the interests of this entity should be seen in the changes in the manner of rationing activities in the field of collecting municipal waste introduced by the Act of 1 July 2011 on the conversion of the law on maintaining cleanliness and order in municipalities and certain other acts.¹

The main thesis of the dissertation assumes that the change in the manner of conducting business in the field of collecting municipal waste influenced the legal situation of the entrepreneur in the way that it restricted the rights resulting primarily from the permit. This means that the adopted regulation of this market further limits the principle of economic freedom, which must lead to a question about the justification for such a restriction.

The analysis carried out in the work proves that deregulation of economic freedom in the collection of municipal waste is of an apparent nature, because the expansion of economic freedom takes place at the stage of creating an enterprise. The legislator has simplified and streamlined the procedure of setting up a company, but each subsequent stage of its operation depends on the commune body, in particular it is connected with the obligation to carry out a tender in the field of collecting municipal waste or collecting and managing it. And it must be remembered that the freedom of economic activity refers to every stage of business, therefore its creation, management and liquidation. In addition, the separation of municipal waste

¹ Dziennik Ustaw (Poland's Journal of Laws), 2011 No. 152 item 897

management into two systems (communes municipal waste collection system, applicable to residential real estate and a system of free choice in relation to uninhabited real estate), creates the illusion of widening economic freedom. The commune body may at any time adopt a resolution on including the free choice system in the municipal system. It is not possible to say that such regulated freedom of economic activity is free, because it is completely dependent on the commune. By introducing the conversion the legislator did not foresee the adverse impact of these regulations on the legal situation of the entrepreneur. The legislator did not see the risk in the form of depriving the entrepreneur of the possibility of operating in a situation where they would not win a tender for collecting municipal waste announced by the municipality. And what in turn makes it impossible to implement the rights arising from the permit.

The thesis ends with a summary of the conducted arguments. It contains conclusions indicating that the legislator, by introducing regulated activities in municipal waste management, did not properly guarantee the protection of rights resulting from the permit as an administrative decision authorizing the conduct of business activity. This part presents de lege ferenda postulates regarding the provisions of the act on maintaining cleanliness and order in municipalities.

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