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Streszczenie rozprawy doktorskiej

pt. „Mandat przedstawicielski radnego w jednostkach samorządu terytorialnego”

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The doctoral dissertation is entitled "Representative mandate of a councillor in local government units". The aim of the scientific research undertaken in this doctoral dissertation is to analyze and comprehensively discuss the existing legal solutions related to the representative mandate of a councillor of a commune, district and voivodeship in Polish law. This dissertation presents the legal provisions in force in Poland defining the legal position of a councillor as a member of a decision-making body of a local government unit, which comes from direct elections. The aim was also to analyze the legal position of a councillor in the structure of the authorities of a local government unit, to present in detail the structure of the councillor's mandate, to demonstrate the duties, orders, prohibitions that are imposed on a person who has a representative mandate.

The applicable legal regulations, relating to issues related to the exercise of the mandate of a representative councillor, cause difficulties of interpretation, which are the reason for divergent views and conclusions both in the doctrine and jurisprudence of administrative courts and pose a problem for their application in practice by administrative courts and supervisory authorities.

The intention was to organize and comprehensively discuss the issues, which at the same time justifies the rightness and legitimacy of undertaking research work in this area. The analysis included, among others, the provisions of the constitutional acts of local governments, the electoral code, the act on disclosure of information about documents of state security organs from the years 1944-1990 and the content of these documents, combined with the formulation of postulates *de lege ferenda*.

The structure of the work adopted in the dissertation allowed for a comprehensive and comprehensive discussion of the research problem and the coherence of the analyzed issues. The structure of the dissertation was adapted to the cognitive purpose. The work layout is

consistent with the assumptions of the research methodology, it also ensures the widest implementation of the assumed goal. Considerations are conducted in five chapters, creating the structure of the work.

The first chapter is devoted to theoretical and legal considerations. At the beginning, the reform of local government legislation in the years 1918 – 1998 and local government administration was discussed. The constitutional foundations for the functioning of local government were presented. The concept and essence of the representative mandate, both free and imperative, was analysed.

The second chapter contains a broad analysis of legal regulations related to the acquisition of the mandate of a representative councillor. The standards for conducting the election of representatives to decision-making bodies were discussed, as well as the analysis of the provisions of the Electoral Code in the field of active and passive electoral rights. The factors shaping the essence of the councillor's mandate were discussed and analyzed and subjective electoral rights were presented. Distinctive methods of acquiring a representative mandate are presented in detail.

Legal regulations concerning the duties and powers of a councillor during the term of a representative mandate are presented in the third chapter. Issues related to the obligations imposed by the legislator on the councillor towards members of the local government community are also discussed.

*De lege lata* remarks and *de lege ferenda* conclusions were made . The control and information powers of the councillor and the councillor's obligations towards members of the local government community were discussed.

The fourth chapter of the dissertation synthetically presents the limitations resulting from performing the function of a councilor, an analysis of anti-corruption regulations is presented, taking into account the prohibitions on combining the mandate of a councillor with specific functions in the sphere of local government law. The role of restrictions resulting from the function of a councillor was analyzed

The fifth chapter of the hearing concerns a comprehensive discussion of issues related to the termination of the mandate of a councillor. In this context, individual grounds for the expiry of a councillor's mandate under the provisions of the Electoral Code were analysed, as well as the procedure for a possible appeal against the act declaring the expiry of the councillor's mandate. An important part of the work is to discuss the decisions of administrative courts made in cases concerning the termination of the mandate of a councilor, as well as to draw attention to the inconsistency of case law of administrative courts.

The work closes with the ending, in which an attempt was made to summarize the substantive considerations presented in the dissertation and the final conclusions relating to the whole of the analyzes carried out.

Several research methods were used. The basic method used in the work is the dogmatic-legal method consisting in the exegesis of the legal text. It is complemented by the historical-legal method, as well as the empirical method. The proper selection of research methods was determined by the purpose of the work, and the adopted methodology takes into account the specific nature of the work. The analysis presented in this way made it possible to formulate *de lege lata comments and to construct conclusions and postulates de lege ferenda, the inclusion of which would allow for a significant improvement in legal solutions in the analyzed scope concerning the issue of the representative mandate of a councillor in local government units.*

In the dogmatic and legal method, apart from the analysis of the legal text, an in-depth analysis of the case law of administrative courts (both the Supreme Administrative Court and the Provincial Administrative Court) was carried out in matters related to the functioning of local government bodies and the views of legal doctrine. The analysis of the legal text itself turned out to be insufficient, which is why it was necessary to refer to the literature on local government law. The discrepancies existing in the literature and judicial decisions required justification of the positions chosen at work. The analysis covered the case law of administrative courts available in the official CBOSA internet databases or the LEX electronic legal information system. Referring to certain tendencies, lines of case law or well-established views of the jurisprudence, a large number of rulings for or against a given thesis have been cited.

In order to show the evolution of the functioning of the representative mandate and the reforms of local government, due to the subject of the study covering the first chapter, the historical and legal method was used.

The dissertation takes into account the achievements of literature on the subject, as well as rich judicial practice related to the activities of the Constitutional Tribunal, the Supreme Administrative Court, administrative courts. In addition to the analysis of the legal text, an in-depth analysis of the views presented in the science of administrative law (including local government) will be made.

Issues related to taking up the mandate of a councillor - as a person who obtained a representative mandate (representative of voters), duties that resting on a councillor (member stanowiącego i kontrolnego organu gminy), w jakie uprawnienia został wyposażony przez

legislator - is an issue of legal and social importance, which fully justified undertaking research work.

The work is closed by the final conclusions, in which reference was made to the whole of the analyzes carried out.

The work takes into account the legal status as of June 25, 2023.