Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

Articles

Studia Iuridica Lublinensia vol. 35, 2, 2026
DOI: 10.17951/sil.2026.35.2.163-187

Paweł Lesiński
Maria Curie-Skłodowska University (Lublin), Poland
ORCID: 0000-0001-6522-3625
pawel.lesinski@umcs.pl

Between Individual Interests and the Common Good: Towards Axiological, Empirical, and Legal Foundations for Reducing Advertising in Polish Public Space

Między interesem jednostki a dobrem wspólnym. W kierunku aksjologicznych, empirycznych i prawnych podstaw ograniczenia reklamy w polskiej przestrzeni publicznej

ABSTRACT

This article explores the pervasive phenomenon of visual clutter in Poland. Its primary objective is to advance philosophical, empirical, and legal arguments supporting the introduction of restrictions on the placement of advertising installations in public space. It demonstrates that such measures are grounded in well-established axiological and constitutional principles within the Polish legal framework. The analysis indicates that efforts to reduce visual clutter necessarily entail limitations on certain individual rights, in particular the right to private property and the freedom of economic activity. In this context, the article engages with a fundamental issue: the tension between private and public interests. It argues that the protection of the aesthetic quality of public space constitutes a legitimate basis for according primacy to the public interest. Ultimately, the article contends that restricting outdoor advertising serves to align public spaces with the principles of W. Tatarkiewicz's "Great Theory of Western Aesthetics", emphasizing order, harmony, and proportionality.

Keywords: private property; economic freedom; advertising; public interest; limitation; aesthetics

CORRESPONDENCE ADDRESS: Paweł Lesiński, PhD, Assistant Professor, Maria Curie-Skłodowska University (Lublin), Faculty of Law and Administration, Institute of Legal Sciences, 5 Maria Curie-Skłodowska Square, 20-031 Lublin, Poland.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

INTRODUCTION

The occurrence of visual clutter in Poland is an undeniable fact. The public space is filled with too many and too densely installed unappealing billboards and signage. "Over-advertising", "signboard pandemic" or "advertising banner craze" are just some examples of terms used to describe the excessive and disorderly presence of advertisements in Polish public space.[1]

The legal norms under which individuals and societies operate are (or at least should be) carriers of values underlying their introduction. They often reflect the views of a given community on the problems arising in its functioning. On the one hand, law comprises an axiological element.[2] On the other hand, the adoption of legal regulations by lawmakers is often driven by occurrence of various factual circumstances. This analysis seeks to demonstrate both axiological and empirical arguments that could form the grounds for introducing restrictions on placing advertisement installations in Polish public space. An attempt was made to assess their usefulness in the context of the "struggle" against visual clutter and its negative consequences. Finally, an effort was made to prove that there are axiological arguments supporting such actions in Poland. Moreover, it was demonstrated that they are rooted in constitutional regulations defining the political and legal system of the Republic of Poland.

To accomplish the research objectives outlined above, the study is structured into five parts. The first part establishes the conceptual framework by examining key definitions derived from Polish legislation, situating the analysis within the appropriate normative context. Central concepts – including "landscape", "spatial order", "advertising", "advertising boards", "advertising devices", and "signboards" – are addressed, enabling the precise delineation of the research field and grounding the

[1] Admittedly, in Poland there are regulations at the national level that provide municipalities with tools to limit the "visual clutter", namely the so-called "landscape resolutions" (Polish: *uchwała krajobrazowa*). However, this instrument is characterised by poor effectiveness. As of February 2025, after nearly 10 years of the Landscape Act being in force, landscape resolutions have been adopted in only 84 of approximately 2,500 Polish municipalities in total. For more details on this topic, see M. Maszewski, *Uchwały krajobrazowe w największych miastach w Polsce. Przegląd sytuacji, luty 2025 roku*, https://jetline.pl/ustawa-krajobrazowa/uchwaly-krajobrazowe-w-najwiekszych-miastach-w-polsce-przeglad-sytuacji-luty-2025-rok (access: 12.10.2025). See also P. Wilkosz, *Konstytucyjność przepisów uchwał krajobrazowych – problematyka tzw. wywłaszczenia krajobrazowego*, [in:] *Uchwały reklamowe. Zagadnienia prawne i legislacyjne*, eds. M. Kruś, S. Pawłowski, L. Staniszewska, Warszawa 2025, pp. 11–21; S. Zwolak, *Zasady lokalizowania nośników reklamowych w świetle wymogów ochrony krajobrazu*, "Zeszyty Prawnicze" 2024, vol. 24(4), pp. 108–113.

[2] M. Łuszczyńska, *Od praw naturalnych do godności osoby ludzkiej. Rozważania filozoficzno-prawne w przedmiocie aksjologii Konstytucji Rzeczypospolitej Polskiej*, "Przegląd Prawa Konstytucyjnego" 2024, no. 2, p. 133. For example, G. Jellinek believed that law is one of the means serving social progress. For more on this topic, see J. Kostrubiec, *Nauka o państwie w myśli Georga Jellinka*, Lublin 2015, pp. 124–125.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

study in generally applicable law. The second part focuses on defining what constitutes a "pleasant" or "beautiful" landscape and public space, particularly with regard to the placement of advertisements. This task is approached through a synthetic review of philosophical and theoretical perspectives spanning from antiquity to the present. The third part provides an empirical analysis, highlighting examples of the negative impacts of visual clutter and evaluating strategies that have been employed to mitigate it. The final two parts explore the axiological dimension of controlling visual clutter in Poland. They examine the tension between private property rights and their limitations, as well as the principle of economic freedom and the circumstances under which its restriction may be justified. To address these issues, the study draws on legislative sources, representative examples from political and legal thought, and relevant normative regulations that align with these perspectives. This article aims to demonstrate that, in contemporary Poland, a well-established axiological framework exists to justify limiting private property and economic freedom in order to address visual clutter. This is supported not only by theoretical analyses but also by empirical evidence demonstrating the detrimental effects of visual clutter on various aspects of individuals' lives and social functioning.

DEFINING NORMATIVE CONCEPTS CONCERNING THE PRESENCE OF ADVERTISING IN PUBLIC SPACE

The starting point for further consideration should be a discussion of the concepts that form the basis of the analysis. As mentioned, this is important for standardising its conceptual layer and organising its further course. Firstly, reference should be made to the Spatial Planning and Development Act.[3] It regulates urban planning, land use, and advertisement placement. It contains a definition of "landscape". According to Article 2(16e) ASPD, this term shall be understood as "a space perceived by people, containing natural elements or products of civilisation, shaped as a result of natural factors or human activity".[4]

[3] Act of 27 March 2003 on spatial planning and development (consolidated text, Journal of Laws 2024, item 1130, as amended), hereinafter: ASPD. The concept of landscape was introduced in the ASPD with the Act of 24 April 2015 amending certain acts in connection with strengthening landscape protection instruments (Journal of Laws 2015, item 774). See T. Filipowicz, A. Plucińska-Filipowicz, *Komentarz do art. 2*, [in:] *Planowanie i zagospodarowanie przestrzenne. Komentarz*, ed. M. Wierzbowski, Warszawa 2024, pp. 76–77.

[4] The introduction of this concept was linked with Polish ratification of the European Landscape Convention (Florence, 20 October 2000, ETS No. 176). Its preamble points to the significance of landscape for the development of businesses, employment increase, and building local communities. See K. Szlachetko, K. Olzacki, *Komentarz do art. 2*, [in:] *Planowanie i zagospodarowanie przestrzenne. Komentarz*, ed. J.H. Szlachetko, Warszawa 2024, pp. 65–66.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

Regarding the normative definition of landscape, its "anthropocentric nature" should be underlined. It is evidenced by the fact that the legislature refers therein to people as those who "perceive space". Landscape is therefore a significant stimulus for human perception, e.g. visual perception. It is also important for the emotions it evokes and, therefore, how it is remembered.[5]

Another concept of relevance for the presence of advertising in public spaces is "spatial order". This term is not easy to define, as it contains a considerable element of "intuitive" understanding.[6] However, there is no doubt that this is a legally protected good and a component that shapes the space constituting a public good.[7] In Article 2(1) ASPD, "spatial order" is defined as "such a shaping of space that creates a harmonious whole and takes into account, in an orderly manner, all functional, socio-economic, environmental, cultural, and compositional-aesthetic conditions and requirements".

Thus, the concept refers to a space considered to be harmonious, i.e. characterised by a balance of elements and related to a sense of beauty. Such a space forms a coherent whole, taking into account, among other things, the compositional and aesthetic requirements.[8] Moreover, there is no doubt for both legal practitioners and theoreticians that the concept of "spatial order" also refers to the problem of the presence of advertising in public space (it is an element of the landscape, after all).[9]

The other statutory terms that systematize the conceptual aspect of this study will be "advertising", "advertising board", "advertising device", and "signboard". Therefore, according to Article 2(16a) ASPD, "advertising" means "the dissemination, in any visual form, of information promoting persons, enterprises, goods, services, undertakings, or social movements". According to that regulation, "advertising" means the act of communicating certain content. The purpose of such action is to increase the popularity of a product or enterprise. It is implemented using billboards, advertising devices and signage.[10]

Therefore, the "advertising board", according to Article 2(16b) ASPD, is "material object intended for or used to display advertising, together with its structural elements and fixings, having a flat surface for the display of advertising, in particular an advertising banner, advertisements affixed to building windows, and advertise-

---

[5] H. Izdebski, *Komentarz do art. 2*, [in:] *Planowanie i zagospodarowanie przestrzenne. Komentarz*, ed. I. Zachariasz, Warszawa 2023, pp. 99–100; K. Szlachetko, K. Olzacki, *op. cit.*, pp. 65–66.

[6] H. Izdebski, *Komentarz do art. 2…*, p. 81.

[7] Judgment of the Supreme Administrative Court of 19 December 2018, II OSK 2935/18.

[8] T. Filipowicz, A. Plucińska-Filipowicz, *op. cit.*, pp. 67–68; H. Izdebski, *Komentarz do art. 2…*, pp. 82–83.

[9] Judgment of the Supreme Administrative Court of 19 December 2018, II OSK 2935/18; judgment of the Voivodeship Administrative Court in Gdańsk of 20 December 2023, II SA/Gd 517/23; judgment of the Voivodeship Administrative Court in Lublin of 11 March 2025, II SA/Lu 900/24.

[10] K. Szlachetko, K. Olzacki, *op. cit.*, pp. 62–63.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

ments placed on scaffolding, fencing, or construction site equipment, excluding small everyday items used in accordance with their intended purpose".

Pursuant to Article 2(16c) ASPD, "advertising device" is defined as "a material object intended for or used to display advertising, together with its structural elements and fixings, other than an advertising board, excluding small everyday items used in accordance with their intended purpose".

Finally, the term "signboard", according to Article 2(16d) ASPD, is understood as "an advertising board or an advertising device providing information about the activity conducted on the property on which that advertising board or advertising device is located".

In order to avoid terminological chaos, the further analysis uses the concept of "advertising". It means the activity itself (i.e., "advertising" as defined in the Spatial Planning and Development Act), but also material objects that meet the definition of "advertising board", "advertising device", and "signboard".[11]

A similar solution operates based on Article 4(23) of the Public Roads Act.[12] According to this regulation, "advertising" includes both an "advertising board", "advertising device" (as understood by the Spatial Planning and Development Act), and "any other medium of visual information, along with its structural elements and fixings, that is not a road sign".[13]

From my perspective, this approach facilitates a comprehensive analysis by encompassing the full spectrum of issues related to advertising in public spaces.

"BEAUTIFUL" LANDSCAPE IN PHILOSOPHICAL DISCOURSE

Regarding the presence of advertisements in public spaces, it is much more difficult to determine what kind of landscape or space can be described as "pretty" or "beautiful" (and therefore desirable).[14] In seeking to understand such abstract concepts, one may turn to the reflections of philosophers and thinkers. Above all, it is philosophy that significantly contributes to the formation of an individual's worldview. It often provides answers to the problems being encountered. It also has an indirect effect on finding solutions to practical issues. This is confirmed by

[11] It is worth mentioning that the concept of "billboard" also includes, e.g., inscriptions or other visual content stuck to windows. For more details, see H. Izdebski, *Komentarz do art. 2…*, pp. 96–99.

[12] Act of 21 March 1985 on public roads (Journal of Laws 1985, item 60, as amended).

[13] K. Szlachetko, K. Olzacki, *op. cit.*, p. 63. The inconsistency of the definition of advertising in the Spatial Planning and Development Act and the Public Roads Act is pointed to by H. Izdebski (*Komentarz do art. 2…*, p. 96).

[14] In Polish, the words *pretty* (*ładny*) and *beautiful* (*piękny*) are considered synonymous. Cf. W. Cienkowski, *Słownik synonimów*, Katowice 2005, p. 82, 156.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

J. Frohnmayer's words: "Philosophy is about everything", including "how we judge truth, beauty, and justice".[15]

A debate about what is "beautiful" or "ugly" often ends with the conclusion *de gustibus est non disputandum*, thus recognizing the relative nature of aesthetic judgments. This relativism was emphasized by e.g. T. Hobbes and B. Pascal. However, it was only during the Enlightenment era that the "subjectivist" understanding of beauty gained popularity. This is also illustrated by the views of D. Hume, who argued that the perception of beauty arises only in the mind of the person perceiving a given object.[16]

Is it possible, however, to approach the concept of "beauty" objectively in order to specify the desired shape of public presence of advertisements? As indicated above, the analysis of views of a wide spectrum of thinkers and philosophers proves to be helpful. The theoretical basis for this research task is the so-called "Great Theory of Western Aesthetics", formulated by W. Tatarkiewicz. This author argued that "In a word, over a period of more than two thousand years, the same concept recurs: beauty consists in measure, proportion, number, arrangement, and the relationship of parts. This enduring concept can rightly be called the Great Theory of Western Aesthetics. Its permanence is undeniable and constitutes a paradox in light of the lack of unity in artistic practice and the disagreements concerning the notion of beauty".[17]

This idea turned out to be timeless and everlasting, even despite having to cope with the subjectivist notion of beauty mentioned above. According to Tatarkiewicz, this fact was supposed to be the evidence of its "greatness". He considered the ancient Greeks as originators of this "theory of beauty". The determinant that was at the forefront of aesthetics here was *summetria*, meaning the harmonious arrangement of specific elements. According to the Pythagoreans, objective beauty was found not only in order, harmony, and proportion, but also in "usefulness".[18] Socrates, on the other hand, referred to the beauty of a thing manifested in its "appropriateness", meaning its fitness to the purpose, nature, time, and circumstances.

---

[15] T. Stehlik, *Educational Philosophy for 21st Century Teachers*, Cham 2018, p. 17; M.O. Webb, A.G. Karabayeva, I.M. Kuntuova, *The Role of Philosophy in the Life of a Student of a Technical University*, "Procedia – Social and Behavioral Sciences" 2015, vol. 174, p. 3848.

[16] J.T. Królikowski, *Krajobraz jako wyraz wartości*, [in:] *Krajobrazy Europy jako wyraz idei i wartości*, eds. A. Drapella-Hermansdorfer, O. Mycak, M. Surma, Wrocław 2019, p. 12; W. Tatarkiewicz, *Dwa pojęcia piękna*, [in:] *Wybór pism estetycznych*, Kraków 2004, p. 129, 147; idem, *The Great Theory of Beauty and Its Decline*, "Journal of Aesthetics and Art Criticism" 1972, vol. 31(2), p. 172. Similarly idem, *Historia estetyki*, vol. 2, Warszawa 2009, pp. 482–484.

[17] Idem, *Dwa pojęcia piękna…*, p. 121.

[18] Idem, *Historia estetyki*, vol. 1, Warszawa 2009, p. 309; idem, *Dwa pojęcia piękna…*, p. 130; idem, *Wielkość i upadek pojęcia piękna*, [in:] *Wybór pism estetycznych…*, p. 151; L. Smółka, *Piękno jako wartość w przestrzeni pedagogicznej*, "Pedagogika Przedszkolna i Wczesnoszkolna" 2017, vol. 5, p. 36.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

Plato also shared the objectivist understanding of beauty, which he believed was determined by maintaining moderation and proportion.[19] In Aristotle's view, the pursuit of beauty by an individual was driven by instinct and (importantly) was a condition to achieve happiness. The Stoics, in their discussion of *summetria*, also included the presence of "pleasant colours" as a component of beauty. The views on beauty in Ancient Rome were rooted in Greek philosophy too. Therefore, for Cicero, beauty was the *convenientia partium* or "conformity of parts". Similarly to Socrates, he associated beauty with usefulness and purposefulness. The famous Roman architect Vitruvius also saw beauty in both appropriate proportion and colour, as well as in purposefulness and usefulness.[20]

For St. Augustine, who bridged antiquity and the Middle Ages, beauty was understood as *modus*, *species*, and *ordo*, i.e., "measure", "form", and "order", respectively.[21] Basil the Great of Caesarea, one of the Church Fathers, following the views of Socrates and Cicero, emphasized the dual nature of understanding beauty. On the one hand, he distinguished its sensual aspect, which shapes the aesthetic experience; on the other hand, he emphasized the necessity of maintaining consistency with its purpose (i.e., the aforementioned appropriateness). Doctor of the Church, St. Thomas Aquinas, based external beauty on the proportion of parts. For him, beauty was characterized by proportion and order.[22] During the Renaissance, references to beauty understood as harmony, order and proportion can be found in the views of L.B. Alberti, P.C. Bembo and L. Ghiberti.[23] Alberti stated: "Beauty, in turn, is the harmony and mutual coordination of the parts in any object in which these parts are found. This harmony is achieved through a certain specific number, proportion, and arrangement, as required by harmony, which is the fundamental principle of nature".[24]

The Baroque was the period of activity of the great French architect F. Blondel, who described beauty as a *concert harmonique* ("harmonic concert"), meaning the appropriate arrangement of parts and maintained proportions.[25] During the Enlightenment, D. Diderot opposed the prevailing trend toward a subjective understanding of beauty. In referencing ancient models, he perceived beauty as the "order of the whole". In this context, he associated beauty with values such as

---

[19] W. Tatarkiewicz, *Historia estetyki…*, vol. 1, p. 115; W. Kawecki, *Teologia piękna. Poszukiwanie locus theologicus w kulturze współczesnej*, Poznań 2013, p. 14.

[20] J.A. Pala, *Piękno – geneza i funkcje*, "MAZOWSZE. Studia Regionalne" 2020, no. 32, p. 173; W. Tatarkiewicz, *Dwa pojęcia piękna…*, p. 120; idem, *Historia estetyki…*, vol. 1, p. 232, 314; A. Čelkytė, *The Stoic Theory of Beauty*, Edinburgh 2020, p. 145, 149, 173.

[21] Cited after W. Tatarkiewicz, *Wielkość i upadek…*, p. 152.

[22] Idem, *Historia estetyki…*, vol. 2, pp. 20, 270–271; idem, *The Great Theory…*, p. 168.

[23] Idem, *The Great Theory…*, p. 172; idem, *Dwa pojęcia piękna…*, p. 120.

[24] Idem, *Historia estetyki…*, vol. 2, p. 118.

[25] Idem, *Dwa pojęcia piękna…*, p. 144.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

"proportion", "symmetry", and "harmony", with "order" being one of the most fundamental concepts. Things characterized by dissonances, deformities, disorder, disharmony, and lack of proportions were defined by Diderot as "abhorrent monsters".[26] The harmony among individual elements – their unity, symmetry, and organic interrelation – as features of beauty, was also emphasized in the philosophy of G.W.F. Hegel. The conformity to purpose and the appropriate relationships between individual components were highlighted not only in the analysis of architectural principles but also, e.g., in sculptural rules.[27]

Regarding more recent thought, it is worth considering the views of F.L. Wright, the renowned American architect, active at the turn of the 20th century. In his publications, Wright pursued the idea that architecture is most valuable and desirable when characterized by harmony, simplicity, order, and coherence. By contrast, according to J. Lang, the absence of an orderly landscape is manifested in a completely random arrangement of its various components. Meanwhile, R. Weber states that the aesthetic value increases proportionally to the degree of order. Therefore, according to the positions expressed by Lang and Weber, it is the ordered and well-organised elements of architecture and the environment that create positive and desirable feelings in their recipients.[28]

This part of the argument should be concluded with a quote from R. Scruton. When analysing the concept of beauty, he referred both to "order" and to the concept of "fittingness" (the suitability of things) coined by himself. He saw it as a way to achieve harmony in the environment.[29] Scruton did not rule out the possibility of regional differences in the perception of "taste". However, like the ancient Greek philosophers, he took the position that certain universal values relating to beauty were rooted in human nature. For Scruton, these were proportion, harmony, and order.[30]

The foregoing analysis demonstrates that the view according to which beauty is expressed through harmony, order, symmetry, moderation, and proportionality has proved to be timeless. Despite the emergence of philosophical currents advocating subjectivism in the perception of beauty, Tatarkiewicz's "Great Theory of Western Aesthetics" remains relevant (as evidenced by views expressed by, e.g.,

---

[26] M. Skrzypek, *Diderot*, Warszawa 1982, pp. 134–137.

[27] S. Houlgate, *Hegel's Aesthetics*, 20.1.2009, https://plato.stanford.edu/archives/sum2024/entries/hegel-aesthetics (access: 9.10.2025).

[28] W. Cronon, *Inconstant Unity: The Passion of Frank Lloyd Wright*, [in:] *Frank Lloyd Wright Architect*, eds. T. Riley, P. Reed, New York 1994, p. 9; A. Portella, *Visual Pollution: Advertising, Signage and Environmental Quality*, Farnham–Burlington 2014, pp. 9–10; M. Abdelhamid, *An Attempt to Reduce Visual Pollution in the Building Sector within Egyptian Cities*, "Spaces and Flows: An International Journal of Urban and ExtraUrban Studies" 2018, vol. 9(4), p. 24.

[29] J. Leeke, *A Practical Philosophy of Beauty: Dialoguing with Scruton and Wolterstorff*, "Augustine Collegiate Review" 2017, vol. 1(1), p. 93.

[30] *Ibidem*, p. 97; S. Fisher, *Philosophy of Architecture*, 9.9.2015, https://plato.stanford.edu/archives/win2016/entries/architecture (access: 9.10.2025).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

R. Scruton). Another noteworthy point is Aristotle's view that the need for beauty is nearly unconditional, instinctive, and rooted in human nature. Consequently, its fulfilment constitutes one of the prerequisites for a "happy" life.

PRACTICAL IMPLICATIONS OF VISUAL CLUTTER

Consistent with Aristotle's perspective, the German-American psychologist R. Arnheim concluded concerning the needs experienced by human beings that "Dignity, a sense of pride, congeniality, a feeling of ease – these are primary needs, which must be seriously considered when the welfare of human beings is under discussion. And since they are requirements of the mind, they are satisfied not only by good plumbing, heating, and insulation, but equally by light, congenial colors, visual order, well-proportioned space, and so forth".[31]

This view is supported by a series of empirical studies on the impact of the so-called "visual pollution" on human beings and the associated concept of "visual clutter". The problem of visual clutter means the lack of aesthetics, order, and beauty in the presence of advertisements in the public space. Their number is also excessive, and this overabundance impacts multiple aspects of human life, ranging from health to economic activity.[32]

There is no doubt that one of the characteristic features of the urban, suburban, or even rural landscape is the presence of some or other forms of advertising. The development of a market economy entails the need to reach potential customers who are to benefit from the offer of a given company. It is widely believed that outdoor advertising – whether in the form of billboards, signs, or display boards – particularly at major intersections, along primary roads, or on buildings in city centres, enables advertisers to reach a large number of potential customers.[33]

Modern research, however, provides substantial evidence that the "visual quality of space" is a key determinant of human well-being.[34] One of important, if not the most important, value in a person's life is their health. Visual clutter can have a negative impact on it. As an example, the excessive presence of light advertising and multimedia billboards generates the so-called "light pollution" affecting natural human night cycles. This can result in, e.g., sleep disorders.[35] Visual clutter can

[31] R. Arnheim, *The Dynamics of Architectural Form*, Berkeley–Los Angeles–London 1977, p. 3.

[32] M. Czajkowski, M. Bylicki, W. Budziński, M. Buczyński, *Valuing Externalities of Outdoor Advertising in an Urban Setting – the Case of Warsaw*, "Journal of Urban Economics" 2022, vol. 130, p. 1.

[33] *Ibidem*.

[34] A. Portella, *op. cit.*, p. 10.

[35] Scenic America, *The True Cost of Billboards: How Outdoor Advertising Undermines Earth Day Values*, 22.4.2024, https://www.scenic.org/2024/04/22/the-true-cost-of-billboards-how-outdoor-

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

also have a negative impact on the human psyche, potentially leading to difficulties with concentration and eye strain. Such conditions may increase stress levels and trigger anxiety responses. In a space "polluted" with advertisements, the human mind is forced to process an excessive amount of information, much of which cannot be adequately absorbed. This overload may result in a slowdown of cognitive processes, increased irritability and nervousness, reduced productivity, and even a disruption in the relationship between the individual and the social environment.[36]

Uncontrolled and excessive presence of non-aesthetic advertisements (i.e., visual clutter) is therefore a general factor leading to a decrease in life satisfaction. This hypothesis is confirmed by scientific studies published by C. Michel, M. Sovinsky, E. Proto, and A.J. Oswald in 2019.[37] Drawing on the results of studies conducted over a 31-year period (1980–2011), they constructed a research sample comprising approximately one million individuals from over 27 European countries. With the research material thus aggregated, they have demonstrated that increases in spending on various types of advertising subsequently lead to a decline in respondents' life satisfaction.[38] Similar conclusions were reached by A. Portella based on her own studies conducted in Brazil in 2003 and 2007. In a study conducted in 1979 by J. Nasar, it was proven that shop windows and advertisements were identified by respondents as one of the most important factors reducing the visual quality of city centres.[39]

Another detrimental effect of visual clutter is the documented reduction in road safety. In this case, driver distraction or the obscuring of traffic signs may take place. An undeniable consequence is a higher number of traffic accidents.[40] As argued by members of the Scenic America association, billboards, especially those displaying "cinematic" content, pose a significant threat to road safety. As evidence, they note that the number of collisions and traffic accidents is 25–29% higher near advertisements that distract drivers.[41]

Last but not least, visual clutter has a considerable impact on business. There is no doubt that the definition of this type of activity includes the fact that it is pursued

advertising-undermines-earth-day-values (access: 26.6.2025).

[36] D. Yılmaz, A. Sağsöz, *In the Context of Visual Pollution: Effects to Trabzon City Center Silhoutte*, "Asian Social Science" 2011, vol. 7(5), p. 99.

[37] C. Michel, M. Sovinsky, E. Proto, A.J. Oswald, *Advertising as a Major Source of Human Dissatisfaction: Cross-National Evidence on One Million Europeans*, [in:] *The Economics of Happiness*, ed. M. Rojas, Cham 2019.

[38] C. Michel, M. Sovinsky, E. Proto, A.J. Oswald, *op. cit.*, p. 217, 219. The decline in life satisfaction may also be caused by generating in recipients' consumer needs that they are unable to meet. Cf. M. Czajkowski, M. Bylicki, W. Budziński, M. Buczyński, *op. cit.*, p. 1.

[39] A. Portella, *op. cit.*, p. 75.

[40] M. Czajkowski, M. Bylicki, W. Budziński, M. Buczyński, *op. cit.*, p. 3.

[41] Scenic America, *The True Cost of Billboards…* Cf. M. Szczepańska, A. Wilkaniec, L. Škamlová, *Visual Pollution in Natural and Landscape Protected Areas: Case Studies from Poland and Slovakia*, "Quaestiones Geographicae" 2019, vol. 38(4), p. 134.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

for profit. Therefore, the entrepreneur who installs advertisements to increase revenue should not be blamed for this. Nevertheless, empirical research indicates that visual clutter actually hinders the effective reach of marketing messages to potential customers. Consequently, the outcome is contrary to the entrepreneur's intended objective. Another effect is a decrease in the value of properties. Prospective buyers do not want to live or work in "visually contaminated" areas.[42]

An example of the negative impact of visual clutter on the running and development of businesses was the situation in the U.S. state of Vermont. In the 1960s, the excessive accumulation of billboards affected not only the social and aesthetic aspects of the lives of the population, but also the functioning of an important branch of the economy, namely tourism. Vermont, a state with enormous landscape assets, began to be ignored by potential visitors in favour of states that were less "visually polluted". This negative impact of visual clutter was also confirmed by the actions of commercial tourism entities, namely Vermont ski operators and the Green Mountain Motel Association, which independently undertook the initiative to remove over 200 billboards from the state landscape.[43]

The Committee to Study Outdoor Advertising established by the Vermont State Assembly in 1967 confirmed the importance of preserving landscape values for the economic development of the state.[44] Eventually, a year later, regulations were adopted to reduce visual clutter and to preserve the local character and quality of public space. Attention should be drawn to the fact that the restrictions were introduced in a proportionate, gradual manner and with due consideration of the interests of businesses. A five-year adjustment period was therefore provided for. The entrepreneurs have also been granted the right to place advertisements (pursuant to an adopted, unified model) in places intended for this purpose (a guide widely disseminated among entrepreneurs and tourists has also been issued).[45]

---

[42] A. Portella, *op. cit.*, pp. 20, 75–77; M. Czajkowski, M. Bylicki, W. Budziński, M. Buczyński, *op. cit.*, p. 1. Cf. S. Chmielewski, D.J. Lee, P. Tompalski, T.J. Chmielewski, P. Wężyk, *Measuring Visual Pollution by Outdoor Advertisements in an Urban Street Using Intervisibility Analysis and Public Surveys*, "International Journal of Geographical Information Science" 2016, vol. 30(4), pp. 802–803; R. Madlenak, M. Berthoty, R. Chinoracky, N. Stalmasekova, *Outdoor Advertising and Visual Pollution on Selected Roads in the City of Žilina*, "Transportation Research Procedia" 2023, vol. 74, p. 102.

[43] Time, *The Outdoors: Banishing Billboards*, 29.3.1968, https://time.com/archive/6631956/the-outdoors-banishing-billboards (access: 1.11.2025).

[44] Scenic America, *Case Study: Vermont's Billboard Ban*, https://www.scenic.org/take-action/resources/billboard-resources/case-study-vermonts-billboard-ban (access: 26.6.2025).

[45] R. Madlenak, M. Berthoty, R. Chinoracky, N. Stalmasekova, *op. cit.*, p. 102; A. Portella, *op. cit.*, p. 91; M. Szczepańska, A. Wilkaniec, L. Škamlová, *op. cit.*, p. 134. It must be indicated that, according to 2019 data, the relatively small state of Vermont (with a population of less than 650,000) has a USD 3 billion tourism industry, which generates USD 373 million in tax revenue. See Scenic America, *Case Study: Vermont's Billboard Ban…*; Time, *The Outdoors…*

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

Another example that can well be called a "shock therapy" is the initiative undertaken by the authorities of the city of São Paulo, Brazil. Guided by the principle of the "fundamental civil right" to live in a clean and orderly city that respects public space, in 2006 they banned all forms of visual advertising, including the distribution of pamphlets. Despite the radical nature of the measures taken, in a survey conducted in 2007, over 70% of residents reported their satisfaction with living in a "city without advertisements".[46]

AXIOLOGY OF PRIVATE PROPERTY AND THE PUBLIC INTEREST

The debate over restrictions on placing advertisements in public spaces fundamentally concerns one of the most essential issues for the functioning of the state and society: the perception and understanding of private property. The dispute primarily concerns the existence of private property and the possible demarcation of its limits. It also relates to the relationship between the interests of the individual and the interests of the general public. In other words, the first step is to clarify the extent to which private property is inviolable and "absolute".

The way individuals organize and structure the space of their existence within a community reflects a specific hierarchy of values upheld by that community. It also influences the landscape as an expression of both personal and social culture. Its emanation includes not only unwritten social norms but also normative regulations. The form of the landscape also reflects the definition and scope of respect for the "common good" upheld within a given community. This, first of all, refers to the willingness to curtail individual interest, in this case private property, in favour of the common interest (following the requirement to create and maintain a desired and "beautiful" landscape).[47]

Private property, as one of the foundations of community existence – both social and political – is deeply rooted in axiology. It is closely linked to other values upon which a political system, including the Polish one, is based (e.g., through constitutional provisions). The aforementioned concept of the "common good" should serve as a point of departure. The very first article of the Polish Constitution[48] refers to this concept. Going further, it should be noted that the category of "common good"

[46] Subsequently, the city began to permit advertising in public spaces, but with restrictive rules. See M. Czajkowski, M. Bylicki, W. Budziński, M. Buczyński, *op. cit.*, p. 2.

[47] J. Wiszniowski, *Krajobraz jako dobro wspólne*, [in:] *Krajobrazy Europy …*, p. 19; J.T. Królikowski, *op. cit.*, p. 12.

[48] Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws 1997, no. 78, item 483, as amended). English translation of the Constitution is available at https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm (access: 8.7.2026).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

also comprises "the environment", which in turn encompasses concepts such as "public space" and "landscape".[49]

As noted by H. Izdebski, another idea deeply rooted in European legal thought related to the concept of "common good" is the concept of "public interest".[50] The public interest is considered a general clause that does not have a fixed content. On the contrary, it is determined on a case-by-case basis, taking into account primarily the social context.[51] It is a concept denoting "something" that serves the general public and is beneficial for a particular community.[52] According to Article 2(4) ASPD, "public interest" means "generalized aim of efforts and actions that take into account the objective needs of society as a whole or of local communities, related to spatial planning".

Maintaining landscape order, and thus also preventing visual clutter, is definitely in the public interest. Many comments on the presence of advertising in the public space and the definition of the public interest in this regard have already been made above. As a conclusion, in order to indicate what is an "important public interest" in the context of landscape order, it is worth using the Polish National Spatial Development Concept 2030 (*Koncepcja Przestrzennego Zagospodarowania Kraju 2030*).[53] Landscape is understood therein as "an important component of the human environment". It determines quality of life by ensuring certain standards of environmental cleanliness, but importantly, also in terms of landscape harmony. The protection of the public interest also involves safeguarding public space. It means an "effective protection of the quality and identity of the natural and urbanized landscape".[54]

The public interest, like the common good, may contradict the individual interest. Such a situation is also possible with regard to the problem of the presence of advertising in public spaces. As noted above, measures aimed at reducing visual clutter touch upon the fundamental issue of the limits of private property. Since the

[49] Cf. J. Wiszniowski, *op. cit.*, p. 17; P. Tuleja, *Komentarz do art. 1*, [in:] P. Czarny, M. Florczak-Wątor, B. Naleziński, P. Radziewicz, P. Tuleja, *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2023, p. 29.

[50] H. Izdebski, *Ideologia i zagospodarowanie przestrzeni. Doktrynalne prawno-polityczne uwarunkowania urbanistyki i architektury*, Warszawa 2013, p. 27. Similarly, see idem, *Komentarz do art. 1*, [in:] *Planowanie i zagospodarowanie przestrzenne. Komentarz*, ed. I. Zachariasz, Warszawa 2023, p. 56.

[51] D. Chaba, *Wpływ interesu publicznego na podejmowanie działalności gospodarczej*, [in:] *Prawo administracyjne i gospodarcze a sytuacja przedsiębiorcy na rynku polskim*, eds. M. Górska, K. Zapała, Kielce 2014, p. 8.

[52] Judgment of the Voivodeship Administrative Court in Wrocław of 15 October 2024, II SA/Wr 400/24; K. Szlachetko, K. Olzacki, *op. cit.*, p. 57.

[53] Resolution No. 239 of the Council of Ministers of 13 December 2011 on the adoption of the National Spatial Development Concept 2030 (Polish Monitor 2012, item 252).

[54] H. Izdebski, *Ideologia i zagospodarowanie przestrzeni…*, p. 136.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

early 19th century, there have been two notions of private property in Europe. The first can be called "classical" or "absolute". According to this approach, private property as a *ius infinitum* is "inviolable and sacred".[55] This refers to the owner's complete ("absolute") ability and freedom to dispose of and use the property. Any interference with the right of ownership is an exception, subject to strict, often constitutionally defined rules.

The second understanding of private property may be referred to as "social" or "socially bound". It began to take shape somewhat later, only in the late 19th century. It was driven by the negative effects of the industrial revolution and "predatory" capitalism. Apart from the emerging leftist movements of the era, a significant role in shaping this understanding of private property was played by the social teaching of the Catholic Church. It does not deny the existence of private property as such. However, by definition it also assumes its social function, which entails clear limitations. As John Paul II aptly put it, these arise from the "social mortgage" encumbering private property. They are systemic in nature and may require the pursuit of the public interest at the expense of individual interests.[56]

As we may guess, this statement aims to prove the validity of the latter understanding of private property. In conducting this research, the focus was primarily placed on the views of thinkers regarded as exhibiting minimal "social sensitivity" in their understanding of private property. In this context, the reflections of the libertarian philosopher R. Nozick are particularly noteworthy. For instance, he questioned whether the owner of the only water source in a desert should be obliged to share it with other inhabitants of the area.[57] In the views of the classical (free-market) liberal thinker M. Friedman, one of the tasks of the government was to properly define ownership. Friedman did not rely solely on the "traditional" liberal paradigm, according to which the task of public authorities was only to

[55] The phrase has been taken from the French Declaration of the Rights of Man and of the Citizen. However, it is worth quoting the entire text of Article XVII thereof. The social function of property is clearly outlined: "XVII. Since the right to Property is inviolable and sacred, no one may be deprived thereof, unless public necessity, legally ascertained, obviously requires it, and just and prior indemnity has been paid". Cf. H. Izdebski, *Ideologia i zagospodarowanie przestrzeni…*, pp. 143–145.

[56] J.W. Singer, *Property as the Law of Democracy*, "Duke Law Journal" 2014, vol. 63, p. 1323; M. Sadowski, *Godność człowieka i dobro wspólne w papieskim nauczaniu społecznym (1878–2005)*, Wrocław 2010, p. 251, 301. Cf. M. Łuszczyńska, *Własność, wolność, jednostka. Kościół katolicki wobec podstawowych wartości liberalizmu*, "Studia Erasmiana Wratislaviensia" 2009, no. 3, p. 84. This understanding of private property should be considered alongside the Aristotelian concept of man as a social being, as adopted by the social teaching of the Catholic Church. Cf. A. Łuszczyński, M. Łuszczyńska, *What Ought to Be a Person's Relationship to Society?*, Rzeszów 2011, p. 167.

[57] J.W. Singer, *op. cit.*, pp. 1321–1322; R. Nozick, *Anarchia, państwo, utopia*, Warszawa 1999, pp. 213–217.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

protect private property. He therefore clearly allowed for the interference of the public authorities in the definition of this right.[58]

It was within Anglo-Saxon thought – traditionally perceived as more liberal regarding private property than continental traditions – that the so-called "Progressive Property Theory" emerged. This idea refers in its tenets to the "social concept of ownership". It assumes that private property is a dynamic phenomenon and should be perceived through the lens of its function. Representatives of this school of thought refer to the concept of "human flourishing". An individual lives as part of a community and, in the exercise of property rights, should also take into account the needs and interests of that community.[59] Furthermore, since the right to property is exercised within the community, it cannot be regarded as something isolated and not affecting the lives of others.[60] Harvard University professor G.S. Alexander states that obligations are an integral part of ownership. Their specific scope may be subject to debate, but it is undeniable that they are included in the definition of this right. This view is based on the overarching goal of "human flourishing".[61] Ownership, understood as a "bundle of rights", constitutes a kind of system rather than merely an "individual entitlement". Importantly, this concept also has practical implications in the application of the law. As early as the 1970s, the New Jersey Supreme Court, in *State v. Shack*, ruled that "Property rights serve human values. They are recognized to that end, and are limited by it. Title to real property cannot include dominion over the destiny of persons".[62]

Turning to the context of continental Europe, it is worth noting that the social significance of ownership, along with the resulting limitations, is more deeply rooted here than in the United States. As early as the beginning of the 20th century, thinkers such as H. Hayem and famous L. Duguit saw the social significance of property. Subsequently, the "Theory of the Social Function of Property" emerged. According to this concept, private ownership reflects the relationships within a community, and its scope should be balanced against its needs.[63]

---

[58] H. Izdebski, *Ideologia i zagospodarowanie przestrzeni…*, p. 145.

[59] D. Lametti, *The Concept of Property: Relations through Objects of Social Wealth*, "University of Toronto Law Journal" 2003, vol. 53(4), p. 346; E. Vermeulen, *Concepts of Ownership in European Property Law: Centralising the Social Function of Ownership*, [in:] *Uncovering European Private Law*, eds. M. Bartl, L. Burgers, C. Mak, Cambridge 2025, p. 138.

[60] J.W. Singer, *op. cit.*, pp. 1291–1297.

[61] G.S. Alexander, *The Social-Obligation Norm in American Property Law*, "Cornell Law Review" 2009, vol. 94(4), pp. 818–819.

[62] C. Crawford, *The Social Function of Property and the Human Capacity to Flourish*, "Fordham Law Review" 2011, vol. 80(3), p. 1090.

[63] E. Vermeulen, *op. cit.*, p. 138; M.C. Mirow, *The Social-Obligation Norm of Property: Duguit, Hayem, and Others*, "Florida Journal of International Law" 2010, vol. 22(2), p. 195. Duguit notes: "Property is not a right; it is a social function". French original: "Mais la propriété n'est pas un droit;

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

One of the most emblematic examples of the strong embedding of the idea of the social function of private property is Article 14(2) of the German Basic Law, which explicitly refers to the social role of property: "Property entails obligations. Its use shall also serve the public good".[64]

Following the ordoliberal W. Röpke, it should be emphasized that freedom – including the freedom to dispose of property – also entails responsibility. This is also the responsibility for the good of the community the owner operates within.[65] It is therefore evident that in Germany, already at the constitutional level, there is a well-established idea of a "socially bound property". It is linked to the values that are fundamental to German constitutional axiology, such as human dignity and the right to self-realisation.[66] This understanding of property has also been confirmed in the decisions of the German Federal Constitutional Court.[67]

Analysing the German example is important due to its connections and similarities with analyses of the Polish context. This is so because the rulings of both the Polish Constitutional Tribunal and general courts maintain a well-established position that private ownership does not have the characteristics of *ius infinitum*. Therefore, it can be subject to restrictions defined by constitutionally rooted concepts of the common good and the principle of a democratic state governed by law (in accordance with Article 64(3) of the Polish Constitution).[68] The essence of this right, on the one hand, includes the freedom to use things and take benefits from them, and on the other hand, the limitations of this freedom. These limitations are justified by the occurrence of preconditions contained in Article 31(3) of the Polish Constitution.[69] It is worth emphasizing the need for rationality and proportionality of limitations in relation to the objectives to be achieved. Each problem should

elle est une fonction sociale" (L. Duguit, *Les transformations générales du droit privé depuis le Code Napoléon*, Paris 1912, p. 21).

[64] G.S. Alexander, *op. cit.*, p. 757.

[65] S. Oliwniak, *Istota zasady społecznej gospodarki rynkowej w świetle orzecznictwa Trybunału Konstytucyjnego*, [in:] *Prawa jednostki w demokratycznym państwie prawa. Zagadnienia wybrane. Prace ofiarowane dr. Bohdanowi Zdziennickiemu*, eds. A. Jamróz, L. Jamróz, Białystok 2016, p. 92.

[66] R. Lubens, *The Social Obligation of Property Ownership: A Comparison of German and U.S. Law*, "Arizona Journal of International and Comparative Law" 2007, vol. 24(2), p. 389.

[67] For more details on this topic, see P. Lesiński, *Społeczny wymiar własności prywatnej w kontekście art. 14 ustawy zasadniczej Republiki Federalnej Niemiec*, "Przegląd Prawa Konstytucyjnego" 2021, no. 1, pp. 249–265.

[68] Article 64(3) of the Polish Constitution: "The right of ownership may only be limited by means of a statute and only to the extent that it does not violate the substance of such right".

[69] Article 31(3) of the Polish Constitution: "Any limitation upon the exercise of constitutional freedoms and rights may be imposed only by statute, and only when necessary in a democratic state for the protection of its security or public order, or to protect the natural environment, health or public morals, or the freedoms and rights of other persons. Such limitations shall not violate the essence of freedoms and rights".

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

be considered thoroughly to ensure that the community's interest is secured to the greatest extent possible, with the least infringement on individual interest.[70]

The argument presented above indicates that limiting the ownership of real estate in terms of reducing the presence of advertisements in public spaces is a legitimate action. As demonstrated, this justification rests on a well-established axiological foundation, which is also reflected in the outcomes of both law-making and law enforcement processes.[71]

IMPORTANT PUBLIC INTEREST AND LIMITATION OF ECONOMIC FREEDOM

Another worth highlighting axiological basis for limiting the presence of advertising in public space is the concept of the social market economy. It is linked to the concepts of the "welfare state" or "social state" developed in the second half of the 20th century. In the context of this study, an important element of this idea is the assumption that state activity in the sphere of economics is necessary to achieve community goals. This idea is also related to the common good. As noted by the Constitutional Tribunal, the common good is recognised "as the fundamental criterion of action in the constitutional model of a social market economy, justifying the precedence of the general interest over particular interests".[72]

Moreover, M. Zdyb argues that the important public interest is "the most complete embodiment of the common good" and as such is fundamental to defining the boundaries of economic freedom.[73] The state implementing a social market economy (in accordance with Article 20 of the Polish Constitution) is an entity

[70] S. Oliwniak, *op. cit.*, p. 106; judgment of the Constitutional Tribunal of 25 May 1999, SK 9/98; judgment of the Constitutional Tribunal of 24 July 2004, SK 11/02; judgment of the Supreme Administrative Court of 23 January 2020, II OSK 582/18; judgment of the Voivodeship Administrative Court in Wrocław of 19 December 2017, II SA/Wr 624/17; judgment of the Voivodeship Administrative Court in Gdańsk of 6 February 2019, II SA/Gd 664/18, LEX no. 2633346.

[71] Izdebski finds them, even indirectly, in the fundamental rights of the second and third generation. It is worth citing another view of this author, in which he refers to the separately existing "right to a good-quality space". It is based on the belief that a person should live in a space that corresponds to normatively regulated standards. Importantly, this is not just about access to air or light, but about "spatial harmony" as an aesthetic category. See H. Izdebski, *Ideologia i zagospodarowanie przestrzeni…*, pp. 166–167.

[72] Judgment of the Constitutional Tribunal of 25 July 2006, P 24/05; J. Ciapała, *Konstytucyjna wolność przedsiębiorczości w kontekście społecznej gospodarki rynkowej – pożądane standardy regulacji*, "Acta Iuris Stetinensis" 2023, no. 3, p. 31.

[73] A. Jamróz, *Wolność działalności gospodarczej i jej ograniczenia w świetle Konstytucji RP*, [in:] *Z zagadnień współczesnych społeczeństw demokratycznych*, eds. A. Jamróz, S. Bożyk, Białystok 2006, p. 150.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

actively present in economic processes.[74] Its goals go beyond organising the economic system or resolving disputes. The state must, in certain situations, strive to achieve various objectives resulting from the needs of the common good, even at the expense of particular interests. This also includes limiting the freedom of economic activity and the right of ownership.[75]

An essential element of the social market economy is therefore the state's intervention in economic freedom to serve various public interests.[76] The principle of economic freedom, like the principle of the social market economy, is not absolute and may be subject to restriction. According to the judgment of the Constitutional Tribunal of 30 January 2001, economic freedom, coupled with the social market economy, rejects "a purely liberal conception of the economic system": "The expression 'social market economy' used in Article 20 should therefore be understood as the permissibility of the state correcting market laws in order to achieve the fulfilment of certain social needs, which cannot be met under the completely unrestricted functioning of market laws".[77]

Economic freedom may be restricted in situations where the public interest warrants protection, provided that such restrictions are well-founded and justified on their merits.[78] The prerequisite of the existence of an "important public interest" as a factor justifying a restriction on the freedom of economic activity is contained in Article 22 of the Polish Constitution.[79] As has already been noted, this "important public interest" is a spacious general clause. As a result, there is no single definition of it. This allows each time for analysing specific facts from the point of view of its occurrence.[80]

According to the judgment of the Supreme Administrative Court of 19 February 2020, protection of the cultural landscape is an important public interest.[81] In such a case, the state implementing a social market economy may interfere with the scope of economic activity pursued. It should not be forgotten that the restriction

[74] Article 20 of the Polish Constitution: "A social market economy, based on the freedom of economic activity, private ownership, and solidarity, dialogue and cooperation between social partners, shall be the basis of the economic system of the Republic of Poland".

[75] T. Długosz, *Społeczna gospodarka rynkowa jako kryterium organizacji gospodarki*, "Gdańskie Studia Prawnicze" 2017, vol. 37, p. 19; P. Tuleja, *Komentarz do art. 20*, [in:] P. Czarny, M. Florczak-Wątor, B. Naleziński, P. Radziewicz, P. Tuleja, *op. cit.*, p. 91.

[76] S. Oliwniak, *op. cit.*, pp. 106–107.

[77] Judgment of the Constitutional Tribunal of 30 January 2001, K. 17/00.

[78] J. Ciapała, *op. cit.*, p. 26, 28.

[79] Article 22 of the Polish Constitution: "Limitations upon the freedom of economic activity may be imposed only by means of statute and only for important public reasons".

[80] S. Oliwniak, *op. cit.*, p. 101; D. Trzcińska, *Ochrona przyrody jako przesłanka ograniczenia swobody wykonywania działalności gospodarczej przez przedsiębiorców*, "Acta Universitatis Wratislaviensis. Prawo" 2019, vol. 329, p. 412.

[81] Judgment of the Supreme Administrative Court of 19 February 2020, II OSK 932/18.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

of the freedom of economic activity as a constitutionally guaranteed value is also subject to the regulations of Article 31(3) of the Polish Constitution. In this context, it should be emphasized that this right is limited by the requirements of environmental protection. The environment (also as the natural environment of man) is one of the fundamental constitutional values. Thus, the care for the environment justifies a restriction on economic freedom.[82] With regard to public space, it should be emphasized that there is little doubt about the basic admissibility of public authorities' interference with the right to private property (real estate). Even the aforementioned M. Friedman considered spatial planning to be a "natural" restriction of the free market. The aim was to meet "the need to ensure spatial order and to implement other aspects of the public interest".[83]

However, as with private property, the freedom of business also involves a tension between the interests of individuals (entrepreneurs) and those of the community, particularly in the context of limiting visual clutter. It is undeniable that, apart from the adjective "social", the economy also has the quality of being a "market" one. Therefore, running a business and profiting from it, as well as striving to maximize it, is a legitimate and important private interest of every entrepreneur. Slightly contrary to the comments made above, it is worth noting that the positioning of advertising media in public space may have certain advantages for running a business. As noted by the District Court in Łódź in the judgment of 8 February 2023, advertisement placement is a manifestation of the characteristics of business activity of "being organised", as it makes it visible (recognisable) to the public.[84] Certainly, the "right to advertise" is also one of the foundations of running a business. Potentially, it provides a way to reach a larger audience. Vendors and other entrepreneurs perceive it as an effective form of expanding the customer base by drawing their attention through an advertising medium. Consequently, entrepreneurs who use but also who produce advertising will be a group whose interests would contradict the restriction on the freedom of economic activity to combat visual clutter being an important public interest.[85]

On the other side of the spectrum lies the interest of the community. As demonstrated above, this interest entails ensuring a "beautiful" public space characterized by order, structure, and harmony. It therefore provides for the reduction or even elimination of visual clutter. This is confirmed by a number of sociological, psychological, and medical studies. In view of this, it can be concluded that, as with

[82] P. Tuleja, *Komentarz do art. 31*, [in:] P. Czarny, M. Florczak-Wątor, B. Naleziński, P. Radziewicz, P. Tuleja, *op. cit.*, pp. 122–123.

[83] As cited in H. Izdebski, *Ideologia i zagospodarowanie przestrzeni…*, pp. 115–116.

[84] Judgment of the District Court in Łódź of 8 February 2023, VIII U 664/22.

[85] R. Madlenak, M. Berthoty, R. Chinoracky, N. Stalmasekova, *op. cit.*, p. 102; A. Portella, *op. cit.*, p. 20, 70; E. Nowińska, *Jak kontrolowano reklamy?*, [in:] *Reklama. Aspekty prawne. Nowe wyzwania*, ed. M. Namysłowska, Warszawa 2022, pp. 93–94.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

the right of ownership and the freedom of economic activity, the public interest outlined above is significant and should take precedence over private interests (of property owners and entrepreneurs). In this context, the case law of the general courts is particularly noteworthy. As noted by the Voivodeship Administrative Court in Gdańsk, restricting the placement of advertisements in public spaces by relevant provisions of a "landscape resolution" undoubtedly infringes upon the legal interest of the entrepreneur. However, the Court has argued, and one must agree with this view, that such a restriction complies with the conditions set out in Article 22 of the Polish Constitution. They are introduced not only in accordance with the applicable legislation ("landscape law"), but also for the sake of an important public interest. In other words, the Court recognized in the aforementioned ruling that the reduction of visual clutter constitutes an important public interest.[86] It indicated that the restrictions resulting from the analysed landscape resolution are justified by, among other things, the concern about the landscape and spatial order: "It is in the public interest to organize the existing advertising chaos, even if this means that an entrepreneur conducting business in the field of advertising must accept certain restrictions in place of the previous freedom. (…) Considering the objective of the Resolution [landscape resolution], which is to organize the shared public space by eliminating advertising chaos, it should be concluded that this objective justifies the introduction of the discussed restrictions on entrepreneurs engaged in outdoor advertising".[87]

CONCLUSIONS

The analysis conducted in this article has demonstrated that the postulate of restricting visual clutter in Polish public space has a well-established rationale of an axiological and legal nature. Furthermore, its validity has been proven based on the analysis of empirical research results.

Firstly, it has been demonstrated that, within the context of European civilization, beauty – as applied here to the landscape – signifies order, harmony, and structure. Furthermore, drawing on the views of Aristotle and Cicero, it has been shown that the functioning of individuals and societies within a beautiful public space is beneficial and conducive to their well-being. Following Aristotle, it is also noted that the pursuit of beauty is inherent to human nature and is essential for the achievement of happiness.

[86] Judgment of the Voivodeship Administrative Court in Gdańsk of 10 April 2019, II SA/Gd 749/18, LEX no. 2653296.

[87] *Ibidem*. See also judgment of the Voivodeship Administrative Court in Gdańsk of 6 February 2019, II SA/Gd 664/18, LEX no. 2633346.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

The usefulness and necessity of having a public space that is orderly, harmonious, and free from visual clutter are also confirmed by empirical research findings. It has been noted that limiting it has a positive impact not only on human health but also on issues such as road safety, life satisfaction, and, ultimately, the efficiency and profitability of business activities.

Further analysis has shown that the problem of reducing visual clutter relates to two fundamental issues in the functioning of states and societies. These concerns delineate the boundaries of private property and the freedom of economic activity. It has been shown that the axiological basis for limiting visual clutter lies in the insufficiently emphasized concept of ownership as a limited right, defined also by the owner's obligations to the community. To support this thesis, examples from political and legal thought were examined, alongside constitutional norms and conclusions drawn from legal practice. Combating the visual clutter also entails restrictions on economic freedom. In this case, the axiological basis was found in the idea of a state implementing a social market economy. The adoption of these principles makes it possible to justify the prioritisation of the public interest (of the community) over private interest (of the entrepreneur), regarding the process of reducing the visual clutter.

There is no doubt that visual clutter of Polish public space should be significantly limited. However, it does not mean that all forms of outdoor advertisement should be eradicated. Restrictions must be made in an extremely cautious manner, "with surgical precision". The first step is to undertake certain grass-roots work. It is worth educating the Polish society (including entrepreneurs), characterised by a low culture of space, that limiting visual clutter is in its best interest. Other forms of marketing should be promoted, as well as options for improving the aesthetic level of the advertisements being installed. It is also worth considering conducting extensive clinical research assessing the impact of visual clutter on society members' health. There is no doubt, however, that all these modifications should be introduced in an evolutionary, rational and proportionate manner, also with respecting the legitimate needs of entrepreneurs to advertise their activities.

In summary, this study has demonstrated that the reduction of visual clutter in Poland serves the interests of the communities and society. It is justified in axiological terms, which is the basis for the applicable normative regulations. This discussion addresses the fundamental issue of restricting individual rights – specifically private property and economic freedom – on the grounds of important public interest. An analysis of a specific case concerning the admissibility of prioritizing the community's interest over that of the individual was conducted. As a result, it has been demonstrated that the reduction of visual clutter justifies recognizing the primacy of important public interest over individual interests. All these measures aim to ensure that the presence of advertisements in Polish public spaces conforms to the principles of the "Great Theory of Western Aesthetics", which, as previously noted, emphasizes order, harmony, and proportionality.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

REFERENCES

Literature

Abdelhamid M., *An Attempt to Reduce Visual Pollution in the Building Sector within Egyptian Cities*, "Spaces and Flows: An International Journal of Urban and ExtraUrban Studies" 2018, vol. 9(4). **DOI: https://doi.org/10.18848/2154-8676/CGP/v09i04/23-34**

Alexander G.S., *The Social-Obligation Norm in American Property Law*, "Cornell Law Review" 2009, vol. 94(4).

Arnheim R., *The Dynamics of Architectural Form*, Berkeley–Los Angeles–London 1977.

Chaba D., *Wpływ interesu publicznego na podejmowanie działalności gospodarczej*, [in:] *Prawo administracyjne i gospodarcze a sytuacja przedsiębiorcy na rynku polskim*, eds. M. Górska, K. Zapała, Kielce 2014.

Chmielewski S., Lee D.J., Tompalski P., Chmielewski T.J., Wężyk P., *Measuring Visual Pollution by Outdoor Advertisements in an Urban Street Using Intervisibility Analysis and Public Surveys*, "International Journal of Geographical Information Science" 2016, vol. 30(4). **DOI: https://doi.org/10.1080/13658816.2015.1104316**

Ciapała J., *Konstytucyjna wolność przedsiębiorczości w kontekście społecznej gospodarki rynkowej – pożądane standardy regulacji*, "Acta Iuris Stetinensis" 2023, no. 3. **DOI: https://doi.org/10.18276/ais.2023.44-02**

Cienkowski W., *Słownik synonimów*, Katowice 2005.

Crawford C., *The Social Function of Property and the Human Capacity to Flourish*, "Fordham Law Review" 2011, vol. 80(3).

Cronon W., *Inconstant Unity: The Passion of Frank Lloyd Wright*, [in:] *Frank Lloyd Wright Architect*, eds. T. Riley, P. Reed, New York 1994.

Czajkowski M., Bylicki M., Budziński W., Buczyński M., *Valuing Externalities of Outdoor Advertising in an Urban Setting – the Case of Warsaw*, "Journal of Urban Economics" 2022, vol. 130. **DOI: https://doi.org/10.1016/j.jue.2022.103452**

Čelkytė A., *The Stoic Theory of Beauty*, Edinburgh 2020. **DOI: https://doi.org/10.3366/edinburgh/9781474461610.001.0001**

Długosz T., *Społeczna gospodarka rynkowa jako kryterium organizacji gospodarki*, "Gdańskie Studia Prawnicze" 2017, vol. 37.

Duguit L., *Les transformations générales du droit privé depuis le Code Napoléon*, Paris 1912.

Filipowicz T., Plucińska-Filipowicz A., *Komentarz do art. 2*, [in:] *Planowanie i zagospodarowanie przestrzenne. Komentarz*, ed. M. Wierzbowski, Warszawa 2024.

Izdebski H., *Ideologia i zagospodarowanie przestrzeni. Doktrynalne prawno-polityczne uwarunkowania urbanistyki i architektury*, Warszawa 2013.

Izdebski H., *Komentarz do art. 1*, [in:] *Planowanie i zagospodarowanie przestrzenne. Komentarz*, ed. I. Zachariasz, Warszawa 2023.

Izdebski H., *Komentarz do art. 2*, [in:] *Planowanie i zagospodarowanie przestrzenne. Komentarz*, ed. I. Zachariasz, Warszawa 2023.

Jamróz A., *Wolność działalności gospodarczej i jej ograniczenia w świetle Konstytucji RP*, [in:] *Z zagadnień współczesnych społeczeństw demokratycznych*, eds. A. Jamróz, S. Bożyk, Białystok 2006.

Kawecki W., *Teologia piękna. Poszukiwanie locus theologicus w kulturze współczesnej*, Poznań 2013.

Kostrubiec J., *Nauka o państwie w myśli Georga Jellinka*, Lublin 2015.

Królikowski J.T., *Krajobraz jako wyraz wartości*, [in:] *Krajobrazy Europy jako wyraz idei i wartości*, eds. A. Drapella-Hermansdorfer, O. Mycak, M. Surma, Wrocław 2019.

Lametti D., *The Concept of Property: Relations through Objects of Social Wealth*, "University of Toronto Law Journal" 2003, vol. 53(4). **DOI: https://doi.org/10.2307/3650892**

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

Leeke J., *A Practical Philosophy of Beauty: Dialoguing with Scruton and Wolterstorff*, "Augustine Collegiate Review" 2017, vol. 1(1).

Lesiński P., *Społeczny wymiar własności prywatnej w kontekście art. 14 ustawy zasadniczej Republiki Federalnej Niemiec*, "Przegląd Prawa Konstytucyjnego" 2021, no. 1. **DOI: https://doi.org/10.15804/ppk.2021.01.15**

Lubens R., *The Social Obligation of Property Ownership: A Comparison of German and U.S. Law*, "Arizona Journal of International and Comparative Law" 2007, vol. 24(2).

Łuszczyńska M., *Od praw naturalnych do godności osoby ludzkiej. Rozważania filozoficzno-prawne w przedmiocie aksjologii Konstytucji Rzeczypospolitej Polskiej*, "Przegląd Prawa Konstytucyjnego" 2024, no. 2. **DOI: https://doi.org/10.15804/ppk.2024.02.10**

Łuszczyńska M., *Własność, wolność, jednostka. Kościół katolicki wobec podstawowych wartości liberalizmu*, "Studia Erasmiana Wratislaviensia" 2009, no. 3.

Łuszczyński A., Łuszczyńska M., *What Ought to Be a Person's Relationship to Society?*, Rzeszów 2011.

Madlenak R., Berthoty M., Chinoracky R., Stalmasekova N., *Outdoor Advertising and Visual Pollution on Selected Roads in the City of Žilina*, "Transportation Research Procedia" 2023, vol. 74. **DOI: https://doi.org/10.1016/j.trpro.2023.11.118**

Michel C., Sovinsky M., Proto E., Oswald A.J., *Advertising as a Major Source of Human Dissatisfaction: Cross-National Evidence on One Million Europeans*, [in:] *The Economics of Happiness*, ed. M. Rojas, Cham 2019. **DOI: https://doi.org/10.1007/978-3-030-15835-4_10**

Mirow M.C., *The Social-Obligation Norm of Property: Duguit, Hayem, and Others*, "Florida Journal of International Law" 2010, vol. 22(2).

Nowińska E., *Jak kontrolowano reklamy?*, [in:] *Reklama. Aspekty prawne. Nowe wyzwania*, ed. M. Namysłowska, Warszawa 2022.

Nozick R., *Anarchia, państwo, utopia*, Warszawa 1999.

Oliwniak S., *Istota zasady społecznej gospodarki rynkowej w świetle orzecznictwa Trybunału Konstytucyjnego*, [in:] *Prawa jednostki w demokratycznym państwie prawa. Zagadnienia wybrane. Prace ofiarowane dr. Bohdanowi Zdziennickiemu*, eds. A. Jamróz, L. Jamróz, Białystok 2016.

Pala J.A., *Piękno – geneza i funkcje*, "MAZOWSZE. Studia Regionalne" 2020, no. 32. **DOI: https://doi.org/10.21858/msr.32.09**

Portella A., *Visual Pollution: Advertising, Signage and Environmental Quality*, Farnham–Burlington 2014.

Sadowski M., *Godność człowieka i dobro wspólne w papieskim nauczaniu społecznym (1878–2005)*, Wrocław 2010.

Singer J.W., *Property as the Law of Democracy*, "Duke Law Journal" 2014, vol. 63. **DOI: https://doi.org/10.2139/ssrn.2407966**

Skrzypek M., *Diderot*, Warszawa 1982.

Smółka L., *Piękno jako wartość w przestrzeni pedagogicznej*, "Pedagogika Przedszkolna i Wczesnoszkolna" 2017, vol. 5.

Stehlik T., *Educational Philosophy for 21st Century Teachers*, Cham 2018. **DOI: https://doi.org/10.1007/978-3-319-75969-2**

Szczepańska M., Wilkaniec A., Škamlová L., *Visual Pollution in Natural and Landscape Protected Areas: Case Studies from Poland and Slovakia*, "Quaestiones Geographicae" 2019, vol. 38(4). **DOI: https://doi.org/10.2478/quageo-2019-0041**

Szlachetko K., Olzacki K., *Komentarz do art. 2*, [in:] *Planowanie i zagospodarowanie przestrzenne. Komentarz*, ed. J.H. Szlachetko, Warszawa 2024.

Tatarkiewicz W., *Dwa pojęcia piękna*, [in:] *Wybór pism estetycznych*, Kraków 2004.

Tatarkiewicz W., *Historia estetyki*, vol. 1–2, Warszawa 2009.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

Tatarkiewicz W., *The Great Theory of Beauty and Its Decline*, "Journal of Aesthetics and Art Criticism" 1972, vol. 31(2). **DOI: https://doi.org/10.2307/429278**

Tatarkiewicz W., *Wielkość i upadek pojęcia piękna*, [in:] *Wybór pism estetycznych*, Kraków 2004.

Trzcińska D., *Ochrona przyrody jako przesłanka ograniczenia swobody wykonywania działalności gospodarczej przez przedsiębiorców*, "Acta Universitatis Wratislaviensis. Prawo" 2019, vol. 329. **DOI: https://doi.org/10.19195/0524-4544.329.33**

Tuleja P., *Komentarz do art. 1*, [in:] P. Czarny, M. Florczak-Wątor, B. Naleziński, P. Radziewicz, P. Tuleja, *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2023.

Tuleja P., *Komentarz do art. 20*, [in:] P. Czarny, M. Florczak-Wątor, B. Naleziński, P. Radziewicz, P. Tuleja, *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2023.

Tuleja P., *Komentarz do art. 31*, [in:] P. Czarny, M. Florczak-Wątor, B. Naleziński, P. Radziewicz, P. Tuleja, *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2023.

Vermeulen E., *Concepts of Ownership in European Property Law: Centralising the Social Function of Ownership*, [in:] *Uncovering European Private Law*, eds. M. Bartl, L. Burgers, C. Mak, Cambridge 2025. **DOI: https://doi.org/10.11647/obp.0448.07**

Webb M.O., Karabayeva A.G., Kuntuova I.M., *The Role of Philosophy in the Life of a Student of a Technical University*, "Procedia – Social and Behavioral Sciences" 2015, vol. 174. **DOI: https://doi.org/10.1016/j.sbspro.2015.01.1123**

Wilkosz P., *Konstytucyjność przepisów uchwał krajobrazowych – problematyka tzw. wywłaszczenia krajobrazowego*, [in:] *Uchwały reklamowe. Zagadnienia prawne i legislacyjne*, eds. M. Kruś, S. Pawłowski, L. Staniszewska, Warszawa 2025.

Wiszniowski J., *Krajobraz jako dobro wspólne*, [in:] *Krajobrazy Europy jako wyraz idei i wartości*, eds. A. Drapella-Hermansdorfer, O. Mycak, M. Surma, Wrocław 2019.

Yılmaz D., Sağsöz A., *In the Context of Visual Pollution: Effects to Trabzon City Center Silhoutte*, "Asian Social Science" 2011, vol. 7(5). **DOI: https://doi.org/10.5539/ass.v7n5p98**

Zwolak S., *Zasady lokalizowania nośników reklamowych w świetle wymogów ochrony krajobrazu*, "Zeszyty Prawnicze" 2024, vol. 24(4). **DOI: https://doi.org/10.21697/zp.2024.24.4.05**

Online sources

Fisher S., *Philosophy of Architecture*, 9.9.2015, https://plato.stanford.edu/archives/win2016/entries/architecture (access: 9.10.2025).

Houlgate S., *Hegel's Aesthetics*, 20.1.2009, https://plato.stanford.edu/archives/sum2024/entries/hegel-aesthetics (access: 9.10.2025).

Maszewski M., *Uchwały krajobrazowe w największych miastach w Polsce. Przegląd sytuacji, luty 2025 roku*, https://jetline.pl/ustawa-krajobrazowa/uchwaly-krajobrazowe-w-najwiekszych-miastach-w-polsce-przeglad-sytuacji-luty-2025-rok (access: 12.10.2025).

Scenic America, *Case Study: Vermont's Billboard Ban*, https://www.scenic.org/take-action/resources/billboard-resources/case-study-vermonts-billboard-ban (access: 26.6.2025).

Scenic America, *The True Cost of Billboards: How Outdoor Advertising Undermines Earth Day Values*, 22.4.2024, https://www.scenic.org/2024/04/22/the-true-cost-of-billboards-how-outdoor-advertising-undermines-earth-day-values (access: 26.6.2025).

Time, *The Outdoors: Banishing Billboards*, 29.3.1968, https://time.com/archive/6631956/the-outdoors-banishing-billboards (access: 1.11.2025).

Legal acts

Act of 21 March 1985 on public roads (Journal of Laws 1985, item 60, as amended).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 16/11/2026 18:44:22

Act of 27 March 2003 on spatial planning and development (consolidated text, Journal of Laws 2024, item 1130, as amended).
Act of 24 April 2015 amending certain acts in connection with strengthening landscape protection instruments (Journal of Laws 2015, item 774).
Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws 1997, no. 78, item 483, as amended).
European Landscape Convention, Florence, 20 October 2000, ETS No. 176.
Resolution No. 239 of the Council of Ministers of 13 December 2011 on the adoption of the National Spatial Development Concept 2030 (Polish Monitor 2012, item 252).

Case law

Judgment of the Constitutional Tribunal of 25 May 1999, SK 9/98.
Judgment of the Constitutional Tribunal of 30 January 2001, K. 17/00.
Judgment of the Constitutional Tribunal of 24 July 2004, SK 11/02.
Judgment of the Constitutional Tribunal of 25 July 2006, P 24/05.
Judgment of the District Court in Łódź of 8 February 2023, VIII U 664/22.
Judgment of the Supreme Administrative Court of 19 December 2018, II OSK 2935/18.
Judgment of the Supreme Administrative Court of 23 January 2020, II OSK 582/18.
Judgment of the Supreme Administrative Court of 19 February 2020, II OSK 932/18.
Judgment of the Voivodeship Administrative Court in Wrocław of 19 December 2017, II SA/Wr 624/17.
Judgment of the Voivodeship Administrative Court in Gdańsk of 6 February 2019, II SA/Gd 664/18, LEX no. 2633346.
Judgment of the Voivodeship Administrative Court in Gdańsk of 10 April 2019, II SA/Gd 749/18, LEX no. 2653296.
Judgment of the Voivodeship Administrative Court in Gdańsk of 20 December 2023, II SA/Gd 517/23.
Judgment of the Voivodeship Administrative Court in Wrocław of 15 October 2024, II SA/Wr 400/24.
Judgment of the Voivodeship Administrative Court in Lublin of 11 March 2025, II SA/Lu 900/24.

ABSTRAKT

W artykule analizie poddano powszechne w Polsce zjawisko „chaosu reklamowego". Główny cel opracowania to przedstawienie argumentów aksjologicznych, empirycznych i prawnych przemawiających za wprowadzeniem ograniczeń w zakresie lokalizowania nośników reklamowych w przestrzeni publicznej. Wykazano, że środki te znajdują oparcie w ugruntowanych zasadach aksjologicznych i konstytucyjnych funkcjonujących w polskim porządku prawnym. Analiza wskazała, że działania zmierzające do ograniczenia „chaosu reklamowego" nieuchronnie wiążą się z ingerencją w niektóre prawa jednostki. W szczególności mowa tu o prawie własności oraz o wolności działalności gospodarczej. W tym kontekście w artykule podjęto jedno z fundamentalnych zagadnień, jakim jest spór między interesem prywatnym a interesem publicznym. Przeprowadzona analiza dowiodła, że ochrona walorów estetycznych przestrzeni publicznej stanowi uzasadnioną podstawę do przyznania prymatu interesowi publicznemu. W konsekwencji wskazano, że ograniczenie „chaosu reklamowego" sprzyja wypełnianiu przez przestrzeń publiczną założeń zaproponowanej przez W. Tatarkiewicza „wielkiej teorii estetyki zachodniej", akcentującej znaczenie ładu, harmonii i proporcji.

Słowa kluczowe: własność prywatna; wolność gospodarcza; reklamy; interes publiczny; ograniczenie; estetyka