

## THE ROLE OF LOCAL SELF-GOVERNMENT UNITS IN POLAND AND TURKEY

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### Abstract

This article aims to identify and define the duties and responsibilities of the basic unit of local self-government, based on the analysis of its statutory tasks in view of the general model of local self-government functioning in Poland and Turkey. In countries such as Poland and Turkey the functional scheme of local self-governments is differentiated. The differentiation is a result of historical development and thus the nature of the state and the implementation of the principle of subsidiarity. The shape and roles of local self-governments in Turkey and Poland undoubtedly correspond to the overall development paths of these countries. They also increasingly influence the socio-economic situation of their regions. As A. Kozuch has rightly pointed out, they perform a steering function in the local social, political and administration systems. Yet, their roles should not be limited. What is important is the development of local self-governance as such, as it is conducive to proper functioning of the administration bodies.

**Keywords:** Local Authorities, Civil Society, Own and Delegated Tasks, Local Self-Government, Administrative Division.

**JEL Codes:** A14, R50, R38.

## POLONYA VE TÜRKİYE'DE YEREL ÖZYÖNETİM BİRİMLERİNİN ROLÜ

### Özet

Bu makale, Polonya ve Türkiye'de yerel özyönetim işleyişinin genel modeli ışığında yasal görevlerinin analizine dayalı olarak, yerel özyönetim temel biriminin görev ve sorumluluklarını belirlemeyi ve tanımlamayı amaçlamaktadır. Polonya ve Türkiye gibi ülkelerde, yerel özyönetimlerin işlevsel şeması farklılaşmıştır. Farklılaşma, tarihsel gelişimin ve dolayısıyla devletin doğasının ve ikincillik ilkesinin uygulanmasının bir sonucudur. Türkiye ve Polonya'daki yerel özyönetimlerin şekli ve rolleri, şüphesiz bu ülkelerin genel kalkınma yollarıyla örtüşmektedir. Ayrıca bölgelerinin sosyo-ekonomik durumunu da giderek daha fazla etkiliyorlar. A. Kozuch'un haklı olarak işaret ettiği gibi, yerel sosyal, politik ve idari sistemlerde yönlendirici bir işlev görürler. Ancak rolleri sınırlandırılmamalıdır. Önemli olan, idare organlarının düzgün işlemesine yardımcı olduğu için, yerel özyönetimin bu şekilde geliştirilmesidir.

**Anahtar Kelimeler:** Yerel Yönetimler, Sivil Toplum, Sahip Olunan ve Devredilen Görevler, Yerel Özyönetim, İdari Bölünme.

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## 1. INTRODUCTION

According to the definition, self-government means the right and ability of local communities, within the limits set by law, to manage and administer an essential portion of public affairs on their own account and in the interests of their inhabitants. The concept and regulations of local government system may be derived from many sources of law, from the Constitution through the laws on particular units of local government. To fully discuss the subject, the dogmatic method, the comparative legal method and, to a small extent, the historical method have been applied.

In Turkey, the current self-government is considered to be based on accountability, transparency and good governance as its greatest heritage and achievement. It seems that the Turkish law and its institutions are developing in a way that reflects the ideas of the Polish Law on Municipal Self-Government. The basic conditions for local government units are determined by the national traditions and national legal norms. In modern Turkey, the main principles of the local self-government system are found in the Constitution of this country in Articles 126 and 127.

Not unlike in Poland, in Turkey, there is a three-tier administrative division, with provinces, urban units and rural communes. All three types of local administration have legal personality, separate budgets and the right to levy taxes. Poland's territorial division provides for the existence of provinces (voivodeships), counties (including urban municipalities, which have the status of cities with county rights), and communes (Uslubaş, 2013, s. 5).

The Turkish Constitution sets out two functional principles governing the local administration system. The first principle of "integral unity of the administration" establishes a strong custodial relationship between the central government and local self-government units. The second principle, "decentralisation", refers to the allocation of power to public authorities on a functional and territorial basis (Zürcher, 2013, s. 2).

The Turkish public administration is characterised by dualism. It consists in the fact that the authorities at particular levels perform the tasks of the central administration, while having their own competences. There are three basic local units in Turkey: provinces, urban unit and rural communes. All three administrative sub-structures are subject to democratic control of the people, by the people (Heper, 1990, s. 207).

First, it is worth mentioning that in Turkey local self-government is a relatively new concept for the administration. In countries like Turkey, where there is a centralist state tradition, local government units are mostly under a strong control of the central administration, which does not necessarily facilitate local self-governance. Local self-government structures are defined in Article 127 of the Constitution as: "Local administrative units are public law entities created to meet the common local needs of the inhabitants of provinces, urban districts and villages, their constituent bodies are elected by the inhabitants in a manner determined by law, and the rules of their organisation are determined by law in accordance with the principle of subsidiarity (The Constitution of the Turkish Republic, 1982, s. 52).

Under Article 123 of the Turkish Constitution, the Turkish administration is built on the principles of both centralisation and decentralisation. This means that Turkey's administration is unitary in terms of its organisation and functions, and the central administrative bodies and the decentralised units are parts of the same structure. As a result, Turkey's territorial administration is based on both decentralised administration and decentralised governance (Örücü, 2000, s. 681).

## **2. THE STRUCTURE OF THE ADMINISTRATION AND THE COMPETENCIES OF THE SELF-GOVERNMENT UNITS**

The structure of Turkey's central administration is composed of provinces, established in line with geographical location, economic conditions and the province's needs for public services. The provinces are divided into lower administrative units. The administration of the provinces is based on the principle of voluntary delegation of broad powers to them.

In order to ensure efficiency and coordination of public services, central administrative units are established to cover more than one province. The scope of matters and competence of such units is determined by law.

The tasks delegated to the municipalities and communes concern various areas of public affairs, in particular: health care, the environment, public education, and the maintenance of public buildings, as well as public and administrative facilities and services. Local government units are public law bodies created to meet common local needs of the inhabitants of provinces, municipal districts and communes; their governing bodies are elected by the inhabitants in a manner prescribed by law, and the rules of their organisation are laid down by law (Ansary et.al., 2006, s. 24).

Turkey, as a deeply centralised state, enacted various laws reforming local administration between 2003 and 2005. The new laws expanded the functions, roles and responsibilities of local governments. Public services that used to be provided by the central government, in health, tourism and culture, forestry and environment, agriculture and rural areas, social welfare and child protection, youth and sports, industry and public works were transferred to local government. Turkey is a unitary state and has two levels of administration; central and local government.

The province is the highest level in the territorial organisation of the state. The province is headed by the governor, who is a representative of both central and local government. The Governor is appointed by the Council of Ministers, and his candidacy is approved by the President. The governor's main competences as a representative of the central administration at this level include directing and coordinating the various branches of local administration. It is worth mentioning that all officials and lower administrative units of the province report to him. The tasks of the Provincial Governor include the appointment, supervision and dismissal of officials, as well as the preparation of the draft budget and investment plans. The Governor is also responsible for looking after the interests of the province and representing it externally, as he is also the representative of the local government at the provincial level. He also implements the decisions of the Provincial Council and the Provincial Assembly, and supervises their implementation. In addition, the Governor also prepares the draft budget, the report on its implementation and investment plans

Within the Turkish provinces there are lower-level administrative units. These are: urban units and rural communes. The urban units are of two types. They are regular cities, whose legal status is regulated by Act no. 5393 on cities and metropolises, which are regulated by Act no. 5216. on metropolises. In both cases they have the same bodies, i.e., the legislative body, which is the city (or metropolitan) council, and the executive body in the form of the mayor and the executive committee.

Rural communes are historically the oldest and also the smallest territorial units in Turkey. The operation of the rural administration is specified in Act No. 442 of 1924. The 1982 Constitution states that rural administrations are local government bodies with legal personality. However, in practice, the rural administration does not have sufficient financial resources to

perform its mandated tasks, let alone its own, thus rural communes function only as representatives of the local government.

### **3. THE ADMINISTRATIVE DIVISION AND THE ROLE OF SELF-GOVERNMENT IN POLAND**

The commune in Poland is the basic unit of local self-government (The Constitution of the Republic of Poland, 1997, s. 483). In democratic states such as Poland, power is decentralised. Decentralisation is the process of delegating public functions, which hitherto remained exclusively the responsibility of the central government, to organisations not subordinate to the government. A good example of decentralisation of power is the activity of local self-governments. This means that some of the tasks which the commune is obliged to perform (e.g., access to education and health care) are transferred to local government institutions elected by citizens and independent of the central authority (the government). At the same time, power is distributed from the top down, as it is the central government - and not the self-governments themselves - which decides which competences to hand over to the self-governments.

The primary act (the Constitution) states that it is the residents of a certain territory who form a self-governing community (Właźlak, 2010, s. 32). And power in the commune is subordinate to residents of the commune, who have the suffrage (Polish election law regulation, 2011: s. 209) The commune in Poland performs public tasks on its own account. This is an expression of its independence, which is of both public-legal and private-legal nature (Wertelecka, 1998: s. 12) Importantly, the legislator has used here the broad term of “public tasks”, indicating at the same time that the scope of a commune's activities includes all public matters of local importance.

The commune, as the basic unit of local government, is responsible for all matters of a local importance, which - in accordance with the assumptions of the Act on Communal Self-Government - are supposed to contribute to "meeting the collective needs of the community" (Polish Communal Self-Government Law, 1990, s. 189). Even where the law does not explicitly require communes to take specific actions or to solve specific problems, communes must not use this as an excuse for their inaction. The commune should actively solve the problems of its residents! Pursuant to Art. 1 Clause 1 of the Act on Communal Self-Government and Art. 16 Para. 1 of the Constitution of the Republic of Poland, the inhabitants of a commune form, by law, a self-governing community. The goal of activities undertaken by a commune should be to satisfy the specific the needs of a given self-government community (Fijałkowski, 2011, s. 12).

According to W. Skrzydło, the fact that the Polish Constitution positions the commune the basic unit of local self-government means that “as a legal consequence, the commune performs the basic tasks and the matters being the competence of self-government fall within the competence of the commune and its administrative bodies” (Skrzydło, 1999:176). It is worth noting that public tasks performed by the municipality can be divided into own tasks and delegated tasks. The commune’s own task is to satisfy the collective needs of its residents, such as: health care, social welfare, public education, public order and citizens' safety, etc. It may be pointed out that the commune’s own tasks may be divided into obligatory and optional ones, as indicated by the Act on Communal Self-government and other acts of substantive administrative law. In addition to the socio-cultural sphere, these are also tasks in the field of public administration, including order and planning, as well as particularly interesting, costly and difficult tasks in the field of communal management, including infrastructure development and services provision. This also included tasks related to spatial planning, investment projects,

matters in the spheres of architecture, urban planning and construction law” (Chmielnicki, 2009, s. 75).

In addition to the commune's own tasks, it often performs tasks delegated by the government administration, which can be boldly called "imposed" tasks. The delegated tasks are those that the state or other units of local government have delegated to the commune by law or by agreement. In order to perform the outsourced tasks, the commune receives financial resources from the party delegating the tasks in the amount sufficient for their performance.

#### 4. CONCLUSION

In the 2000s, Turkey underwent extensive public management reform and restructured its public administration system in accordance with the principles of New Public Management. The territorial public authorities are called "local administrations" and are established to meet the needs of residents within a geographically defined territory. It can be said that the guiding principle of the Turkish administration, as in Poland, is primarily to meet local needs and to place local public affairs in the hands of local authorities. This means that some of the tasks that it is obliged to perform (e.g., access to education, health care) are delegated to local government institutions.

The Polish local self-government is based on the principle of decentralisation of power. The political system of the Republic of Poland ensures the decentralisation of public authority, which includes autonomy, emphasised in almost all definitions of the term (Wiktorowska, 2002, s. 55). It remains protected by law, but independence is not absolute. This follows from the very essence of the concept of "de-centralisation", of which "centralisation" is a component.

The shape and roles of local self-governments in Turkey and Poland undoubtedly correspond to the overall development paths of these countries. They also increasingly influence the socio-economic situation of their regions. As A. Kożuch has rightly pointed out, they perform a steering function in the local social, political and administration systems. Yet, their roles should not be limited. What is important is the development of local self-governance as such, as it is conducive to proper functioning of the administration bodies.

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