Iwona Wrońska

Uniwersytet w Białymstoku
(University of Bialystok, Poland)
e-mail: wronska@uwb.edu.pl

ORCID: 0000-0002-8945-3545

Tomasz Dubowski

Uniwersytet w Białymstoku
(University of Bialystok, Poland)
e-mail: t.dubowski@uwb.edu.pl

ORCID: 0000-0001-8731-2266

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Axiology of the Law of the European Legal Space and the Development of the Administrative Court System in Poland

Abstract

The primary objective of the study was to determine the unique characteristics of the axiology of the law of the European legal space and its impact on the development of the administrative courts system in Poland by indicating its rooting in legally expressed values, as well as in extra-legal values that are common axioms of the European legal space discussed herein. It was noted that international law – which is the background of the study – determines the basis for the operation of a democratic state, thus exerting a fundamental and significant influence on the formation of standards of democratic states in Europe, including the administrative court system in Poland. The achievement of the primary objective of the deliberations will be assisted by two intermediate objectives. The first one, seeking to lay the foundations for the introduction of the aforementioned "European legal space" category as a normative category that includes a common axiology of law, which underlies the democratic state, including the nature of human rights, through the

analysis of the legal and non-legal norms that form that category. The achievement of the second intermediate objective, on the other hand, will make it possible *in fine* to treat that space as a normative and axiological concept to rot the unique structure of the administrative court system in Poland as one of the structural elements of the democratic system. In the literature on the subject, the issue of the axiology of the law of the European legal space from the standpoint of its impact on the administrative court system in Poland has not been analyzed in a comprehensive manner, and the available publications only partially address this topic, which prompted the study of the issue stated in the title of this paper. By setting the framework for the deliberations, they were narrowed down to the European legal space, which was considered to be the normative space of influence of European international organizations, namely the Council of Europe, the European Union, and the Organization for Security and Cooperation in Europe. The purpose of the specific scope of the conducted analyses have resulted in the use of specific research methods. The dogmatic-legal method was the leading method, and it is present virtually all parts of the deliberations. The position of the doctrine was analyzed Polish and foreign monographs and papers, as well as acts of universally applicable international law and those of a regional nature. The case law of international courts was also analyzed. The author made an extensive use of the legal-comparative method. It proved useful in the search for a way to define the concept of the European legal space, as well as other concepts, due to the need to confront the legal achievements of the international organizations that make up that space.

Key words: European legal space, democracy, rule of law, administrative courts system

1. Introduction

The foundations of a democratic state include the normatively expressed principle of the rule of law and the principle of the protection of human rights. A properly functioning system of justice is the foundation of these values, which is very important. The principle of a democratic state, which is the subject of research by sociologists, political scientists, and ethicists, though in a different approach, remains primarily of interest to lawyers, including international law experts. This is evidenced, for example, by the fact that the multifaceted plane of the functioning of the democratic state from the standpoint of the organization and principles of the administration of justice is a subject of interest for states in various international cooperation forums and international governmental organizations, which influences the positions of the doctrine in this regard.

There is no doubt that the administrative court system in Poland today is considered one of the foundations of a democratic law-abiding state. For as

J.S. Langrod rightly states, "there is no rule of law without an administrative courts system, just as there is no border security without an army and no internal security without a police force."[1] This historically well-established system of justice – the judicial review of government administration in Poland, has a long history and dates back not only to the periods of independent Poland, but also to the times of the partitions – is one of such foundations of the democratic law-abiding state, which developed within the framework also of the post-1989 political changes on the European continent. Poland was an important actor in the changing international relations at that time, thus entering the ranks of democratic states, gathered in various regional structures having the character of international governmental organizations complying with the ideas and demands of a democratic state and with the protection of human rights.

The definition of the European legal space and the related analysis of its axiological dimension and the context of legal norms are not often the subject of analysis in the legal doctrine, although it is possible to notice the doctrine's interest in the issue of values, described in the context of the law of the European Union or the Council of Europe. What is rare, however, is the context of research that is part of a broader perception of the values established and protected by the acquis of European international organizations, namely the Council of Europe (hereafter referred to as CE), the European Union (hereafter referred to as EU), and the Organization for Security and Cooperation in Europe (hereafter referred to as OSCE). Recognizing the fact that international law – which is the background of the study – determines the basis for the operation of a democratic state, the axiology of the law of the European legal space and its impact on the development of the administrative court system in Poland was made the main subject of the analysis. By setting the framework for the deliberations, they were narrowed down to the European legal space, which was considered to be the normative space of influence of European international organizations, namely the Council of Europe, the European Union, and the Organization for Security and Cooperation in Europe. This was determined by a number of factors, among which the following should be pointed out: a factual regional variation of the normative human rights systems and their implementation, differences in the legal characteristics of the resolutions of international organizations, and cultural differences between regions around the world. Regional international organizations exert a fundamental and important influence on the formation of standards of a democratic state in Europe, including the administrative courts system. Therefore, the title of the paper, "Axiology of the law of the European

1 J.S. Langrod, *Sprawa reaktywacji sądownictwa administracyjnego*, after: J.S. Langrod, *Znosić czy rozbudować*, 1929, [in:] *Przedruki z „Gazety Administracji" z 1946 r.*, "Samorząd Terytorialny" 1999, no. 5, p. 72.

legal space and the development of the administrative court system in Poland," on the one hand, reflects the above assumptions, and on the other hand, indicates the main core of the analysis. Moreover, it is true that in the literature on the subject, the issue of the axiology of the law of the European legal space from the standpoint of its impact on the administrative court system in Poland has not been analyzed in a comprehensive manner, and the available publications only partially address this topic, which prompted the study of the issue stated in the title of this paper.

Given the above, the primary objective of the study was to determine the unique characteristics of the axiology of the law the European legal space and its impact on the development of the administrative courts system in Poland by indicating its rooting in legally expressed values, as well as extra-legal values that are common axioms of the European legal space discussed herein. The achievement of the primary objective of the deliberations will be assisted by two intermediate objectives. The first one, seeking to lay the foundations for the introduction of the aforementioned "European legal space" category as a normative category that includes a common axiology of law, which underlies the democratic state, including the nature of human rights, through the analysis of the legal and non-legal norms that form that category. The achievement of the second intermediate objective, on the other hand, will make it possible *in fine* to treat that space as a normative and axiological concept to anchor the unique structure of the administrative court system in Poland as one of the structural elements of the democratic system. Thus, the indicated research objectives will lead to the indication that the development of the administrative court system in Poland has been embedded in the normative and extra-normative standard of the modern European international law as a regional law operating within the European legal space, setting directions for Poland, as well as for European countries, for the formation of democratic justice systems and the protection of human rights, which is inextricably linked to them.

The term "legal space" will be used within the framework of the analysis instead of the term "legal system." The latter, while inherent in both domestic law and international law, does not reflect the essence of the matter. This is because it does not take into account the fact that the unique characteristics of the legal norms created in Europe by states and by nternational organizations often make these norms function somewhat autonomously and frequently overlap. In addition, in this discussion, the term "normative standard" will be used deliberately, because this procedure reflects – as proven in this research – the influence of legal, as well as extra-legal norms on the creation of a standard of axiological values. Therefore, the expression "legal standard" was dropped in favor of the expression "normative standard" as a broader category of meaning.

The purpose and the specific research scope of the conducted analyses have resulted in the use of specific research methods. The The dogmatic-legal method was the leading method and it is present in virtually all parts of the deliberations. The position of the doctrine was analyzed on the basis of the chosen set of as well as acts of universally applicable international law and those of a regional nature. The case law of international courts was also analyzed. The legal-comparative method was extensively used. It proved useful in the search for a way to define the concept of the European legal space, as well as other concepts, due to the need to confront the legal achievements of the international organizations that make up that space.

2. The concept of the European legal space

The opening of the deliberations with the concept of the European legal space in the legal conceptual grid is intended to show whether the European legal space is a term used in legal science or only in legal practice, and whether the discourse on the definition of the concept of the European legal space has brought a precise way of determining the meaning of that concept. It should be noted that this objective does not imply the formation of a new definition of this concept, but only an indication, for the purpose of this analysis, of how the concept of the European legal space is to be understood.

Efforts to define the concept of the European legal space are made in both Polish and foreign literature. It should be emphasized that there is no legal definition of the space in question, either in the national systems of states or in the regional, European international law; therefore, the literature presents a rather broad catalog of views that attempt to adopt a precise understanding of that concept. Contrary to appearances, such a general and seemingly obvious category as "the European legal space" is not at all one of those that have enjoyed a consensus in the doctrine concerning its definition. This is best evidenced by the multiplicity of terms used as synonyms, which makes it difficult to find broader analyses in which their authors propose a similar understanding and approach to the concept, such as the pan-European legal space[2], the European legal order, the European legal system, European international law, the law system of Europe, and the European architecture (in the legal sense – the author's note)[3]. In foreign literature, on the other hand, one can find the following terms:

2 F. Benoit-Rohmer, H. Klebes, *Prawo Rady Europy. W stronę ogólnoeuropejskiej przestrzeni prawnej*, translated by M.A. Nowicki, Warszawa 2006, pp. 156ff.

3 Ibidem, p. 156.

the European legal space,[4] *the European legal area,*[5] *the European area law,*[6] *the European legal system,*[7] and *the European law.* The analyzed reviews are mostly based on enumerations that point to entities that create legal norms in Europe, and thus shape the European legal space. The terms "legal space," "legal order," and "legal system" are also considered synonymous. In addition, both the terminology and the way the European legal space is defined are reduced – in academic discourse – to a specific case. Thus, if the object of study is the legal order of the EU, it is assumed that the EU's legal norms constitute the European legal space, or, conversely, that the cooperation of the EU and the CE forms the European legal space, understood as the sphere of legal activity of these European organizations only.

This apparent peculiar arbitrariness of the terminology is directly related to the lack of a binding definition of the concept of the European legal space, which would result from the normative standard, which consequently allows researchers to use – incidentally, quite freely – individually created concepts of the European legal space that are adequate, given the scope of their research.

The analysis of the doctrinal output leaves no doubt that the European legal space is discussed in a narrower and broader sense. In the narrower sense, the doctrine proposes that the European legal space should be viewed as the national legal orders of European countries or as a system of law of the European Union. In a broader sense, it is proposed to be defined as: 1) the legal norms created by the European Union and the Council of Europe (so-called European law in the broader sense); 2) the legal systems of European governmental international organizations in combination with the legal norms of other international entities operating in Europe – in this view, it is collectively the law of European international organizations, i.e. the European Union, the Council of Europe, the OSCE, and other European international structures, i.e.: the European Economic Area, the European Free Trade Association, and the UN Economic Commission for Europe; 3) another concept of defining the European legal space in a broader sense can be constructed similarly to the one described above, with the additional element being that the legal systems of European states are taken into account in addition to the legal orders of European international governmental organizations and other international structures, operating in Europe; 4) the broadest spectrum of the definition is the classification of many

4 N. Gibbs, *Post Sovereignty and the European Legal Space*, "Modern Law Review" 2017, vol. 80, no. 5, pp. 812-835; M. Huomo-Kettunen, *Heterarchical constitutional structures in the European Legal Space*, "European Journal of Legal Studies" 2013, vol. 6, no. 1, pp. 47-65.

5 A.A. Manolescu, A. Manolescu, *The corporate responsibility for human rights within the European legal area*, "AGORA International Journal of Juridical Sciences" 2009, p. CXl.

6 A.B. Grødeland, W.L. Miller, *European Legal Cultures in Transition*, Cambridge 2015, p. 315.

7 P. Legrand, *European Legal Systems Are Not Converging*, "The International and Comparative Law Quarterly" 1996, vol. 45, no. 1, pp. 52-81.

different legal orders, not only international or European, namely: national legal orders of European states, the legal order of the EU, the system of the Council of Europe, the OSCE, and other international structures operating in Europe, as well as the international law norms adopted by European states in the framework of their membership in other organizations or institutions, such as the UN or the World Trade Organization (this is the greatest extent of the "legal mosaic," i.e. the interpenetration of different legal systems, national and international, including the strictly European international system).

In the present discussion, the acquis of the European international organizations - the Council of Europe, the European Union, and the Organization for Security and Cooperation in Europe – is assumed to be the European legal space. Within this broad framework of reference, it is important to note the differences among countries in terms of the European legal culture, where there are many historical, sociological, and ideological differences and even contrasts among the countries of that space. This is because it should be kept in mind that the OSCE is an international organization that also includes countries that are not located on the European continent (e.g. the USA and Asian countries, such as Mongolia, Uzbekistan, and Armenia). Therefore, in this dimension, the European legal space geographically has the relative character of the so-called Europeanness. Such antecedents, therefore, require a search for a common foundation, other than geographic, for the states of the European legal space, confirmed in the legal and organizational sphere of these organizations. This foundation seems to be a certain axiological order, expressed in the values protected by the laws of the CE, the EU and the OSCE, setting the directions for the development of states.

3. Axiology of the law of the European legal space

Axiology of law is the science of the values embodied in law (e.g., social justice, equal opportunity, solidarity, freedom, etc.). As Z. Ziembiński points out, the axiology of law is formed by a set of values relativized to evaluative values, contained implicitly or explicitly in a given system of law, and to the principles and evaluations to which the system of law refers – such a set is referred to as the moral background of law.[8] The catalog of values on which the axiological justification of norms is based, is different and specific to each field of law. Thus, a study of the values of the European legal space means a determination of the

8 Z. Ziembiński, *Teoria prawa*, Warszawa – Poznań 1978, p. 50; J. Skorupka, *O sprawiedliwości procesu karnego*, Warszawa 2013, p. 184; W. Lang, *Aksjologia polskiego systemu prawa w okresie transformacji ustrojowej*, [in:] L. Leszczyński, ed., *Zmiany społeczne a zmiany w prawie*: *aksjologia, konstytucja, integracja europejska*, p. 47.

axiological justification of the legal norms present in that legal system. In this regard, we can suggest an axiological definition of the European legal space by pointing out that the European legal space is formed on the basis of a set of legal norms, which exist because they have been implemented by state entities and such international organizations as: the Council of Europe, the European Union, and the OSCE – values established on the basis of legal norms, as a result of a common consensus on the need to protect these values. The definition thus adopted can be related to the theory of the so-called floors and mirrors presented by J. Zimmermann, according to which above every field of law, there is another suspended floor – the axiological floor, which should influence and affect everything that happens on the lower floor.[9] A proper understanding of each of the legal disciplines requires observing the two floors in relation to each other. A proper understanding of any legal institution, its meaning, and its operation, requires looking at it also from the other side (one could say "from the other side of the mirror" or "from the other side of the medal"), which is the axiological side. Starting not from an axiological point of view, as opposed to a normative one, one can even say that the law is a set of values put into normative language.[10]

Thus, the modern understanding of Europeanness is attributed – in addition to its territorial meaning – also a meaning in the axiological sense, which, from the point of view of legal analysis, is just as justified as that in geographical terms alone. It is a matter of demonstrating the formula for its axiological values that are broadly applicable geographically, including outside Europe, which it represents and protects, and which, in principle, cannot be relativized. Nowadays, it should be considered obvious that the European legal space is an area in which states hold values that originate from their constitutional traditions, civilization, and culture, as well as the body of law created by regional international organizations: the CE, the EU, and the OSCE. This helps to highlight that the European legal space is a space determined by values: it is not only a geographic, geopolitical, or geo-economic space – it is first and foremost an axiological space, so Europe is not only geography, but first and foremost values. The European legal space understood in this way – in addition to the axiological dimension – has a normative and institutional dimension, where European law and institutions are the manifestation of support and the carrier of these axiological values.

The European legal space understood herein as the legal and extra-legal acquis of the three regional international governmental organizations, i.e., the

9 J. Zimmermann, *Przedmowa*, [in:] *Aksjologia prawa administracyjnego*, ed. J. Zimmermann, Warszawa 2017, p. 13.

10 Ibidem, pp. 13-14.

European Union, the Council of Europe, and the OSCE, from the standpoint of its functioning for more than several decades, makes it possible to identify the values that constitute the common denominator of these international structures, despite their diversity – in terms of their goals, the member states, and unique legal characteristics of operation alike. The European legal space is a community of member states based on law – it is a legal space in which norms of a complex and diverse nature, national, EU, and international, coexist. The legal space that member states have carved out on the basis of their founding treaties is being continuously filled with common norms, principles, rules, standards, and, last but not least, values that will contribute to the stabilization of the legal situation of legal subjects – both states and domestic entities.

The European legal space is the result of the legal cooperation of states relating to the protection of the core values of law, and a common legal culture that is the result of an axiological compromise. The economic process, the integration of European countries, and the development of political, social, and cultural relations have created the need to strive for a common foundation for the axiology of law, which can be referred to here as the legal axiology of the European legal space. This is based on common historical experiences, social and cultural values, and the political unity of the European continent in principle from the standpoint of the goals of the Council of Europe, the European Union, and the OSCE.

THE COUNCIL OF EUROPE

The Council of Europe, as the oldest European international organization, has been implementing the so-called Ithe Idea of Europe for the longest time, adopting as a fundamental goal of its activities, the protection of the most important values for the functioning of the rule of law. The preamble to the Statute of the Council of Europe[11] contains a clear confirmation of the attachment of the Contracting States "to the spiritual and moral values which are the common heritage of their peoples and the true source of individual freedom, political liberty and the rule of law, principles which form the basis of all genuine democracy." According to Article 3 of the Statute, each member of the Council of Europe recognizes the principle of the rule of law and the principle that all persons under its jurisdiction enjoy human rights and fundamental freedoms; they must also sincerely and substantially cooperate for the implementation of the Council's purpose as stated in Chapter I, which is, in particular, "to achieve a greater unity between its members for the purpose of safeguarding and realising the

11 The Statute of the Council of Europe adopted in London on May 5, 1949 (the Journal of Laws 1994 no. 118, item 565).

ideals and principles which are their common heritage" (Article 1 (a) of the CE Statute). It should also be noted that all CE member states, including Poland, are parties to the Convention for the Protection of Human Rights and Fundamental Freedoms, established in Rome on November 4, 1950.[12] Its preamble also includes a declaration by the Governments of the Signatory States – members of the Council of Europe - that they agree on the content of the agreement: "Being resolved, as the governments of European countries which are like-minded and have a common heritage of political traditions, ideals, freedom and the rule of law, to take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration [of Human Rights of 1948]."[13]

THE EUROPEAN UNION

As former President of the European Commission, J.C. Juncker aptly noted, "The rule of law is not optional in the European Union. It is a must."[14] Thus, it is worth first indicating what place the value of the rule of law holds in the European Union's legal order. The preamble to the Treaty on European Union[15] indicates that the parties to that agreement are inspired by "the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law." According to the preamble, member states confirm their "attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law." This means that member states base their constitutions on these very values.[16] At the same time, the Treaty recognizes that "Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law" (Article 6 (3)).[17] The European legal order is thus characterized by constitutional pluralism, based on a foundation of respect for the "national identities" of the member states, "inherent in their fundamental structures, political and constitutional" (Article 4 (2)). Article 2 of the TEU lists the rule of law alongside the core values

12 The Convention for the Protection of Human Rights and Fundamental Freedoms, done in Rome on November 4, 1950 (Journal of Laws 1993 no. 30, item 284, as amended).

13 Ibidem.

14 EC President Juncker's Speech to the European Parliament given on September 13, 2017; https://ec.europa.eu/commission/priorities/state-union-speeches/state-union-2017_pl, (22.12.2022).

15 The Treaty on European Union (consolidated version) (OJ C 326, October 26, 2012).

16 L. Garlicki, *Wprowadzenie*, [in:] *Konstytucje państw Unii Europejskiej*, ed. W. Staśkiewicz, Warszawa 2011, pp. 8ff.

17 The Treaty on European Union (consolidated version) (OJ C 326, October 26, 2012).

on which the EU's system is based, such as respect for the dignity of the human person, freedom, democracy, equality, and human rights.[18] The importance of the values listed in Article 2, including the rule of law, guides the interpretation and application of the law in all areas of the European Union's competence.[19] It is also relevant, it is emphasized, to the interpretation and application of the Charter of Fundamental Rights, since it is never possible to determine the content of any of the fundamental rights in violation of the values listed in Article 2 of the TEU.[20] In its Opinion no. 2/13 of December 18, 2014[21] on the EU's accession to the European Convention on Human Rights, the Court of Justice of the EU states as to Article 2 of the Treaty that "each Member State shares with all the other Member States, and recognises that they share with it, a set of common values on which the EU is founded, as stated in Article 2 TEU. That premise implies and justifies the existence of mutual trust between the Member States that those values will be recognised and, therefore, that the law of the EU that implements them will be respected" (§ 168).[22] Legal doctrine points out that the "rule of law" inscribed in the catalog contained in Article 2 TEU is a necessary condition for the functioning of all the other values listed there. Therefore, it is reasonable to conclude that the risk of a breakdown in the rule of law must result in a threat to other values protected in the system of law of the European Union. This position is therefore in harmony with the thesis that can be formulated, that the values listed in Article 2 TEU (including the concept of the rule of law) cannot be restricted on the grounds of national identity included in Article 4 (2) TEU, the respect for which dictates that its relationship to the basic political and constitutional structures of a member state must be taken into account. In the area designated pursuant to Article 2 TEU, there is no discretion on the part of a member state that would allow national solutions to deviate from these values.[23] Paraphrasing Isaiah Berlin's statement that "we inhabit one common

18 Ibidem.

19 Ibidem.

20 M. Safjan, *Rządy prawa a przyszłość Europy*, "Studia i Analizy Sądu Najwyższego. Materiały Naukowe" 2019, vol. 8, p. 33.

21 Opinion 2/13, EU:C:2014:2454 - 2475.

22 Ibidem.

23 As M. Safjan points out: "If the European Union is unable to defend the rule of law, in any member state, it will consequently be unable to defend its values as a whole. The Union is a solidarity-based organism built on the principles of mutual trust, loyal cooperation, and shared commitment to the same fundamental values. The rule of law is an inalienable premise for the protection and implementation of all other values. This is why the ongoing debate today on the concept of the rule of law is so fundamental to the future of the European Union." M. Safjan, *Rządy prawa a przyszłość Europy*..., p. 43; More information can be found in: Editorial Comments, *Safeguarding EU values in the Member states – Is something finally happening?*, "Common Market Law Review" 2015, no. 52, book 3, pp. 625ff.

moral world," we can say in the European Union that we live in a space of shared values, which is indivisible and which can last as long as the universal validity of these values is recognized by all participants.[24]

THE OSCE

The rule of law appears in documents of the Organization for Security and Cooperation in Europe (OSCE), although they are not legally binding. Special mention should be made here of the Charter of Paris for a New Europe, adopted by the heads of states and governments of the then Conference for Security and Cooperation in Europe on November 19-21, 1990. Citing the ten principles of the Helsinki Final Act (1975), the states participating in the Conference declared - in the chapter with the general title "Human Rights, Democracy and Rule of Law" – their commitment to building, consolidating, and strengthening democracy as the only system of government. Stating the importance and significance of human rights, they recognized that protecting and promoting those rights is a fundamental task of governments. Respecting them is the most essential safeguard against an omnipotent state, while their observance and full implementation form the basis of freedom, justice, and peace. The democratic form of government is based, according to the Charter of Paris, on the will of the people, expressed regularly in free and fair elections. Respect for the human person and the rule of law constitute the basis of democracy. In its further parts, the document lists the specific requirements addressed to the Charter's signatory states, in particular regarding equality before the law and fundamental freedoms and political rights, while guaranteeing effective legal remedies against violations of these rights at both the national and international levels.[25] To safeguard the implementation of the Charter, the countries participating in the Conference decided to institutionalize the existing cooperation, among other things by establishing the Warsaw-based Office for Free Elections, two years later renamed the Office for Democratic Institutions and Human Rights (ODIHR). The powers of this OSCE institution included, among other things, monitoring the rule of law in the organization's member states.[26]

24 Isaiah Berlin's speech at the 3rd Congress of the Foundation Européenne de la culture, published as: I. Berlin, *European Unity and its Vicissitudes*, [in:] *The Crooked Timber of Humanity*, ed. H. Hardy, Oxford 1990, p. 207.

25 The Charter of Paris of 1990; https://www.osce.org/mc/39516, [accessed on: December 28, 2022].

26 According to the document adopted at the 1992 Helsinki Conference, the ODIHR is a specialized institution that supports the Organization's member states in order to "ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and... to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society]." https://www.osce.org/pl/odihr/13704, (29.12.2022).

4. Axiology of the law of the European legal space and the administrative court system in Poland

Taking into account the acquis of the European Union, the Council of Europe, and the OSCE, we can point out that the basic values – axioms – of the European legal space include inviolable and inalienable human rights, freedom, democracy, equality, the rule of law, the law-abiding state, the tri-partite division of power, legal security, and solidarity among nations. It is worth noting that these values are widely accepted on the European continent and are common in the domestic legal orders of all member states of the EU and the CE, although they are certainly somewhat less widely implemented in the OSCE.

These values are defined here as axioms because there are no doubts as to the general consensus of states on their existence both normatively and culturally (socially). According to the dictionary definition, an axiom is a statement (of a deductive system) accepted without proof – a certainty.[27] Thus defined, the values of the European legal space in this most basic scope – which is relevant from the point of view of the administrative court system in Poland – have been treated here as determining the process of its development, and consequently its features, identity, and distinctiveness.

The axiology of shared values in the European legal space is particularly noticeable at the level of the protection of human rights. In the European legal space, the European Union, the Council of Europe, and the OSCE have created the most sophisticated of the world's existing international legal and institutional frameworks in the field of human rights, based on equality and on personal dignity as the basic axioms of legal and human protection, which coexist with the constitutional, cultural, and religious traditions of the member states. In this aspect, the issue of the functioning of the of the system of justice democratic countries, takes a special role. Therefore, the axiology of shared values in the European legal space is particularly noticeable at the level of the protection of democratic values on which the rule of law and the protection of human rights are based. In this model, the role of the justice system in a state takes priority in terms of its proper legal structure, both at the organizational level and in terms of the standards of its operation. As J. Zimmerman points out: "Administrative law is one of the three basic fields of the legal system, and for the daily life of a citizen, for his or her civil rights and duties, for his or her ability to act in the society, for his or her relationship with the state, it is perhaps the most important discipline, and it is in the very broad framework of administrative law that we find the link that binds them together and guarantees their proper

27 W. Kopaliński, *Słownik wyrazów obcych i zwrotów obcojęzycznych z almanachem*, Warszawa 2000, p. 26.

functioning. It is the administrative court system. Public administration, which performs its tasks and exercises its powers pursuant to administrative law by applying this law to external entities, must always be subject to review – and in a law-abiding state, especially from the point of view of the essence of that state, that is, from the point of view of the law, this must be done in a particularly obvious way."[28] This author takes a firm and unambiguous position on the role of the administrative court system in the model of a law-abiding state, namely: "In a democratic law-abiding state, it is impossible to imagine the functioning of the state or law, especially administrative law, without the existence of this courts system [administrative court system – the author's note][29]. The existence of a system of administrative courts is extremely important in democratic states because the basic principles of a law-abiding states are concern for the legality of the functioning of public administration and the protection of citizens against the acts and actions of public administration that could violate the law. A court, on the other hand, being an independent and professional entity, can, in the best of all known ways, evaluate the administration's actions and rectify its mistakes, if any.[30] Thus, legal doctrine emphasizes that a law-abiding state is inseparably united with the institution of an administrative court system – without the latter, there is no law-abiding state, and without a law-abiding state there is no administrative court system.[31]

The concept of the rule of law in the European legal space was based on the common elements of the constitutional traditions of the countries of Europe, as well as on the values underlying the acquis of the international organizations that make up this space (the CE, the EU, and the OSCE), namely[32]: a) legality (a transparent, accountable, democratic, and pluralistic process of enacting laws and respect for compliance with the law); b) legal certainty (the imperative of clarity and predictability of laws and the prohibition of their retrospective change); c) the prohibition of arbitrariness in the actions of the executive branch of government (interference by the public authorities in the field of private activity of any person must have a legal basis and be justified on grounds specified by law); d) independent and impartial courts, and effective

28 J. Zimmermann, *Aksjomaty sądownictwa administracyjnego*, Warszawa 2020, p. 9.

29 Ibidem, p. 11.

30 Ibidem, pp. 478-479.

31 J.S. Langrod, *Zarys sądownictwa administracyjnego ze szczególnym uwzględnieniem sądownictwa administracyjnego w Polsce*, Warszawa 1925, p. 6.

32 More information can be found in: J. Barcik, *Ochrona praworządności w Radzie Europy i Unii Europejskiej ze szczególnym uwzględnieniem niezależności sądów i niezawisłości sędziów*, Warszawa 2019, pp. 139-143; M. Taborowski, *Mechanizmy ochrony praworządności państw członkowskich w prawie Unii Europejskiej. Studium przebudzenia systemu ponadnarodowego*, Warszawa 2019, pp. 63-64; A. Weber, *Rechtsstaatsprinzip als gemeineuropäisches Verfassungsprinzip*, "Zeitschrift für öffentliches Recht" 2008 no. 63, p. 267; A. Frändberg, *From Rechtsstaat to Universal Law-State. An Essay in Philosophical Jurisprudence*, Cham 2014, p. 5-6.

judicial review, including review of the observance of fundamental rights; e) the principle of separation of powers, understood through the lens of a court that is independent of the executive branch of government in particular; and f) equality before law.

The right to judicial protection, including the one before an administrative court, is an immanent component of the rule of law,[33] and the role of the system of justice, as K.P. Sommermann points out, is primarily the effective legal protection of individual rights and interests.[34] The literature emphasizes that, from the standpoint of the rule of law, administrative courts in Poland cannot be treated solely as bodies for the review of legality, understood merely as a comparison of administrative acts with the content of a legal provision.[35] This is because, in the opinion of L. Garlicki, the role of courts is much more creative: by combining the norms of administrative law, constitutional law, and other fields of law (including the normative standards of the European legal space – author's note) they create an interpretative and axiological system that not only limits the administration, but also requires certain positive actions from it.[36] This function is common to all judicial bodies, and the place of administrative courts in the performance of this function depends on both their prestige and the general principles of organization of the system of justice.[37]

Compliance with the requirementf of the effective legal protection in the formation of the principles of judicial review of administration in a state is therefore an important determinant of the state of the rule of law and its guarantees,[38] which in Poland was achieved by the original enshrining of the principle of a democratic law-abiding state in the constitution.[39] This was directly influenced by the constitutionalization of mechanisms for the protection of human rights and freedoms, including the judicial review of the actions of public administration, based on the normative standards of international law of a universal nature that were adopted by Poland within the framework of the UN, i.e.: the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966). However, a special role in this

33 M. Kowalski, *Prawo do sądu administracyjnego. Standard międzynarodowy i konstytucyjny oraz jego realizacja*, Warszawa 2019, p. 23ff.

34 K.P. Sommermann, *Entwicklungsperspektiven der Verwaltungsgerichtsbarkeit*, [in:] *Handbuch der Geschichte der Verwaltungsgerichtsbarkeit in Deutschland und Europa*, eds. K.P. Sommermann, B. Schaffarzik, Berlin – Heidelberg 2019, pp. 1735-1770.

35 A. Krawczyk, *Reformy sądownictwa administracyjnego w państwach młodej demokracji (analiza prawnoporównawcza),* "Acta Universitatis Lodziensis" 2021, no. 95, p. 7.

36 L. Garlicki, *Wprowadzenie*, [in:] *Sądownictwo administracyjne w Europie Zachodniej*, ed. L. Garlicki, Warszawa 1990, pp. 27-28.

37 Ibidem.

38 A. Krawczyk, R*eformy sądownictwa administracyjnego w państwach młodej demokracji...,* p. 7.

39 Article 2 of the Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws 1997 no. 78, item 483).

regard was played by the normative standards of the regional international law in force in the European legal space, which formed the unique characteristics of the axiology of the law of that space, namely: the Convention for the Protection of Human Rights and Fundamental Freedoms (1950), the Lisbon Treaty (2007), the Charter of Fundamental Rights of the European Union (2000), as well as the promoted legal standards within the OSCE (in documents adopted at OSCE summits). The Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), adopted in the Council of Europe system, played the most important role in the shaping of the constitutional foundations and the development of judicial review of administration in Poland. The ECHR introduced high substantive standards relating to the protection of fundamental rights and freedoms of individuals, as well as the review standards of the European Court of Human Rights with its extensive case law developed over several decades (the so-called *acquis conventionel*). The Convention's guarantees of legal protection arise primarily from its two provisions: Article 6 (the right to a fair trial) and Article 13 (the right to an effective remedy). Legal doctrine emphasizes that both Article 6 and Article 13 guarantee the right to a fair trial, thus implementing the principle of the rule of law, which is the foundation of a democratic society, as well as stresses the fundamental importance of the justice system in the administration of justice, thus reflecting the common heritage and legal culture of the member states of the Council of Europe.[40]

Identical guarantees have also been established in the legislation of the European Union, to which the Polish practice of operation of the administrative court system refers. The second sentence of Article 19 (1) of the Treaty on European Union indicates that member states establish the remedies necessary to ensure the effective judicial protection in the areas covered by the Union law,[41] as well as provided for in Article 47 of the EU Charter of Fundamental Rights, which states: "Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article. Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented. Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice." As the Court of Justice of the EU emphasizes in its case law, the principle of effective judicial protection thus established is a general principle of the EU's law arising from the constitutional traditions

40 D. Vitkauskas, G. Dikov, *Podręczniki praw człowieka Rady Europy. Ochrona prawa do rzetelnego procesu w Europejskiej Konwencji o Ochronie Praw Człowieka*, Strasburg 2012, pp. 7ff.

41 The Treaty on European Union – consolidated version (OJ C 326, October 26, 2012, pp. 0001-0390.

common to the member states, which is enshrined in Articles 6 and 13 of the ECHR and which is also confirmed in the text of the Charter of Fundamental Rights of the European Union[42] (see: the judgment in the Mono Car Styling case, par. 47, and the case law cited). Also within the OSCE, it has been accepted that fair trial guarantees are among those elements of justice that are essential to the full expression of the inherent dignity and equal and inalienable rights of all human beings, including by ensuring the independence of judges and the impartial operation of the public judicial service (documents from the OSCE summits in Copenhagen[43] and Moscow[44]). And despite the fact that all decisions at the OSCE are political decisions (so-called *commitments*) rather than treaty obligations, as in the case of the CE and the EU, we must not belittle the role played by Poland's membership in this international organization and its impact on democratic standards, including those related to the administrative court system.

Conclusion

The phenomenon of European globalization and the integration processes in the European legal space, which take place within the framework of states' membership in international governmental organizations, exert influence on the formation of an axiological community of law, characteristic of modern democratic states. Undoubtedly, this is an internationalization and universalization of values reflected in both the national law and regional international law on the European continent. The characteristic features of these processes include the adoption of common principles of a democratic law-abiding state, where a special role is played by principles relating to the functioning of the justice system, including the administrative court system.

The Polish administrative court system, especially after 1991, when Poland joined the Council of Europe and began its efforts to become a member of the European Communities, developed in the context of the normative standards of the European legal space, both general, i.e. those relating to the democratic

42 The Judgment of the Court of Justice of the European Union of July 16, 2009, ECLI:EU:C:2009:466. See also the following judgments: Case C-432/05 Unibet, par. 37, ECLI:EU:C:2007:163, as well as in joined cases C-402/05 P and C-415/05, P. Kadi and Al. Barakaat International Foundation v. Council and Commission, par. 335, OJ C 285, November 8, 2008.

43 The Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE 29 June 1990, Organization for Security and Co-operation in Europe; https://www.osce.org/odihr/elections/14304, (02.01. 2023).

44 The Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE 3 October 1991, Organization for Security and Co-operation in Europe; https://www.osce.org/odihr/elections/14310, (02.01.023).

system, and more specific legal standards, i.e. those strictly relating to the formation of the axiology and content of national law in terms of building the principles of a fair trial in Polish judicial processes, where a special role was played by the accepted democratic principle of the affiliation of administrative courts with the judicial branch of government, as well as the axiom of independence of courts and judges as a guarantee of the proper protection of the rights and freedoms of individuals. Thus, it should be emphasized that the unique modern characteristics of the administrative court system in Poland are strongly grounded axiologically in the domestic law (the 1997 Constitution of the Republic of Poland) on the one hand, and in the acquis of the European legal space on the other. Membership in the international organizations that make up the European legal space and the ratification of international agreements and documents have directly influenced, in particular, the formation of the normative nature of the right to a fair trial, the international standard of which, established within the framework of the acquis of the European legal space and its axiology of law, is a point of reference when evaluating the activities of the Polish administrative court system, for example, in terms of the reasonable time of the proceedings or the proper implementation of the procedural rights of the parties to the proceedings. Indeed, the system of the Polish law is not closed, and its openness is expressed, on the one hand, in the absorption of external (international) values and norms, and in the creation of national law taking into account the normative standards of the European legal space, and, on the other hand, in the fact that state bodies take measures to ensure the effectiveness of their application – which is often referred to as the Europeanization of domestic law in the broad sense. The axiological values of the European legal space, normatively rooted in the regional international law, as well as those originating in the constitutional, cultural, and social traditions of its constituent entities, thus allow for the implementation of two important tasks of the administrative court system in Poland, which are essential in a law-abiding state. W. Skrzydło defines them essentially as "an effective restraint and balancing of the executive branch of government by ensuring, at first, the protection of the freedoms and rights of individuals in their relations with the public administration, and second, the protection of the objective legal order in case of its violation by the administration."[45]

45 W. Skrzydło, *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2013, p. 245; M. Wiącek, *Rozdział VIII Sądy i Trybunały, Art. 184*, [in:] *Konstytucja RP*, *Komentarz Art. 87-243*, vol. II, eds. M. Safjan, L. Bosek, Warszawa 2016, p. 1091.

Bibliography

Case law and opinions

Wyrok Trybunału Sprawiedliwości Unii Europejskiej z dnia 16 lipca 2009 r. w sprawie C-12/08 Mono Car Styling SA, w likwidacji przeciwko Dervis Odemis i in., ECLI:EU:C:2009:466 [The Judgment of the Court of Justice of the European Union of July 16, 2009 in Case C-12/08 Mono Car Styling SA, in liquidation v Dervis Odemis and others, ECLI:EU:C:2009:466].

Wyrok Trybunału Sprawiedliwości Unii Europejskiej z dnia w sprawie C-432/05 Unibet, ECLI:EU:C:2007:163 [The Judgment of the Court of Justice of the European Union in Case C-432/05 Unibet, ECLI:EU:C:2007:163].

Wyrok Trybunału Sprawiedliwości Unii Europejskiej z dnia 3 września 2008 r. w sprawach połączonych C-402/05 P i C-415/05 P Kadi I Al Barakaat International Foundation przeciwko Radzie I Komisji, Dz.U. C z 2008, poz. 285 [The Judgment of the Court of Justice of the European Union of September 3, 2008 in Joined Cases C-402/05 P and C-415/05 P Kadi I Al Barakaat International Foundation v Council and Commission, Official Journal C 2008, item 285].

Opinia 2/13 Trybunału Sprawiedliwości Unii Europejskiej wydana na podstawie art. 218 ust. 11 TFUE – Projekt umowy międzynarodowej – Przystąpienie Unii Europejskiej do europejskiej Konwencji o ochronie praw człowieka i podstawowych wolności – Zgodność wspomnianego projektu z traktatami UE i FUE, ECLI:EU:C:2014:2454 [Opinion 2/13 of the Court of Justice of the European Union Pursuant to Article 218(11) TFEU – Draft International Agreement – Accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms – Compatibility of the Said Draft with the EU and FEU Treaties, ECLI:EU:C:2014:2454].

Legal acts

Statut Rady Europy przyjęty w Londynie 5 maja 1949 r. (Dz.U. 1994 nr 118, poz. 565) [Statute of the Council of Europe Adopted in London on May 5, 1949 (the Journal of Laws 1994 no. 118, item 565)].

Konwencja o Ochronie Praw Człowieka i Podstawowych Wolności sporządzona w Rzymie dnia 4 listopada 1950 r. (Dz.U. 1993 nr 30, poz. 284, z póź. zm.) [The Convention for the Protection of Human Rights and Fundamental Freedoms Drawn Up in Rome on November 4, 1950 (the Journal of Laws 1993 no. 30, item 284, as amended)].

Karta Paryska z 1990 r. [1990 Paris Charter]; https://www.osce.org/mc/39516

Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE 29 June 1990, Organization for Security and Co-operation in Europe; https://www.osce.org/odihr/elections/14304

Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE 3 October 1991, Organization for Security and Co-operation in Europe; https://www.osce.org/odihr/elections/14310

Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r. (Dz.U. 1997 nr 78, poz. 483) [Constitution of the Republic of Poland of April 2, 1997 (the Journal of Laws 1997 no. 78, item 483)].

Traktat z Lizbony zmieniający Traktat o Unii Europejskiej i Traktat ustanawiający Wspólnotę Europejską, sporządzony w Lizbonie 13.12.2007 r. (Dz.Urz. C 326 z 26.10.2012 r.) [The Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community, Drawn Up in Lisbon on 13.12.2007 (the Official Journal C 326 of 26.10.2012)].

Literature

Barcik J., *Ochrona praworządności w Radzie Europy i Unii Europejskiej ze szczególnym uwzględnieniem niezależności sądów i niezawisłości sędziów* [*Protection of the Rule of Law in the Council of Europe and the European Union with Particular Regard to the Independence of the Judiciary and the Independence of the Judges*], Warszawa 2019.

Benoit-Rohmer F., Klebes H., *Prawo Rady Europy. W stronę ogólnoeuropejskiej przestrzeni prawnej* [*Council of Europe Law. Towards a Pan-European Legal Area*], transl. M.A. Nowicki, Warszawa 2006.

Berlin I., *European Unity and its Vicissitudes*, [in:] *The Crooked Timber of Humanity*, ed. H. Hardy, Oxford 1990.

Editorial Comments, *Safeguarding EU values in the Member states – Is something finally happening?*, „Common Market Law Review" 2015, vol. 52, no. 3.

Frändberg A., *From Rechtsstaat to Universal Law-State. An Essay in Philosophical Jurisprudence*, Cham 2014.

Garlicki L., *Wprowadzenie* [*Introduction*], [in:] *Sądownictwo administracyjne w Europie Zachodniej Administrative Judiciary in Western Europe*], ed. L. Garlicki, Warszawa 1990.

Garlicki L., *Wprowadzenie* [*Introduction*], [in:] *Konstytucje państw Unii Europejskiej* [*Constitutions of the European Union Countries*], ed. W. Staśkiewicz, Warszawa 2011.

Gibbs N., *Post Sovereignty and the European Legal Space*, „Modern Law Review" 2017, vol. 80, no. 5.

Grødeland A.B., Miller W.L., *European Legal Cultures in Transition*, Cambridge 2015.

Huomo-Kettunen M., *Heterarchical constitutional structures in the European Legal Space*, "European Journal of Legal Studies" 2013, vol. 6, no. 1.

Kopaliński W., *Słownik wyrazów obcych i zwrotów obcojęzycznych z almanachem* [*Dictionary of Foreign Words and Foreign Phrases with an Almanac*], Warszawa 2000.

Kowalski M., *Prawo do sądu administracyjnego. Standard międzynarodowy i konstytucyjny oraz jego realizacja* [*The Right to an Administrative Court. The International and Constitutional Standard and its Implementation*], Warszawa 2019.

Krawczyk A., *Reformy sądownictwa administracyjnego w państwach młodej demokracji (analiza prawnoporównawcza)* [*Administrative Justice Reforms in Young*

Democratic States (Comparative Legal Analysis)], "Acta Universitatis Lodziensis" 2021, no. 95.

Lang W., *Aksjologia polskiego systemu prawa w okresie transformacji ustrojowej* [*Axiology of the Polish Legal System in the Period of Systemic Transformation*], [in:] *Zmiany społeczne a zmiany w prawie: aksjologia, konstytucja, integracja europejska* [*Social Change and Legal Change: Axiology, Constitution, European Integration*], ed. L. Leszczyński, Lublin 1999.

Langrod J.S., *Zarys sądownictwa administracyjnego ze szczególnym uwzględnieniem sądownictwa administracyjnego w Polsce* [*Outline of Administrative Judiciary with Particular Reference to Administrative Judiciary in Poland*], Warszawa 1925.

Langrod J.S., *Sprawa reaktywacji sądownictwa administracyjnego* [*The Case for the Reactivation of the Administrative Judiciary*], following: J.S. Langrod, *Znosić czy rozbudować* [*Abolish or Expand*], 1929, [in:] *Przedruki z „Gazety Administracji" z 1946 r.* [*Reprints from the 1946 "Gazette of Administration"*], „Samorząd Terytorialny" ["Local Self-Government"] 1999, no. 5.

Legrand P., *European Legal Systems Are Not Converging*, "The International and Comparative Law Quarterly" 1996, Vol. 45, No. 1.

Manolescu A.A., Manolescu A., *The Corporate Responsibility for Human Rights within the European Legal Area*, "AGORA International Journal of Juridical Sciences" 2009.

Osiatyński W., *Prawa człowieka i ich granice* [*Human Rights and their Limits*], Kraków 2011.

Piechowiak M., *Karta Praw Podstawowych a tradycyjne wartości* [*The Charter of Fundamental Rights and Traditional Values*], [in:] *Zmagania początku tysiąclecia* [*The Struggles of the Beginning of the Millennium*], ed. M. Gierycz, J. Grosfeld, Warszawa 2012.

Przemówienie przewodniczącego KE Junckera do Parlamentu Europejskiego z 13 września 2017 r. [EC President Juncker's speech to the European Parliament on 13 September 2017]; https://ec.europa.eu/commission/priorities/state-union-speeches/state -union-2017_pl

Safjan M., *Rządy prawa a przyszłość Europy* [*Rule of Law and the Future of Europe*], „Studia i Analizy Sądu Najwyższego. Materiały Naukowe" ["Studies and Analyses of the Supreme Court. Scientific Materials"] 2019, vol. 8.

Skorupka J., *O sprawiedliwości procesu karnego* [*On the Fairness of the Criminal Process*], Warszawa 2013.

Skrzydło W., *Konstytucja Rzeczypospolitej Polskiej. Komentarz* [*Constitution of the Republic of Poland. Commentary*], Warszawa 2013.

Sommermann K.P., *Entwicklungsperspektiven der Verwaltungsgerichtsbarkeit*, [in:] *Handbuch der Geschichte der Verwaltungsgerichtsbarkeit in Deutschland und Europa*, eds. K.P. Sommermann, B. Schaffarzik, Berlin – Heidelberg 2019.

Taborowski M., *Mechanizmy ochrony praworządności państw członkowskich w prawie Unii Europejskiej. Studium przebudzenia systemu ponadnarodowego* [*Mechanisms*

for the Protection of the Rule of Law of Member States in European Union Law. A Study of the Awakening of the Supranational System], Warszawa 2019.

Vitkauskas D., Dikov G., *Podręczniki praw człowieka Rady Europy. Ochrona prawa do rzetelnego procesu w Europejskiej Konwencji o Ochronie Praw Człowieka* [*Council of Europe Human Rights Handbooks. Protection of the Right to a Fair Trial in the European Convention for the Protection of Human Rights*], Strasburg 2012.

Weber A., *Rechtsstaatsprinzip als gemeineuropäisches Verfassungsprinzip*, „Zeitschrift für Öffentliches Recht" 2008, No. 63.

Wiącek M., *Rozdział VIII Sądy i Trybunały, Art. 184* [*Chapter VIII Courts and Tribunals, Article 184*], [in:] *Konstytucja RP, Komentarz Art. 87-243* [*Constitution of the Republic of Poland, Commentary Art. 87-243*], ed. M. Safjan, L. Bosek, vol. II, Warszawa 2016.

Ziembiński Z., *Teoria prawa* [*Theory of Law*], Warszawa – Poznań 1978.

Zimmermann J., *Przedmowa* [*Foreword*], [in:] *Aksjologia prawa administracyjnego* [*Axiology of Administrative Law*], ed. J. Zimmermann, Warszawa 2017.

Zimmermann J., *Aksjomaty sądownictwa administracyjnego* [*Axioms of Administrative Judiciary*], Warszawa 2020.

Websites

https://www.osce.org/pl/odihr/13704

http://www.unesco.pl/fileadmin/user_upload/pdf/Powszechna_Deklaracja_Praw_Czlowieka.pdf

Summary

Axiology of the Law of the European Legal Space and the Development of the Administrative Court System in Poland

A study of the values of the European legal space means determination of the axiological justification of the legal norms present in that legal system. In this regard, we can suggest an axiological definition of the European legal space by pointing out that the European legal space is formed by a set of legal norms, which have been implemented by state entities and the international organizations such as the Council of Europe, the European Union, and the OSCE and which are based on a certain set of values, as a result of a common consensus on the need to protect these values. Therefore, it should nowadays be considered obvious that the European legal space is an area in which states hold values that originate in their constitutional traditions, civilization, and culture, as well as the body of law created by regional international organizations: the CE, the EU, and the OSCE. This helps to highlight that the European legal space is a space determined by values: it is not only a geographic, geopolitical,

or geo-economic space – it is first and foremost an axiological space. Taking into account the acquis of the European Union, the Council of Europe, and the OSCE, we can point out that the basic values – axioms – of the European legal space include inviolable and inalienable human rights, freedom, democracy, equality, the rule of law, the law-abiding state, the tri-partite division of power, legal security, and solidarity among nations. The concept of the rule of law in the European legal space was based on the common elements of the constitutional traditions of the countries of Europe, as well as on the values underlying the acquis of the international organizations that make up this space (CE, EU, and OSCE), namely: a) legality; b) certainty; c) prohibition of arbitrariness in the actions of the executive branch of government; d) independent and impartial courts, and effective judicial review, including review of the observance of fundamental rights; e) the principle of separation of powers; and f) equality before law. Compliance with the requirements of the effective legal protection in the formation of the principles of judicial review of administration in a state is therefore an important determinant of the state of the rule of law and its guarantees, which in Poland was achieved by the original enshrining of the principle of a democratic law-abiding state in the constitution. This was directly influenced by the constitutionalization of mechanisms for the protection of human rights and freedoms, including the judicial review of the actions of public administration, based on the normative standards of international law of a regional nature that are binding in the European legal space and form the unique characteristics of the axiology of law of that space, namely: the Convention for the Protection of Human Rights and Fundamental Freedoms (1950), the Lisbon Treaty (2007), the Charter of Fundamental Rights of the European Union (2000), as well as the promoted legal standards within the OSCE (in documents adopted at OSCE summits).