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Objectives of Public Finance Law and Axiological Analysis of Law – the Guiding Principles and a Proposal for a Research Approach²

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Abstract

The purpose of this article is to determine the objectives of public finance law, which is part of financial law. The research problem is to answer the question of whether the findings regarding the objectives of a given branch of law can be useful in developing the specific axiology for that very branch of law. The article proves the hypothesis that the objectives of public finance law are closely linked to the protection of public values to be true. Hence, it was considered particularly expedient to apply axiological analysis of law to the study of axiological issues of financial policy, which plays a secondary role in relation to economic and social policy.

Keywords: objectives, values, research method, axiology, financial law.

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Introduction

Although the objectives – or purposes – of law are sometimes equated with the functions of law, they are not the same concepts. The objective of law refers to what is aimed to achieve, while the function of law refers to the actual state. The research area explored by this paper is the objectives of public finance law. Although the scholars, commentators, and industry practitioners dealing with financial law do recognise the issues of purpose or function of this law, these issues have not been explored in much detail. For example, E. Ruśkowski, describing the objectives of the public finance sector, argues that it is at the same time a question regarding the fundamental purposes of the financial law in the public finance sector.³ C. Kosikowski, in turn, discusses the issues of the functions of financial law while considering the origin of financial law⁴ or norms governing financial law.⁵ Meanwhile, a detailed analysis of the objectives of public finance law is significant and necessary for both theory and practice. In the former case, knowledge of the objectives of public finance law makes it possible to e.g. adequately formulate the principles of public finance law not only in descriptive terms, but also (and perhaps even mainly) in directive terms, and the implementation of these principles translates into the achievement of the objectives of this branch of law. In the latter case, it facilitates the process of regulatory interpretation.

The purpose of this article is to determine the objectives of the public finance law. The research problem is to answer the question of whether the findings regarding the objectives of a given branch of law can be useful in developing the specific axiology for that very branch of law. According to the research hypothesis set, the objectives of public finance law are closely linked to the protection of public values. Content analysis and the dogmatic method have been used as research methods.

³ E. Ruśkowski, *Od prawa budżetowego do prawa finansowego sektora finansów publicznych*, [in:] idem (ed.), *System prawa finansowego. Tom II. Prawo finansowe sektora finansów publicznych*, Warszawa 2010, p. 23.

⁴ C. Kosikowski, *Polskie prawo finansowe na tle prawa Unii Europejskiej*, Warszawa 2008, pp. 19–28.

⁵ C. Kosikowski, *Prawo finansowe jako dział prawa*, [in:] *Finanse publiczne i prawo finansowe*, C. Kosikowski, E. Ruśkowski (eds.), Warszawa 2006, pp. 58–71.

Objectives versus values of law – terminological findings

According to dictionaries, an objective is “that which one strives for, aims for, that which one wants to achieve.”⁶ The objective of law should be understood as a certain state of affairs called for, one to be achieved through the enactment of certain legal norms. As Z. Ziemiński notes, “the objectives of the law are considered from the point of view of the intentions of the entities to whom the establishment of the law is attributed, and whether these intentions actually appeared in the consciousness of these entities or whether they are attributed to the lawmakers by the lawyers is a matter of further deliberation.”⁷ The law serves to establish a certain set of behavioural patterns for an individual, which society or some group expects of this individual.⁸ It can be therefore assumed that the primary purpose of legal norms falling within any branch of law is to organise social relations.

The concept of objective or purpose is one of the few concepts of legal science that can be fully defined by means of direct reference to the values underlying the law.⁹ This is because the body of legal axiology indicates that some values have a real impact on the social order by affecting the legal norms in place. This group of values is referred to as “value-objectives,” and they can relate to the spheres of creation, application, and interpretation of law alike. Idealisation values do not have such an impact.¹⁰ E.G. Maynez¹¹ even equates the objectives of law with values and points to four objectives (values) that legal norms should fulfil, i.e. realising moral values, implementing justice, establishing peace and order (legal security), and realising common good. What is apparent here is that these objectives are quite general, but this generality “diminishes as we move on to specifying goals of lower and lower rank, until the goal of a single provision is specified.”¹² This is consistent with the fact that “the objective of a single norm is subordinated to the objectives of parts of the legal system, and these objectives are, in turn, subordinated to the objectives of the entire legal system.”¹³

⁶ S. Dubisz (ed.), *Wielki Słownik Języka Polskiego PWN. Tom I*, Warszawa 2018, p. 392.

⁷ Z. Ziemiński, *Wstęp do aksjologii dla prawników*, Warszawa 1990, pp. 77–78.

⁸ *Ibidem*, p. 77.

⁹ Z. Cieślak, *Podstawowe instytucje prawa administracyjnego*, [in:] Z. Niewiadomski (ed.), *Prawo administracyjne*, Warszawa 2013, pp. 82–83.

¹⁰ K. Pałeczki, *Aksjologia prawa*, [in:] A. Kociołek-Pęksy, M. Stępień (eds.), *Leksykon socjologii prawa*, Warszawa 2013, p. 4.

¹¹ E.G. Maynez, *The philosophical-judicial problem of the validity of law*, [in:] L. Recasens (ed.), *Latin-American Philosophy*, Cambridge 1948, p. 498.

¹² I. Bogucka, *Funkcje prawa. Analiza pojęcia*, Kraków 2000, p. 62.

¹³ J. Wróblewski, *Zagadnienia teorii wykładni prawa ludowego*, Warszawa 1959, p. 356.

Financial law versus public finance law – terminological issues

Traditionally, the state's activities involving collecting and disbursing money used to be called "treasury," and the norms governing them were referred to as treasury law. The socio-political changes that took place after the end of World War II resulted in a significant expansion of the scope of the state and, more broadly, the society-oriented economy.¹⁴ These changes consisted in particular in nationalising industry, banks, and insurance institutions, and replacing local governments with a system of national councils. The above led to the view that the legal norms governing the financial activities of the state and state organisational units should form a whole referred to as financial law.¹⁵

It is commonly acknowledged that financial law is an independent branch of public law, the subject of which is the economic phenomena associated with the collection and distribution of public funds,¹⁶ or, put slightly differently, "a set of legal norms governing the functioning of public finance."¹⁷ However, there exist other views, according to which financial law is "a loose federation of independent branches of law, regulating social relations in the collection and distribution of public funds and affecting the formation of money."¹⁸ A. Borodo offers an even different understanding of financial law, arguing that it is "legal regulations concerning the financial activities of state and local government bodies, public institutions, and organisational units, as well as individuals and legal entities (especially when it comes to legal norms governing taxes, fees, contributions, duties)."¹⁹ On the other hand, however, R. Mastalski emphasises that as a result of changes in the socio-economic system, what financial law regulates is not as much public financial activity – which can be considered as financial economy to some degree,²⁰ as social relations in the collection and distribution of public funds and affecting the formation of money supply, categorised as instances of tax law, budget law, and public banking law.²¹

¹⁴ E. Ruśkowski, *Finanse publiczne, prawo finansowe i system finansów publicznych – podstawowe pojęcia*, [in:] S. Presnarowicz, B. Sudavičius (eds.), *System finansów publicznych Polski i Litwy*, Białystok 2017, p. 17.

¹⁵ B. Brzeziński, *Zarys prawa finansów publicznych*, Toruń 1997, pp. 18–19.

¹⁶ E. Chojna-Duch, *System finansów publicznych i prawa finansowego*, [in:] *Prawo finansowe. Prawo finansów publicznych. Prawo podatkowe. Prawo bankowe*, Warszawa 2017, p. 33.

¹⁷ T. Dębowska-Romanowska, *Prawo finansowe. Część konstytucyjna wraz z częścią ogólną*, Warszawa 2010, p. 63.

¹⁸ R. Mastalski, *Finanse publiczne a prawo finansowe*, Warszawa 2013, p. 37.

¹⁹ A. Borodo, *Polskie prawo finansowe. Zarys ogólny*, Toruń 2014, p. 23.

²⁰ W. Wójtowicz, *Pojęcie finansów publicznych i prawa finansowego*, [in:] W. Wójtowicz (ed.), *Zarys finansów publicznych i prawa finansowego*, Warszawa 2020, p. 16.

²¹ Cf. R. Mastalski, op. cit., pp. 35–36.

Financial law includes a wide range of norms, and its boundaries are rather fuzzy.²² The authors of the systematisations made often point out that the divisions they propose are conventional because the various branches of financial law show connections not only with each other, but also with other branches of law.²³ A clear example of this is public procurement law, which is even defined as “a hybrid branch of law that has been forming for more than a century, drawing from civil law, administrative law, financial law, and competition law to create its own system of concepts and values.”²⁴ As a result, there is a lack of uniformity and consistency in the opinions of scholars, commentators, and industry practitioners dealing with the issue of branches of financial law, as shown in the table 1.

Table 1. Branches of financial law as presented in the existing body of opinions of Polish scholars, commentators, and industry practitioners

	A. Borodo ^I	B. Brzeziński ^{II}	A. Drwiłło ^{III}	A. Hanusz ^{IV}	A. Majchrzycka-Guzowska ^V	R. Mastalski ^{VI}	E. Ruśkowski (1991) ^{VII}	E. Ruśkowski (2010) ^{VIII}	W. Wójtowicz ^{IX}
general part of financial law								+	
budget law	+	+	+			+	+		+
tax law	+	+	+	+	+	+			
levies law								+	+
customs law		+	+						
internal public credit law		+							
foreign currency law		+			+			+	
banking law	+	+			+		+		
public banking law	+		+			+		+	+
foreign exchange law		+	+		+				+
public finance law				+					
financial law of the public finance sector								+	

²² B. Brzeziński, op. cit., p. 20.

²³ A. Hanusz, *Ogólne zagadnienia prawa finansowego*, in: idem, *Prawo finansowe*, Warszawa 2022, p. 31.

²⁴ W. Dzierżanowski, M. Sieradzka, P. Szustakiewicz, *Wstęp*, [in:] W. Dzierżanowski, M. Sieradzka, P. Szustakiewicz (eds.), *Leksykon zamówień publicznych*, Warszawa 2020, p. 17.

financial market law				+				+	
law of the monetary system			+						
(financial) social security law			+		+		+		
social and health insurance law	+								
expenditure law	+								
public debt law	+								
local government financial law	+				+		+		
corporate finance law	+				+		+		

- I A. Borodo, *Polskie prawo finansowe. Zarys ogólny*, Toruń 2014, p. 25.
- II B. Brzeziński, *Zarys prawa finansów publicznych*, Toruń 1997, pp. 19 – 20.
- III A. Drwiłło, *Zagadnienia ogólne finansów publicznych i prawa finansowego*, [in:] *Podstawy finansów i prawa finansowego*, A. Drwiłło (ed.), Warszawa 2018, p. 38.
- IV A. Hanusz, *Ogólne zagadnienia prawa finansowego*, [in:] A. Hanusz (ed.), *Prawo finansowe*, Warszawa 2022, p. 31.
- V A. Majchrzycka-Guzowska, *Finanse i prawo finansowe*, Warszawa 2019, p. 41.
- VI R. Mastalski, *Finanse publiczne a prawo finansowe*, Warszawa 2013, p. 37.
- VII E. Ruśkowski, *Prawo finansowe*, [in:] E. Ruśkowski, J. Stankiewicz (eds.), *Finanse i prawo finansowe*, Białystok 1991, pp. 31–33.
- VIII E. Ruśkowski, *Od prawa budżetowego do prawa finansowego sektora finansów publicznych*, [in:] E. Ruśkowski (ed.), *System prawa finansowego. Tom II*, Warszawa 2010, p. 31.
- IX W. Wójtowicz, *Prawo finansów publicznych i prawa finansowego*, [in:] W. Wójtowicz (ed.), *Zarys finansów publicznych i prawa finansowego*, Warszawa 2020, p. 23.

Source: author's own work based on the literature cited above.

Sometimes financial law is considered together with public finance.²⁵ The origins of this very pragmatic solution can be traced back to French science. It seems reasonable to add that in France, “public finance” (*finances publiques*) is a branch of public law.²⁶ The interdisciplinary linking of law and economics makes great sense because it allows for a holistic analysis of economic phenomena and the legal norms governing them. This, in turn, makes it possible to clarify not only the content of the current legislation, but also the reasons that determined its adoption. Such an approach facilitates rational decisions regarding changes to enable greater legal protection of public values.

In the views of some scholars, commentators, and industry practitioners, financial law is treated synonymously with public finance law, while other times they

²⁵ C. Kosikowski, E. Ruśkowski (eds.), *Finanse publiczne i prawo finansowe*, Warszawa 2006; A. Nowak-Far (ed.), *Finanse publiczne i prawo finansowe*, Warszawa 2020.

²⁶ P.M. Gaudemet, J. Molinier, *Finanse publiczne*, Warszawa 2000, p. 17.

are considered separate concepts.²⁷ I agree with the standpoint of A. Hanusz,²⁸ who claims that the law of public finance is part of financial law and encompasses legal norms that primarily regulate the functioning of institutions from the public finance sector, the budget system of the state, local government units, the budget procedure, long-term financial planning, and the responsibility for violation of the discipline of public finance.²⁹ This standpoint is supported by further arguments offered by C. Kosikowski and T. Dębowska-Romanowska. Their views take into account the fact that the scope of “public finance” is indicated both in the Constitution of the Republic of Poland³⁰ and in the Act of 27 August 2009 on public finance (Article 3)³¹, with the former being broader. Hence, C. Kosikowski³² proposes that the constitutional understanding of public finance should be equated with the broad understanding of financial law, while the statutory scope of public finance should be considered within the framework of financial law in the narrow sense. T. Dębowska-Romanowska,³³ in turn, argues that the legal norms regulating public finance in the constitutional sense should be referred to as financial law, and the regulations governing public finance as referred to in Article 3 of the PFA should be referred to as public finance law. Juxtaposing the above views, it can be stated that financial law in the narrow sense is close to the concept of public finance law.

In my opinion, the scope of public finance law is delineated in the aforementioned Article 3 of the PFA, but due to the phrase “in particular” used, the definition of the scope provided therein is open, non-exhaustive, which makes it difficult to precisely determine the boundaries of public finance law. On the other hand, in subjective terms, the law of public finance encompasses the entities operating in the public finance sector, as listed in Article 9 of the PFA. In addition, in determining the scope of public finance law, it is also important to decide whether the

²⁷ A. Borodo, *Finanse publiczne. Zagadnienia ustrojowe i prawne*, Warszawa 2019, p. 34; P. Smoleń, *Podstawowe zagadnienia teoretyczne*, [in:] P. Smoleń (ed.), *Prawo finansów publicznych. Vademecum*, Warszawa 2022, p. 19.

²⁸ A. Hanusz, op. cit., p. 31.

²⁹ A similar understanding of the law of public finance is offered by E. Ruśkowski, who argues for distinguishing a branch of financial law of the public finance sector within the framework of financial law, with a specific object of regulation (public finance sector), specific subjects (subjects of the public finance sector), a specific method of regulation (imperative method), a rich subject structure, a diverse range of sources of law (E. Ruśkowski, *Od prawa budżetowego...*, p. 25).

³⁰ Act of 2 April 1997 – the Constitution of the Republic of Poland (Journal of Laws of the Republic of Poland, item 483, as amended), hereinafter referred to as the “Polish Constitution.”

³¹ Act of 27 August 2009 on public finance (uniform text in the Journal of Laws of the Republic of Poland of 2023, item 1270 as amended), hereinafter referred to as the PFA.

³² C. Kosikowski, *Samodzielny byt prawa finansowego jako działu prawa i problem jego autonomiczności*, [in:] C. Kosikowski (ed.), *System prawa finansowego. Tom I. Teoria i nauka prawa finansowego*, Warszawa 2010, pp. 425–426.

³³ T. Dębowska-Romanowska, op. cit., pp. 63–64.

funds at the disposal of said entities are “public” as defined in the content of Article 5 of the PFA.

Main objectives of the existence of the state

Aristotle (384–322 BC), one of the most eminent ancient philosophers, argued that “those regimes which look to the common advantage are correct regimes according to what is unqualifiedly just, while those which look only to the advantage of the rulers are errant, and are all deviations from the correct regimes; for they involve mastery, but the city is a community of free persons.”³⁴ Leon Petrażycki (1867–1931), a prominent scholar, lawyer, sociologist, and philosopher,³⁵ claimed, in turn, that “the highest good we should strive for in the field of politics in general and the politics of law in particular is the moral development of man, the reign of high rational ethics among mankind – the ideal of love.”³⁶ Without in any way questioning the validity of these ideals, it should be added that the primary objective of any state is to ensure the continuity of its existence. This is because failure to fulfil this objective will bring an end to the existence of the state, and consequently result in the impossibility of pursuing and fulfilling any other objective.³⁷

General and specific objectives of public finance law

The objectives of public finance law have been addressed to a very limited extent in the literature on the subject. They can be found covered in studies concerning the essence of financial law. Hence, it can be assumed that the objectives of financial law will be at the same time the objectives of public finance law. At the same time, as R. Mastalski stresses, there are significant difficulties in determining the objectives of financial law, especially when looking for a single distinctive objective specific only to this field of law. In the case of financial law, these objectives are not only diverse, but also significantly different.³⁸

³⁴ Aristotle, *Polityka*, translated with a foreword and commentary by L. Piotrowicz, with an introduction by M. Szymański, Warszawa 2006, p. 85.

³⁵ A. Kojder, *Non omnia moriantur on the 80th anniversary of Leon Petrażycki's passing*, “Studia Socjologiczne” 2011, 2.

³⁶ L. Petrażycki, *Wstęp do nauki polityki prawa*, Warszawa 1968, p. 25.

³⁷ J. Kuciński, *Podstawy wiedzy o państwie*, Warszawa 2003, p. 48.

³⁸ R. Mastalski, op. cit., p. 33.

The first and most fundamental objective of public finance law is to protect the common good, which shall be optimally harmonised with the welfare of individuals. The above claim finds justification in Article 1 of the Polish Constitution. It is also consistent with the objectives of the state because people unite to form societies and, consequently, a state precisely for the sake of their common good.³⁹ The concept of the common good encompasses the public interest, which can be defined as e.g. the pursuit of social objectives of social justice and efficiency.⁴⁰ Hence, A. Hanusz⁴¹ argues that the purpose of the norms regulating public finance law – whether they regulate the relations between state bodies or between state bodies and private law entities, is to protect the public interest. In a similar vein, T. Dębowska-Romanowska⁴² highlights that the purpose of financial law norms is to protect the fiscal interest of the state.

Second, in establishing the objectives of public finance law, it is necessary to focus on its relationship to socio-economic policy. According to C. Kosikowski⁴³, “the role of the norms governing financial law is the legal regulation of social, political, and economic phenomena manifesting the objectives set by political and economic-financial directives. By regulating social behaviour in the context of collecting and disbursing money, the regulations of financial law do not pursue self-serving objectives. The norms of financial law are subservient to the state’s socio-economic policy. By establishing orders and prohibitions, as well as incentives and financial sanctions, any social and economic phenomena can be brought into reality with great efficiency.”⁴⁴ A subservient role in relation to social and economic policy is served by financial policy,⁴⁵ which means “a conscious and purposeful activity of individuals and institutions to set and achieve specific objectives through financial means (initiatives, actions).”⁴⁶ Hence, it is financial policy that should be the source of the objectives of public finance law.

Third, the objectives of financial law – including the law of public finance – can also be viewed, as B. Brzeziński argues,⁴⁷ from the perspective of a division of said

³⁹ T. Dębowska-Romanowska, op. cit., p. 19.

⁴⁰ A.L. Hillman, *Public Finance and Public Policy. Responsibilities and Limitations of Government*, Cambridge 2003, pp. 73–74.

⁴¹ A. Hanusz, op. cit., p. 31.

⁴² T. Dębowska-Romanowska, op. cit., p. 66.

⁴³ C. Kosikowski, *Problem kodyfikacji polskiego prawa finansowego*, „Acta Universitatis Lodziensis. Folia Iuridica” 1989, 40, p. 5.

⁴⁴ Ibidem.

⁴⁵ L. Kurowski, *Wstęp do nauki prawa finansowego*, Warszawa 1982, pp. 16–17.

⁴⁶ E. Ruśkowski, *Istota i pojęcie polityki finansowej*, [in:] C. Kosikowski, E. Ruśkowski (eds.), *Finanse publiczne i prawo finansowe*, Warszawa 2006, pp. 32–33.

⁴⁷ B. Brzeziński, op. cit., Toruń 1997, p. 21.

norms into substantive, procedural (formal), and systemic. As T. Debowska-Romanowska points out, this division is not clear, nor is it in line with the systematisation of legal regulations⁴⁸. For instance, the PFA contains provisions belonging to all three groups.

Moving on to a more detailed analysis of the objectives of public finance law, it seems necessary to state what follows.

First, the objective of public finance law is to ensure the continued existence and efficient functioning of the state and the welfare of its people through the financing of specific public policies – including those from the area of economic and social policy. In accordance with Article 44(1) of the PFA, public expenditures may be incurred for purposes and in amounts established in: the budget act, the budget resolution of a local government unit or the financial plan of a relevant public finance sector unit (Article 44(1) of the PFA). For example, health policy, which is part of social policy, aims to protect the public value of “health,” defined as “a state of complete physical, mental, and social well-being, and not merely the absence of disease or infirmity.”⁴⁹. In Poland, the state’s health policy is financed primarily with funds from the National Health Fund, but also with funds provided for in the budget act, budget resolutions of local governments, and in the financial plans of other entities that are part of the public finance sector – such as the Medical Fund. An important thing to notice here is that protection of the value of “health” is possible not only through public expenditure, which is quite obvious, but also through public revenues. An example of such a mechanism is the levy on foodstuffs (i.e. the so-called sugar tax⁵⁰), regulated by the Public Health Act of 11 September 2015 (Journal of Laws of the Republic of Poland of 2015, item 1916), incorporated into the Polish legal order on 1 January 2021. Its adoption should be linked to the pathogenic and addictive effects of sugar consumption. Since the beginning of the current century, the renowned scientific database of medical journals known as “PubMed” has been reporting a substantial increase in scientific publications on the issue. Scientific findings show significant similarities between the effects of use of intoxicants and sugar in both brain’s neurochemistry and behaviour.⁵¹ Excessive sugar consumption leads to obesity, which is a disease itself and leads to many other chronic diseases – including cardiovascular diseases, 13 types of

⁴⁸ T. Dębowska-Romanowska, op. cit., p. 66.

⁴⁹ Constitution of the World Health Organization. Agreement concluded by the governments represented at the International Health Conference and Protocol concerning the Office International d’Hygiene Publique, signed in New York on 22 July 1946 (OJ 1948 no. 61, item 477).

⁵⁰ A. Bogucki, S. Bogucki, *Oplata od środków spożywczych*, Warszawa 2024.

⁵¹ J.J. DiNicolantonio, J.H. O’Keefe, W.L. Wilson, *Sugar addiction: is it real? A narrative review*, “British Journal of Sports Medicine” 2018, 14, pp. 910–913.

cancers, type 2 diabetes, respiratory diseases, and premature mortality⁵². Hence, according to the World Health Organization, so-called “sugar taxes” are an instrument of *fiscal policy for health*, which aims mainly at reducing sugar consumption, not at increasing public revenues.⁵³ Moreover, according to World Bank experts, so-called sugar taxes are an effective mechanism to discourage excessive sugar consumption and improve overall social welfare.⁵⁴

Second, the objective of public finance law should be to establish efficiently functioning procedures (organisational objective) for budgeting, i.e. planning, implementing, and controlling the state budget and budgets of local governments, subordinated to the overriding objective of protecting the common good (Article 1 of the Polish Constitution). What is important here is for legal norms to precisely establish the scope of competence and authority of the various bodies and entities involved in the various stages of budgeting.

Third, the objective of public finance law should be to adequately shape mechanisms not only for the purpose of institutional (professional) control of public finances, meaning both internal (carried out by chief accountants, management control, internal audit) and external (carried out by the Supreme Audit Office and regional chambers of accounts), but also for social control of public expenditure. The latter is – or at least should be – ensured by requirements for transparency and openness of public finance, but also by instruments of direct democracy, such as the village fund and participatory budgets.⁵⁵

Fourth, the objective of public finance law should be to close the economic gap in the public finance sector using legal mechanisms that enforce a minimum of rationality, efficiency, and economy (rationalised expenditure). This objective is to be fulfilled mainly by the regulations of the PFA on the so-called task-oriented budget, but as the Polish experience shows, its legal construction in Poland is far from perfect, and the way it is implemented calls for significant changes.⁵⁶

Fifth, the objective of public finance law should be to ensure *debt sustainability*. This objective has to do with the stabilising function of public finance and is to be achieved through the application of both procedural and numerical fiscal rules

⁵² A. Bogucki, S. Bogucki, op. cit., s. XXI; World Health Organization, *WHO European Regional Obesity Report 2022*, World Health Organization, p. 1.

⁵³ World Bank Group, *Taxes on Sugarsweetened Beverages: International Evidence and Experiences*, September 2020, p. 30.

⁵⁴ *Ibidem*.

⁵⁵ J.M. Salachna, U.K. Zawadzka-Pąk, *Legal instruments of social control used by Swiss and Polish local governments. A doctrinal and legal study*, “Białostockie Studia Prawnicze” 2023, 3.

⁵⁶ U.K. Zawadzka-Pąk, *Konstrukcja prawna, wdrażanie i realizacja budżetu zadaniowego we Francji i w Polsce*, Kraków-Legionowo, p. 168.

under the Polish Constitution (the public debt rule, the impossibility for the Sejm to set a larger budget deficit than that provided for in the draft budget act), and the PFA (prudence and recovery procedures, stabilising spending rule, restrictions on the deficit and debt for local governments).⁵⁷

Sixth, the objective of public finance law should be to resolve conflicts – by means of both standard judicial-administrative methods and methods reserved for the private sector. Although the law of public finance belongs to the sphere of public law, due to deviations from the rigid division into private and public law,⁵⁸ it is penetrated by instruments previously earmarked only for civil law. An example is mediation within the framework of public finance law, as provided for by Article 54a of the PFA, which has the effect of out-of-court settlements in cases involving disputed civil law receivables.⁵⁹

Conclusions

According to the research hypothesis initially set, the objectives of public finance law are closely linked to the protection of fundamental public values. The views of the scholars, commentators, and industry practitioners presented in this study have proven that this relationship indeed exists. Also on the practical level, the list of objectives of public finance law constructed on the basis of the existing (albeit fragmentary and definitely insufficient) literature confirmed the research hypothesis adopted in relation to the branch of law referred to as public finance law to be true. As a result, an essential part of the objectives of public finance law has to do with public values, although not with all of them – or at least not directly.

According to the Latin legal maxim formulated by Celsus, “law is the art of the good and the equitable” (Latin: “Ius est ars boni et aequi”). While the achievements of Polish scientists and researchers in the field of legal theory and philosophy of law in this regard are impressive, when it comes to individual branches of law, axiological considerations are still rare – especially those initiated from a holistic

⁵⁷ P. Panfil, U.K. Zawadzka-Pąk, *France and Poland’s Compliance with European Commitments Regarding Fiscal Rules*, “Financial Law Review” 2023, 1, pp. 48–52.

⁵⁸ M. Trzaskowska-Słyś, *Uwarunkowania ugody zawieranej przez jednostki sektora finansów publicznych (doctoral dissertation)*, Warszawa 2022, p. 7.

⁵⁹ J.M. Salachna, M.J. Skrodzka, *Out-of-court mediation in the case of a disputed civil law receivable and the analysis of the legal consequences of an out-of-court settlement – a private-legal and public-legal perspective (Article 54a of the Public Finance Act)*, “Przegląd Ustawodawstwa Gospodarczego” 2018, 7, pp. 11–12.

perspective⁶⁰. I believe it would be advisable to intensify the efforts undertaken in this aspect.

In naming the research method that could be used for this purpose, I propose the term “axiological analysis of law,” following the model of “economic analysis of law,” meaning “a method of legal studies that is used to study law in three aspects: its creation, interpretation, and application.”⁶¹ The above definition is general enough to refer to the axiological analysis of the law, with the latter’s objectives being:

- A) to identify the objectives-values of a particular branch of law or a selected legal institution,
- B) to determine whether, at the stage of lawmaking, application, and/or interpretation, the objectives-values are sufficiently protected by the applicable legal norms – and to identify any possible violations of the objectives-values,
- C) to identify any objective-value conflicts,⁶²
- D) to propose concrete legal solutions to eliminate violations of objectives-values and increase their axiological protection.

When it comes to the field of public finance law, the application of axiological analysis seems particularly advisable to examine the financial policies implemented on the basis of separate laws regulating the collection and expenditure of public funds (Article 216(1) of the Polish Constitution and Article 42(1) of the PFA). And even though these laws are not listed among the sources of financial law, but they are closely related to it.

The method of axiological analysis of law, although not explicitly named as such, has been put into practice in the axiological-legal study of participatory budgeting,⁶³ where it is a combination of five interrelated research methods, i.e. qualitative analysis of secondary data, dogmatic method, qualitative (survey) research, functional method, and nomothetic deduction method. It needs to be emphasised, however, that other variants of the methods included in the axiological analysis of law are also possible, especially when adapted to the specifics of the legal institutions considered.

⁶⁰ Examples of research in this area are provided, [in:] U.K. Zawadzka-Pąk, *Ochrona dobra wspólnego poprzez budżet partycypacyjny (obywatelski). Studium aksjologiczno-prawne*, Białystok 2019, p. 80. A free electronic version of the book is available in: <https://repozytorium.uwb.edu.pl/>.

⁶¹ T. Guzik, *Economic analysis of law as a method of jurisprudence*, “Internetowy Przegląd Prawniczy TBSP UJ” 2017, 8, p. 31.

⁶² The rich English-language literature in the field of public administration on value conflict can be helpful in this regard; e.g. G. de Graaf, L. Huberts, R. Smulders, *Coping With Public Value Conflicts*, “Administration & Society” 2016, 9.

⁶³ U.K. Zawadzka-Pąk, *Ochrona dobra...*, pp. 22–25.

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