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**AN ASSESSMENT OF THE EFFECTS OF THE
FUNCTIONING OF ARTICLE 54A OF THE PUBLIC
FINANCE ACT SIX YEARS AFTER ITS ENTRY INTO
FORCE (MEDIATOR'S PRACTICAL REMARKS ON
MEDIATION WITH PARTICIPATION OF PUBLIC
FINANCE SECTOR UNITS IN DISPUTED CASES OF
CIVIL LAW RECEIVABLES)**

Abstract

The six-year period of validity of the amended provisions of the Public Finance Act (hereinafter PFA) and the Act on Liability for Violation of Public Finance Discipline (hereinafter ALVPDF), in which the legislator explicitly provided for the possibility of concluding settlements in disputed civil law receivables by public finance sector entities; the constant increase in the number of mediation proceedings in disputes involving public finance sector entities carried by the author; as well as conducted scientific research related to the issue of participation of indicated entities in mediation proceedings in disputes over civil law liabilities, prompted the author to analyze the effectiveness of the above-mentioned provisions. Therefore, the aim of this article is to present a fragment of the conducted research and provide a preliminary assessment of the functioning of article 54a of PFA by presenting the reasons and intentions of the statutory regulation, providing an analysis of its functioning as well as conclusions drawn therefrom.

KEYWORDS

Alternative Dispute Resolution (ADR), mediation, public finance sector unit, civil law receivables, Public Finance Act

SŁOWA KLUCZOWE

alternatywne metody rozwiązywania sporów, mediacja, jednostka sektora finansów publicznych, sporne należności cywilnoprawne, ustawa o finansach publicznych

I. INTRODUCTION

Public finance sector units (hereinafter PFSU) entering into civil law obligation relations with other entities, including entrepreneurs, e.g. by concluding a construction contract under the provisions of the Public Procurement Law,¹ are obliged (despite the private law nature of the contracted obligation) to operate in the legal regime specified in the provisions of the PFA,² the ALVPDF,³ and other acts,⁴ in accordance with the principles of operation of the financial economy, including the collection and expenditure of public funds, among others in: legal, purposeful and economical, planned, sustainable, open (transparent), rational and economically effective manner,⁵ taking into account the fact that in public law, unlike private law,⁶ what is not permitted by law is prohibited.⁷

¹ Public Procurement Law Act of 11 September 2019 [2022] JoL 1710 as amended, hereinafter referred to as 'PPL'.

² Public Finances Act of 27 August 2009 [2023] JoL 1270 as amended, hereinafter referred to as 'PFA'.

³ Liability for Violations of Public Finance Discipline Act of 17 December 2004 [2021] JoL 289 as amended, hereinafter referred to as 'ALVPDF'.

⁴ For example, Accounting Act of 29 September 1994 [2023] JoL 120 as amended.

⁵ See Cezary Kosikowski, Eugeniusz Ruśkowski (eds), *Finanse publiczne i prawo finansowe* (1st edn, ABC Publishing House 2003), 261-262; Piotr Sołtyk in Piotr Walczak (ed), *Ustawa o finansach publicznych. Komentarz dla jednostek samorządowych* (2nd edn, C.H. Beck 2021) 13-14.

⁶ The principle 'what is not prohibited by law is permitted' is expressed, for example, in Article 8 of the Entrepreneurs' Law Act of 6 March 2018 [2023] JoL 221 as amended; or Art 353¹ of the Civil Code of 23 April 1964 [2023] JoL 1610 as amended, hereinafter referred to as the 'CC'; see also Decision II OSK 3297/18 5 December 2018 Supreme Administrative Court, LEX no 2590171.

⁷ See, i.e., Article 7 of the Constitution of the Republic of Poland of 2 April 1997; Judgment II GSK 427/07 19 March 2008 Supreme Administrative Court, LEX no 466154; Judgment BDF1/4900/92/92/12/ 29 October 2012 Main Adjudicating Committee, Legalis no 2423.

The validity of the above-mentioned principle of legalism, the lack of direct consideration by the legislator of the possibility of concluding a settlement in the above-mentioned legal provisions and the established strict disciplinary liability similar to the criminal liability of PFSU managers, for years, have determined the manner of conduct of these entities in situations of arising and pursuing disputed civil law receivables, leading to their avoidance of participating in mediation proceedings (even court annexed)⁸ aimed at trying to reach an agreement and resolve an existing dispute. Compliance with the above-mentioned rules dominated the application of other rules, often leading to ineffective use of public funds.⁹

Recognizing the need to introduce regulations that would directly enable PFSU to conclude settlements in cases of disputed civil law receivables, which would change the approach of the indicated entities to the principles of managing public funds, the legislator decided to introduce Article 54a PFA and changes to certain provisions of the ALVPDF, which have been in force since 1 June 2017.¹⁰

Over 6 years of the provisions in question being in force, a constant increase in the number of mediation proceedings conducted in disputes involving PFSU (I have been a mediator since 2009), as well as my own observations and conversations with PFSU representatives participating in mediations, prompted me to undertake research related to the issues of PFSU's participation in mediation proceedings in disputes over civil law liabilities. One of the elements of the conducted scientific activities is the explication of the effectiveness of Article 54a PFA based, among others, on: the above-mentioned observations, case studies or analysis of legal provisions, statistical studies and other information available to the public.

Therefore, the aim of this article is to present a fragment of the conducted research and provide a preliminary assessment of the functioning of Article 54a PFA. Consequently, first of all, I will explain in more detail the reasons and intentions of the statutory regulation of article 54a PFA, then I will describe and analyze how the above-mentioned provisions fulfill their role leading to the participation of PFSU in mediation proceedings in disputes over civil law receivables. I will also present the first preliminary conclusions resulting from the analyses. At the same time, I would like to point out that due to the stage of the research and the volume of this study, detailed analyzes including the impact of statutory

⁸ There are various types of mediation proceedings, including: mediation court-annexed (conducted on the basis of a decision issued by the court referring the case to mediation) and private (conducted in connection with the mediation clause included in the contract from which the dispute arises or the consent of the conflicting parties expressed in the contract concluded with the mediator to conduct the proceedings mediation).

⁹ See Justification for the Government's Draft Act Amending Certain Acts to Facilitate Debt Recovery Along with Justification 28 December 2016, Parliament form no 1185, 2-3.

¹⁰ *ibid*, see Act on Amending Certain Acts to Facilitate Debt Recovery of 7 April 2017 [2017] JoL 933.

conditions on concluding a possible settlement, as well as final conclusions in this respect, will be included in the habilitation thesis on which I am working.

II. PARTICIPATION OF PFSU IN MEDIATION PROCEEDINGS IN DISPUTES OVER CIVIL LAW RECEIVABLES BEFORE 1 JUNE 2017

Disputed civil receivables are recovered by the conflicting parties, including PFSU, as a rule, through court proceedings before common courts. This means that despite the ‘public’ nature of the entity such as PFSU and the specific legal regime applicable to it, due to the civil law nature of the obligation, the basis for conducting proceedings and recovering the receivables in question are private law regulations. PFSUs are, therefore, obliged to comply with both public legal regulations relating to the disposal and management of public funds, as well as private law regulations regarding the recovery or transfer of disputed receivables, which may lead to difficulties in applying certain regulations or principles in practice, especially in the context of a conflict or legal loophole.

Problems in the interpretation of the provisions allowing the PFSU’s participation in mediation proceedings and concluding a settlement regarding a disputed civil law receivable were noticeable until 31 May 2017. Both the provisions of the PFA and the ALVPDF did not directly specify the possibility of concluding settlements by PFSU in the above-mentioned disputes. Although the provisions in force at that time contained in Articles 55–59 PFA referred to the general principles of granting relief in the repayment of liabilities arising from civil law receivables and the limits of freedom of the bodies representing the State Treasury in the disposal of its receivables, they did not make it possible to apply them directly to receivables arising from civil law relationships of a contentious nature, and only to previously determined receivables for which there were grounds for applying the relief. Moreover, the above-mentioned provisions did not contain sufficient positive premises justifying the conclusion of the settlement, but only the requirement of important public interest relating to the granting of relief. Moreover, the strict provisions contained in ALVPDF did not include a direct reference to the lack of liability for violating public finance discipline due to the conclusion and implementation of the settlement by PFSU. The possibility of participating in the amicable resolution of this type of disputes and concluding settlements therein existed (and still exists) under the provisions of private law – civil law, i.e. based on the provisions of Article 917 – 918 CC (referring to the essence of the settlement and the grounds for avoiding the legal consequences of its conclusion) and the provisions of Articles 183¹⁻¹⁵ CCP (which introduced mediation into civil pro-

ceedings).¹¹ However, from the provisions of Article 917 CC, it follows that reaching an agreement that will be acceptable to both parties to the dispute requires concessions from both conflicting parties,¹² which, in relation to PFSU, may lead to an allegation of groundless waiver of the recovery of receivables that are part of public funds. That is why PFSUs did not use this option, pointing out – as mentioned earlier – the lack of direct provisions under public law and the related fear of being accused of inappropriate care of public finances and, consequently, exposure to liability in this respect.

Confirmation of the problem with the vagueness of the provisions of the PFA in connection with the wide scope of ALVPDF and the need to apply such a specific legal regime, despite the existence of private law provisions enabling the participation of PFSUs in mediation proceedings and concluding a settlement while they were in progress, are the author's direct experiences related to the participation of these entities in the mediation proceedings conducted by the author. In the years 2011-2016, the author received several decisions from courts in the Białystok appeals area to refer cases involving PFSU to mediation. During the indicated period, the said entities agreed to participate in and conduct mediation proceedings in only four cases, and in two of them the parties managed to reach a settlement. In conversations with the mediator, PFSU, justifying their refusal to participate in mediation, pointed primarily to the too-high risk associated with incurring liability for violating public finance discipline in connection with reaching a possible settlement and the possibility of eliminating such risk (despite the financial loss) by participating in court proceedings and the issuance of even the most unfavorable judgment by a common court. Moreover, in the case of the four mediation proceedings indicated above, in two of them, despite finding a common solution and reaching an agreement, the PFSU managers did not decide to finally sign it, citing the need to return to court for the same reasons. The author's explanations pointing out the benefits of participating in mediation through the possibility of actually recovering even a smaller amount from the debtor than not receiving payment in any part; spreading the financial obligation into installments adapted to the financial capabilities of PFSU (if it is the debtor of the other party to the dispute); savings, not only financial ones, related to abandoning court proceedings in favor of mediation were not a convincing argument to use the mediation procedure. Also, the explanation that the legislator's intention with regard to Polish procedural law in civil matters was, among others, enabling the parties to civil law relations to facilitate the pursuit of claims, providing legal

¹¹ Code of Civil Procedure of 17 November 1964 [2023] JoL 1550 as amended, hereinafter referred to as the 'CCP'. Mediation proceedings have been introduced into the provisions of the CCP by the Act on Amending the Act – CCP and Certain Other Acts of 28 July 2005 [2005] JoL number 172, item 1438.

¹² See, e.g. Maciej Dułęba, *Uгода w polskim prawie cywilnym* (1st edn, Lexis Nexis 2012) 73-78; Judgment I ACa 86/14 16 May 2014 Court of Appeal in Katowice.

protection to entities that choose this method of pursuing claims, by approving any settlement reached by the court and thus giving it legal force, did not encourage PFSU managers to participate in mediation proceedings. Moreover, even the amendment to the provisions of the CCP of 2015,¹³ which significantly changed the institution of mediation and increased interest in this institution among other participants in contractual relations, did not affect the participation of PFSU in the mediation proceedings.

The author's experiences are confirmed by statistical data (from the same period) of the General Counsel of the State Treasury – currently the General Counsel of the Republic of Poland, which, being a state organizational unit, was established to ensure legal protection of the rights and interests of the State Treasury, including through legal representation of the State Treasury and participation in court proceedings, also before common courts. Statistical data included in the annual reports on the activities of the General Counsel of the State Treasury show that in 2013, it concluded a total of 3,982 cases, of which only 22 resulted in a settlement; 2014 – 3,698 concluded cases, including 18 as a result of concluding a settlement; 2015 – 4,024 concluded cases, including 26 as a result of concluding a settlement; and in 2016, it concluded 3,829 cases, including 39 in connection with concluding a settlement.¹⁴

Recognizing the problem related to the lack of direct provisions allowing for the conclusion of a settlement in disputed civil law receivables by PFSUs and their concerns related to liability for violation of public finance discipline in the event of concluding a possible settlement, the legislator decided to amend the provisions of the PFA mentioned in the introduction and ALVPDF, among others, by introducing Article 54a to the PFA, based on which the PFSU has had the opportunity, since 1 June 2017, to conclude (subject to certain conditions) a settlement that does not constitute a violation of public finance discipline. As indicated in the justification to the draft act, the purpose of the formulated change was to create a clear (and separate from Articles 55-59 of the PFA) legal basis that

¹³ The Act on Amending the CCP and Certain Other Acts in Connection with Supporting Amicable Methods of Resolving Disputes of 10 September 2015 [2015] JoL item 1595, entered into force on 1 January 2016.

¹⁴ See the following: The Report on the Activities of the General Counsel of the State Treasury in the Period from 1 January 2013 to 31 December 2013 <<https://www.gov.pl/web/prokuratoria/sprawozdania-z-dzialalnosci>> accessed 29 July 2023, 9; The Report on the Activities of the General Counsel of the State Treasury in the Period from 1 January 2014 to 31 December 2014 <<https://www.gov.pl/web/prokuratoria/sprawozdania-z-dzialalnosci>> accessed 29 July 2023, 11; The Report on the Activities of the General Counsel of the State Treasury in the Period from 1 January 2015 to 31 December 2015 <<https://www.gov.pl/web/prokuratoria/sprawozdania-z-dzialalnosci>> accessed 29 July 2023, 12; The Report on the Activities of the General Counsel of the State Treasury in the Period from 1 January 2016 to 31 December 2016 <<https://www.gov.pl/web/prokuratoria/sprawozdania-z-dzialalnosci>> accessed 29 July 2023, 17. The statistical data presented in previous reports, i.e. before 2013, do not include the number of cases completed as a result of concluding a settlement, therefore, they are not referred to by the author in this study.

would primarily allow for the rationalization of the activities of public entities, following the example of private entities that have the actual possibility of choosing how to end the dispute after considering all the possible consequences, both legal and economic.¹⁵ Moreover, the purpose of the amended regulations was to remove the state of uncertainty as to whether, from a formal point of view, public entities have the possibility of amicably ending a dispute over receivables arising from civil law relations and to create the possibility for public entities to act more flexibly and adequately to the circumstances of a given case.¹⁶ Finally, it also allowed – in the intention of the drafter – to avoid situations in which the analysis of the case shows that a settlement is more advantageous – and the only argument against concluding it concerns doubts of the formal nature of the PFSU.¹⁷

The introduction of the above-mentioned changes means that the PFSU may conclude a settlement regarding a disputed civil law receivable if it assesses that the effects of the settlement are more favorable for this entity or, respectively, the State Treasury or the budget of a local government unit, than the probable outcome of court or arbitration proceedings (Article 54a, section 1 PFA). The assessment of the effects of the settlement will be made in writing, considering the circumstances of the case, in particular, the validity of the disputed demands, the possibility of satisfying them and the expected duration and costs of court or arbitration proceedings (Article 54a, section 2 PFA). Moreover, the correct conclusion and implementation of the settlement, including the execution of expenditure from public funds, or the incurring or change of an obligation on the basis of the concluded settlement, does not constitute a violation of public finance discipline (Article 5, section 4; Article 11, section 2; Article 15 ALVPDF).

III. MEDIATIONS WITH THE PARTICIPATION OF PFSU AFTER 1 JUNE 2017

The amendment in question to the provisions of the PFA and the ALVPDF resulted in PFSUs receiving a specific legal basis to participate in mediation proceedings and conclude settlements with private entities in disputes over civil receivables. It also introduced certain general guidelines conditioning the conclusion of the settlement itself. Moreover, it gave hope to private entities entering into civil law relations with public entities that, in addition to the principle of legalism,

¹⁵ See Justification for the Government's Bill on Amending Certain Acts to Facilitate Debt Recovery, the work cited, 51-55.

¹⁶ *ibid.*

¹⁷ *ibid.*

the latter, when resolving disputes, will also be guided by other rules, including those typical of professional economic transactions (e.g. profit and loss account).

Observation of the behavior and actions taken by PFSU in situations of disputes over civil law receivables over the six years of operation of the amended regulations allows us to conclude that there is an increase in interest in mediation proceedings among these entities. Moreover, PFSUs more often and willingly decide to try to reach an agreement with the entrepreneur in this type of disputes by participating in mediation.

In the years 2018-2020, the author, as a mediator, again received several decisions from courts in the Bialystok appeals area to refer cases involving PFSU to mediation. This time, however, only in every fourth case did the PFSU not agree to participate in mediation proceedings. In the years 2021-2023, there were over 20 court decisions referring cases involving PFSU to mediation. Additionally, there were also requests to the mediator to conduct mediation at the pre-trial stage, as part of out-of-court (private) mediation.¹⁸ In approximately 70% of the cases in which the parties decided to participate in mediation, they concluded a settlement, which was submitted to the court along with an application for approval, and then approved by the court (both in the case of court annexed and out-of-court mediation). During conversations with representatives of the PFSU at the stage of deciding on their participation in the proceedings in question, the author received information in more than half of the cases that the people representing them were aware of the introduction of changes to the provisions of the PFA and the ALVPDF and despite concerns¹⁹ about how the above-mentioned provisions would be implemented, for example by the financial supervision and control authorities, they decided to participate in mediation. In the remaining conversations, after the mediator provided information about the amendment to the regulations and then internal legal consultations, PFSUs also decided, in principle, to participate in the mediation proceedings. The refusal to participate in mediation in the remaining cases was related primarily to personnel changes in decision-making positions and the transition period indicated in the interviews related to the introduction of new people who could make an informed decision to participate in the proceedings in question or certainty about the validity and effectiveness of the claims pursued before common court.

Over the years, not only the number of PFSUs deciding to participate in judicial or out-of-court mediations has increased, but also the way in which the

¹⁸ Regarding the types of mediations conducted, see footnote 8.

¹⁹ These concerns appeared in conversations conducted by the author in the first years after the entry into force of the amended regulations, i.e. in the period from 2018 to 2020/2021. Currently, it is extremely rare (if at all) for a mediator to hear from an attorney or other person representing JSFP about concerns related to participation in mediation, which result from the consequences related to the subsequent, possible control of the settlements reached during the mediation proceedings.

indicated entities participated in reaching an agreement. Each year, the author observed the increasing awareness (not only legal) of people representing PFSU of the benefits of the agreement jointly developed by the parties and the growing involvement of these entities in finding a solution acceptable to both the PFSU itself and the entrepreneur. Conversations conducted by the mediator after the end of the mediation proceedings allow for the general conclusion that public entities are slowly becoming convinced of the benefits of participating in mediation.

Once again, the author's conclusions regarding the increased interest in mediation proceedings and the participation of PFSU in them seem to be confirmed by the statistical data presented by the General Counsel of the Republic of Poland, which shows that: in 2018, out of 2,669 completed cases, in case of 84 of them settlements were concluded,²⁰ in 2019, out of 3,078 completed cases, 96 of them were settled,²¹ and in 2020, despite the completion of a smaller number of cases (2,249), the number of those finalized based on an agreement increased (136).²² A similar upward trend can be observed in the following years, when in 2021, out of 2,698 completed cases, 111 cases were concluded with a settlement, and in 2022, 108 cases out of 2,983 were concluded with an agreement.²³

Moreover, in 2018, the Court of Arbitration at the General Counsel of the Republic of Poland was established²⁴ and in 2019 its jurisdiction was extended, which resulted in a significant increase in mediation proceedings conducted within the indicated Court, from two in 2018²⁵ to 9 mediations conducted in 2019,²⁶ by 38 in 2020,²⁷ after 68 mediations in 2021,²⁸ and 96 in 2022.²⁹

²⁰ The Report on the Activities of the General Counsel of the Republic of Poland for 2018 <<https://www.gov.pl/web/prokuratoria/sprawozdania-z-dzialalnosci>> accessed 29 July 2023, 18-19.

²¹ The Report on the Activities of the General Counsel of the Republic of Poland for 2019 <<https://www.gov.pl/web/prokuratoria/sprawozdania-z-dzialalnosci>> accessed 29 July 2023, 22.

²² The Report on the Activities of the General Counsel of the Republic of Poland for 2020 <<https://www.gov.pl/web/prokuratoria/sprawozdania-z-dzialalnosci>> accessed 29 July 2023, 26.

²³ See consecutively: The Report on the Activities of the General Counsel of the Republic of Poland for 2021 <<https://www.gov.pl/web/prokuratoria/sprawozdania-z-dzialalnosci>> accessed 29 July 2023, 23; The Report on the Activities of the General Counsel of the Republic of Poland for 2022 <<https://www.gov.pl/web/prokuratoria/sprawozdania-z-dzialalnosci>> accessed 29 July 2023, 15. Statistical data on the activities of the General Counsel of the Republic of Poland for 2023 are not available yet.

²⁴ The Arbitration Court at the General Counsel of the Republic of Poland conducts mediation or other amicable resolution of the dispute pursuant to the provisions of the General Counsel of the Republic of Poland Act of 15 December 2016 [2023] JoL item 1109, as amended.

²⁵ The Report on the Activities of the General ... for 2018, the work cited, 18-19.

²⁶ The Report on the Activities of the General ... for 2019, the work cited, 13-14.

²⁷ The Report on the Activities of the General ... for 2020, the work cited, 17.

²⁸ The Report on the Activities of the General ... for 2021, the work cited, 13-14.

²⁹ The Report on the Activities of the General ... for 2022, the work cited, 32-33.

IV. SUMMARY

If, in the analyzed case, the criterion for the effectiveness of specific legal provisions was solely the increase in the number of cases (or, as in the case of the General Counsel of the Republic of Poland, also the increase in the value of cases in which a settlement was reached),³⁰ in which authorized entities took advantage of the privilege granted to them by these provisions (mediation and concluding settlements), one could come to the conclusion that six years after the amendment of the provisions of the PFA on and the ALVPDF, the goal set by the legislator when designing the changes, has been achieved. However, formulating such a statement based solely on one criterion is a mistake. A number of other factors (legal and extra-legal) should be considered, which could also contribute to the increased interest in and use of mediation proceedings by the PFSU.

Other legal impulses that could have had a positive impact on the PFSU's approach to participating in mediation and increased their interest in concluding a settlement include the already mentioned changes introduced in private law by the Act on supporting amicable dispute resolution methods, which has been in force since 1 January 2006.³¹ The purpose of these regulations was primarily to increase the number of commercial cases referred to mediation and to raise entrepreneurs' awareness that mediation can be an alternative to court proceedings. Another legal incentive encouraging PFSUs to participate in mediation proceedings was certainly the introduction of the new Public Procurement Act, which for the first time clearly introduced into public procurement the possibility of concluding settlements through various out-of-court methods of resolving disputes, including mediation, conducted both by a mediator of the Arbitration Court of the General Counsel of the Republic of Poland or another selected mediator.

In addition to legal factors, there are also a number of other activities undertaken over the last six years (at the national and regional levels), including the popularization of mediation, both by public institutions and private entities, including professional self-governments, addressed to various social and professional groups, certainly had an impact on the increase in knowledge about mediation, also in PFSU. The most important activities promoting the idea of amicable resolution of disputes, undertaken at the national level, include at least two projects co-financed by the European Union under the Knowledge Education Development Operational Program (action: effective justice). The first one, implemented in 2018-2020, involved the creation of 16 arbitration and mediation centers and

³⁰ Data on the increase in the value of cases in which a settlement was concluded are presented in the Reports on the Activities of the General Counsel of the Republic of Poland for individual years, but due to the framework of this study, they are no longer quoted by the author.

³¹ See footnote 13.

was addressed to entrepreneurs, judges and prosecutors.³² Its aim was to popularize the method of conducting mediation (primarily economic) and basing it on standards developed in all mediation centers in Poland on a voluntary basis; as well as improving the quality of issued judgments and increasing the effectiveness of their enforcement. The second project, implemented in 2020-2023, was the ‘National Register of Mediators’ project, the aim of which was to once again popularize alternative methods of resolving disputes (primarily mediation – civil, including economic) by improving the competences of mediators, creating the National Register of Mediators and information activities.³³ The activities were addressed to both citizens interested in using mediation proceedings and judicial authorities as those who referred cases to mediation, mediators or people who wanted to obtain mediation rights.

In addition to the steps indicated, a direct incentive for PFSU to participate in mediation was the development and publication in May 2021 of recommendations of the General Counsel of the Republic of Poland regarding amicable dispute resolution proceedings, addressed to *stationes fiscali* and replaced persons.³⁴ The purpose of the issued recommendations was to facilitate the PFSU in choosing the most advantageous solution to a civil law dispute.

Other activities popularizing the development of settlements in controversial cases (as already indicated) were also undertaken by various professional groups, including courts (appointment of mediation coordinators),³⁵ bar councils, and chambers of attorneys-at-law (creating mediation centers conducting training for lawyers, attorneys-at-law, trainees) or mediators (organizing conferences, seminars, training and undertaking a number of various initiatives – e.g. organizing lessons in primary schools and secondary schools on mediation).

It is impossible to list here all the activities undertaken in recent years at the national and regional level in the field of mediation. It is worth noting, however, that activities promoting this idea have been intensified, aimed at increasing society’s general knowledge in this area. This could also contribute to the dissemination of knowledge about amicable methods of resolving disputes and encourage PFSU to use them.

³² Project website: Arbitration and Mediation Centers <<https://www.cammediacje.pl/centra-arbitrazu-i-mediacji>> accessed 30 July 2023. General information about the project, see Website of the Ministry of Justice <<https://www.gov.pl/web/spowiedzedliwosc/centra-arbitrazu-i-mediacji>> accessed 30 July 2023.

³³ Project website: National Register of Mediators <<https://krm.gov.pl/>> accessed 30 July 2023. General information about the project, see Website of the Ministry of Justice <<https://www.gov.pl/web/spowiedzedliwosc/projekt-krm2>> accessed 30 July 2023.

³⁴ Website of the General Counsel of the Republic of Poland <<https://www.gov.pl/web/prokuratoria/rezdrowie-i-wzory-postaŃen-umow2>> accessed 30 July 2023. Legal basis: Art 16a of the Law on the Organization of Common Courts Act of 27 July 2001 [2023] JoL item 217, as amended.

³⁵ Legal basis: *ibid*.

Providing a clear answer to the question about the effectiveness of only the amended provisions of the PFA and the ALVPDF in the context of increased interest in participation in mediation proceedings by PFSU, without considering the above-mentioned factors, is, in my opinion, not possible. Certainly, the introduction of a legal basis that allows PFSU to directly conclude a settlement on a disputed civil law receivable opens up the legal possibility for them to use the indicated path. However, the question remains whether it is the only or main motivator for choosing this type of dispute resolution. It seems that the omission of other (indicated) factors is unjustified when examining the effectiveness of the analyzed provisions and their impact on the choice of dispute resolution method by the PFSU, and a full interpretation of the assessment of the effects of their introduction requires further in-depth analysis and taking into account the relationship between the introduced provisions and other factors that may influence decision-making on how to resolve a dispute over a civil law debt. In-depth research is the subject of current scientific activities undertaken by the author of this study and will soon be presented publicly.

Finally, it is also necessary to point out the need to conduct a critical analysis of the amended provisions of the PFA which have been in force for six years and the ALVPDF, in order to clarify them and finally eliminate further doubts that still appear in the practice of their application by PFSU and which are still related to the fear of violating public finance discipline in connection with their conclusion of the settlement. Even though the author, together with prof. J. M. Salachna,³⁶ analyzed the provisions in question in the first year of their operation, it is worth re-verifying and updating the previous *de lege ferenda* postulates, considering several years of experience in their application by JSFP. Possible further directions of changes to the provisions of the PFA and the ALVPDF will be examined by the author in her habilitation thesis.

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³⁶ See Joanna M. Salachna, Marta J. Skrodzka, 'Uгода mediacyjna w sprawie należności cywilnoprawnej w kontekście oceny skutków jej zawarcia – perspektywa prywatnoprawna i publicznoprawna (art. 54a ustawy o finansach publicznych)' (2018) 7 PUG 8-14.