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Classification of the Tasks of Local Governmental Units in Poland in the Light of Fundamental Legal Acts — Discussion of Selected Aspects

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> "All tasks of the local government are of a public nature in the sense that they are addressed to fulfill the collective needs of the local community or in the case of their own tasks or organized society in the state, as in the case of outsourced tasks"
> [Uchwała TK z dnia 27 września 1994 r.]

Abstract

The purpose of this article is the presentation of a summary of tasks which local governments in Poland perform and to illustrate their diversity and specificity. The article deals with local government and its specific tasks, which every level of self-government carries out. It is true that self–government is a very important institution operating in most democratic countries in the world. The proper structure of local governmental bodies, as well as the rules of their work and how they make decisions, support the performance of tasks by individual units. The issue of local government concerns its tasks. It is very extensive. These elements are regulated by the Constitution of the Republic of Poland and laws, especially the Act on Commune Self-Government, the Act on County Government and the Act on Voivodship Government. Self-government is the most democratic form of government as an instrument of socialization in the exercise of public authority. Emphasing that local government is a fundamental cell in public administration is one of the aims of this article. Local government carries out tasks in appropriate forms, supported by the European Charter of Local Self Government and national legislation. Being fundamental, universal and compulsory, local government creates a community. Otherwise of an administrative nature, local government is a political phenomenon. The essential feature of the structure of local government in Poland is the fact that local government performs a substantial part of public administration at the level of commune as well as those of district and voivodship. Tasks of local government in Poland are dualistic. Local authorities have powers of their own while performing the tasks assigned to them by law and government. Moreover an important part of this article is about local government as a form of decentralization of public authority.

An attempt to introduce a wider notion — incorporation and its types

There is no doubt that in Poland and other developing countries of the world the role of the local government in fulfiling exercises of public administration is very important. However, the definition of self-government requires the introduction of a broader concept, which is a corporation under public law. This is defined as a public entity which is equipped with administrative dominion. The corporation is shaped by its membership and its existence is independent of the number of its members or its change. Therefore the basis of a corporation are the people participating in it. They are empowered to perform public administration duties.

Depending on the basis or type of bond between members, there are different types of corporations. One of the criteria of this distinction is the territorial bond (commune or county), which arises from the fact of residence in a territory. This criterion determines the territory belonging to the community. Binding membership corporations — with the ownership of real estate or residence

is another criterion — a true incorporation. The next criterion is dependent on the exercise of a profession or the will of an entity, which is a corporation's member — a personnel corporation. Mostly natural persons are members of the corporation, but there can also be legal entities — corporation unions. The structure of the corporation may be defined as a public-law association (Bigo 1928, 140–141).

The main category of corporation is self-government to which the State provides a substantial part of its administrative functions, while equipping it with a legal status, including legal status in the field of public law (Zimmermann 2012, 109). In this way self-government is a form of performing public administration by interested citizens and groups of people. They operate on the principle of equality among its members and are equipped by the State with certain powers and can use administrative dominion. It should be noted that a group of these people must be clearly and unambiguously distinguished and defined by law. Participation in these groups is mandatory and set by the law. It is worth noting that noone can withdraw from participation in local government or become a member as a result of declaration or intent. Self-government can also be understood as a voluntary association that brings together those who perform an activity such as craft guilds or chambers of commerce. Performing public administration, public-law associations relieve the State in some way. Therefore, the statement that self-government is a state institution whose duty is to carry out tasks given to self-government is absolutely correct. In addition, the local government has exclusivity in performing these obligations. The object of activity of self-government is the same as in the case of state-government. However the entity is different and is supervised by the State in a range prescribed by law (in a legal act). Nevertheless it is accurate to say that self-government acts alone.

1 Self-government — definition, types of self-government

The modern theory of defining self-government states that it is a form of social organization of the separate groups, through which it can decide relevant issues in the limits of the law, acting directly or through democratically elected and functioning representation (Szreniawski 2004, 63). A self-governmental entity is a community which is separated and based on common interests.

We can list several types of self-government on the basis of various criteria. The bond linking a particular social group is the main criterion. It highlights local government which is based on living together in one territory. Another criterion is a labour bond and we may list on its basis self-management, economic self-government and trade self-government. The criterion of professional ties provides a list of legal services self-government, self-government of notaries and pharmacists self-government. Based on other links we may list academic councils, student councils, religious councils and land allotment councils. The way these are formed helps to depict self-government arising by law, in which membership is mandatory (e.g., self-government of prosecutors or developed by stakeholders such as trade self-government). The criterion of location provides a list of self-governments in State institutions such as self-government of judges or out of these institutions (e.g., self-government of notaries). Activities of self-governments are regulated by acts which are the legal basis for their organization, tasks or methods (e.g., the Law on the Legal Profession[1], The Law on the Notary Profession[2]). The multiplicity of self-governments in the twenty-first century testifies to their significant role in the overall functioning of the State and society.

1.1 Local government as the basic link of public administration

Local government — besides government administration — is an essential link in public administration. In the science of administrative law, local government is one of the most important concepts. In determining the concept of local self-government, residing in the same territory is an essential criterion. Local community of self-government is then formed. The Constitution of the Republic of Poland of 2 April 1997 does not define self-government, while providing elements that serve

1. Ustawa z 26 maja 1982 r. Prawo o adwokaturze, DzU z 2009 r. nr 146, poz. 1188 ze zm.
2. Ustawa z 14 lutego 1991 r. Prawo o notariacie, DzU z 2008 r. nr 189, poz. 1158 ze zm.

the formulation of such a definition. Art. 16 paragraph 1 states that "the inhabitants of the units of basic territorial division shall from a self-government community in accordance with law."[3] The dominance of local-government is a result of the fact that the State allocates the most extensive part of its function to this local government as the most popular. Nowadays there are numerous and varied definitions of local-government. One of them states that it is a local community with democratic, internal organization, which is separated structurally and subjectively by law in order to perform a substantial part of the decentralized local tasks in the field of public administration, with the right to use a legal form of action, typical for public administration (Kisiel 2003, 17–18). Being primary, compulsory and universal, local government creates a community. Self-government forms specific norms of activities that are autonomous to the norms that are established by the State. Creating standards that are applied in the territory next to the standards created by the State — is the power of self-government. Self-government is an essential organization that provides the ability to merge various interests in one space. Various international declarations and acts designate to the self-government the role of foundation of body and treat self-government as a kind of civil, cardinal right (Szreniawski 2004, 64). The tasks of government flow from the will of the people and will of the State, which forms the basis and framework of its operation, including in regulations: roles, responsibilities, structure of organs and the ways they are created, the principles of financial management, the scope and content of monitoring by the public government, including the legality and in certain conditions advisability (Szreniawski 2004, 66).

According to modern science, local government is a corporation of local community. Having legal status and an internal structure it is the executor of governmental tasks. Residing in the territory, a community is organized in a self-governmental unit, thus creating a local government entity. This unit is created by the State to carry out its tasks. The subject is public administration. The executor is appointed by the elected authorities of self-government, which operate under the control of the local community.

1.2 Public nature of the activities related to self-government's own tasks and tasks which are commissioned to self-government

Local government uses legal means provided by the State with an imperious nature. Local government is a form of administrative decentralization, which means that functions and powers are transferred from the center to the community. Activities of self-government, which performs duties of the State, are related to supervision. Therefore, it is not true that it exists in total independence from the State's government. In fact, independence should be understood as strictly defined cases of when and how the State can or should intervene in local government's activity. Violation of independence of self-government as a result of the actions of public bodies can be appealed in the judicial system. Art. 16 paragraph 2 indicates that: "Local government shall participate in the exercise of public power. The substantial part of public duties which local government is empowered to discharge by statue shall be done in its own name and under its own responsibility." Article 163 of the Constitution of the Republic of Poland is also not without significance: "Local government shall perform public tasks not reserved by the Constitution or statutes to the organs of other public authorities". Undoubtedly local-government belongs to public authorities and its units belong to the units of public authorities. All institutions which have statutory authority to make decisions binding citizens and other legal entities can be considered public authorities according to the Constitution (Winczorek 2008, 28). Therefore it is advisable to emphasize the consistency of authority with the power to perform public powers. Local government is ergo an important part of public administration.

Tasks which are performed by local government are the matters in which it can or should perform its usual activities. Competence includes double concretization of a given task, especially concerning the unit and making certain decisions by law, to which local authority is entitled and obligated after legal procedure which is established. The scope of activities and tasks is defined by constitutional law, while competence results from substantive law. As a result of decentralization,

3. See: Konstytucja Rzeczypospolitej Polskie z 2 kwietnia 1997 r., DzU z 1997 r. nr 78, poz. 483.

tasks and competences are carried out on behalf of themselves and decentralized bodies of the public's own responsibility which requires equipping them with legal status. The autonomy which inheres in units of local government is not a sovereignty and from the legal point of view is limited by the Constitution, statutes and from practical considerations, which remain at the disposal of decentralized entities or determinants of the political system.

2 Local government as the basic formula of decentralization of public power

The Constitutional Tribunal emphasizes that the Polish territorial system is based on the principle of decentralization and not on regional autonomy. Acts usually set limits on the freedom of action of local communities.[4] The constitutional principle of autonomy of local government units cannot be a consequence absolutized through its unilateral interpretation, in isolation from other constitutional principles, in particular the principle of unity of the state and formulated in art. 1 of the Constitution of the Republic of Poland, the principle of the common good, which shows the solidarity among local government units.[5]

Art. 15 paragraph 1 of the Constitution of the Republic of Poland should be recognized in the context of the art. cited earlier, namely art. 16 paragraph 1 of the Constitution. It states that the territorial division[6] of the state is created for the purposes of local government. Local government is the basic formula of decentralization of public authority (Izdebski 2011, 32). This formula is basic and has a democratic character. What is important is that the majority of public functions is given to the authorities which are chosen by local and regional communities. Local government is the most democratic form of government, while the government in itself is an instrument of socialization of the exercise of public authority (Izdebski 2011, 32).

As a result of the assignment of the substantial part of public duties to local government, the principle of decentralization should be seen as a constitutional specification of the principle of subsidiarity, formulated in the Preamble of the Constitution of the Republic of Poland. It is the basis for determining the nature of public tasks to split tasks among different levels of government and the State's apparatus, and finally to define the fundamental principles of public tasks (Izdebski 2012, 215ff.).

Local government is in a State of law alongside public administration the basic link of public administration carrying out tasks in appropriate forms. Their performing a variety of tasks is also confirmed by art. 3 paragraph 1 of the European Charter of local self-government.[7]

2.1 Separateness of local governmental units

An essential feature of the structure of local government in Poland is that the units are separate from each other and are located on three levels of territorial division. This type of structure does not mean hierarchy among them. In terms of the organization, the voivodships include counties and counties include communes. However, membership should not be associated with dependence among them. The voivodship is the largest unit, but does not result from its sovereign powers towards county or commune. The county also does not have power in relation to the commune. The Act on Voivodship Government in art. 4 paragraph 2 indicates that "Authorities of voivodship government do not constitute authorities of supervision or control towards county and commune and also they are not authorities of a higher level in administrative proceeding."[8]

In the sense of the competences county and voivodship have a more precisely defined area of operation. Each of the units is subject to a single individual supervision by government authorities. The Apellate body for each of them are the Local Government Appeal Courts.

4. See: Wyrok TK z 4 maja 2004 r., K 40/02, OTK-A 2004, nr 5, poz. 38.

5. See: Wyrok TK z 18 lutego 2002 r., K 24/02, OTK-A 2003, nr 2, poz. 11.

6. The term "territorial division" was introduced for the first time in the Polish legal language in the text of the constitutional amendment of 1976 (art. 43 paragraph 2 of the Constitution of PRL, uniform text, (DzU z 1976 r. nr 7, poz. 36 ze zm.) provided that the authority of State and local public government in two different territorial units of the same degree can be shared by the National Council.

7. See: Europejska Karta Samorządu terytorialnego z 15 października 1985 r., DzU z 1994 r. nr 124, poz. 607 ze zm.

8. See: Ustawa o samorządzie województwa z 5 czerwca 1998 r., DzU z 1998 r. nr 91, poz. 576 ze. zm.

2.2 Presumption of competences

Local authorities have powers of their own, while performing tasks assigned to them by law and public administration. In addition to chapter VII of the Constitution, which regulates the issues of local government or the earlier mentioned European Charter of local self-government, the basic regulation concerning the local government and regulating the activity and specificity of local government is in three legal acts. Each of them refers to a different level: the Act on Commune Self-Government,[9] the Act of County Government,[10] and the earlier mentioned Act on voivodship Government. Local government is constructed and operates according to the principle of subsidiarity, which is based on art. 4 paragraph 3 of the European Charter of local self-government. Article 163 of the Constitution develops this principle by establishing a "presumption of competence" for the local government and by establishing such a presumption in favor of the commune, under art. 164 paragraph 1 and 3 of the Constitution. Art. 6 of the Act on Commune Self-Government confers a presumption of competences in favor of the commune and art. 4 paragraph 1 of the Act of County Government states that "tasks of the county have supracommunal character" and paragraph 6 of this art. indicates that the tasks of the county cannot violate the scope of activities of the commune". Tasks of local government are divided into local tasks of local importance, supracommunal and of regional nature. The presumption of competences in favor of the commune refers to the local tasks of the commune but when referring to voivodship the legislator set a second presumption including the voivodship's tasks of public administration. In any case, the specific local government entity determines the local or regional nature of the task. This regulation ensures that the commune does not lose its character as a fundamental unit. There is a risk of disrupting the warranty towards the commune and thus the realization of the principle of subsidiarity and realizing full implementation of the principle of decentralization. In the field of local government the principle of subsidiarity is closely connected with the principle of decentralization. Pursuing decentralization is the sign and the safeguard of the principle of subsidiarity (Wiktorowska 2002, 22). The principle of subsidiarity contributes to the development of decentralized administration. Elements of subsidiarity can be found in the European Charter of local self-government, exactly in the aforesaid art. 4 paragraph 2 and 4. Art. 6 of the European Charter of local self-government which states that "If the general provisions of the Act do not provide otherwise, local communities should be able to determine their own internal administrative structure. Art. 169 paragraph 9 of the Constitution gives the legislative bodies of the local government unit the power to determine the internal system of the units. Acts: art. 6 paragraph 1 of the Act on Commune Self-Government, art. 2 paragraph 1 of the Act of County Government and art. 6 paragraph 1 point 1 of the Act on Voivodship Government repeat the formula expressed in the Constitution in art. 16 paragraph 2 formula. The Act on Voivodship Government in art. 4 paragraph 1 assumes that the scope of the activities of self-government does not affect independence of commune and county.

The public functions that local government performs in its own name and on its own responsibility (art. 16 paragraph 2 of the Constitution) are tasks of State protected by coming from the same source at the State's coercion. These units perform tasks on behalf of the State. Art. 2 paragraph 1 of the Act on Commune Self-Government and Act of County Government are not a separate basis for the responsibility of the local government, but a declaration of the legislator and the principle that the body is not a passive relay of decisions which are taken by other public authorities (Zimmermann 2012, 178). It is the interpretation directive to the other provisions, which means that the commune, county or voivodship bears legally assigned consequences of their actions (Kisiel 2006, 37ff.).

2.3 Autonomy of local government units

The aspect of financial autonomy of local government units is a result of constitutional norms (art. 167 paragraph 1 and art. 168 of the Constitution). Not only specific regulation of self-govermental acts are related to the implementation of the principle of autonomy. In other general formulations

9. Ustawa o samorządzie gminnym z 8 marca 1990 r., DzU z 1990 r. nr 16, poz. 95 ze zm.
10. Ustawa o samorządzie powiatowym z 5 czerwca 1998 r., DzU z 1998 r. nr 91, poz. 578 ze zm.

there may also be found elements of this principle. This is reflected in acts, which give legal status to local government (art. 2 paragraph 2 of the Act on Commune Self-Government and the Act of County Government and also art. 6 paragraph 2 of Act on Voivodship Government). Without a doubt having a legal status is one of the essential elements of autonomy of self-government units. On that basis, in accordance with art. 165 paragraph 1 of the Constitution, all units have the right of ownership and other property rights. Legal status gives them the opportunity to manage property belonging to the community. In addition, autonomy provides independence of local government units from other organs, especially organs of public administration. However, art. 11 of the European Charter of local self-government introduces the principle of judicial protection in relation to the independence of local self-government units. The Constitution of the Republic of Poland in art. 165 paragraph 2 and art. 2 paragraph 3 Act on Commune Self-Government and Act of County Government and art. 6 paragraph 3 Act on Voivodship Government introduces this principle. The duty to protect autonomy of self-government means that individuals have the right to sue in the broadest sense.

2.4 Executive function of local government in relation to public administration

The presumption of competence of self-government units proves that the self-government carries out the essential part of public duties and proves the extent of the range of its activities. "The task of local government units" is different from the content of "competence". "Task" refers to the self-government units such as the commune or county, however "competence" is assigned to a particular self-government body such as the village mayor or voivodship parliament. In determining the scope of the activities of units at all levels of self-government, the legislator catalogues all of the tasks by introducing dual competence and basic division of tasks commissioned and the entities' own tasks (art. 166 paragraph 1 and 2 of the Constitution) (Zimmermann 2012, 179). So, the State transfers part of activities to self-governments, while it leaves some to public administration with the possibility of commissioning tasks to self-government. First of all, self-government performs its own tasks, thereby satisfying the needs of the community. As an exception to this role, the assigned tasks encompass the rest of the sphere of public administration (mainly public) while they are commissioned by the act or transferred in the manner provided by law (in particular by agreement). In carrying out the assigned tasks self-government units act as a system of dualistic nature. The commission does not contribute to considering specific tasks as their own. This causes activation of the executive function which will act against the public administration.

3 Duties belonging to self-government units at different levels

There are some differences between the performance of one's own tasks and tasks which are assigned to all units. First of all, the general and overall competence clause applies to the tasks that individuals carry out without additional authorization. Moreover, when it comes to the question of responsibility for carrying out entrusted tasks the entity takes responsibility, and as for execution of the assigned tasks – public administration. Another important aspect is that the performance of one's own various tasks is associated with the requirement to use one's own resources (public administration may at the same time help the body). In the case of the assigned tasks, their realization take place after ensuring measures by public administration. In the case of their absence units do not have an obligation to perform them. The next difference is reflected in the case of appellate bodies. A Local Government Appeal Court is an appellate body in matters which are handled by administrative decision, belonging to their own tasks; on the other hand the authority of public administration (especially voivode), the matters belonging to the assigned tasks. Judical protection is assured in the scope of their own tasks (Zimmermann 2012, 181).

3.1 Tasks belonging to the commune self-government

The Act on Commune Self-Government (art. 6) confers a presumption of jurisdiction in favor of the commune in public matters of local importance. The presumption is not only a fundamental

rule on which the division of tasks in public affairs of local importance is based but it is also an interpretative directive in the case of disputes in this area.

The commune should operate in such a way as to meet actual needs. It is not a point to predict possible solutions. All tasks which are listened in art. 7 paragraph 1 point 1–20 should be carried out with due diligence. The phrase "in particular" indicates that the list is not exhaustive. Further categories of issues that belong to a unit's own tasks stem from specific regulations. In art. 7 of the Act on Commune Self-Government the word "issues" appears, which means fields of public administration, which can be handled in different ways. The catalogue of issues in art. 7 of the Act on Commune Self-Government is diverse and incomplete, and their order is accidental. We can distinguish the following groups of issues:

- issues of technical infrastructure (point 2, 3, 4, 7, 11, 13, 15)
- issues of social infrastructure (point 5, 8, 9, 10, 16)
- issues of spatial and ecological order (point 1, 12)
- issues of public safety (point 14)
- issues of external representation of the commune (point 17, 18, 19, 20) (Zimmermann 2012, 189)

Art. 7 paragraph 3 of the Act on Commune Self-Government indicates that this catalogue can be extended. This Act lists in art. 7 paragraph 2 categories of mandatory tasks. Their existence is dependent on other regulations. Such separation is a guarantee of support from the commune to citizens. In addition it helps to complete certain tasks despite political, economic or social obstacles. Each task performed by commune self-government is equally important and combined with the competence (which combines the power and duty to implement) of the commune body. Article 9 paragraph 2 indicates the activity that the commune can lead only to the extent that is determined by law and goes beyond issues of public utility. This specific group are tasks in the field of economic activity. Art. 7 paragraph 4 defines issues of a public utility character.

Tasks assigned to the commune may have a diverse scope and art. 8 paragraph 1 of the Act on Commune Self-Government testifies to it. Art 8 paragraph 2 cannot be a basis for a public administration body to reach an agreement with the commune. It is addressed to the commune. A different regulation is the basis of such an agreement for a public administration body and also has an institutional character. That means that it cannot provide a legal basis for further actions within the scope of assigned tasks. However, regulations can provide this basis because "competence" must be based on law. The authority which refers tasks may refer such tasks about which it is knowledgeable and gives tasks to the authority which will have the power to implement them. Art. 8 paragraph 2 and art. 74 of the Act on Commune Self-Government indicate a different category of the assigned tasks, which refers to tasks belonging to other units of self-government (commune, county, voivodship). It also provides a form of cooperation of individuals and takes place by agreement. Art. 9 paragraph 1 of the Act on Commune Self-Government defines another form of assigned task. Performing the assigned tasks by a commune is related to the fact that the commune receives financial support in the necessary amount to carry out assigned tasks under principles which are laid down in acts or agreements transferring tasks (art. 8 paragraph 3 and 4).

Of all the self-government's acts only the Act on Commune Self-Government uses the category of tasks of their own and those assigned by public administration under the act or agreement with public administration bodies (Jaworska-Dębska 2009, 398). However, the

Act of County Government and Act on Voivodship Government do not use such terms. It is only pointed out in both of these acts that they may define issues belonging to the county or voivodship as the tasks of public administration.

3.2 Tasks belonging to the county self-government

The Act of County Government similarly to the Act on Commune Self-Government introduces its own catalogue of its own tasks of county. In the case of a county this catalogue is exhaustive in nature (art. 4 paragraph 1 of the Act of County Government). In accordance with art. 4 paragraph 3 of the Act of County Government other specific acts may provide further tasks of the county. The Act of County Government waives the phrase "satisfying the collective needs of the community" used in the Act on Commune Self-Government. This does not mean abandoning this

task, because each unit is committed to fulfil it. The Act of County Government does not isolate mandatory tasks, because art. 4 paragraph 1 shows that "the county performs tasks" which clearly indicates, that the separate tasks in this art. have compulsory character. This art. uses the term "range" not "issues" as does the Act on Commune Self-Government. These ranges relate to ranges according to public administration departments. The Act of County Government indicates tasks of their own and assigned tasks in a different way than the Act on Commune Self-Government in art. 1 paragraph 7. However, the Act of County Government in art. 4 paragraph 1 indicates tasks of supracommunal character defined by specific acts and art. 4 paragraph 6 is its perfect complement ("tasks of the county cannot violate the scope of activities of the commune"). So, tasks of the county cannot overlap with tasks of the commune that lie within the county. Tasks which are performed by counties have a complementary, compensating character towards the commune. A county does not arise in order to compete with a commune in exercising public functions or even to take over certain tasks of the commune, but to create with the commune the system of carrying out these public tasks of local character in local government structures (Niewiadomski 2002, 123–194). The county performs these tasks of local character which due to their supracommunal nature, the commune cannot perform. Arising in 1998, counties took over the tasks from public administration, not from communes. County reform should be considered as a step towards decentralization in the scope of political transformation. The Act of October 13, 1998 implementing regulations of the Acts reforming public administration has an important role in this point (Competence Act).[11]

The Act of County Government as well as the Act on Commune Self-Government indicates the catalogue of tasks of the county (art. 4 paragraph 1). These tasks can be divided into several groups due to:

- the scope of the technical infrastructure (point 6, 11, 12, 19)
- the scope of the spatial and ecological order (point 9, 10, 12, 13, 14, 16)
- the scope of the social infrastructure (point 1, 2, 3, 4, 5, 7, 8, 17, 18)
- the scope of the public security and defense (point 15, 20)
- the scope of the internal representation (point 21, 22) (Zimmermann 2012, 204)

The Act on County Self-Government introduces an undisputed principle that the county cannot conduct business activity beyond the tasks of the scope of public utility in a way that differs from the Act of Commune Self-Government (art. 6 paragraph 2). The Act on County Self-Government does not isolate tasks assigned to the county, even though some of them refer to such tasks (art. 4 paragraph 4 and 4a). However, certain activities in art. 7 paragraph 1 and 2 of the Act on County Self-Government belong to the category of "tasks assigned to the county" that in the scope of their own tasks must be made mandatory. In the case of the county, as well as in that of the commune, the category of assigned tasks to the county was regulated under the agreement (art. 5 paragraph 1 and 2). A county also may enter into agreements with others to perform tasks (article 6 paragraph 1).

At the level of the county, public administration has its own organizational units, creating a unified administration of the county. Art 4 paragraph 2 of the Act on County Self-Government states that to public duties of the county belongs also performance of tasks and competences of managers of county services, inspections and fire departments. There are doubts, whether this group of tasks are tasks of their own or assigned to the county. Surely, these are not the county's own tasks. It concerns tasks of public administration rather than tasks of the county self-government community. Managers of county services, inspections and fire departments act on behalf of themselves and county bodies cannot violate their competences. Creating a new category apart from the division into the county's own and assigned tasks would be unconstitutional. The best solution seems to be to include them within the assigned tasks, because assigned tasks are more durable, for they were included in the Act on County Self-Government.

11. See: Ustawa z 13 października 1998 r. Przepisy wprowadzające ustawy reformujące administrację publiczną, DzU z 1998 r. nr 133 poz. 872 ze zm.

3.3 Tasks belonging to the voivodship self-government

The regional nature of voivodship self-government determines its tasks. The aim of the voivodship government is creating the civilizational development of the region through economic development (Jaworska-Dębska 2009, 402). Tasks belonging to the voivodship self-government have a specific nature due to functioning in tandem at the voivodship's level of the public administration. It was essential to divide the tasks and arrange them in such a way that they may complement each other. Art. 2 paragraph 2 indicates division of the tasks between the voivodship's public administration and self-government's administration.

The question of the purposes of voivodship self-government in comparison with the commune or county is very complicated. The principle was introduced in which in each voivodship its aims will be included in a specific documents, which are a new form of activity of administration, similar to planning acts. Self-government voivodship determines the strategy of development of a voivodship (Kulik 2005, 1). The Regional Development Strategy, which is a legal act in a form of a resolution of the voivodship parliament provides the main aims of a voivodship. Art. 11 paragraph 1 of Act on Voivodship Self-Government introduces examples of purposes.

Acts of lower level, which means in this case, regional programs, carry out the Regional Development Strategy. In accordance with art. 11 paragraph 4 of the Act on Voivodship Self-Government, self-government may apply for funding from regional programs and regional operational programs. Self-government voivodships may also enter into regional contracts in matters concerning the implementation of the tasks set out in regional programs by the rules in the Act on the National Development Plan (art. 32 – 36).[12]

Article 11 paragraph 2 of the Act on Voivodship Self-Government presents a diverse, detailed catalogue in which tasks are enumeratively listed and are involved in voivodship's development policy.

Other entities, especially local government units, other local governments, public administration, other voivodships, non-governmental organizations, universities, research bodies, international organizations, regions of other countries, especially neighboring and others listed in art. 3 paragraph 3 of the Act on Public Benefit and Volunteer[13] — participate in preparing regional development strategy and regional development policy (art. 12 of Act on Voivodship Self-Government).

Tasks which voivodships perform on their own were listed in art. 14 paragraph 1 of the Act on Voivodship Self-Government and include:

- principles of technical infrastructure (points 9, 10)
- range of spatial and ecological order (points 6, 7, 8)
- range of social infrastructure (point 1, 2, 3, 4, 5, 11, 12, 15)
- range of public safety and defense points 13, 14)

These tasks are focused around the functions of a regional nature, but it is worth noting that these tasks include some categories of cases similar to those in which self-governments units act. The voivodship as well as the county cannot run a business activity, going beyond the public sphere.

The Act on Voivodship Self-Government does not distinguish tasks assigned to a voivodship, because of the existence of public administration on the voivodship's territory. However, art. 14 paragraph 2 of the Act on Voivodship Self-Government states that the acts may specify the issues related to the scope of the voivodship as the tasks of public administration, which are carried out by voivodship self-governments.

Summary

As an extremely important component of public authority local government provides the ability to maintain a real relation among public authorities with residents (voters). It is easy to see that the local government as a standard institution in a democratic system and in the state of law is increasingly the subject of international legal norms. The appearance of the legal basis of local

12. See: Ustawa z 20 kwietnia 2004 r. o Narodowym Planie Rozwoju, DzU z 2004 r. nr 116, poz. 1206 ze zm.

13. Ustawa z 24 kwietnia 2003 r. o działalności pożytku publicznego i o wolontariacie, DzU z 2003 r. nr 96, poz. 873.

government units and the differences in performing tasks provides a way to capture the essential content of the legal system of the local government in Poland. The role of local government in carrying out tasks of public administration is extensive and is the trend is increasing. However, local government is only a "means" and the outcome depends on the human factor of the ability to use the "tool" which in one sense can be called "self-government".

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