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INTERPRETATION OF THE PRINCIPLE OF MUNICIPALITY SELF-RELIANCE IN THE CONTEXT OF CONSTITUTIONAL PRINCIPLES OF LAW

Abstract. In the science of administrative and constitutional law, administration science and many other sciences, including political science, it is widely accepted that the basic, inherent feature of a municipality, deciding the essence of the territorial self-government unit as an entity of public administration, is the self-reliance it is entitled to. The self-reliance of territorial self-government units is even defined as a constitutional norm.

In principle, self-reliance is perceived as a fundamental attribute of a decentralised public authority and constitutes one of the fundamental systemic principles of the Republic of Poland. It was formulated *expressis verbis* in art. 165 par. 2 of the Constitution of the Republic of Poland, which states that the self-reliance of territorial self-government units is subject to judicial protection, meaning that TSGUs can defend themselves against illegal attempts, not grounded in the law to interfere in their self-reliance. This protection seems to encompass both the private-law and public-law spheres of territorial self-government activity.

The essence and guarantees of territorial self-government units' self-reliance also arise from other constitutional principles, including the aforementioned decentralisation principle, subsidiarity principle, separation of powers, supremacy of the nation and democratic state under rule of law.

The goal of this article is to interpret the principle of municipal self-reliance in the context of constitutional principles of law, in the light of the Polish Constitution. The studies were conducted based on analysis of normative acts, doctrinal views and case law.

Keywords: administrative law, self-government constitutional principles of law, municipality self-reliance.

1. Introduction

"Principles of law" are among the concepts that arose just after jurisprudence was born. Since ancient times, attempts have been made to grasp rules in concise legal maxims. The number of these rules has continuously grown as legal thought developed (Ziemski, 1989, p. 7).

Self-reliance, as one of the most important elements relating to the essence of territorial self-government and self-governance, implies the need to clarify it.

In colloquial language, the concept of self-reliance is used with respect to both natural persons and organisational units. An entity that forms a separate whole, is not associated with anything, does not enter into the composition of something else, is separate and independent is considered to be self-reliant (Słownik języka polskiego, p. 57). Self-reliance is treated as a synonym of independence. The term is also rather commonly associated with freedom, liberty, discretion, and unpredictability (Pawlyta, 2009). Self-reliance is also a concept closely related to autonomy, which means independence, the ability to establish norms for oneself. In constitutional law, autonomy is self-reliance, defined by central authorities of a part of a state's territory, mainly in the area of legislation. The political concept of autonomy should also be associated with independence with regard to supreme authority (Guziejewska, 2002). In Polish legal theory, the differences between the concepts of autonomy and self-reliance (*Pol. samodzielność*) can be found in two fundamental elements. The concept of autonomy is associated with political privileges, whereas self-reliance relates to privileges in the area of the economy and finance and hence to economic functions (Gajl, 1993). Therefore, it can be said that self-governments are self-reliant, on one hand, in terms of their right to separate the budgeting of funds originating not only from the state budget but also from resolutions regarding taxes and fees passed by the self-government, and on the other, in terms of their right to fair trial (Oniszczuk, 2004).

According to this reasoning, one can distinguish between self-reliant entities and those that do not have self-reliance. In the case of territorial self-government units, however, the problem is more complicated, as it is difficult to recognise them as autonomous, independent entities, or entities that do not enter into the composition of something else. Rather, the actual organisation of authority in the state, regulated by laws on the separation of this authority, and in particular, of competencies between the government and self-government sectors, and the instruments of monitoring and supervision over the activity of self-governments provided for under the law indicate that it would be difficult to ascribe self-reliance construed in this manner to territorial self-government units (Zawora, 2008).

Considering the colloquial understanding of the term "self-reliance", one may come to the conclusion that a self-government does not have the feature defining this term. However, this is not the case (Kosek-Wojnar, 2006, p. 75). Self-reliance is inscribed into the essence of self-government.

The definition of self-government clearly states that it is organisationally and legally distinguished within the structure of the state, an association of the local community, established by law, appointed for self-reliant execution of state administration and equipped with the material means enabling execution of the tasks imposed upon it.

In the science of administrative and constitutional law, administration science and many other sciences, including political science, it is concordantly accepted that the basic, inherent feature of a municipality, deciding the essence of the territorial self-government unit as an entity of public administration, is the self-reliance it is entitled to (Bąkowski, Brzeski, Laskowska, 2010, p. 17). The self-reliance of territorial self-government units is identified with the constitutional normative principle, which determines the establishment and application of legal norms expanding on and solidifying the wording in the provisions of the Constitution of the Republic of Poland (Szewczyk, 2002, p. 105). After all, in a constitutional state, the Constitution plays a fundamental role. It organises the system of state authorities according to the principle of separation of powers and defines the boundaries of the state's interference in an individual's or unit's rights (Zakrzewska, 1990, p. 10). A series of principles having a direct impact on the scope of a municipality's self-reliance can be inferred from the Constitution.

2. The principle of the democratic constitutional state

The elementary normative matter forming the collective values on which the organisation and functioning of the state community should be based is the principle of the democratic constitutional state arising from art. 2 of the Constitution of the Republic of Poland.

The first reflection of the constitutional state clause was introduced into the Polish Constitution by the amendment of December 1989. It prescribed such a form of transformation of the group of legal institutions functioning in the state and such transformation of the legal system as to correspond to the model of the democratic constitutional state (Wronkowska, 2006, p. 112).

According to W. Lang, an undisputed feature of a constitutional state is the subordination to the law of the authority of all state bodies which are associated with the law as they create and apply it. In a constitutional state, the law itself is not only an instrument for exercising authority and actions by state authorities of a specific social policy within the bounds of the law but also an instrument for society, organised social groups and citizens to limit and control state authority itself (Lang, 1991, p. 12–13).

In the opinion of I. Bogucka, the classical model of a constitutional state manifests in the separation of powers, judicial control over administrative decisions, and the legality of administrative functioning (Bogucka, 1992, p. 33). A democratic state is considered to be a state in which there exist specific political and legal institutions (e.g. a parliament chosen through democratic elections, independent courts, constitutional judiciary) and in which specific principles determining the relationships between these institutions and the rules of their functioning have been adopted (e.g. principle of legality). Another equally important feature is that the law, as a set of binding norms, meets specific content-related (particularly human freedom and rule of law) and formal requirements (it is sufficiently precise, transparent and communicative), and the requirements are formulated so that all public institutions, legislators included, act in a certain manner, and since these requirements may be fulfilled to a greater or lesser degree, standards of the correctness of decisions made by these institutions are set (Wronkowska, 2006, p. 110).

Considering legislative and administrative activity, it should be emphasised that the constitutional state principle is binding in both of these areas. Municipal authorities also perform the functions mentioned above. This principle creates significant consequences for both the state and municipal system, thereby securing its self-governance and self-reliance.

The constitutional state principle secures the stability of the law regulating the municipality's legal situation. This manifests in the safeguarding of conformity of the law determining the municipality's legal position. According to the Constitution, a constitutional state guarantees legal security, meaning that a municipality's subjective rights, acquired according to the law and the principles of equity, will not unexpectedly be abolished or limited by the legislator without justification. On these grounds, one may conclude that all regulations concerning the municipality's legal position should be compliant with the highest legal act in Poland, being the Constitution of the Republic of Poland. In the desire to introduce changes to legal regulations relating to municipalities, the legislative branch must make every effort not to surprise municipalities with the changes (Garlicki, 2016, p. 61).

The case law of the Constitutional Tribunal provides an additional guarantee to municipalities, in favour of the principle of protecting equitably acquired rights. The competencies of municipal authorities are defined clearly and precisely, thanks to the constitutional state principle, and separated from the competencies of other bodies of territorial self-government bodies or government bodies. No state authority or self-government unit may take competencies away from a municipality. Changes may be made only

by way of an act, as long as it does not violate the municipality's constitutional status.

The constitutional state clause also ensures democratic creation and the publishing of local law in the municipality. The law making competencies of the municipality are sometimes identified with the principle of national supremacy. In a democratic state, authoritative public functions may be performed only by such units that are capable of citing legitimacy in the eyes of the Nation in this regard (Sarnecki, 2013, p. 18). The national supremacy principle ties into the proper relations between the executors of authority and the guardian of authority, which is the Nation under the Constitution of the Republic of Poland (Wiktorowska, 2002, p. 26). At the municipal level, this is associated with the electoral rules relating to municipal authorities and the principle of representative democracy in the municipality. Here, the need for a democratic electoral procedure must be highlighted. This procedure must account for the principles of universality, directness, equality and secrecy of elections in the course of appointing municipal councils, as well as for the regularity of these elections, which is a consequence of the principle of council terms. As they perform public functions, municipal authorities must not only factor in the interests and needs of the local community, recognised by the law, but also the interest of the Nation, which is organised into its own state. Because of this, in its activity, a municipality is obliged to apply, in large part, national law in addition to local law.

In a democratic state, citizens have the right to articulate their own interests, expectations, demands as well as to present their own ideas on how to resolve them. This is effected by organisation of municipal referenda, the municipality's right to file a complaint against supervisory acts of the Supreme Administrative Court (SAC), the right to file a complaint with the SAC of anyone whose interests were violated by an act of local law or other resolution of a municipal authority. A significant instrument of democracy in a municipality is the possibility of organising various forms of discussion and social dialogue, conducted by the local community with municipal authorities, which is a natural consequence of the principle of political pluralism.

3. The rule of law principle

Another principle that is significant from the perspective of protection of municipal self-reliance is the rule of law principle – often identified with the principle of legality. This principle indicates that all authorities, institutions,

entities and citizens in a democratic constitutional state should act solely on the grounds of and in compliance with binding law.

Administrative law is the specific branch of law that regulates the functioning of entities of state administration. In Polish law, there is a wide array of sources of administrative law, starting from the Constitution, through regulations, to directives, which is associated with the need to "establish acts accounting for diverse conditions in individual units of territorial division, as well as the need to establish acts accounting for the characteristics of individual branches of administration" (Ziemski, 1989, p. 15).

The source literature indicates that one of the overriding principles found in the Constitution is precisely the rule of law principle, and because of this, it constitutes an indispensable component of the democratic constitutional state. As T. Ciemniewski noted, "the principle of rule of law factually plays the role of the principle establishing the constitution as the foundational legal act, i.e. the elementary act legally legitimising state authority" (Ciemniewski, 1989, p. 196).

The rule of law principle is expressed in art. 7 of the Constitution of the Republic of Poland of 1997, and based on this principle, the actions of public authorities must have a legal basis and be within the bounds of the law. Representatives of the doctrine of administrative law stress that the provision formulates two convergent principles: the principle of legality (action on the basis of law) and the principle of rule of law (action within the bounds of the law) (Ziemski, 1989, p. 15). Many researchers of the subject believe that both the rule of law (Sokolewicz, 2007, p. 7) and legality principles constitute an integral ingredient of the democratic constitutional state principle, which is why their formulation in a separate provision is often perceived as a repetition of the wording of the same principle (Bitner, Kulesza 2009, p. 10).

The rule of law principle is defined as a prescription of authorities' action on the basis of the law and within the limits of the competencies assigned to them, with respect to the resolution of a specific matter (Rybicki, 1984, p. 247–248). The legislator has the obligation to define both the grounds for and limits of action by authorities. Action on the grounds of the law signifies the requirement of legal legitimacy for all activity involving the exercising of public authority, where this legitimacy should encompass, at the least, the establishment of the authority's competencies through specification of the scope, form and mode of activity.

All elements of territorial self-government must have a legal basis. This pertains to, among other things, all aspects of the system and activities

of territorial self-government. The scope of activity and competencies of self-government bodies are defined by acts.

The rule of law principle significantly affects relationships between the public administration and citizens as well as political parties, economic entities, etc. On one hand, citizens exercise their inherent freedom, which is primary with respect to the objective law that must be respected and adhered to by the legislator, and on the other, public authorities need an enumerative, closed catalogue of statutory competencies.

The rule of law principle can also be considered in the context of council members' oaths, in which they assume the obligation to abide by the law (Kisiel, 2003).

4. The subsidiarity principle

The subsidiarity principle is equally important in the context of municipal self-reliance. The subsidiarity principle is the subject of consideration among lawyers, sociologists, philosophers, political scientists and ethicians. The idea of subsidiarity traces its roots to ancient times, the Latin term *subsidium*, is defined as assistance, support, reinforcements (Schmidt-Jortzig, Schink, 1982, p. 5).

The modern view of the subsidiarity principle, currently accepted in the doctrine of modern democratic states, defines subsidiarity as the division of tasks between citizens and their communities, and the state, where tasks that cannot be executed effectively by smaller structures are assigned to state authorities (Banaszak, 2009, p. 7). Ch. Millon-Delsoli stated according to whom the priority of exercising authority was assigned to fundamental communities, formulated the subsidiarity principle differently. According to his definition, if a municipality is capable of executing the tasks assigned to it independently and satisfy its own needs, then authorities at the higher level should not take over its activities (Millon-Delsol, 1996, p. 41).

Many different definitions of the subsidiarity principle are in use. However, one that would be universally accepted has not surfaced. The reason for this state of affairs is the multi-dimensionality of the concept, as it is of a philosophical and moral, as well as a sociological and politico-legal nature. Another problem standing in the way of pinning down an unambiguous definition of the subsidiarity principle is the existence of two considerably divergent, even contradictory, meanings, linked to the etymology of the Latin term *subsidium* (Milczarek, 1996, p. 25–26). One group of definitions places

greater emphasis on the activity of society and undertaking of initiatives by units at the lower level, and the second stresses the welfare state principle (Maj, 2012, p. 276).

As a rule, the subsidiarity principle states that all decisions pertaining to citizens should generally be made at the levels of authority closest to them. Circumstances in which decision-making at a higher level brings better effects in terms of the expected outcomes, or the competencies of lower-level structures are insufficient for carrying out some action, and are the exception to this rule. F. Schnapp presented a similar position, and in his opinion, tasks can be transferred to a higher level of authority only when they will be executed more professionally or economically, or they will have a supralocal reach. At the same time, he highlighted that regulations defining the instance resolving a given matter and assigning certain tasks to a specific community were not specified in the legal order (Schnapp, 1991).

The essence of subsidiarity is linked to two assumptions:

- two frames of reference are present, e.g. society-individual, state-municipality (the smaller entity constitutes a certain, integral whole and is termed a subsystem, and the second, larger entity constitutes a certain fragmented whole and is termed a suprasystem) (Tkaczyński, 1998);
- there is a characteristic system of relations between the two entities, manifesting in that each of them, as a certain whole, has a safeguarded sphere of self-reliance.

On one hand, the subsidiarity principle is associated with the rule of procedure, and on the other, it has the nature of an organisational rule. However, the entities bilaterally determine mutual relations. It plays a significant role, similarly to the separation of powers principle, which secures the state against centralism and omnipotence (Kuchenhoff, Staatsverfassung, 1953, p. 82). According to the assumption, the subsidiarity principle is obliged to account for the freedom of the individual and the common good of society, whereas the political order based on this principle should more effectively guard the state against unnecessary tasks.

In light of the above, the opposite principle is the concentration of political and economic power. However, it is possible to transfer competencies to higher levels of authority if these entities will be better prepared to realise certain tasks (Nell-Breuning, 1968, p. 104, 143).

In the European Charter of Local Self-Government of 1985, subsidiary was defined as a legal norm regulating the functioning of territorial self-government units (Radwanowicz-Wanczewska, Dąbek, 2018, p. 973–974). Poland ratified the document on 26 April 1993. The document states that

the execution of public tasks is the obligation and among the competencies of authorities and bodies found closest to the citizen. Tasks may be assigned to other bodies only if a given task corresponds to the scope and nature of the given body, and if the task can be realised more effectively and with lesser expenditure. The European Charter of Local Self-Government defined the subsidiarity principles as a hierarchic separation of powers from top to bottom. B. Dolnicki noted that decentralisation, defined as the division of competencies between bodies of the higher and lower level, is the opposite of implementation of the subsidiarity principle, from the perspective of its structure. However, the author stresses that this opposition is solely methodological and functional, since the material effect, in the form of separation of powers, is achieved by both courses of action (Dolnicki, 2006, p. 25). One may even hypothesise that subsidiarity and decentralisation are the two pillars ensuring self-reliance of self-government.

Art. 163 of the Constitution states that a self-government has the right to perform tasks not reserved under the Constitution or other legal act for bodies of other public authorities. At the same time, art. 16 par. 2 states that "Territorial self-government participates in the exercising of public authority. On the grounds of legal acts, privileges are exercised in the self-government's own name and on its own responsibility". In relation to the above, self-government is due priority when it comes to assignment of tasks, competencies and public funds (Krasnowolski, 2012, p. 13). Based on the above provisions, the subsidiarity of the government administration with respect to territorial self-government can be observed. Territorial self-government is the main component of the public administration's structure, and in light of this, it is this unit that should execute the majority of tasks within the scope of local public administration and hold a larger amount of public funds allocated to finance local public tasks (Kisiel 2003, p. 32–33).

Art. 164 of the Constitution states that the municipality is the fundamental unit of territorial self-government. Art. 164 par. 3 of the Constitution establishes the presumption of competence of the municipality: "The municipality executes all tasks of territorial self-government not reserved for other territorial self-government units". In this understanding, territorial self-government will be relevant only if the law does not entrust tasks to another body of public authority (Dąbek, Zimmermann, 2005, p. 17). There are many opinions criticising the current solutions, and in the opinion of some, a reform of the wording of art. 163 of the Constitution is necessary. It is highlighted that the subsidiarity principle could be determined more effectively if, in their activities, state authorities would limit them-

selves to executing only that, which the Constitution does not reserve for self-government authorities (Complak, 1998, p. 12). The presumption of municipal competence is, after all, strictly associated with protection of the unit against interference in its competencies by bodies of the government administration as well as by bodies of self-governing units on different levels, in relation to the execution of public tasks (Borski, 2013, p. 13).

The subsidiarity principle makes it possible to regulate the relations functioning on the plane of territorial self-government. In this regard, it is worth defining the fundamental nature of the municipality, the presumption of relevance to tasks and competence, in comparison to other units of territorial self-government. The poviat and voivodeship have a greater reach, as they perform tasks over an area larger than that of a municipality, and in this sense, they perform a subsidiary function with respect to the municipality. Subsidiarity on the part of the poviat and voivodeship manifests in the performance of tasks within a scope exceeding the municipality's capabilities. The scope of the poviat's activity encompasses tasks defined in acts of a supramunicipal nature, i.e. exceeding the scope of the municipality's capability. Pursuant to art. 4 par. 1 and 6 of the Act on poviat (county) self-government (Dz.U. 1998 nr 91 poz. 578), tasks performed by the poviat may not infringe upon the scope of municipalities' activity. The voivodeship performs tasks defined by acts relating to voivodeships, i.e. those acts of a reach exceeding the territory of individual poviat communities. Similarly as in the case where the poviat preforms tasks, the voivodeship self-government's scope of activity may not infringe upon the self-reliance of the poviat and municipality (art. 4 par. 1 of the Act on voivodeship self-government), where these regulations correspond with the constitutional principle stating that the self-reliance of territorial self-government units is subject to judicial protection (art. 165 par. 2 of the Constitution of the Republic of Poland).

In summary, according to the aforementioned principle, it is permitted to transfer tasks to a higher level of self-government authority, when this is tied to the possibility of achieving greater benefits or when this is justified by the demands of efficiency and effectiveness, or as dictated by the scope and nature of the task or the inability of units at the lower level to execute a given task (Feja-Paszkiewicz, 2008).

A certain autonomy of the entity realising the tasks entrusted to it should be a significant component of the subsidiarity principle. This could manifest in, among other things, such an entity's ability to decide its own internal system; however, Polish law does not grant such a privilege. This is shown by, for example, the standardization of the self-government system

and the absence of municipality categorisation. In the Polish state, every municipality has an identical internal system, only the number of council members differs. Undoubtedly, small, rural municipalities function much differently from urban municipalities, inhabited by nearly a million residents (Krasnowolski, 2012, p. 14).

Subsidiary units play an important role in the functioning of territorial self-government units, and such subsidiary units include: districts, estates, village councils (*Pol. sołectwa*) and other units. In the verdict of 7 December 2005, the Constitutional Tribunal stated that the creation of these entities "corresponds to the principle of subsidiarity and enables transfer of performing public tasks to the level of such structures remaining closest to the citizen. However – and this must be strongly emphasised – this pertains to performing tasks, which, under the Constitution and legal acts, fall under the auspices of public authority – the territorial self-government (municipality) (OTK ZU 2005, s A, nr 10, poz. 115)."

In systemic practice, the subsidiarity principle establishes two organisational stipulations for communities of citizens: decentralisation and deconcentration. In practice, the first of these stipulations means that territorial self-government constitutes the fullest, fundamental form of the administration's decentralisation and is appointed to execute public tasks in a self-reliant way. The second stipulation signifies a prescription to equip local and regional government agencies with the broadest possible privileges within the sphere subject to government administration (Domańska 2001, p. 85).

The subsidiary principle is expressed in the Constitution only in the preamble; despite this, many regulations that implement safeguards and guarantees for it can be found in Polish law. A group of safeguards and guarantees established in the Constitution can be related to the general subsidiarity principles in this sense, giving form (content) to the principle in Polish law. It can be said that the subsidiarity principle is the inspiration and guiding concept in the systemic organisation of self-government. Subsidiarity poses general requirements with which specific activities, decisions, institutions, and the forms of socio-economic order must comply.

In practice, the subsidiarity principle is reflected in proceedings before an administrative court. It is the court's responsibility to verify the legal compliance of a legal act, activity, or neglected subject to a complaint. In light of the above, adherence to the subsidiarity principle can be questioned only when a specific provision of a legal act refers to it or when this principle is cited in a given matter involving the direct application of the Constitution of the Republic of Poland.

5. The decentralisation principle

Art. 15 of the Constitution of the Republic of Poland states that the system of public authority in the state is based on the decentralisation principle. The cited principle states that state bodies entrust a part of the public authority assigned to them to self-government communities.

The provisions of the Constitution assure participation of territorial self-government units in exercising public authority, within the scope in which the given activities are not reserved under the law for bodies other than public authorities. In a sense, this participation is a permission, a concession by the state, which is why the state is obliged to ensure supervision over the entity to which it conceded a part of its privileges.

In modern times, territorial self-government is understood as an entity separate from state structures but nonetheless realising the authoritative and administrative functions of the state for the benefit of local communities. It is obvious that self-government is not defined as the public authority in the state; self-government only participates in exercising public authority on the grounds of privileges granted through norms at the constitutional level (Miemiec, 1998, Zieliński 1997).

The municipality's participation in state authority is possible on two premises, which must simultaneously be fulfilled. The first is that the municipality's bodies possess a scope of competencies, including legislative competencies, as well as other constituting competencies. The second premise is the capability of sanctioning its own activity, which means that the municipality has the right to apply state coercion for the purpose of executing its own tasks (Wiktorowska 2002).

Based on an analysis of binding legislation concerning territorial self-government units, it should be concluded that the municipality is a separate legal subject. The municipality is equipped with the capability of acquiring rights and obligations as well as with the capability of undertaking legal actions through its own bodies. The municipality's legal subjectivity is also indicated by the opportunity to claim its own rights before a court, and the circumstance of these entities being assigned their own rights and obligations, making it possible to distinguish these units from other legal subjects, also has a substantial influence. Only generally binding laws constitute the source of these rights and obligations (Boć, 2001, p. 28).

Besides being equipped with a series of rights, territorial self-government is also burdened by a series of obligations. Performing public tasks, so-called assigned tasks, is one of the main obligations. Art. 166 par. 1 of

the Constitution states that the assignment of public tasks must be justified by the needs of the state and then executed by way of an act.

Based on the competencies assigned to it, territorial self-government is not recognised as a single, separate authority, and the kind of tasks performed in the state was not clearly specified. The Constitution-maker defined the main area of the activity performed by self-governments as the self-governing communities themselves, and assigned to self-government competencies within the scope of participation in exercising public authority (Kuciński, Wołpiuk, 2012).

6. The right to fair trial

In the context of municipal self-reliance, specifically the protection of this self-reliance, the constitutional right to fair trial must be considered. The fundamental wording of the right to fair trial is set forth in art. 45 par. 1 of the Constitution, which states that: "everyone has the right to a fair and public hearing without undue delay by a competent, independent, and impartial court".

In the opinion of the Constitutional Tribunal, the constitutional principle of right to fair trial for citizens and other legal subjects, including municipalities, should be derived from the principle of the constitutional state (OTK 1992 nr 1, poz. 2).

The institution of judicial control over administration is enshrined in the Constitution of the Republic of Poland, in which art. 184 states that "The Supreme Administrative Court and other administrative courts exercise control over the activities of public administration within the scope defined in the act. This control also encompasses the adjudication of compliance with legal acts of resolutions of territorial self-government bodies and normative acts of territorial bodies of government administration." The result of such control can only be the repeal of a controlled act, not its replacement with a new one (Zimmermann, 1949). Control itself involves studying the correctness of the controlled entity's activities (according to adopted criteria), but it does not involve the replacement of faulty activities of the controlled entity with correct activities of the controlling entity (Bogusz, 2003).

The control of the legality of activities conducted by public administration bodies by an impartial court affords a guarantee of protection of personal rights against legally unjustified interference by the public administration.

The absence of the administration's activities in cases where the law mandates an obligation to undertake specific activities, as well as untimely actions and actions not leading to the execution of a public task, violating either the public interest or a personal interest, should be subject to judicial protection (Suwaj, 2014).

Municipal self-reliance, as formulated in law, serves practical purposes, chief among which is the execution of local public tasks. The method by which such tasks are executed very often involves "weighing the concepts of state, social, public, local and legitimate personal interest" (Skrzydło-Niżnik, 1993). The self-reliance of the municipality, in this understanding, directly serves the execution of municipal tasks lying in the municipality's interests (Adamiak, Borkowski 1991).

The content of judicial control over administration is therefore, above all, the protection of personal (individual and unit) freedoms and rights in relations with the public administration, but also building and consolidation of the principle of the constitutional state in the standards derived from it.

7. Conclusion

The system of self-government is undergoing continuous transformation. The organisation of self-government authorities and their method of activity are a direct reflection of the state of awareness of society, its traditions and skills, patterns of behaviour, economic condition, available technologies and many other factors. Despite the continuous evolution of the municipality and changes within the scope of its tasks, the Constitution formulates the fundamental principles influencing this scope of municipal self-reliance. This, in turn, should translate directly to stabilisation of the municipality's systemic position.

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