

The Functioning of Cultural Institutions in Poland – Legal Conditions

Iryna Manczak

Ph.D., Assistant Professor, Krakow University of Economics,
manczaki@uek.krakow.pl, ORCID: 0000-0002-9661-9945

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Abstract. Issues related to the functioning of cultural entities are becoming more and more often the subject of scientific studies in social disciplines. First, this is dictated not only by the public's interest in participating in cultural events but also by the important role played by cultural institutions in contemporary social and economic development. This article aims to identify selected aspects of the functioning cultural institutions in Poland. The article reviews publications on the subject from Polish legal literature. The author used a critical analysis. The considerations presented are conceptual. For the considerations undertaken, an attempt was made to familiarise the reader with the Act on Organising and Conducting Cultural Activity issues. Some provisions of the normative act, which applies to the activities of Polish cultural institutions, were analysed. The article pays particular attention to the following issues: the definition of cultural activity, an exemplary division of cultural institutions and aspects related to their organisation. The presented considerations cover preliminary issues in the problem area, which has an institutionalised character. The analysed normative act has regulated the functioning of Polish cultural institutions since the early 1990s, including ordering the fundamental areas related to their organisation and management. During the considerations, an attempt was made to discuss issues that constitute a starting point for outlining the conditions determining the activities of an organizational unit in the sphere of culture, including confronting the positions of researchers dealing with the analyzed topic. The article's topic may contribute to further analyses, which are significant from the point of view socio-economic development.

Keywords: institutional approach, cultural activities, cultural institutions in Poland, legal basis for the functioning of cultural institution.

Introduction

In the Polish legal order, the fundamental normative Act regulating the principles of operation of cultural institutions is the Act of 25 October 1991 on the organisation and conduct of cultural activity. This Act organises the essential aspects determining the framework of activities of organisational entities established to undertake activities in the area of culture. It is worth noting that the organisation and conduct of cultural activity were important issues at

the beginning of the systemic transformation in Poland. The Act in force is an example of a legal act that has been in force for over a few decades and deals with issues important for developing civil society.

Literature Review

In the literature on the subject, culture is recognised as one of the spheres of the realisation of human freedom and one of the leading areas of

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public activity [7, p. 9]. Article 6 of the Polish Constitution assumes that [9]:

- conditions shall be created for the dissemination and equal access to cultural goods as a source of the identity of the Polish nation, its continuity and development;
- assist Poles living abroad in preserving their links with the national cultural heritage.

According to Wytrązek [14, p. 124], “the right to culture is established in the Constitution using a teleological norm that state and administration bodies should follow in their actions, but without the possibility for citizens to enforce them against state bodies”. The implementation of the outlined ones tasks are implemented by various institutions responsible for the organisation of cultural activities. To a large extent, this can be justified by the diversity and multiplicity of social needs expressed in terms of participation in culture, including the functioning of entities promoting contemporary forms of culture and focused on researching cultural heritage [10, p. 146]. The article reviews publications on the subject from Polish legal literature. The author used a critical analysis. The considerations presented are conceptual.

Purpose

The article aims to identify selected aspects of the functioning of cultural institutions in Poland. For the analyses undertaken, an attempt was made to familiarise the issues covered by the Act on the Organisation and Operation of Cultural Activities. The distinguished legal Act consists of 5 chapters and 46 articles. It was decided that some of its provisions should be analysed. Within the framework of the considerations carried out, particular attention was paid to the following issues:

- definition of cultural activities;
- division of cultural institutions;
- organisation of cultural institutions.

Methodology

This study employs a comprehensive methodological framework, combining general scientific methods for the cognition of legal phenomena with specialized legal research techniques. Notably, the formal-legal method has been utilized to analyze normative legal acts, allowing for the logical

interpretation of legal facts through the application of precise legal terminology and doctrinal constructs.

Results and Discussion

Over the last few decades, market, technological and civilisation conditions have significantly impacted organisational units’ activities in the area of culture. Due to the last administrative reform in 1999, local government units took over a significant part of cultural institutions nationwide. As a result, they became organizers of the vast majority of entities operating in the sphere of culture [11, pp. 74–75]. In a broader sense, these actors can include public institutions, non-profit organisations (associations, foundations, creative unions) and commercial private entities.

The Act sets the legal framework for the activities of Polish cultural institutions in organising and conducting cultural activities. According to the legal order, cultural activity involves creating, disseminating and protecting culture [12]. The popularization of culture includes projects that “aim to familiarize as many people as possible with artistic products and activities as well as certain elements of technical and applied culture” [13, p. 24]. The legislator uses the general term culture [5, p. 5]. In scientific considerations, this term is an example of an interdisciplinary conceptual category explored by representatives of many social disciplines and the humanities [3]. Taking a sociological approach to culture, it can be assumed that the conceptual category encompasses “all tangible and intangible human creations arising in the processes of social life within a particular community. It is, therefore, a narrower understanding of culture – understood as the output of a certain social whole” [6, p. 57]. There is a belief that “making culture widely available and accessible ultimately leads to its popularization” [13, p. 25]. Making culture accessible means undertaking various educational initiatives that facilitate contact with cultural products.

The analysed act also indicates that cultural activities may be conducted by legal entities, natural persons and entities without legal personality [12]. Entities that carry out cultural activities include cultural institutions [1]. The mission of an organizational unit determines its functions, which may concern creation, production, reproduction, dissemination, or storage [13, p. 26].

In Poland, culture is an area of activity (department) of government administration and an area of own tasks of a compulsory nature for all local government units [7, p. 9]. It is worth mentioning that, in the current legal state, the status of cultural institutions is assigned exclusively to state or local government organisational units whose fundamental statutory purpose is to carry out cultural activities. Above all, they are created and run by ministers and heads of central offices and local government units, respectively [8, p. 83]. Expanding on the cited position, it can be considered that cultural activities within the meaning of the Act under review are institutionalised [5, p. 6]. Consequently, two types of analysed institutions are specified about the entities acting as their organiser [11, p. 75]:

- state cultural institutions (established by ministers and heads of central offices);
- local government cultural institutions (organised by local government units).

Analysing the subsequent provisions of the normative act in question, it can be concluded that the state exercises patronage over cultural activity consisting in support and promotion of creativity, education and cultural education, cultural activities and initiatives, as well as care for monuments and protection of national heritage in the country and abroad. It is assumed that the minister responsible for culture and national heritage protection may financially support cultural institutions and other entities not belonging to the public finance sector. This support is realised within the framework of state patronage in connection with undertaking tasks falling within the scope of state cultural policy [12]. In the literature on the subject, state cultural patronage is defined as the support provided to artists and other people and institutions related to the cultural sphere [5, p. 6]. Cultural patronage of local government units is concerned with the support for the creation, dissemination, and protection of cultural assets. The realisation of such tasks is possible if local government units set aside adequate financial and staff resources to enable the realisation of the aforementioned projects [5, p. 7].

The organisational forms of cultural activities are:

- theatres;
- opera;
- operetta;

- philharmonics;
- orchestras;
- film institutions;
- cinemas;
- museums;
- libraries;
- community centres;
- arts focal points;
- art galleries;
- research and documentation centres in various cultural fields.

The organisation of a cultural institution is based on undertaking undertakings that justify its establishment. It is worth emphasising that the cultural organiser fulfils the function of the administrator of the cultural institution, as its existence depends on him [1, p. 39]. His task is to diagnose the social needs (in the area of his activity) in selected cultural activity and consider them by the current, valid cultural policy conducted at the central, regional and local levels [2, p. 4]. The organizer of a cultural institution should present its mission and goals before organizing it. The issues highlighted will have a decisive influence on its operation and success (or lack thereof) [1, p. 40].

The organiser's essential tasks include financing and controlling the institution established on his or her initiative. Consequently, this means that he or she is obliged to provide the resources necessary to start and carry out cultural activities. The organiser's obligations also include maintaining the facility where the entity subordinate will carry out its activities. For example, in the case of local government institutions, the sources of funding for cultural activities are the municipality's funds and those derived from a general subvention from public budgetary funds. As an organiser of culture, a local government unit may decide on the establishment, merger, division or liquidation of a given cultural institution [11, p. 75].

The law under review also introduced a division into cultural institutions:

- art institutions;
- other cultural institutions.

Artistic institutions include entities set up to carry out artistic activities in fields such as theatre, music and dance, with the participation of creators and performers. Examples of these institutions are:

- theatres;
- philharmonics;

- opera;
- operetta;
- orchestras;
- symphony and chamber orchestras;
- song and dance ensembles;
- choral ensembles.

The cultural institutions listed above operate by artistic season.

Other cultural institutions include:

- cinemas; museums;
- libraries;
- community centres;
- arts focal points;
- art galleries.

It is worth mentioning that, according to the applicable legal basis, legal persons and entities without legal personality, whose primary statutory purpose is not to conduct cultural activities, may conduct such activities through specific forms [12]. In this case, such undertakings as may be conducted:

- clubs;
- community centres;
- cultural centres;
- libraries.

Regarding marketing considerations, the division of high culture institutions in terms of product or market orientation is crucial. Product orientation means treating the product as the centre of interest of a given organisational unit. In this approach, chamber music or contemporary art museums can serve as examples. The second distinguished orientation dedicated to the market is based on referring the cultural offer to the needs and expectations of recipients [13, p. 28].

Cultural institutions carry out their activities based on the act of their establishment and the statutes granted by the organiser. The first document highlighted specifies the following [2, p. 4]:

- subject matter;
- name;
- seat;
- character of the institution.

According to the current provisions, the statutes of the cultural institution include the following illustrative arrangements [12]:

- the name of the cultural institution;
- its area of operation;
- its headquarters
- scope of activity;

- management and advisory bodies and how they are appointed;
- identifying its sources of funding;
- rules for making statutory changes;
- provisions concerning the pursuit of activities other than cultural activities, if the institution intends to carry out such activities (e. g. business).

Another important issue is the internal organization of a cultural institution, which is determined by its organizational regulations. This document is issued by its director after seeking the opinion of the organizer and the opinions of trade unions and creators' associations operating within it [2, p. 5]. It should be added that an entry in the register kept by the administrator means the commencement of operations by a given cultural institution. Moreover, this entry is constructive. Consequently, it justifies a cultural institution's acquisition of legal personality, including its separation as an organizational unit. According to researchers, legal personality is defined as the ability to exercise rights and obligations and perform legal acts on one's behalf, which determines the independence of cultural institutions [4, p. 35]. However, there are some barriers in the highlighted aspect. Cultural institutions' independence is narrower than legal persons established to conduct business activities (commercial companies). Restrictions on the independent operation of cultural institutions may occur in financial management [4, p. 35].

Conclusions

In conclusion, the functioning of cultural institutions in Poland has an institutionalised character. The framework of their activities is set by a normative act dedicated to organising and conducting cultural activity. Notably, cultural institutions refer exclusively to state or local government organisational units whose fundamental statutory objective is to perform cultural activity. The analysed entities are divided into selected groups by the applicable statutory provisions. One of their determinants is the subject nature within the framework of their cultural activity. Cultural institutions in Poland operate based on the act of their establishment and the statute granted by the organiser. The issues outlined are of key importance from the point of view of managing the analysed market entities, as well as programming their activities.

The considerations presented here have an introductory character, including exposing only certain aspects of an organisational and legal nature. However, they can contribute to further analyses, which are important from the point of view of socio-economic development.

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**Функціонування закладів культури у Польщі –
правові умови**

Ірина Манчак

Доктор філософії в галузі менеджменту та якості, Краківський економічний університет,
manczaki@uek.krakow.pl, ORCID: 0000-0002-9661-9945

Анотація. Теми, пов'язані з функціонуванням закладів культури, все частіше розглядаються як предмет наукових досліджень у галузі соціальних дисциплін у Польщі. Насамперед це продиктовано не тільки зацікавленням суспільства участю в культурних заходах, але важливою роллю, яку відіграють культурні заклади в сучасному соціально-економічному розвитку. Метою цієї статті є визначення окремих аспектів функціонування закладів культури в Польщі. У статті зроблено огляд публікацій з польської юридичної наукової літератури. Авторка застосовувала критичний аналіз. Наведені міркування мають концептуальний характер. У рамках цих міркувань була зроблена спроба представити нормативно-правові положення, що містяться в Законі “Про організацію та проведення культурної діяльності”. Проаналізовано окремі положення нормативного акту, які стосуються діяльності закладів культури в Польщі. Особливу увагу присвячено таким питанням: визначення культурної діяльності, поділ закладів культури та аспекти, пов'язані з їх організацією. Представлені міркування охоплюють попередні питання у сфері проблематики, яка має інституціоналізований характер. Закон “Про організацію та проведення культурної діяльності” регулює функціонування польських культурних інституцій з початку 1990-х років, у тому числі впорядковує основні сфери, пов'язані з їхньою організацією та управлінням. У статті зроблено спробу обговорити питання, які є основою для окреслення умов, що визначають діяльність організаційного підрозділу у сфері культури, зокрема, зіткнувшись з позиціями дослідників, що досліджують аналізовану тему. Тема статті може стати внеском у проведення подальших аналізів, які мають істотне значення з погляду соціально-економічного розвитку.

Ключові слова: інституційний підхід, культурна діяльність, заклади культури в Польщі, правові засади функціонування закладів культури.