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Studia Prawnoustrojowe nr 28, 305-320

2015

Artykuł został opracowany do udostępnienia w internecie przez Muzeum Historii Polski w ramach prac podejmowanych na rzecz zapewnienia otwartego, powszechnego i trwałego dostępu do polskiego dorobku naukowego i kulturalnego. Artykuł jest umieszczony w kolekcji cyfrowej bazhum.muzhp.pl, gromadzącej zawartość polskich czasopism humanistycznych i społecznych.

Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

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Introduction

In 1918 after the period of Partitions of Poland the country had to face a very difficult and tough period of the organization of central and local administrative bodies that were able to undertake new functions. Despite the fact of having the tradition of the local self-government, a few varied solutions were taken into account. The Polish state formed its borders and built the parliamentary democracy. However, the enormous difficulties of political, economic and legal nature there should have been overcome.

Polish literature on the subject of the building of local administrative units and local administrative bodies in the inter-war period is quite impressive. Among the authors who were interested in the subject there could be mentioned: M. Jaroszyński, J. Starościak, J. Panejko, A. Wereszczyński, T. Bigo, A. Ajnenkiel, A. Łuczak, H. Izdebski Z. Leoński, J. Sobczak, B. Jastrzębski and others.

The object of the research in the present article is to identify the concepts of the local self-government in the beginning of the Polish independence and to present the situation of the local administrative bodies and administrative units taking into account varied solutions implicated in varied parts under the different partitioners. With the use of legal acts and the literature of the object, at first there will be shown the European tradition in the sphere of the organization of the local government, and then Polish solutions in the beginning of the inter-war period.

It should be also mentioned that the local self-government will be in the present article also named as local administration, local government or local administrative bodies. The administration understood in a functional way occurred in all historical forms of the state. It is worth to underline that not every organizing activity had deserved to be called administration. It is noted in the literature that the administration of the full meaning will be the organizing activity of a state, which is realized

with the help of a bureaucratic system¹ including the extensive range of issues of social importance and governed by the general rules of law.

The European traditions of the local self-government

The administration understood in a functional way can be found in the ancient states as well as in the Middle Ages. The origins of the modern administration can be found in the absolute monarchy. A lot of institutions of the modern government originate from the institution that developed in the era of absolutism. The issue of local government has its own rich history that is reflected in the numerous research works in this field. Overall, the self-government – is “a self governing by a group of people their business”² [trans. – E.S.]. “This is the form of public participation in the self-fulfillment the needs of the group’s collective life”³ [trans. – E.S.]. Within the broad sense of the self-government there are distinguished varied forms of government that are called: local self-government (local administration) and special government as professional, economic, religious, etc. The local self-government is an essential form of self-government institution.

A local self-government is the organization of the residents of a particular area with their common issues and interests arising in the neighborhood. The main and oldest unit of the local self-government is a commune (gmina). Looking at the community as the institution of self-government, the beginnings of self-government should be sought in ancient times. Roman government bill *Codex Julia Municipalis* became the prototype of the later local self-government⁴.

In the period of feudalism and limited monarchy there can be also seen some signs of the existence of self-government. The medieval municipalities created a kind of “a state within a state”. There were such municipalities also in Poland where they governed social and economic life and created some local regulations. These tasks, however, did not result from an existing law. They were created by the realities of life. Rural municipalities operated independently only in certain Europe-

¹ About the bureaucratic system see, for example E. Sokalska, *Biurokratyczny model funkcjonowania nowoczesnej administracji w twórczości Maksa Weбера*, [in:] E. Kozerska, P. Sadowski, A. Szymański (eds.), *Wybrane problemy nauki i nauczania prawa*, Opole 2010, p. 189–198; idem, *Access to information of administrative officials in Max Weber’s perception of bureaucracy*, vol. 1, Nov. 2008, available at <[www.http://uwm.edu.pl/lawreview](http://uwm.edu.pl/lawreview)>, p. 18–35.

² See, M. Stahl, E. Olejniczak-Szałowska, *Samorząd terytorialny. Podstawowe zagadnienia*, Warszawa 1994, p. 5.

³ J. Bardach, B. Leśnodorski, M. Pietrzak, *Historia państwa i prawa polskiego*, Warszawa 1994, p. 462.

⁴ J. Sobczak, *Kształtowanie się instytucji samorządowych w państwach europejskich*, [in:] L.W. Za-char, P. Matusiak (eds.), *Integracja Europy. (Elementy historii, problemy, przyszłość)*, Warszawa 1996, p. 36. Starting from the genesis of the community professor J. Sobczak presents the issue of a so-called social (community) theory of the local self-government and a state theory of the local self-government.

an countries. The situation depended on obtaining the freedom by peasants. This process occurred in Switzerland and there are also the roots of rural self-government community.

In the era of absolute monarchy, these traditional institutions of local municipal and rural self-government started to be subordinated to and supervised by the state bureaucratic apparatus that led to the far-reaching centralization of administration. In the period of the enlightened absolutism the local communities were therefore only the state administrative units. The independence of municipalities was not guaranteed by the law and that was why it did not exist.

The French Revolution of 1789 indicated the new direction of changes. The ideas of liberalism that were promoted that time assumed the reducing of the impact of the administration and protection of the law against infringements of the bureaucratic apparatus. An individual then became a citizen and the subject of civil rights. During this period it was formulated the legal-natural concept of the community that was in opposition to the state government. According to it, the community as an earlier product than a state is independent as with the natural right to self-government. Then, the concept of the self-government as “a forth power” gained some supporters. The reflection of such theories has still got place in the legislation of certain German-speaking countries, Belgium or England.

With the exception of England where the local authorities have always been based on the self-government, in the XVIII-th century on the European continent the dualism of local authorities took place. The public administration was exercised by the government and self-government bodies. The communities due to the recognized “natural rights” obtained the organization with the elective communal officials. The executive and legislative were separated and they have their own tasks and the tasks commissioned by the government. These principles became the basis for the organization of communities in the modern countries. Unfortunately, France of Napoleon evolved towards the centralization and the abolition of local government by limiting the role of communities only to the administrative divisions. However, after this period, the French returned to the decentralized administration. The situation was different in Prussia where despite the fact of the existence of the absolute monarchy elements, some reforms implied by minister Heinrich Friedrich Karl von Stein led to the strengthening of the independence of communities, at first municipal and then rural⁵.

Local self-government in the XIX-th century began to gain more importance not only in the politics. German legal science began to use the term “self-government” as the equivalent of the community organization, and gave it more content⁶. The XIX-th century therefore brings a modern approach to self-government, the strengthening of local government institutions in continental Europe and the Anglo-Saxon countries. In England there was created a monistic model of the local government.

⁵ Ibidem, p. 37.

⁶ See, T. Fuks, *Samorząd. Rzeczywistość i oczekiwania*, Warszawa 1981, p. 9–10.

On the rest of the European continent there was dominating the dualistic model of administration. According to this model there was a division of tasks between the state government in the local areas and the local self-government. The basis for the division of the tasks was the meaning and range of cases. Local self-government bodies had the authority to settle the cases that were connected with local sphere of life and central government authorities in local area were however able to supervise the activities of local self-government. In the indicated above overview of local self-government history as well as in the modern countries, there have been always some clashes among the two systems of the internal governance of a state: centralization and decentralization⁷.

In the first of these systems, the central authorities determined the directions of public administration and instructed it on how to settle specific issues. The local authorities were only technical local executors of decisions taken at the highest level. The centrality of this type was a characteristic feature of the absolute monarchies of the XVIII-th century. Despite the introduction of the principle of separation of powers, the symptoms of that centralistic behavior can be seen in the functioning of the administrative apparatus of some countries in the XIX-th and XX-th centuries. On the other hand, decentralization is a system where there are some separate local centers that perform self-administration just beside the main center power. The independence of these centers is guaranteed by legal standards.

One of the basic legal forms of decentralization of administration is the institution of self-government⁸. It is a form of rich traditions that had previously been illustrated. The modern principles of local self-government were developed at the time of the French Revolution and in the second half of the nineteenth century. The democratization of political systems and the increase of the civil awareness encouraged the various forms of self-government including local government.

The issue of local self-government and its connections with central administration was from the beginning the point of discussion. The naturalistic theory, which has been already mentioned, contrasted the local self-government with the state administration as an institution completely independent from it⁹. This theory has been reflected in the Belgian Constitution of 1831, in the determination of local government as the fourth independent power besides the legislative, executive and judicial. Proponents of this theory proved that the communities and municipalities were the original products, even elder than a state. As an individual has the inherent right to freedom, so the community should be independent and surrounded by security. The proponents of this theory tended to expand the scope of the own local tasks

⁷ J. Starościk, *Decentralizacja administracji*, Warszawa 1960, p. 40.

⁸ Ibidem.

⁹ See, J. Panejko, *Geneza i podstawy samorządu europejskiego*, Paryż 1926, p. 130; T. Bigo, *Związki publicznoprawne w świetle ustawodawstwa polskiego*, Warszawa 1928, p. 152; J. Staryszak, *Prawo nadzoru nad administracją samorządową w Polsce*, Warszawa 1931, p. 24; J. Starościk, op. cit., p. 53.

of the community, while the commissioned tasks were treated as a burden borne for the good of the state.

However, on the basis of the state theory there were some intentions that tended to associate the local self-government with the state administration¹⁰. According to the proponents of this theory of self-government, there is the will of the government and even the freedom of communities comes from the government. This power of the state renounced the part of their responsibilities to the local government. The highly disputed point of this theory were the boundaries of the autonomy of municipalities. Some argued that the local self-government should have a far-reaching autonomy¹¹, others that it should be almost completely subordinate to the state administration¹². The supporters of this theory recognized the need for supervision over the self-government, but the scope of the audit and state interference was the subject of numerous disputes. The question of – how far supervision should be to not cross out the sense of appointing the local self-government? – was very important. These theoretical assumptions concerning local self-government did not take place in their pure forms in the European countries. In practice, the structure of local self-government, the supervision and the scope of tasks were the combination of varied theoretical assumptions embodied in life.

The structure of the local administrative units on the terrain of the former Congress Kingdom of Poland

At the time of regaining independence in 1918 and the formation of the state's borders on Polish lands there were existing in parallel several varied legal systems left by the invaders. In the area of the Prussian occupation there was the legal system of Prussia, in Galicja and Cieszyn Silesia – Austrian law, in the areas of Orava and Spiss region – Hungarian law, in areas annexed by Russia and eastern borderlands – Russian law. In the area of the former Congress Kingdom of Poland in the field of civil law existed as a separate Polish-French legislation coming from the first half of the XIX-th century. In addition, there were some regulations issued in the years of World War I by the German and Austrian, and introduced by the pro-Polish authorities. So, in other words there were some differences not only among the partitions but also within the one partition.

It should be noted that there were several systems of administrative law on the Polish lands. The structure of the local administrative bodies was also shaped diffe-

¹⁰ A. Wereszczyński, *Wiadomości o Polsce współczesnej. Ustrój i administracja państwa polskiego*, Lwów 1936, p. 232.

¹¹ The theory that was improved by T. Bigo, op. cit., p. 150; J. Panejko, op. cit., p. 91; M. Jaroszyński, *Samorząd terytorialny w Polsce. Stan obecny. Wnioski do reformy*, Warszawa 1926, p. 1.

¹² The theory of the subordination of self-government to the central administration was presented by J. Staryszak, op.cit., p. 24.

rently in the individual partition. The existing self-government system on the Polish lands was also inherited from the occupying countries¹³. This diversity of various legal and administrative regimes significantly disrupted the administration of the entire area of a free state. The first plan was the desire of the authorities to speed up the process of unification of the state at the political, legal and administrative levels. The starting point there was adopted the principle of adapting the old partitioning institutions to the new conditions. The difficulty of the situation in the initial period was deepening by the lack of the single center of the central authorities¹⁴.

The intensive preparations for the convening of the Polish parliament started with the regaining independence. The functioning of Sejm – Polish parliament was closely associated with the concept of independence by all Poles. It was quickly organized a new state apparatus. Parliamentary elections were held two months after disarming the occupiers. In three months time the government started to function. Despite the fact of occurring some difficulties and impossibility to hold the elections in some administrative units due to extraordinary circumstances, Sejm Ustawodawczy (the main legislative body) started to work on the 10th of February. During the meetings it was visible the diversity and variability of varied political groups within the legislative body. None of the parliamentary representation and political parties received within a few years a sustainable advantage and that fact unfortunately led to the frequent changes of the cabinet¹⁵.

In the II Polish People's Republic the local self-government of the continental type was implied. In 1918 there were three concepts of resolving the issue of territorial administration. The first was promoted by the right political wing and it suggested to relay the administration on a centralized system¹⁶. So, the local government, as in France, would have been of the limited significance. The revolutionary left wing voted for the need of the broad self-government but similar to the solutions of Soviet Russia. Soviet delegate committees did not have tradition or widespread public support in Poland¹⁷. Proponents of the third concept – the group of moderate left wing and social compromise (PPS and peasant activists) – advocated the support of territorial administration on a broad local self-government. This solution was reflected in the later Polish legislation (The Constitution of 23 March 1921)¹⁸.

¹³ The differences of the legal solutions concerning local self-government in the partitions indicates J. Sobczak, *Idea samorządowa w polskiej myśli politycznej XIX i początku XX wieku*, [in:] B. Jastrzębski (ed.), *Edukacja samorządowa*, Olsztyn 1997, p. 40–41.

¹⁴ A. Ajnenkiel, *Administracja w Polsce. Zarys historyczny*, Warszawa 1977, p. 37–42.

¹⁵ M. Kallas, *Historia ustroju państwa i prawa polskiego*, Warszawa 1996, p. 306–307.

¹⁶ Zob. J. Sobczak, *Idea samorządowa...*, p. 41–55.

¹⁷ B. Radlak, *Wizja państwa socjalistycznego w dokumentach programowych polskiego ruchu robotniczego*, „Z pola walki” 1974, no. 2, p. 153–165; F. Tych (ed.), *Polskie programy socjalistyczne 1878–1918*, Warszawa 1975, p. 34, 96, 117–118, 133–134, 342–346.

¹⁸ A. Łuczak, *Samorząd terytorialny w programach i działalności stronnictw ludowych 1918–1939*, Warszawa 1973, p. 54–65; *Program Związku Ludowo-Narodowego Rzeczypospolitej Polskiej uchwalony przez Zjazd 8000 delegatów z całej Polski w dniu 27 października 1919 r. w Warszawie*,

Self-government in the Anglo-Saxon meaning (that consists in the fact that the whole territorial administration was concentrated in the hands of independent bodies elected by the local population creating the own rules within the framework of existing laws with their own political rights) has not ever practically existed in Poland. It was conditioned by the fact of adoption by the Polish state the institutions from the period of the partitions, and the governments of the occupying states did not depend on the exercising such entitlements by the Polish bodies.

So there was no doubt that the local government should have been involved in the exercising of power. So the idea was to build self-government local bodies that, which would not have been regarded as opposing to government authorities. Kazimierz Kumaniecki who lived in the atmosphere of those days noticed: “[...] in the own state, based on the principles of democratic ideas self-government should somehow root into the organization of the state authorities, to become one of its essential elements, a balancing factor, connecting the government authority with the ruling in the name of preservation and development of the state administration as a social organization with the characteristics of the general, universal and compulsory”¹⁹ [trans. – E.S.].

Due to the time of partitions, varied economic, social, cultural backgrounds and separate administrative legislation there were problems handled by the central government. The knowledge of the facts and laws, even the best, was not able to replace the knowledge of life, relationships and needs of the local population. It was possible only under the direct administration, carried out by the local government. Stanisław Grabski wrote: “[...] based on my own experience I state firmly that excessive centralization does not strengthen but weakens the creative activity of the government. It helps only to maintain the passive obedience of the society – but by no means makes and carries out the real improvements of socio – cultural life of the nation and more effective international security interests of the state”²⁰ [trans. – E.S.].

In addition to the government administration represented by provincial governors and starosts (województwo and starostowie), in Poland there begun to shape up the outline of the local self-government with its provincial (wojewódzki), county (powiatowy) and district (gminny) levels. This process ended in 1933 with the adoption of *Ustawa o częściowej zmianie samoprządu terytorialnego* (law on the partial change of the local self-government system) called also “the uniting act” (“ustawa scaleniowa”)²¹.

[in:] A. Łuczak, J.R. Szaflik (eds.), *Druga Rzeczpospolita. Wybór dokumentów*, Warszawa 1988, p. 53; „Zarząd zewnętrzny państwa musi być zdecentralizowany i przeniesiony na ciała samorządowe”. *Program PSL „Piast” z 1919 r.*, [in:] *Materiały źródłowe do historii polskiego ruchu ludowego*, Warszawa 1967, vol. II, p. 27.

¹⁹ K. Kumaniecki, *Ustrój państwowych władz administracyjnych na ziemiach Polski*, Kraków 1921, p. 138.

²⁰ S. Grabski, *Myśli o dziejowej drodze Polski*, Glasgow 1944, p. 49.

²¹ Ustawa z 23 marca 1933 r. o częściowej zmianie ustroju samorządu terytorialnego (Dz.U. RP nr 35, poz. 294).

As it was previously noted, the post-independence local government legislation based on legal provisions established by the governments of partitioners, the former Congress Kingdom of Poland in the matters of local government regulations that was in force from 1864²², as amended, supplemented by the Decree of 27 November 1918 on the establishment of district councils²³.

The smallest administrative unit in rural relations was the gromada which included the peasants-owners of the land located within the gromada district. Gromada had their bodies – *zebranie gromadzkie* (the meeting of gromada district) and *sołtys* (village leader). Gromada district consisted of all adults living in their own farmsteads. It was the authority that was enacting the law and controlling the gromada. The executive body of gromada was *sołtys*, who also served as the *wójt's* (borough leader's) assistant in managing the affairs of the district and police matters²⁴.

The rural district was cumulative. The rural district authorities were: a district assembly, a borough leader and a district council. A district assembly was a legislative and controlling body. The right to be elected obtained men and women who were over 21 years old and have been residing at least six months in the district²⁵. A borough leader was obliged to convene a district assembly if necessary at least four times a year on the specified dates. For legitimacy of assembly resolutions it was required the presence of at least half of the people having the right to vote at the meeting.

A district council was an executive and managing body. It consisted of a borough leader and 12 members elected by the district assembly for three years time. The scope of activities of a district council included preparing proposals and budgets for a district assembly and overseeing the implementation of its resolutions, managing the property and funds belonging to a district, the supervision of municipal institutions and establishments, the control and disposal of the district officials and the control of the borough leader's activity²⁶. At least once a year, the council was required to report to the district assembly.

A borough leader was the chairman of the local council and he was also the government's representative. He had an obligation to publish laws and government

²² Ustawa z 2 marca 1864 r. o urządzeniu gmin wiejskich, *Dziennik Praw Królestwa Polskiego* (cit later *Dz. Pr. KP*), vol. 62, p. 37.

²³ Dekret z 27 listopada 1918 r. o utworzeniu rad gminnych na obszarze byłego Królestwa Polskiego, *Dziennik Praw Państwa Polskiego* (cit later *Dz. Pr. PP*) nr 18, poz. 8, art. 12; and executory provisions enacted by MSW on the 5-th of Dec. 1918; On the Eastern part of the country the sphere of the district self-government was regulated by rozporządzenie Komisarza Generalnego z 26 września 1919 r., *Dziennik Urzędowy Zarządu Cywilnego Ziem Wschodnich* (cit later *Dz. Urz. Zarz. Cyw. Z. Wsch.*) nr 21, poz. 215.

²⁴ B. Wasiutyński, *Ustrój władz administracyjnych, państwowych i samorządowych*, [in:] A. Peretiakowicz (ed.), *Encyklopedia prawa obowiązującego w Polsce*, Poznań 1925, p. 1, z. 2, p. 77.

²⁵ Dekret z 27 listopada 1918 r. o utworzeniu rad gminnych na obszarze byłego Królestwa Polskiego (*Dz. Pr. PP* nr 18, poz. 8, art. 12).

²⁶ *Ibidem*, art. 3–6.

regulations; he was a police authority in the field of public safety. He was also obliged to perform any commands of the starost, the county department, the government and higher authorities²⁷. The supervision of government was exercised in the first instance by the county department and in the second and last instance by the provincial governor. The competence of a provincial governor included approving certain resolutions of gromada and district meetings, exercising the disciplinary authority over borough leaders and village leaders and solving the district council.

The municipal self-government (which actually under Russian rule since the outbreak of the January Uprising did not work) in the former Congress Kingdom of Poland²⁸ was organized a few months after regaining independence, the Head of State Decree of 13 December 1918 on elections to municipal councils in the former Congress Kingdom of Poland and the Decree of 4 lutego 1919 on the municipal government²⁹. According to these acts a self-governing municipality was a territorial unit and a public-legal person³⁰. The decree introduced the concept of members of the community who were Polish citizens residing within the municipality for at least six months and being over 21 years old³¹. Members of the community had the right to participate in municipal elections³². There were also persons deprived of suffrage: of guardianship, deprived of or limited rights under a court order, holding houses of debauchery³³. The eligibility to stand for election had those of the voters who were over 25 years old and were able to read and write in Polish. The members of the town council were not able to be persons who: town and state officials, supervising the activities of the municipality and police officers³⁴.

The tasks of the municipality were divided into own tasks and commissioned tasks (poruczone)³⁵. The range of municipalities' activities covered all the matters concerned the material well-being, spiritual development and the health of their residents and, in particular, the cases of the management of the roads and public transport, public order and safety, public utilities (water, sewer), public health and education. The commissioned scope of tasks defined was defined by the laws and regulations of state and government contracts with the municipality³⁶.

²⁷ *Ibidem*, art. 8.

²⁸ Dz. Pr. PP z 1918 r., nr 20, poz. 58.

²⁹ Dz. Pr. PP z 1919 r., nr 13, poz. 140; On the east lands there was introduced „tymczasowa ustawa miejska” enacted by Komisarz Generalny Ziem Wschodnich on the 27-th of June 1919 (Dz. Urz. Zarz. Cyw. Z. Wsch. nr 7, poz. 46); and ordynacja wyborcza do tymczasowych rad miejskich z 25 czerwca 1919 r. (Dz. Urz. Zarz. Cyw. Z. Wsch. nr 17, poz. 44).

³⁰ *Ibidem*, art. 2.

³¹ Art. 5 dekretu Naczelnika Państwa z dnia 13 grudnia 1918 r. o wyborach do rad miejskich na terenie byłego Królestwa Polskiego (Dz. Pr. PP nr 20, poz. 58).

³² *Ibidem*, art. 2.

³³ *Ibidem*, art. 3.

³⁴ *Ibidem*, art. 4–5.

³⁵ Art. 9 dekretu z 4 lutego 1919 r. o samorządzie miejskim (Dz. Pr. PP nr 13, poz. 140).

³⁶ *Ibidem*, art. 10, 11.

The bodies of the municipality were the town council and the magistrate. The city council composed of councilors and members of the municipality elected for three years. It was the voting and controlling body. Its competence included: establishing rules for the magistrate and how to use the assets of the municipality, adopting the annual budget and the fees and taxes belonged to the municipality, as well as controlling the activities of municipal administration³⁷.

The executive body of a municipality was a magistrate consisting of a president, vice presidents and jurors in Warsaw, Łódź and Lublin, and in the other towns it consisted of a mayor, his deputy and jurors. Its competences included: implementing the resolutions of the town or city council, municipal assets management, conducting urban enterprises and supervision, management of revenues and expenditures of the municipality, the municipal council submission of reports and performance of the commissioned tasks (by the state and imposed by law). The magistrate was collegial authority. A mayor (president) was the head of the municipality and its representative. In the urgent cases he could have fixed all the steps himself, but at the next meeting they had to be approved by the magistrate³⁸.

The supervision of the towns that were not separated from the counties was exercised by the county departments and the Minister of Internal Affairs. The supervision of towns that were separated from the counties belonged to the Minister of Internal Affairs. The supervisory authority had the right to terminate the town council, to approve certain resolutions by the board, to revoke, suspend or repeal the provisions of the town authorities if contradicted existing laws and to refer the members of the municipal office³⁹.

The county self-government in the former Congress Kingdom of Poland was based on the Decree of the Head of State on a temporary electoral district on the 4-th of February 1919⁴⁰, and the decree of the interim electoral district to the assemblies of 5-th December 1918⁴¹. According to these acts, each administrative district was the unit of local self-government, and in other words the county self-governmental union. The towns with more than 25 thousand inhabitants were separated from the county self-government district. Separation of the smaller town required a special legislative act. The separated towns had functions as the county self-government. The decree defined the scope of action of the county on its own and commissioned. The own tasks included economic interests, health and cultural activities. The decree named for example: the protection and development of agricul-

³⁷ Ibidem, art. 13, 20, 21.

³⁸ Ibidem, art. 40, 47, 50.

³⁹ Ibidem, art. 63, 66–70.

⁴⁰ Dekret Naczelnika Państwa o tymczasowej ordynacji powiatowej z dnia 4 lutego 1919 r. (Dz. Pr. PP nr 13, poz. 141).

⁴¹ Dekret o tymczasowej ordynacji wyborczej do sejmików powiatowych z dnia 5 grudnia 1918 r. (Dz. Pr. PP nr 19, poz. 51). On the east lands the county self-government was organized by Rozporządzenie Rady Ministrów z 10 sierpnia 1922 r. (Dz. U. RP nr 722, poz. 651 i 652).

ture, industry and trade, construction and maintenance of roads, health and the issues of education⁴².

The bodies of the county self-government were: county assembly, county department and starost (district governor)⁴³. The provisional electoral memorandum stated that the council was composed of delegates of municipalities and districts (two from each district). In the rural districts the members of the county council were chosen by the district council, in the towns – the members of the town councils and magistrate during the shared meeting⁴⁴. The right to be elected had the members of councils in rural and urban areas who were able to read and write in Polish.

The county assembly was a body representing local self-government, enacting law and controlling. Its competence was: approving the budget of the district and the calculation of the annual borrowing, taxes, selecting faculty members of the district and solving the cases passed by the Parliament and special laws⁴⁵.

The governing body was a county department consisting of 6 members under the leadership of the chairman or his deputy. The powers of the department included: the preparation of cases under deliberation assembly, to determine ways to accomplish the assembly resolutions, performing commissioned by the state and law tasks. It held also the disciplinary authority over the employees of the county. The chairman of the county assembly was a starost. His duty was to prepare proposals to the county department, to lead the meeting of the assembly, to take care of current affairs and to execute resolutions. The supervision over the activities of the county self-governmental unions was held by the Minister of Internal Affairs⁴⁶.

On the lands of the former Russian partition it was not created the provincial self-government during the interwar period. Its surrogate were provincial councils were established next to the provincial governors on the 2-nd of August 1919. They included the representatives of government offices, delegates from the county and district assemblies. The tasks of the provincial councils were limited to issuing opinions in these cases that were presented by the provincial governors⁴⁷.

In the II Polish People's Republic the provincial self-government was a quite unique institution. It functioned properly in the former Prussian partition which was related to the activities in these areas the earlier Prussian provincial self-government. There was not appointed such self-government in Galicia. There did not work even

⁴² Art. 1, 3, 5–7 dekretu Naczelnika Państwa z 4 lutego 1919 r. o tymczasowej ordynacji powiatowej (Dz. Pr. PP nr 13, poz.141).

⁴³ Ibidem, art.10.

⁴⁴ Art. 1, 3 dekretu z 5 grudnia 1918 r. o tymczasowej ordynacji wyborczej do sejmików powiatowych (Dz. Pr. PP nr 19, poz. 51).

⁴⁵ Art. 16, 17 dekretu Naczelnika Państwa z 4 lutego 1919 r. o tymczasowej ordynacji powiatowej (Dz. Pr. PP nr 13, poz. 141).

⁴⁶ Ibidem, art. 36–37, 40–41.

⁴⁷ On organization of the provincial self-government see S. Gajewski, K.M. Nawacka, *Historia ustroju Polski 966–1989*, Olsztyn 2002, p. 134; see also R. Szwed, *Samorządowa Rzeczpospolita*, Częstochowa 2000, p. 12–13.

the provincial councils. Probable, the situation was caused by the ethnic structure. There were some worries about the eastern areas of the Polish state, especially the growing importance in the field of administration of non-Polish nationalities, mostly Ukrainians.

The main act in the sphere of organization of local self-government was the Polish Constitution of the 17-th March 1921⁴⁸. The issue of self-government was introduced in some articles, giving the local self-government the rank of an essential characteristic of the state. The Constitution recognized that the system of the Republic was based on the principle of broad self-government, which was combined with the legislative powers, and therefore a certain degree of autonomy, especially in the field of public administration, culture and holding to the fact that the detailed scope of these powers were to determine the additional bills⁴⁹. There was also predicted that the local government had to act in the provinces, counties and districts, and local governments could have formed some associations.

The Constitution defined the base of the system of local self-government and it granted some entitlements to the councils that were elected, and executive tasks in the provinces and districts bodies, composed of members elected by the council, but operating under the leadership of representatives of the state administrative authorities. This act introduced so-called fusion of two types of public administration and local self-government. It guaranteed the division of income of the state and local government, and the supervision of local self-government by the higher level, possibly also by the administrative courts, and only exceptionally in respect of the approval of the decision defined by legislation – by the ministry⁵⁰. The sources of finance of the local government were to indicate by the separate bills⁵¹.

The art. 109 of the Constitution also concerned the local self-government. According to its content, the separate civil laws were intended to ensure national minorities the full and free development of their ethnic characteristics, using the compounds of minority within the local government. The autonomous powers of self-government were to serve also as the solutions to the issue of minorities, representing about 30% of the citizens of the Republic.

It is worth to emphasize that acts and laws concerning the local self-government were very vague and they referred in detailed matters detailed to the separate laws that were planned to adopt later, although they did not specify the time and manner of their adoption. They could have been interpreted differently, and this interpretation was largely of political coloration. Linking the issue of national minorities with

⁴⁸ Dz. U. RP 1921, nr 44, poz. 267; about the constitution see more A. Ajnenkiel, *Konstytucje Polski w rozwoju dziejowym*, Warszawa 2001, p. 156–180.

⁴⁹ Dz. U. RP 1921, nr 44, poz. 267, art. 3, 65.

⁵⁰ Ibidem, art. 67, 69, 70.

⁵¹ The self-government from the point of view of the constitution, see „Samorząd Miejski” V 1926, (no number), p. 287–306.

the local government was an additional hindrance to the development of the higher local self-government, especially provincial. The example of the difficulties encountered trying to implement the provisions of the Constitution concerning local government was the fate of the draft legislation concerning local government that had developed in the twenties.

In a short time the municipal department of the Interior Ministry attempted to modify the whole system of the local self-government. In 1923 it was appointed the Administration Reform Commission, which adopted a number of theses concerning local government, including the guidelines of the draft law on regional self-government, as well as the framework of bills of county government and the organization of rural and urban distractive units. In relation to the provincial self-government, the commission proposed to grant the provincial assemblies the legislative powers in the cases of choosing the model of the organization of the county self-government. It was also proposed the dissemination of the Prussian model of professional members of the executive, appointed for a double term⁵².

In 1924 the Polish government adopted and brought to the parliament the package of self-government laws: the law on the district self-government (rural and municipal), the law on electoral systems for the self-government bodies, the law on municipal and county associations. In the package of these projects there was not a draft law on the provincial self-government which resulted from the problems with nationalities. The problem of provincial self-government was linked with the issue of the extension of the powers of the Ukrainian population in the south-eastern regions. In addition, on the 26-th of September 1922 the Parliament had already passed the law already on the principles of universal provincial government, in particular, for the provinces of Lvov, Tarnopol and Stanislawow⁵³. It was, however, only the framework and it required more details through the further legislation. Characteristic for municipal bills of 1924 it was a long, six-year term of the office and executive bodies of. Professional members of the magistrate were to be appointed for a double term.

During the works on the package of self-government laws there were revealed some significant differences in the views concerning the matter. Consequently, there was an impasse in the work that caused the exclusion of the projects from the agenda. After 1926, despite the attempts to re-introduce the self-government bills on the agenda of the Parliament, the government was reluctant to the development of the local self-government and all the projects were withdrawn from the Sejm. The later attempts to resume the debate on the drafts raised with some amendments had also failed.

⁵² H. Izdebski, *Samorząd terytorialny w II Rzeczypospolitej*. „Samorząd Terytorialny” 1991, nr 5, p. 39.

⁵³ Dz. U. RP 1922, nr 90, poz. 829.

The regulation of the President of the Republic of Poland of the 19-th of January 1928 brought the changes in the functioning of the local self-government⁵⁴. It introduced some self-government institutions at the level of province with the limited range of self-government – provincial councils and departments. The exceptions were pomorskie and poznańskie provinces, where the provincial self-government was created and there were maintaining the regional parliaments. Provincial councils were to be composed of members elected by the county and city councils⁵⁵.

At the level of the province there were introduced some municipal institutions with a limited range of self-government – provincial councils and departments. The exceptions were pomorskie and poznańskie where the provincial self-government and regional parliaments were maintained. The provincial councils were to be composed of the members elected by the county and city councils⁵⁶.

The provincial department consisted of the provincial governor, two other provincial officials and three members elected by the provincial council. It had an advisory role in matters that were passed to its opinion by the provincial governor. It worked with an advisory voice in such matters as the approval of the resolutions of local authorities, appeals from the judgments and orders of the local trade bodies and the supervision of the local government⁵⁷.

Conclusions

In 1918 after the period of partitions the Polish country underwent a very difficult and tough period of the organization of central and local administrative bodies. Despite the fact of the tradition in the sphere of the local self-government, a few varied solutions were taken into account. The Polish state formed its borders and built the parliamentary democracy. There were enacted some laws that organized the local self-government in some manner. The regulation of 1928, as well as the earlier acts, was not been able to organize and unify the various local government systems on the lands of the old partitions. The practice of local elections that took place throughout the country with big problems, pointed how this unification was necessary. It was resolved on the 23-rd of March 1933, with the adoption of *Ustawa o częściowej zmianie samoprządu terytorialnego* (law on the partial change of the local self-government system) called also “the uniting act” (“ustawa scaleniowa”)⁵⁸. In the early thirties on a larger there were some preparations to the reform of

⁵⁴ Rozporządzenie Prezydenta RP z dnia 19 stycznia 1928 r. o organizacji i zakresie działania władz administracji ogólnej (Dz. U. RP nr 11, poz. 86).

⁵⁵ Ibidem, art. 42.

⁵⁶ Ibidem.

⁵⁷ Ibidem, art. 48.

⁵⁸ More about that act, see Sokalska E., *Organy samorządowe miast niewydziałonych w świetle „ustawy scaleniowej” z 23 marca 1933 r.*, „Studia Prawnoustrojowe” 2004, z. 3, p. 151–160.

the administrative division of the country. The government declared a desire to defense of self-government. This was the result of the recognition of the unity of the public administration and the assumption that the self-government is the part of the state apparatus⁵⁹.

In practice, the act was called the “uniting” because it joined together the mosaic of the varied forms of self-government in the various areas of Poland. As the name suggests the law has been codified only in some parts. Too huge differences in legal practice and actual condition that were left in each of the district were remains of the time of partitioning. The process of removing them required a lot of time. It can be said that the local government act only solved the most important issues. The act introduced a uniform terminology, harmonized the term of office of the administrative bodies and the rules of their choice and unified composition of legislative bodies. It was a very important step towards the unification of local self-government organization.

Streszczenie

Koncepcja samorządu terytorialnego w Polsce w pierwszych latach po odzyskaniu niepodległości

Słowa kluczowe: samorząd, administracja, ustrój, gmina, województwo, powiat.

Problematyka samorządu terytorialnego ma swoją bogatą historię, co odzwierciedlają liczne prace badawcze w tym zakresie. W momencie odzyskania niepodległości w 1918 r. oraz kształtowania się granic państwa na ziemiach Polski obowiązywało równoległe kilka różnych systemów prawnych pozostawionych przez zaborców. Owa mozaika różnorodnych ustrojów prawno – administracyjnych, jako pozostałość okresu zaborów, znacznie utrudniała administrowanie całym obszarem wolnego państwa. Na pierwszy plan wysunęło się dążenie władz do przyśpieszenia procesu unifikacji państwa na płaszczyźnie stosunków politycznych, prawnych i administracyjnych. Za punkt wyjścia przyjęto zasadę przystosowania dawnych zaborczych instytucji do nowych warunków, choć istniało kilka odmiennych koncepcji dotyczących organizacji oraz funkcjonowania administracji samorządowej.

W II Rzeczypospolitej wprowadzono samorząd terytorialny typu kontynentalnego. Już w 1918 r. wystąpiły trzy koncepcje rozwiązania kwestii administracji terytorialnej. Rzecznicy jednej z koncepcji zalecali oparcie administracji terytorialnej na szerokim samorządzie terytorialnym. To właśnie rozwiązanie znalazło odbicie w późniejszym polskim ustawodawstwie. Głównym aktem w sferze organizacji samorządu terytorialnego była Konstytucja Rzeczypospolitej Polskiej z 17 marca 1921 r., która nadała samorządowi terytorialnemu rangę zasadniczej cechy ustrojowej państwa.

⁵⁹ H. Izdebski, op. cit., p. 46.

Podczas prac sejmowych nad pakietem ustaw samorządowych ujawniły się znaczne różnice poglądów w ich materii, a w rezultacie w pracach nastąpił impas. Po roku 1926, mimo prób ponownego wprowadzenia projektów ustaw samorządowych do porządku dziennego obrad Sejmu, rząd niechętny rozwojowi instytucji samorządowych, wycofał wszystkie projekty z Sejmu. Nie powiodły się też późniejsze próby wznowienia debaty nad projektami wniesionymi na nowo z pewnymi poprawkami. Zmiany w funkcjonowaniu samorządu terytorialnego przyniosło dopiero rozporządzenie Prezydenta RP z dnia 19 stycznia 1928 r. o organizacji i zakresie działania władz administracji ogólnej. Rozporządzenie to, jak też wcześniejsze akty prawne, nie zdołały uporządkować i ujednoczyć ustroju samorządowego różnego na ziemiach dawnych zaborów. Praktyka wyborów samorządowych, które przebiegały na terenie całego kraju z dużymi problemami, wskazywała, jak bardzo ujednoczenie to było konieczne. Nastąpiło ono dopiero 23 marca 1933, kiedy uchwalona została ustawa o częściowej zmianie ustroju samorządu terytorialnego, nazywana powszechnie „ustawą scaleniową”. Na początku lat trzydziestych zajęto się też na większą skalę sprawą reformy podziału administracyjnego kraju.