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The Principle of Protection of local Self-Government in the Constitution of the Republic of Poland of 2nd April 1997

Keywords: local self-government, the principle of the political system, rule of local self-governance, rule of subsidiarity, rule of self-standing, rule of decentralization, rule protection of constitutional bases safeguarding the local self-government

Słowa kluczowe: samorząd terytorialny, zasada ustroju, reguła samorządności terytorialnej, reguła pomocniczości, reguła samodzielności, reguła decentralizacji, reguła ochrony podstaw konstytucyjnych samorządności terytorialnej

Abstract

Quite a few studies, including the comparative-legal ones, have been devoted to the legal status of local self-government's, but not many of them have regarded this institution's status within the constitutional system from the viewpoint of the Polish state's constitutional identity (its axiology). Moreover, the Polish literature so far has been lacking a complex study of this topic. Hence, the intention of this study is to attempt a systematic and comprehensive analysis of the political status of the local self-government in order to find and recreate the principle of the Polish political system which is adequate to that institution. The need to make such an analysis is obvious when we consider that the Polish Constitution of 2nd April 1997 does not name the principle of the system that would directly pertain to the constitutional position of this institution. To remove that lack of analysis, this article is devoted to constitute's study of the institution of the lo-

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cal self-government discussed through the prism of the principle of protection of local self-government.

Streszczenie

Zasada ochrony samorządu lokalnego w Konstytucji Rzeczypospolitej Polskiej z 2 kwietnia 1997 r.

Wiele opracowań naukowych, w tym porównawczo-prawnych, poświęcono statusowi prawnemu samorządu lokalnego, ale niewiele z nich zostało odniesionych do statusu tej instytucji w systemie konstytucyjnym z punktu widzenia konstytucyjnej tożsamości państwa polskiego (jego aksjologii). Co więcej, w polskiej literaturze do tej pory brakowało kompleksowej analizy wskazanego zagadnienia. W związku z tym celem tego opracowania jest próba systematycznej i kompleksowej analizy statusu politycznego samorządu lokalnego w celu znalezienia i odtworzenia zasady polskiego systemu politycznego odpowiedniej dla tej instytucji. Potrzeba dokonania takiej analizy staje się oczywista, gdy weźmiemy pod uwagę, że polska Konstytucja z 2 kwietnia 1997 r. Nie określa zasady systemu, która bezpośrednio dotyczyłaby konstytucyjnej pozycji tej instytucji. Aby usunąć ten brak, niniejszy artykuł poświęcony jest studiom nad instytucją samorządu lokalnego omawianą przez pryzmat zasady ochrony samorządu lokalnego².

✱

I. Introduction

The Polish thought on the local self-government is characterized by a meaningful advance in the interwar period (1918–1939)³. Between the years of

² Acknowledgements: Dr. Alexander Rowland Lowe is thanked for helpful language corrections.

³ A. Bosiacki, *Od naturalizmu do etatyzmu. Doktryny samorządu terytorialnego Drugiej Rzeczypospolitej 1918–1939*, Warsaw 2006; A. Gill, *Teorie samorządowe w literaturze międzywojennej*, „Samorząd Terytorialny” 1999, No. 11/107; J. Panejko, *Geneza i podstawy samorządu europejskiego*, Paris 1926 [reprint Warsaw 1990].

P. Sarnecki, *Idea samorządności w strukturze społeczeństwa obywatelskiego*, [in:] *Samorzady w Konstytucji RP z 2 kwietnia 1997 roku*, eds. Z. Witkowski, A. Bień-Kacała, Toruń 2013, pp. 12–14, 16–17, 25; A. Pułło, *Zasady ustroju politycznego państwa. Zarys wykładu*, Gdańsk 2014, p. 175; A. Pułło, *Zasada ochrony społeczeństwa obywatelskiego w systemie zasad konstytucyj-*

1990–1997 the achievements of the Polish doctrine became the reference point for the legislator to define the legal position on the commune and its authorities in an already independent and democratic Polish state. At these times the Polish society has been instigated to participate and has been empowered to act in the field of local self-government understood as one of the structures of civil society⁴. It was during this particular period when, under the climate of full social approval, the perception of commune-level local self-government was fixed in political practice as being a valid and weighty part of democratic mechanisms of discharging public power which was then in the process of development⁵. All of it had led to the situation where the local self-government reform was carried out as a result of the democratic transformation of the 1990s and is today perceived amongst the most successful ones⁶.

The drafter of Constitution has created legal norms of the local self-government's systemic position in relation to a commune's status and other units of local government, and also their bodies. Unfortunately, in that act one cannot find the constitutional principle which straightforwardly pertains to the con-

nym, „Gdańskie Studia Prawnicze” 2012, p. 28; H. Izdebski, *Z dziejów terminu „społeczeństwo obywatelskie”*, [in:] *Prawo i ład społeczny. Księga jubileuszowa dedykowana Profesor Annie Turskiej*, ed. G. Polkowska, Warsaw 2000; D. Pietrzyk-Reeves, *Idea społeczeństwa obywatelskiego*, Toruń 2012, pp. 60–61, 98.

⁴ P. Sarnecki, *Idea samorządności w strukturze społeczeństwa obywatelskiego*, [in:] *Samorządy w Konstytucji RP z 2 kwietnia 1997 roku*, eds. Z. Witkowski, A. Bień-Kacała, Toruń 2013, pp. 12–14, 16–17, 25; A. Pułło, *Zasady ustroju politycznego państwa. Zarys wykładu*, Gdańsk 2014, p. 175; A. Pułło, *Zasada ochrony społeczeństwa obywatelskiego w systemie zasad konstytucyjnych*, „Gdańskie Studia Prawnicze” 2012, p. 28; H. Izdebski, *Z dziejów terminu „społeczeństwo obywatelskie”*, [in:] *Prawo i ład społeczny. Księga jubileuszowa dedykowana Profesor Annie Turskiej*, ed. G. Polkowska, Warsaw 2000; D. Pietrzyk-Reeves, *Idea społeczeństwa obywatelskiego*, Toruń 2012, pp. 60–61, 98; S. Wykrętowicz, *Samorząd jako wyraz demokracji obywatelskiej*, [in:] *Samorząd w Polsce – istota, formy, zadania*, ed. S. Wykrętowicz, Poznań 2004, pp. 60–68.

⁵ Z. Niewiadomski, *Samorząd terytorialny w warunkach współczesnego państwa kapitalistycznego*, Warsaw 1989, p. 21; J. Nowacki, *Samorząd terytorialny w administracji publicznej*, Warsaw 1997, p. 17; A. Lutrzykowski, *Samorząd terytorialny w Polsce po II wojnie światowej oraz po roku 1989*, [in:] *Samorząd terytorialny w Polsce i w Europie. Doświadczenia i dylematy dalszego rozwoju*, ed. J. Sługocki, Bydgoszcz 2009, pp. 61, 64–68.

⁶ A. Krasnowolski, *Społeczeństwo obywatelskie i jego instytucje. Opracowania tematyczne OT-627*, Kancelaria Senatu, Biuro Analiz i Dokumentacji, Warsaw 2014, pp. 15–16.

stitutional position of the local self-government⁷. However, in the science of constitutional law it is assumed that if verbatim wording of a legal norm with relevant content is missing from the Constitution, it does not prevent a given value from being taken as an element of the state's axiology, and consequently, it does not prevent formulating the principle of the constitutional system in accordance with the content of this specific value⁸. In the doctrine of constitutional law, there is an agreement that this specific value should constitute a part or axiological base of legal norms expressed in the Constitution. Specifically, it is assumed that one of the forms of constitutionalization of basic constitutional principles is a judgment of the constitutional court. Although the official doctrine (in Poland) alleges that judges should be only "lips of the act" and should limit themselves to the application of legal provisions adopted in the law-making process (i.e. that court judgments cannot be sources of law), but constitutional practice shows that the case-law may constitute the source of law. This happens when the constitutional court grants the power for binding legal norms that are not expressed or not precisely defined in the text of the Constitution. In particular, such a need occurs, if a legislator uses indistinct concepts or general clauses. In that case, the constitutional court can introduce a normative novelty into the legal system. In this way, supplements, develops, and sometimes modifies or clarifies the Constitution, thus participates in the measure the constitutional law-making. In practice, the

⁷ A. Łabno, *System rządów w Rzeczypospolitej Polskiej*, [in:] *Samorząd terytorialny w Polsce i Portugalii. Analiza prawnoporównawcza*, ed. B. Dolnicki, Warsaw 2015, p. 39; I. Skrzydło-Niżnik, *Model ustroju samorządu terytorialnego w Polsce na tle zagadnień ustrojowego prawa administracyjnego*, Cracov 2007, pp. 167–203.

⁸ Z. Ziemiński, *Wstęp do aksjologii dla prawników*, Warsaw 1990, p. 60; P. Winczorek, *Konstytucja i wartości*, [in:] *Charakter i struktura norm Konstytucji*, ed. J. Trzcziński, Warsaw 1997, p. 34; Comp. L. Garlicki, *Normy konstytucyjne relatywnie niezmiennialne*, [in:] *Charakter i struktura norm konstytucji*, ed. J. Trzcziński, Warsaw 1997, p. 153; A. Gwiżdż, *Wstęp do konstytucji – zagadnienia prawne*, [in:] *Charakter i struktura norm Konstytucji*, ed. J. Trzcziński..., p. 176; P. Sarnecki, *Systematyka konstytucji*, [in:] *Charakter i struktura norm Konstytucji*, ed. J. Trzcziński..., p. 25; W. Płowiec, *Wstęp do Konstytucji RP z 2 kwietnia 1997 r. w orzecznictwie Trybunału Konstytucyjnego*, „Przeгляд Sejmowy” 2010, No. 1, pp. 9–12, 19, 22; A. Kubiak, *O interpretacji przepisów programowych Konstytucji*, „Państwo i Prawo” 1987, No. 4, pp. 24–25; T. Gizbert-Studnicki, A. Grabowski, *Normy programowe w konstytucji*, [in:] *Charakter i struktura norm konstytucji*, ed. J. Trzcziński..., pp. 98–100, 105; the judgment of the Constitutional Tribunal of 11.05.2005, K 18/04, OTK-A 2005, No. 5, pos. 49.

transition between named principles in the written Constitution and rules recognized by court jurisprudence becomes fluid⁹.

The determinants and circumstances described above indicated the research aim of this article and also decided upon the subject of the analyzes and considerations, specifically, the formal model of the territorial self-government provided in the Constitution of the Republic of Poland of 1997 along with the corresponding achievements of the Polish legal studies since the rebirth of local self-government in Poland in 1990, including its origins in the Polish thought on self-government during the interwar period.

II. Local government in the catalog of state's prime principles

Among the researchers of constitutional law exists a consensus relating to the fact that the axiological bases of the Polish Constitution directly define the principle of governance that straightforwardly pertains the constitutional position of local government although such principle is not directly expressed in that act. Simultaneously, the consensus mentioned above is not unanimously mirrored within the scope of uttering this very principle of governance. In relevant scholarly publications, it is further clarified in a plethora of ways. It is rather simply called the principle of the existence of the local self-govern-

⁹ K. Wojtyczek, *Formy konstytucjonalizacji zasad konstytucyjnych*, [in:] *Konstytucjonalizacja zasad i instytucji ustrojowych*, ed. P. Sarnecki, Warsaw 1997, pp. 35–36; L. Garlicki, *Sądownictwo konstytucyjne w Europie Zachodniej*, Warsaw 1987, p. 289; R.M. Małajny, [in:] *Polskie prawo konstytucyjne na tle porównawczym*, ed. R.M. Małajny, Warsaw 2013, pp. 119–120; the judgment of the Constitutional Tribunal of 25.02.1992, K 3/91, OTK 1992, cz. I, p. 33; M. Granat, *Konstytucja RP na tle rozwoju i osiągnięć konstytucjonalizmu polskiego*, „Przegląd Sejmowy” 2007, No. 4(81), p. 20; Comp. P. Tuleja, *Pojęcie zasady konstytucyjnej*, [in:] *Zasady ustroju Rzeczypospolitej Polskiej w nowej konstytucji*, ed. K. Wójtowicz, Wrocław 1997, pp. 8-10; P. Tuleja, *Zasady konstytucyjne*, [in:] *Konstytucjonalizacja zasad i instytucji ustrojowych*, ed. P. Sarnecki, Warsaw 1997, pp. 11–20; R. Makarucha, *Zasady prawa jako czynnik zapewniający aksjologiczną spójność systemu prawa*, „Folia Iuridica Wratislaviensis” 2014, No. 3(2), p. 125; S. Wronkowska, *Sposoby pojmowania „zasad prawa”*, „Państwo i Prawo” 1972, No. 10, p. 167; G. Maroń, *Zasady prawa. Pojmowanie i typologie a rola w wykładni prawa i orzecznictwie konstytucyjnym*, Poznań 2011; S. Tkacz, *O zintegrowanej koncepcji zasad prawa w polskim prawoznawstwie (Od dogmatyki do teorii)*, Toruń 2014; M. Kordela, *Zasady prawa. Studium teoretycznoprawne*, Poznań 2012.

ment¹⁰ or the principle of the local self-government¹¹ without making more in-depth theoretical reflections. Both are doubtless if it relates to it, indicating the local self-government and the legal requirement of appointing it as an element of the state's constitutional identity.

Also, that principle sometimes is perceived as part of a broader category of constitutional law-making. If so, the lexicon used to define the norm either relates directly to local self-government terminology or not. In the first case, the principle under consideration is called the principle of public power decentralization and local self-government¹² or, optionally, the principle of self-governance and decentralization of public power¹³. In the latter case, however, the safeguard of that principle may not be obvious, because decoding those categories as elements of the constitutional system's axiology often requires deploying quite complex interpretative exercises. For instance, according to one of the opinions presented in the literature of the subject, the principle of the state's uniformity expressed in the Article 3 of the Constitution of the Republic of Poland, besides the maxim of the state's unitarity, in its normative layer shall provide many other values, including the rules of decentralization of public power (Article 15), as well as sanctioning the requirement of the existence of local self-government (Article 16)¹⁴. According to another stance, the axiology of self-governance, including local self-government, should be defined reversely, based on the systemic and functional interpretation of a selection of constitutional norms – not expressed directly in our constitution – the principle of civil society¹⁵. The principle qualifies society

¹⁰ B. Banaszak, *Polskie prawo konstytucyjne*, Warsaw 2015, p. 17.

¹¹ R.M. Małajny and A. Chorążewska, [in:] *Polskie prawo konstytucyjne na tle porównawczym...*, pp. 145, 691–697.

¹² M. Grzybowski, A. Jackiewicz, [in:] *Prawo konstytucyjne*, ed. M. Grzybowski, Białystok 2009, pp. 73 i 81–82; M. Granat, *Konstytucyjne zasady ustroju*, [in:] *Prawo konstytucyjne*, ed. W. Skrzydło, Lublin 1997, p. 124; A. Bisztyga, *Samorząd terytorialny w Konstytucji RP*, [in:] *Vademecum pracowników administracji publicznej (samorządowej oraz rządowej)*, Katowice 1998, p. 102.

¹³ B. Dolnicki, *Miejsce samorządu terytorialnego w polskich konstytucjach*, [in:] *Samorząd terytorialny w Polsce i Portugalii. Analiza prawno-porównawcza*, ed. B. Dolnicki, Warsaw 2015, p. 49.

¹⁴ P. Czarny, [in:] *Prawo konstytucyjne RP*, ed. P. Sarnecki, Warsaw 2014, p. 78.

¹⁵ L. Garlicki, *Polskie prawo konstytucyjne. Zarys wykładu*, Warsaw 2015, pp. 72–73; J. Ciapała, *Samorząd terytorialny w Konstytucji Rzeczypospolitej Polskiej*, [in:] *Prawo samorządu terytorialnego*, eds. Z. Ofiarski, M. Mokrzyz, Szczecin 1999, pp. 17–18.

as pluralistic and should guarantee rights for an individual considered not only as a citizen or an employee/worker but also as an inhabitant. The actualization of the latter guarantee is not feasible otherwise than through inferring from the provisions of the Constitution the legal requirement of the local self-government existence which is based on self-governance of the creating it communities, and therefore granting to self-government the right to exercise on its own behalf a substantial portion of public duties (Articles 15 and 16 and provisions of Chapter VII).

To recapitulate, in the cited provisions of Chapter VII of the Constitution¹⁶, the legislator included legal norms determined from the viewpoint of legal and functional status of self-governing communities and as a consequence, in a derivative way, the status of local self-government and its bodies.

In the constitutional framework delineated in such a way, the legislator should constitute the legal solutions in the systemic acts of the self-governing and in others evolving acts, sanctioning particular tasks and competencies of self-governing bodies in various spheres of their socio-political activity. There is no doubt that the normative pattern of local self-government and self-governing local community created this way cannot be interpreted and drawn upon otherwise than through a prism of axiology stemming from the Constitution. As a result, it is the system of values that determines the position of the territorial self-government as well as local and regional communities within the system of discharging public power, and the manner, form and restrictions of acting an individual (of using his/her rights) as a citizen of particular state territory. After carrying out such an analysis, the interpreter of law can decode the content of the political system's principle, which determines the axiological bases of the Republic of Poland's local self-government and, as a consequence, can determine the name of that principle.

III. Determining of the principle of protection of local self-government

The determinants and circumstances described above indicate the research aim of the presented study. That study is an attempt to compre-

¹⁶ A. Chorążewska, *Zasada ochrony samorządności terytorialnej. Studium konstytucyjne*, Katowice 2018, pp. 8–11.

hensively order the most significant issues related to the status of territorial self-government within the constitutional system, which, most of all, are regulated by the Constitution like values, and second of all – have a fixed understanding in the Polish doctrine of territorial self-government. What resulted from the aforesaid efforts is the confirmation of the thesis that among the principles delineating the identity of the Polish constitutional system there is one that positions a human being within the constitutional system as a member of a given territorial community and a territorial self-government unit created by such a community in a form of a public law institution. This very principle was named and defined based on a number of norms of the Constitution distinguished and categorized in that work.

The detailed consideration of the status' model of the of local self-government in the Constitution of the Republic of Poland allows to conclude that the Polish maker of the constitution, based on the regulation of Article 15 par. 1¹⁷ and Article 16¹⁸, authorized the maxim of local self-governance as one of the elements of the Polish constitutional system¹⁹. At the same time, this very value – referring to the Article 9²⁰ and Article 91²¹ of the Constitution²² – is

¹⁷ Art. 15. 1. The territorial system of the Republic of Poland shall ensure the decentralization of public power.

¹⁸ Art. 16. 1. The inhabitants of the units of basic territorial division shall form a self-governing community in accordance with law. 2. Local government shall participate in the exercise of public power. The substantial part of public duties which local government is empowered to discharge by statute shall be done in its own name and under its own responsibility.

¹⁹ A. Chorążewska, *Zasada ochrony samorządności terytorialnej...*, pp. 114–121.

²⁰ The Republic of Poland shall respect international law binding upon it.

²¹ 1. After promulgation thereof in the Journal of Laws of the Republic of Poland (*Dziennik Ustaw*), a ratified international agreement shall constitute part of the domestic legal order and shall be applied directly, unless its application depends on the enactment of a statute. 2. An international agreement ratified upon prior consent granted by statute shall have precedence over statutes if such an agreement cannot be reconciled with the provisions of such statutes. 3. If an agreement, ratified by the Republic of Poland, establishing an international organization so provides, the laws established by it shall be applied directly and have precedence in the event of a conflict of laws.

²² M. Masternak-Kubiak, *Przestrzeganie prawa międzynarodowego w świetle Konstytucji RP*, Warsaw 2003, p. 16; P. Sarnecki, *nota 2 do art. 9*, [in:] *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, vol. 5, ed. L. Garlicki, Warsaw 2007, p. 1; the judgment of the Constitutional Tribunal of 11.05.2005, K 18/04, OTK-A 2005, No. 5, pos. 49, thesis III. 2.2.

legally defined in the Polish legal system through the Article 3 par. 1 of the European Charter of Local Self-Government (hereinafter as EChLG²³)²⁴. According to the mentioned norm, legally binding to the Polish constitutional maker, the “local self-government” denotes “the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population”.

IV. The institution local self-government and the principle of the division of state power

The scope of public power wielded by territorial self-government stems from two following circumstances²⁵. First, its position in relation to the principle

²³ EChLG was adopted by the Council of Europe on October 15, 1985, and ratified by the Republic of Poland in its entirety in 1994 (Dz.U. 1994, No. 124, item 607). A similar definition is included in the unratified by our country European Charter of the Regional Government of 5.06.1997.

²⁴ About EChLG was writing, among others: J. Jagoda, *Sądowa ochrona samodzielności jednostek samorządu terytorialnego*, Warsaw 2011, pp. 90–96; B. Dolnicki, *Czy polskie ustawodawstwo samorządowe odpowiada standardom europejskim?*, „Samorząd Terytorialny” 1994, No. 9; L. Kieres, *Analiza zgodności polskiego prawa samorządu terytorialnego z Europejską Kartą Samorządu Terytorialnego*, „Samorząd Terytorialny” 1998, No. 9; T. Szewc, *Charakterystyka Europejskiej Karty Samorządu Terytorialnego*, „Samorząd Terytorialny” 2003, No. 1–2; T. Szewc, *Formy realizacji prawa do samorządu w Europejskiej Karcie Samorządu Terytorialnego i w prawie polskim*, „Państwo i Prawo” 2004, No. 7; T. Szewc, *Uwagi w sprawie ratyfikacji Europejskiej Karty Samorządu Terytorialnego*, „Państwo i Prawo” 2000, No. 9; T. Szewc, *Dostosowanie prawa polskiego do zasad Europejskiej Karty Samorządu Terytorialnego*, Bydgoszcz-Katowice 2006; J. Bucińska, *Samorząd terytorialny w Polsce na tle Europejskiej Karty Samorządu Lokalnego*, [in:] *Samorząd terytorialny w Polsce. Wybrane zagadnienia ustroju i działalności*, eds. J. Bucińska, D. Strus, R. Stec, Warsaw 2009, pp. 11–42. In foreign literature about EChLG wrote D. Wilson, C. Game, *Local Government in the United Kingdom*, Palgrave Macmillan 2006; J.-B. Auby, J.-F. Auby, R. Noguellou, *Droit des collectivités locales*, Paris 2009; *Die Europäische Charta der kommunalen Selbstverwaltung. Entstehung und Bedeutung Länderberichte und Analysen*, eds. F.-L. Knemeyer, Baden-Baden 1989; B. Schaffarzik, *Handbuch der Europäischen Charta der kommunalen Selbstverwaltung*, Stuttgart 2002; B. Schaffarzik, *Der Schutz der kommunalen Selbstverwaltung im europäischen Mehrebenensystem*, HKWP 2007, Grundlagen und Kommunalverfassung, Band 1.

²⁵ A. Chorążewska, *Zasada ochrony samorządności terytorialnej...*, pp. 27–56.

of state power separation, and second, indicating the rationale for creating the catalog of public duties that are to be passed to self-managing bodies of local and regional communities. The relevant analyzes lead to a conclusion that within the framework of the Polish Constitution (considering that the Republic of Poland is a unitary state – the Article 3 of the Constitution²⁶) one is unable to prove the existence of constitutional grounds for distinguishing, in the understanding of the Article 10 of the Constitution²⁷, the municipal power as an independent and equal in relation to the remaining segments of state power²⁸. Nevertheless, the principle of subsidiarity mentioned in the Preamble of the Constitution that stipulates the strengthening of the power of citizens and their communities, along with the prescriptions of rules authorizing decentralization of public power (Article 15 par. 1²⁹) and the empowerment of the territorial self-government units to discharge by statute a part of public duties in its own name and under its own responsibility³⁰, all are significant for two reasons.

²⁶ The Republic of Poland shall be a unitary State.

²⁷ 1. The system of government of the Republic of Poland shall be based on the separation of and balance between the legislative, executive and judicial powers. 2. Legislative power shall be vested in the Sejm and the Senate, executive power shall be vested in the President of the Republic of Poland and the Council of Ministers, and the judicial power shall be vested in courts and tribunals.

²⁸ Benjamin Constant de Rebecque – analyzing the principle of the division of state power – distinguishes in the system of state authorities the so-called *le pouvoir municipal*. This state authority should be opposing overgrowth of the central authority or create a counterbalance for it. Constant sets the aim of including in the system of state organs the principles of the proper separation of tasks of state power between its central and local organs. It should be done in such a way that the self-government authority, on the one hand, could not hamper the central executive authority, and on the other hand, it could be dependent on her and had the right to a complex of local matters under the supervision of the state authority (central government). B. Constant, *O monarchii konstytucyjnej i rękojmiach publicznych*, transl. W. Niemojowski, scholar editor and introduction A. Bosiacki, Warsaw 2016, p. 85; W. Szyszkowski, *Beniamin Constant. Doktryna polityczno-prawna na tle epoki*, Warsaw-Poznań-Toruń 1984, p. 117; R.M. Małajny, *Trzy teorie podzielonej władzy*, Katowice 2003, p. 369.

²⁹ The territorial system of the Republic of Poland shall ensure the decentralization of public power.

³⁰ Art. 165. 1. Units of local government shall possess legal personality. They shall have rights of ownership and other property rights. 2. The self-governing nature of units of local government shall be protected by the courts, and Art. 16.2.

First, they instigated the vertical separation of state powers and, as a result, to distinguish the municipal power. The drafter of the Constitution included the municipal power into the system of division state power with a status of the subject entitled to – within the confines of the law – discharging the assigned portion of governance based on the rule of autonomy rather (precisely self-standing) than hierarchical subjugation and official dependence from the higher-order state bodies. Second, within the scope of estimating the sphere of self-government power, the constitutional drafter ordered to unconditionally grant to the self-government, on its responsibility, those public duties which serve the fulfillment of the self-governing community's needs.

Moreover, contrary to the stances presented in legal publications³¹ and Tribunal's judgments³², the drafter of the Constitution did not adjudicate unequivocally that the mentioned duties belong to the sphere of action of the executive power. It seems insufficient in the face of the constitutional requirement of establishing by systemic self-governing acts both the executive bodies and legislative ones and with the simultaneous understanding of the notion "self-management" from Article 3 par. 1 of the EChLG as a right to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population. The full exercise of the right to self-management requires the inclusion of local self-government into the execution of public duties and the competence sphere of both the executive and legislative branch. What prevents the possibility of infringement by the local self-government upon the state's interest (the common

³¹ Comp. M. Kulesza, *O tym, ile jest decentralizacji w centralizacji, a także o osobliwych nawykach uczonych administratywistów*, „Samorząd Terytorialny” 2009, No. 12, pp. 7–22; J. Ciapała, *Samorząd terytorialny w Konstytucji Rzeczypospolitej Polskiej...*, pp. 35–37; P. Chmielnicki, „Istotna część zadań publicznych” i zasada subsydiarności jako konstytucyjne dyrektywy określające zakres działania samorządu terytorialnego i ich realizacja w ustawodawstwie i orzecznictwie, [in:] *Samorząd terytorialny. Zasady ustrojowe i praktyka*, ed. P. Sarnecki, Warsaw 2005, pp. 60–61; J. Panejko, *Geneza i podstawy samorządu europejskiego*, Paris 1926 [reprint Warsaw 1990], pp. 9–11, 44–46; R. Piotrowski, *Zasada podziału władz w Konstytucji RP*, „Przegląd Sejmowy” 2007, No. 4(81), p. 123.

³² The judgment of the Constitutional Tribunal of 29.10.2009 r., K 32/08, OTK-AZ.U. 2009, No. 9, pos. 139; the judgment of the Constitutional Tribunal of 29.11.2005 r., P 16/04, OTK Z.U. 2005, No. 10/A, pos. 119.

good – Article 1 of the Constitution³³) through taking actions within the scope of competences, shall be the necessity that a self-government organ function on the basis of, and within the limits, the law (namely, the Constitution and the acts of parliament) according to the rule of law (Article 7 of the Constitution³⁴). Discharging the indicated duty, that is, outlining the subject and the scope of the self-government's power, by the Constitution is entrusted to the ordinary legislator. It is, doubtlessly, a recall to Benjamin Constant's concept³⁵ with its adaptation – palpable in the accounts of Constant's system doctrine's present-day commentators – and next their reference to the idea of the decentralization of public power (the apportionment of duties and, resultantly, competences stemming from them, between the organs of central and local power).

V. The term “local self-government” in the Polish constitution

The objective scope of the local self-government rule does not consist in “straightforward” definition contained in the Article 3 par. 1 of the EChLG, but it is much broader³⁶. The proper understanding of it requires complementing its content with a number of additional elements resulting from norms-rules included in the Chapter VII of the Constitution and, moreover, the rules of subsidiarity³⁷ (the Preamble of the Constitution) and decentralization³⁸ (Ar-

³³ The Republic of Poland shall be the common good of all its citizens.

³⁴ The organs of public authority shall function on the basis of and within the limits of the law.

³⁵ B. Constant, *O monarchii konstytucyjnej i rękojmiach publicznych*, transl. W. Niemojowski, ed. and the introduction A. Bosiacki, Warsaw 2016, pp. 85–91; A. Bosiacki, *Władza municypalna w ujęciu Beniamina Constanta a teorie podziału władzy*, „Studia Iuridica” 2008, No. 48, pp. 341–347. Comp. R.M. Małajny, *Trzy teorie podzielonej władzy*, Katowice 2003, p. 369; W. Szyszkowski, *Beniamin Constant. Doktryna polityczno-prawna na tle epoki*, Warsaw-Poznań-Toruń 1984, pp. 86–118.

³⁶ A. Chorążewska, *Zasada ochrony samorządności terytorialnej...*, pp. 128–155.

³⁷ Comp. G. Davies, *Subsidiarity: The wrong idea, in the wrong place, at the wrong time*, “Common Market Law Review” 2006, No. 1; F. Müller, *The principle of subsidiarity in the christian tradition*, “Annual Christian Sociological Review” 1943.

³⁸ Comp. J.-L. Boeuf, M. Magnan, *Les collectivités territoriales et la décentralisation*, Documentation Française, Paris 2009.

ticle 15 par. 1), and self-standing (Article 165 par. 2). The latter rules become an essential and firm element of the normative content of the principle of protection of local self-government. In consequence, the said principle's full definition necessitates a complex wording which is descriptive, or even postulative, in its character.

Consequently, one must assume that its components and not only the formula clarifies the term "local self-government/governance," but also its above-mentioned sub-rules referring to their own terminological apparatus and requiring the clarification of the used terms. A detailed analysis of terms such as "subsidiarity" and "decentralization," and also "self-standing" leads to a conclusion that they utilize both unequivocal and descriptive, or even postulative, categories in their respective definitions. Namely, they describe the state which is desired by a drafter of constitution, the attainment of which is not equal with assuming the "straightforward" legislative norm, but rather requires implementing the process of consecutive evolution of meaning and scale of the local self-government participation in discharging public power (that is, its decentralization) relative to the stage of development and the maturity of civil society.

Therefore, the local self-government signifies a public law structure which embodies the attribute of self-standing in relation to other subjects of public power, particularly in relation to organs of governmental administration. Its essence is, in turn, constituted by self-management of public matters by a self-governing community. The self-government discharges on its own behalf and responsibility a catalog of public duties assigned for administration by the law. So, a crucial feature of the self-government is its institutional, but most of all functional, separateness from the state. It is not only institutional but also political. The latter translates into, and conditions, a feature – and a constitutional rule – of this separateness, namely, decentralization and devolution of state power in the spirit of the subsidiary character of the central power. The local self-government is, therefore, an institution obligated to consciously form social and economic relations through the particular local or regional community. A legislator is required to actualize the assumptions mentioned above – in accordance with the respective constitutional axiology – through properly wording of the constitutional status and the catalog of duties and competences in the statute,

which – in the spirit of decentralization understood as a fixed element of Poland's political culture – shall be successively broadened along with the development of civil society. In this perspective, the local self-government cannot be perceived as a static institution of an identical character, the constitutional bases of which could be encapsulated in a constitutional model are assumed in advance. For these reasons, while creating the axiology and the formal model of self-government and self-governance, the drafter of the Constitution had employed an open formula. The drafter draws both axiological and organization framework to then entrust the legislator with commencing decentralization process of public power in the spirit of subsidiarity and acknowledging the right of self-standing for the bodies of local self-government in discharging the public duties entrusted to them as an element of Polish political culture.

The local self-government should be perceived as a category of public law with a particular content that specifies the public rights of a local self-government body, and respectively – and derivatively – of an individual as a member of a local and regional community. As a result, the local self-government and the self-governance of local and regional community from the perspective of the Constitution of the Republic of Poland shall qualify as a dynamic phenomenon. According to these requirements, the legislator is eligible to react to new situations and adjust the regulation of the position of the local self-government to new needs, according to the right to associate, guaranteed in the Constitution (Article 172³⁹). Such an understanding of the constitutional framework of local self-government and local self-governance allowed to adjust their statutory formula to the new needs within the scope of association by local and regional communities. The legislator could effectively envisage new phenomena that appeared to be, among others, the needs of regionalization and metropolization, that is, creating great urban agglomerations.

³⁹ 1. Units of local government shall have the right to associate. 2. A unit of local government shall have the right to join international associations of local and regional communities as well as cooperate with local and regional communities of other states. 3. The principles governing the exercise of the rights referred to in paras. 1 and 2 above by units of local government shall be specified by statute.

VI. The rule protection of constitutional bases safeguarding the local self-government

It seems justified to ask also about the way of protection of constitutional bases safeguarding the territorial self-government envisaged by the drafter of the Constitution. With these analyzes carried out, I concluded that the drafter of the Constitution has developed a system of protecting constitutional bases safeguarding the local self-government⁴⁰. Among the catalog of the remedies constituting the system there are legal instruments of control and supervision conditioning the jurisprudence of the actions taken by the self-governance administrative apparatus, as well as the legal instruments of protection granted by the judiciary. Within the latter scope, the self-governing communities and their organs may take advantage of the guarantee of their self-standing in discharging public duties, granted to them by common and administrative courts. Moreover, they may claim the protection by constitutional bases of local self-governance by means of ensuring compliance with the Constitution of lower-order legal acts by the Constitutional Tribunal. The realization of such protection requires enacting a separate act by a constitutive organ of a unit of local government. Nonetheless, the object of the application is restricted to the matters relevant to the scope of its activity (Article 191 par. 1 item 3, with regard to the par. 2 of the Constitution). In consequence, by means of this procedure in the application mentioned above, the constitutionality of acts regulating upon the matters lying within the scope of actions of the local self-government's executive organ cannot be questioned.

Moreover, the self-governing communities and their organs may instigate alternative ways of ensuring the proper actualization within a legal act of the constitutional bases for the territorial self-governance. Namely, by issuing to the President of the Republic of Poland a request to ensure proper guarantees and the aid on the behalf of His/Her office. Following the stipulation of the Article 126 of the Constitution, the President is the highest representative of the Republic of Poland and the guarantor of the continuity of State authority, and He/She shall ensure the proper observance of the Constitution. The latter duty the President shall exercise within the scope of and in accordance with the principles specified in the Constitution and statutes, including

⁴⁰ A. Chorążewska, *Zasada ochrony samorządności terytorialnej...*, pp. 157–225.

by the usage of an arbitration body, both formal and informal. The measures at the disposal of the institutionalized arbitration bodies may prove effective and useful in order to protect the self-governance, if by means of a motion to control the compliance with the Constitution of a given provision of law, the Head of the State shall initiate the verification of a law (both before or after enacting thereof) with its constitutional model. It has to be added that by commencing the procedure through a prism of its compliance with the constitutional bases of self-governance, the President of the Republic of Poland is not subjectively limited. As opposed to a territorial self-government organ, the President may within the scope of His/Her application encompass any issue relating to the manifestation of self-governance as well as any constitutional value providing the legal scaffolding for it. Nevertheless, the actual difficulty in providing constitutional bases for the protection of territorial self-government may stem from the nature and the manner of restricting them. For the normative content of the norms in question is defined in descriptive, or even speculative character. It is very hard, especially based solely on the Constitution, to define decentralization or subsidiarity of the central state authorities in relation to territorial self-government, unequivocally enough to formulate a procedural pattern to control the constitutionality of a given legal act. It may be indispensable for the Head of State to use the instrument of presidential arbitration in order to provide a proper guarantee for the territorial self-governance to develop. The range of those measures includes both formal forms (such as, for example, a motion to re-examine an act of parliament or the presidential legislative initiative) and informal measures, e.g. taking a conciliatory path to balance and harmonize the conflicting priorities of central and self-governing powers to achieve common good and the needs of local and regional communities.

VII. Conclusions

The local self-government is a constitutional institution of great importance. Keeping in mind the occasion of the 25th anniversary of enacting the 1997 Constitution of the Republic of Poland, it seemed necessary to study the system-

ic status of that institution and to review hitherto findings regarding the legal doctrine from the perspective of the axiology of Polish constitutional system.

Based on my considerations, it is possible to state both the existence and the content of the principle of protection of local self-government as one of the overarching principles of the Polish constitutional system. Based on the constitutional regulations it is hardly possible to describe the constitutional category merely as the principle of the local self-governance. Its part is not only the right of local or regional communities to territorial self-government but also a system of institutions and procedures serving as proper guarantors and necessary protectors of the right in question. In result, to the category of sub-rules of that principle – besides the rule of the local self-governance with thereof sub-rules: self-standing, subsidiarity, and decentralization – belongs also, as another sub-rule – the rule of protection of the constitutional model of local self-government.

The presented considerations may translate into the real position of local self-government if used for creating and implementing the organization norms of self-government, the administrative norms, and the material law of self-government, according with the proper constitutional legal regulations. Moreover, the considerations may play a part in judicial control of the constitutionality of legislative action within the scope of self-government law. They also relate to judicial control of executing and implementing law and additionally emphasize the role of the President of the Republic of Poland as the guardian of self-governance constitutional status.

In effect, this article could find its application to prevent attempts at instigating and implementing any actions in the field of law-making aiming at removing rights of self-governing authorities or diminishing the role of territorial self-government in the mechanism of discharging public power.

Literature

- Auby J.-B., Auby J.-F., Noguellou R., *Droit des collectivités locales*, Paris 2009.
Banaszak B., *Polskie prawo konstytucyjne*, Warsaw 2015.
Biszyga A., *Samorząd terytorialny w Konstytucji RP*, [in:] *Vademecum pracowników administracji publicznej (samorządowej oraz rządowej)*, Katowice 1998.

- Boeuf J.-L., Magnan M., *Les collectivités territoriales et la décentralisation, Documentation Française*, Paris 2009.
- Bosiacki A., *Od naturalizmu do etatyzmu. Doktryny samorządu terytorialnego Drugiej Rzeczypospolitej 1918–1939*, Warsaw 2006.
- Bosiacki A., *Władza municypalna w ujęciu Beniamina Constanta a teorie podziału władzy*, „*Studia Iuridica*” 2008, No. 48.
- Bucińska J., *Samorząd terytorialny w Polsce na tle Europejskiej Karty Samorządu Lokalnego*, [in:] *Samorząd terytorialny w Polsce. Wybrane zagadnienia ustroju i działalności*, eds. J. Bucińska, D. Strus, R. Stec, Warsaw 2009.
- Chmielnicki P., „*Istotna część zadań publicznych*” i zasada subsydiarności jako konstytucyjne dyrektywy określające zakres działania samorządu terytorialnego i ich realizacja w ustawodawstwie i orzecznictwie, [in:] *Samorząd terytorialny. Zasady ustrojowe i praktyka*, ed. P. Sarnecki, Warsaw 2005.
- Chorążewska A., *Zasada ochrony samorządności terytorialnej. Studium konstytucyjne*, Katowice 2018.
- Ciapała J., *Samorząd terytorialny w Konstytucji Rzeczypospolitej Polskiej*, [in:] *Prawo samorządu terytorialnego*, eds. Z. Ofiarski, M. Mokrzyć, Szczecin 1999.
- Constant B., *O monarchii konstytucyjnej i rękojmiach publicznych*, transl. W. Niemojowski, editor and introduction A. Bosiacki, Warsaw 2016.
- Czarny P., [in:] *Prawo konstytucyjne RP*, ed. P. Sarnecki, Warsaw 2014.
- Davies G., *Subsidiarity: The wrong idea, in the wrong place, at the wrong time*, “*Common Market Law Review*” 2006, No. 1.
- Dolnicki B., *Czy polskie ustawodawstwo samorządowe odpowiada standardom europejskim?*, „*Samorząd Terytorialny*” 1994, No. 9.
- Dolnicki B., *Miejsce samorządu terytorialnego w polskich konstytucjach*, [in:] *Samorząd terytorialny w Polsce i Portugalii. Analiza prawnoporównawcza*, ed. B. Dolnicki, Warsaw 2015.
- Domenach J., Dufresne C., *Droit des collectivités locales et territoriales*, Grenoble 2007.
- Dreier H. (Hrsg.), *Grundgesetz Kommentar*, Bd. II, Mohr Siebeck, Tübingen 1998.
- Garlicki L., *Polskie prawo konstytucyjne. Zarys wykładu*, Warsaw 2015.
- Garlicki L., *Normy konstytucyjne relatywnie niezmiennalne*, [in:] *Charakter i struktura norm konstytucji*, ed. J. Trzciniński, Warsaw 1997.
- Garlicki L., *Sądownictwo konstytucyjne w Europie Zachodniej*, Warsaw 1987.
- Gill A., *Teorie samorządowe w literaturze międzywojennej*, „*Samorząd Terytorialny*” 1999, No. 11/107.
- Gizbert-Studnicki T., Grabowski A., *Normy programowe w konstytucji*, [in:] *Charakter i struktura norm Konstytucji*, ed. J. Trzciniński, Warsaw 1997.
- Granat M., *Konstytucja RP na tle rozwoju i osiągnięć konstytucjonalizmu polskiego*, „*Przeгляд Sejmowy*” 2007, No. 4(81).

- Granat M., *Konstytucyjne zasady ustroju*, [in:] *Prawo konstytucyjne*, ed. W. Skrzydło, Lublin 1997.
- Grzybowski M., Jackiewicz A., [in:] *Prawo konstytucyjne*, ed. M. Grzybowski, Białystok 2009.
- Gwiżdż A., *Wstęp do konstytucji – zagadnienia prawne*, [in:] *Charakter i struktura norm Konstytucji*, ed. J. Trzciniński, Warsaw 1997.
- Hough B., *Local Authorities as the Guardians of the Public Interest*, Public Law 1992.
- Izdebski H., *Z dziejów terminu „społeczeństwo obywatelskie”*, [in:] *Prawo i ład społeczny. Księga jubileuszowa dedykowana Profesor Annie Turskiej*, ed. G. Polkowska, Warsaw 2000.
- Jagoda J., *Sądowa ochrona samodzielności jednostek samorządu terytorialnego*, Warsaw 2011.
- Kieres L., *Analiza zgodności polskiego prawa samorządu terytorialnego z Europejską Kartą Samorządu Terytorialnego*, „Samorząd Terytorialny” 1998, No. 9.
- Knemeyer F.-L. (Hrsg.), *Die Europäische Charta der kommunalen Selbstverwaltung. Entstehung und Bedeutung Länderberichte und Analysen*, Baden-Baden 1989.
- Kordela M., *Zasady prawa. Studium teoretycznoprawne*, Poznań 2012.
- Krasnowolski A., *Społeczeństwo obywatelskie i jego instytucje. Opracowania tematyczne OT-627, Kancelaria Senatu, Biuro Analiz i Dokumentacji*, Warsaw 2014.
- Kubiak A., *O interpretacji przepisów programowych Konstytucji*, „Państwo i Prawo” 1987, No. 4.
- Kulesza M., *O tym, ile jest decentralizacji w centralizacji, a także o osobliwych nawykach uczonych administratywistów*, „Samorząd Terytorialny” 2009, No. 12.
- Łabno A., *System rządów w Rzeczypospolitej Polskiej*, [in:] *Samorząd terytorialny w Polsce i Portugalii. Analiza porównawcza*, ed. B. Dolnicki, Warsaw 2015.
- Lutrzykowski A., *Samorząd terytorialny w Polsce po II wojnie światowej oraz po roku 1989*, [in:] *Samorząd terytorialny w Polsce i w Europie. Doświadczenia i dylematy dalszego rozwoju*, ed. J. Sługocki, Bydgoszcz 2009.
- Makarucha R., *Zasady prawa jako czynnik zapewniający aksjologiczną spójność systemu prawa*, „Folia Iuridica Wratislaviensis” 2014, No. 3(2).
- Małajny R.M., [in:] *Polskie prawo konstytucyjne na tle porównawczym*, ed. R.M. Małajny, Warsaw 2013.
- Małajny R.M., *Trzy teorie podzielonej władzy*, Katowice 2003.
- Maroń G., *Zasady prawa. Pojmowanie i typologie a rola w wykładni prawa i orzecznictwie konstytucyjnym*, Poznań 2011.
- Masternak-Kubiak M., *Przestrzeganie prawa międzynarodowego w świetle Konstytucji RP*, Warsaw 2003.
- Müller W., *Die Entscheidung des Grundgesetzes für die gemeindliche Selbstverwaltung im Rahmen der Europäischen Integration*, Baden-Baden 1992.

- Nierhaus M., *Selbstverwaltungsgarantie und wirtschaftliche Betätigung der Kommunen*, HKWP 2011, Kommunale Wirtschaft, Band 2.
- Niewiadomski Z., *Samorząd terytorialny w warunkach współczesnego państwa kapitalistycznego*, Warsaw 1989.
- Nowacki J., *Samorząd terytorialny w administracji publicznej*, Warsaw 1997.
- Panejko J., *Geneza i podstawy samorządu europejskiego*, Paris 1926 [reprint Warsaw 1990].
- Pietrzyk-Reeves D., *Idea społeczeństwa obywatelskiego*, Toruń 2012.
- Piotrowski R., *Zasada podziału władz w Konstytucji RP*, „Przegląd Sejmowy” 2007, No. 4(81).
- Płowiec W., *Wstęp do Konstytucji RP z 2 kwietnia 1997 r. w orzecznictwie Trybunału Konstytucyjnego*, „Przegląd Sejmowy” 2010, No. 1.
- Priet F., *Droit des collectivités territoriales*, Dalloz, Paris 2009.
- Pułło A., *Zasada ochrony społeczeństwa obywatelskiego w systemie zasad konstytucyjnych*, „Gdańskie Studia Prawnicze” 2012, No. 28.
- Pułło A., *Zasady ustroju politycznego państwa. Zarys wykładu*, Gdańsk 2014.
- Sarnecki P., *Idea samorządności w strukturze społeczeństwa obywatelskiego*, [in:] *Samorządy w Konstytucji RP z 2 kwietnia 1997 roku*, eds. Z. Witkowski, A. Bień-Kacała, Toruń 2013.
- Sarnecki P., *nota 2 do art. 9*, [in:] *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, vol. 5, ed. L. Garlicki, Warsaw 2007.
- Sarnecki P., *Systematyka konstytucji*, [in:] *Charakter i struktura norm Konstytucji*, ed. J. Trzcziński, Warsaw 1997.
- Schaffarzik B., *Der Schutz der kommunalen Selbstverwaltung im europäischen Mehrebenensystem*, HKWP 2007, Grundlagen und Kommunalverfassung, Band 1.
- Schaffarzik B., *Handbuch der Europäischen Charta der kommunalen Selbstverwaltung*, Stuttgart 2002.
- Skrzydło-Niżnik I., *Model ustroju samorządu terytorialnego w Polsce na tle zagadnień ustrojowego prawa administracyjnego*, Cracov 2007.
- Szewc T., *Charakterystyka Europejskiej Karty Samorządu Terytorialnego*, „Samorząd Terytorialny” 2003, No. 1–2.
- Szewc T., *Dostosowanie prawa polskiego do zasad Europejskiej Karty Samorządu Terytorialnego*, Bydgoszcz-Katowice 2006.
- Szewc T., *Formy realizacji prawa do samorządu w Europejskiej Karcie Samorządu Terytorialnego i w prawie polskim*, „Państwo i Prawo” 2004, No. 7.
- Szewc T., *Uwagi w sprawie ratyfikacji Europejskiej Karty Samorządu Terytorialnego*, „Państwo i Prawo” 2000, No. 9.
- Szyszkowski W., *Benjamin Constant. Doktryna polityczno-prawna na tle epoki*, Warsaw-Poznań-Toruń 1984.
- Tkacz S., *O zintegrowanej koncepcji zasad prawa w polskim prawoznawstwie (Od dogmatyki do teorii)*, Toruń 2014.

- Tuleja P., *Pojęcie zasady konstytucyjnej*, [in:] *Zasady ustroju Rzeczypospolitej Polskiej w nowej konstytucji*, ed. K. Wójtowicz, Wrocław 1997.
- Tuleja P., *Zasady konstytucyjne*, [in:] *Konstytucjonalizacja zasad i instytucji ustrojowych*, ed. P. Sarnecki, Warsaw 1997.
- Wilson D., Game C., *Local Government in the United Kingdom*, Palgrave Macmillan 2006.
- Winczorek P., *Konstytucja i wartości*, [in:] *Charakter i struktura norm Konstytucji*, ed. J. Trzeciński, Warsaw 1997.
- Wojtyczek K., *Formy konstytucjonalizacji zasad konstytucyjnych*, [in:] *Konstytucjonalizacja zasad i instytucji ustrojowych*, ed. P. Sarnecki, Warsaw 1997.
- Wronkowska S., *Sposoby pojmowania „zasad prawa”*, „Państwo i Prawo” 1972, No. 10.
- Wykrętowicz S., *Samorząd jako wyraz demokracji obywatelskiej*, [in:] *Samorząd w Polsce – istota, formy, zadania*, ed. S. Wykrętowicz, Poznań 2004.
- Ziemiński Z., *Wstęp do aksjologii dla prawników*, Warsaw 1990.