

Legal status of executive bodies of local government units

The subject of the dissertation is the legal status of the executive bodies of local government units. The current model of executive bodies has been evolving since the restitution of local self-government in 1990. The formation of the legal position of the mayor, the district board and the voivodeship board has been perpetually incomplete. The juxtaposition of perpetuity and incompleteness aptly illustrates the characteristics of the Polish model of executive bodies.

The former term closely refers to the characteristics of local self-government law, which by its nature should meet the needs of members of the territorial community. The perpetuity refers to the tasks and competencies that are being assigned to the jurisdiction of the local government and its bodies over time. Naturally, the legislature cannot possibly predict all the circumstances that may occur in the future. The concept of perpetual evolution should not in general be viewed negatively, as it is a normal process occurring in local government law. However, it is important that the legislators, while drafting legislation, respects the prevailing system principles. In practice, the process of creating legal norms related to executive bodies does not always correspond to the essence of self-government or the principles of proper legislation.

The issue of constitutional principles violations is related to the latter of the abovementioned features of the process of forming the model of executive bodies, i.e., the incompleteness. So far, the legislative activity demonstrates a lack of vision on the part of the legislature for the final shape of the executive bodies. In this context the concept of shape incorporates both basic issues, such as the undefined legal status of the chairmen of district and voivodeship boards, the length of their respective terms of office, as well as issues of special nature such as how to evaluate the activities of executive bodies. In terms of the legal position of the executive branch, the legislature seems to follow the principle of legislating here and now. For this reason, mutually exclusive or even inapplicable provisions are generated.

The identified features of the process of forming the model of executive bodies, in the light of the legislature activities to date, raise doubts about the future legal position of the mayor, district board and voivodeship board. Conducting a study is necessary to assess the legislature's approach to the fundamental issue of the executive body of a local government unit. The impetus for the study was also provided by the perceived doubts of interpretation of legal norms, which are pointed out in practice by representatives of executive bodies. In

addition, the existing body of doctrine is insufficient to demonstrate the intentional imperfection of the legislature's activity. It should be noted that despite the attractiveness of the topic and its significant importance, the issue has not yet lived to see a monographic study.

The primary purpose of the research conducted is to present the complex legal nature of the mayor, district board and voivodeship board. This is because the legislature expects the hubs of the executive bodies to have comprehensive skills and abilities to perform a significant part of the tasks of local government units. In view of the above, another goal of the dissertation is to try to show that the legislature does not facilitate the performance of tasks in an efficient, precise, and timely manner when defining the multiplicity of roles and tasks of the executive bodies. In view of the poor quality of legislation, executive bodies are often forced to carry out an interpretative process of competence norms based on legal expertise before fulfilling their tasks. Neither is this conducive to the quality of the tasks performed, nor does it promote legal certainty and confidence in public administration bodies. At this point, it should be noted that the pressure on the executive bodies to carry out a correct and unambiguous interpretation of the law, an often-impossible action, is reinforced by the risk of sanctions incurred for improper performance of tasks and competencies. Liability can take on an administrative, civil, political, but also criminal character.

Thus, the author of the dissertation formulated the main research hypothesis, according to which the legislature does not have a vision of the target structure and role of the executive bodies of local government units in the public administration system. Within the framework of the adopted hypothesis, the following auxiliary questions were formulated:

1. whether the current model and role of executive bodies in the municipality, district, voivodeship is the result of individual legislative actions;
2. whether interpretative doubts about legal norms relating to executive bodies are the result of so-called legislative sloppiness or intentional action by the legislature;
3. whether the imprecise nature of legal provisions is a systemic instrument of the legislature to use legal norms to further specific interests, e.g. of a political nature.

The dissertation is an attempt to comprehensively cover and organize all relevant issues concerning the legal position of executive bodies of local government units. Therefore, the dissertation uses research methods appropriate to legal science. The subject of the research is primarily the current Polish law. Thus, the research used the legal-dogmatic method of interpreting the applicable law, in particular the Constitution of the Republic of Poland, local government system laws, the Law on Local Government Employees, and other special laws.

The legal-dogmatic method is based on the use of logical-linguistic analysis, the purpose of which is to precisely determine the content of a legal norm and then use it for practical action.

The historical method was used in the dissertation. Reference to historical aspects was dictated by the need to present the evolution of local government, including the institutions of executive bodies.

To a complementary extent, the comparative legal method was also employed. However, due to the subject matter undertaken, which is based on solutions developed in Poland over more than 30 years, as well as the detail of the considerations undertaken, the use of the comparative method would not carry significant cognitive value.

The comprehensive presentation of the legal position of executive bodies of local self-government units was structured around a typical cycle of functioning of the mayor, the district board, and the provincial board, i.e., from the candidacy for tenure until the termination of their functions. Chapter I has a historical and theoretical nature. Chapter II presents the legal basis for the functioning of executive bodies in the Polish system of local government law. Chapter III is devoted to the issue of the legal basis of the relationship between a member of the executive body and the local government unit. The issues raised within the framework of Chapter IV are the key to the consideration of the legal position of the executive body. This is because there is no doubt that the performance of tasks and powers is an immanent feature of the executive body in the structure of local government. A general study of the scope of tasks and competencies of executive bodies has been carried out. Chapter V, on the other hand, deals with issues arising from the verification of the activities of executive bodies. Chapter VI is dedicated to the limitations arising from the exercise of the mandate of a mayor or the performance of functions on the county and provincial boards, an analysis of the issues of the responsibility of executive bodies and their members and ways of terminating the exercise of the mandate of a mayor or the performance of functions on the district and voivodeship boards.

The study showed the need to clarify the regulations of local government constitutional laws, which have raised questions of interpretation for years. This is because it should be expected that system founding rules will be formulated in a way that does not raise any doubts. Otherwise, an erroneous system founding rules will result in imperfect legislation of special laws. The legislature should also establish a uniform model and role for the executive bodies. An important *de lege ferenda* demand is also to stop legislative activity aimed at subordinating the activities of executive bodies to the instructions of government representatives.