

THE ROLE OF LOCAL GOVERNMENT IN POLAND IN THE FIELD OF EDUCATION

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Abstract

The work is an attempt to comprehensively cover and clarifying basic issues concerning the role of local government in the field of education, the commune, district and administrative bodies in this field, as well as education funding by local government. Considerations in work are mainly theoretical, and formulated conclusions can serve perfecting these legal solutions. As the method was adopted to develop the normative analysis of the material and views presented in Polish literature. In work dogmatic method was used.

Key words: education, commune, district

Abstrakt

Práca je pokusom o komplexné pokrytie a objasnenie základných otázok týkajúcich sa úlohy miestnej samosprávy v oblasti školstva, obce, okresu a správnych orgánov v tejto oblasti, ako aj finančných prostriedkov na vzdelávanie miestnej samosprávy. Úvahy v práci sú hlavne teoretické a formulované závery môžu slúžiť na zdokonaľovanie týchto právnych riešení. Použili sme metódu normatívnej analýzy materiálov a názorov prezentovaných v poľskej literatúre, pričom použitá metóda má dogmatický charakter.

Kľúčové slová: vzdelávanie, obec, okres

INTRODUCTION

Since 1 January 1999 in Poland there has been at three-tier structure of local government. Local self-government is formed under the law by the people of the two basic units of local self-government, that the inhabitants of the municipality and the county. The basic unit of local government in Poland is a commune. All government entities have legal personality, entitled to the right of ownership and other property rights. Public duties aimed at satisfying the needs of local communities are their direct responsibility. Government may instruct units of local government to perform other public duties, so-called. tasks assigned. District is the intermediate unit of local government. It performs public tasks over the commune level. It has a legal personality and acts on its own behalf and on his own responsibility.¹

Regional self-governing community residents make up the region. On its behalf function the provincial government authorities. The range of their activities cannot affect the independence of counties and municipalities². Regional authorities is not a higher level authority for the

¹ Ustawa z dnia 5 czerwca 1998r. o samorządzie powiatowy, t. j. Dz. U. 2013 poz. 595 ze zm.

² Ustawa z dnia 5 czerwca 1998r. o samorządzie województwa, t. j. Dz. U. 2013 poz. 596 ze zm.

local units and does not have to have the supervisory and control. It carries out separate tasks, not reserved for municipalities, counties and government. The legal basis for the functioning of the education system, including higher education, are determined by a number of laws and regulations. Fundamental role in determining the shape of the Polish educational system fully Act of 7 September 1991. on the education system³, which includes a definition of the educational system and determines the interdependence existing between its elements.

In the light of the law, the upbringing and education of the young man begins with the pre-school stage. As indicated by the observation of statistical data, attending kindergartens in Poland is not too common. Particularly low proportion of children attending these institutions is characteristic of rural areas. The next stage of compulsory education is a primary school. It lasts 6 years. In place of the eight-year elementary school reform in 1999 introduced as a second level of teaching middle schools. It is a school where they study for three years. Upon completion of high school student can choose between different types of schools. Upon completion of high school, it is possible to continue their education in various types of educational institutions. The education system is composed of post-secondary schools and colleges. Maturity exams also open the possibility of study within higher education in public schools or private.

1. THE LEGAL BASIS OF PERFORMANCE OF LOCAL GOVERNMENT UNITS IN THE FIELD OF EDUCATION

Legal basis for the conduct of the local government educational institutions is the Act of March 8, 1990 the Local Government⁴ which among the tasks of the municipality referred to in Art. 7 paragraph. 1 lists the tasks of public education. Clarification of them is located in the School Education Act of 7 September 1991, where in the art. 5a. 2 item 1 (in conjunction with Art. 5 paragraph. 5) provides that the educational tasks of the municipality should provide training, education and care in public kindergartens (including with integration), special kindergartens and other forms of preschool education in schools primary and secondary schools, and in each of these types also with integration. Educational tasks can be carried out independently by the municipality or by their own organizational units or other legal or natural persons carrying school or kindergarten. Schools and kindergartens are run by local governments, in accordance with Art. 79 paragraph. 1 of the Act of 7 September 1991 on the system of education may take the form of budgetary units⁵.

2. THE CONCEPT OF EDUCATION AND EDUCATION LAW

The legislation will not find a single definition of "education." Acts frequently used by him, but do not include the legal definition. In the Act of 7 September 1991. Already on the education system in the preamble find define education as "the common good of the whole society ". And this approach should be regarded as essential for the analysis of the term "education".⁶

According to W. Okoń, the concept of education understands "the business of disseminating education, training and implementation of specific educational objectives to ensure the

³ Ustawa z dnia 7 września 1991r. *o systemie oświaty*, tj. Dz. U. 2004 Nr 256 poz. 2572 ze zm. (dalej: ustawa o systemie oświaty lub SystOśwU).

⁴ Ustawa z dnia 8 marca 1990r. *o samorządzie gminnym*, t. j. Dz. U. 2014 poz. 594 ze zm.

⁵ M. Pilch, *Ustawa o systemie oświaty. Komentarz*, wyd. V, LEX 2013.

⁶ Ibidem.

comprehensive development of individuals and successful existence, and public cultural ties linking its historical past with the present."⁷

Encyclopaedia PWN - education is a state and the dissemination of the knowledge society and culture through activities both education and a variety of extracurricular institutions.

Concept synonymous, often interchangeably used with the term "education" is the concept of "education", which is considered a fundamental human right and a universal value. Education is by UNESCO whole process of social life by which individuals and social groups learn to develop consciously, within and for the community of national and international, all their individual capabilities, attitudes, aptitudes and knowledge. But according to the dictionary definition, education is a coherent system of education and upbringing of children, adolescents and adults, including different levels of education, in the forms of institutional and non-institutional.⁸

According to Magdalena Pyter and Adam Balicki education law is a set of standards by which is regulated by the issue of organization and management of education. This right does not exist as a separate branch of law, but is included in administrative law. The right to education is shaped by three groups of sources of law:

1. The rules governing the system of education system in Poland.
2. The rules governing the system of teachers in Poland.
3. Other provisions⁹.

3. THE TASKS OF LOCAL GOVERNMENT IN THE FIELD OF EDUCATION

In art. 3 point 14 SystOśwU legislature defines educational tasks of local government units as tasks in the field of education, upbringing and care, including social prevention. In detail the roles of the different local government units in the area of education shall be governed SystOśwU and issued on the basis of their implementing legislation.

Educational tasks of municipalities are their own mandatory tasks. In determining the principles of financial management in relation to maintained schools and institutions municipality retains a large measure of independence. This is due to the fact that the obligations of municipalities that make up the general category of educational tasks belong to its own tasks. Tasks are carried and carried on its own behalf and on their own responsibility, independently and with its own funds and, therefore, the degree of autonomy in their implementation is in principle far greater than in the case of tasks assigned.¹⁰

Generally entity appointed to carry out schools and institutions are government entities and other legal entities, and therefore associations, foundations and limited liability companies as well as individuals.¹¹

Establishing and maintaining other schools and institutions (with art. 2 and Art. 5 SystOśwU) deal with the local governments. In this regard:

⁷ W. Okoń, *Słownik pedagogiczny*, wyd. Żak, Warszawa 1998.

⁸ D. Kurzyna – Chmiel, *Oświata jako zadanie publiczne*, wyd. Wolters Kluwers, Warszawa 2013.

⁹ M. Pyter, A. Balicki, *Prawo oświatowe*, wyd. C.H. Beck, Warszawa 2011.

¹⁰ Wyrok TK z dn. 9.06.2010 r., K 29/07.

¹¹ G. Jyż, Z. Pławewski, A. Szewc, *Ustawa o samorządzie gminnym. Komentarz*, wyd. IV, LEX 2012 oraz W. Sońta, *Mienie komunalne w Polsce. Zagadnienia prawno-finansowe* Politechnika Radomska Radom 2008 s.79.

1. First tasks of the municipality should be set up and run kindergartens, including the integration classes and special kindergartens, primary and secondary schools, including the integration classes, except for special primary schools and junior high special art schools and schools with prisons, correctional institutions, and shelters for minors (Article 5 paragraph. 5 SystOśwU);
2. own tasks of a county comprise the establishment and running special primary schools and junior high special secondary schools, including the integration classes, schools, sporting and athletic and educational institutions (including school youth hostels) with art. 2 point 3
3. SystOśwU, continuing education, practical training centers and training centers and vocational training of art. 2 point 3 SystOśwU, institutions (outbreaks) art with art. 3 point 3b SystOśwU, psychological and pedagogical art. 2 point 4 SystOśwU, youth detention centers, and other institutions of art. 2 point 5 SystOśwU and hostels, boarding and other facilities providing care and education to students attending schools outside their place of permanent residence (Article. 2 point 7 SystOśwU)

In addition to the tasks set out above, each local government may also establish and run such schools and institutions whose conduct is under the responsibility of another local government or minister. Local governments may also take over from each other or from the conduct of ministers of existing schools and institutions - on the basis of Art. 5 paragraphs. 5b -5e SystOśwU.

3.1 Tasks and powers of the legislative organ of local government units

In accordance with Art. Paragraph 5c. 1 SystOśwU municipal council, district council, council province performs properly functions and powers relating to:

- the creation of economic entities operating and administrative schools and centers or organizing a joint service administrative, financial and organizational conducted in schools and institutions (art. 5, paragraph 9).
- determining the minimum time spent on free education, upbringing and care in a public kindergarten and preschool division in primary school (art. 6 paragraph. 1 point 2 and Art. 6 paragraph. 4);
- determining the minimum time spent on free education, upbringing and care in a public kindergarten (Art. 6 paragraph. 1 point 2);
- determining the minimum time spent on free education, upbringing and care in the public another form of pre-school education (art. 6, paragraph 2).
- submission of an application for authorization to establish a branch of the international (art. 7a paragraph. 4);
- the obligation to incur, own revenues, costs of education in the international division incurred in excess of current expenditure per pupil in the other branches of the school - in the case of a public school (art. 7a paragraph. 6 points 4 and Art. 7c paragraph. 1 point 4);
- elimination of the international department and to give notice at least six months before the date of liquidation, the liquidation of its intention to students and parents Ministry of Education (Art. 7d);
- determining the amount of fees for the use of pre-school education in the kindergarten run by the municipality and any other form of pre-school education, while more than teaching time allocated for free education, upbringing and care; determine the conditions for partial or total exemption from fees (art. 14, paragraph 5).
- the signing of the memorandum and give first Statute (Articles. 58, paragraph 6).

- liquidation of a public school, and to give notice at least six months before the date of liquidation, the liquidation of the intention of the school: parents of students (in the case of adult education - students), the appropriate superintendent and the executive body of local government units the right to conduct the type of school (art. paragraph 59. 1);
- combination of different types of schools or establishments in the team (art. Paragraph 62. 1);
- exclusion from school team or the institutions or schools and institutions of certain schools or institutions, the inclusion of the band other schools or institutions, and solutions team (art. Paragraph 62. 5).

3.2 Tasks and powers of the executive organ of local government units

In accordance with Art. 5c point 2 u.s.o. mayor, the mayor (mayor of the city), county board, the board of the province performs properly functions and powers relating to:

- ensure that the operating conditions of the school or facility, including the safe and hygienic conditions for learning, education and health (article. 5 paragraphs. 7 paragraph 1);
- perform repairs of school facilities and investment projects in this field (art. 5 paragraphs. 7 point 2);
- provide support for administrative, financial, including the performance of the activities referred to in Art. 4 paragraph. 3 Section 2-6 of the Act dated. 29.09.1994. Accountancy (Journal of Laws of 2013. Pos. 330, as amended.) and organizational school or institution (art. 5 paragraphs. 7 point 3);
- from school or teaching aids and equipment necessary for the full implementation of curricula, educational programs, conducting tests and examinations, and performing other statutory duties (art. 5 paragraphs. 7 point 4);
- appointment as director of the school or non-teacher, after consultation with the supervisor pedagogical (art. Paragraph 36. 2);
- entrusting the position of director of the school or institution (art. 36a paragraph. 1)
- determining a candidate for director of the school or institution, if the competition does not report any candidate or as a result of competition is not a candidate was selected, and entrusting to him the position of Director; leading authority has a duty to consult the council and the school or school board (art. 36a paragraph. 4);
- entrusting the duties of the Deputy Director of the school, and schools where there is no deputy, the teacher of this school, but no longer than for a period of 10 months (art. 36a, paragraph 5).
- the appointment of the jury in order to conduct the competition for the school principal or facility (art. 36a, paragraph 6).
- determining the composition of the jury in order to conduct the competition for the director of a school or institution - in the case of newly established schools and institutions (art. 36a paragraph. 10);
- announcing a competition for the school principal or facility and supervise the regularity of the competition (Art. 36a paragraph. 12);
- extension of entrusting the position of director of the school or on consecutive terms; after consultation with the school board or institution and the school board, in consultation with the curator of education (except for schools and institutions referred to in Art. 5 paragraphs. 3b uso), and in the case of schools and institutions of art - from the Ministry of Culture (Art. 36a paragraph 14).
- cancellation teacher from the school principal or facility (art. 38 sec. 1);

- assist in determining the occupations in which educates vocational training school; competition is determined by the school head in agreement with the leading school and after consulting the district and provincial councils of employment regarding compliance with labor market needs (article. paragraph 39. 4a);
- enter into agreements underlying the establishment of a team, which consists of either the school or schools and schools run by different bodies (Art. 62, paragraph 6).
- conclusion of the contract between the authority of the headmaster of a health care facility, including plant care and treatment and spa treatment plant, as well as the unit of social assistance, which organized a special school in order to determine the conditions of use of the premises for the conduct of educational activities and educational and incurring the cost of living (Article. 71c paragraph. 1).

3.3 Tasks and powers of the executive single local government unit

In accordance with Art. 5c point 3 u.s.o. mayor, the mayor (the mayor), mayor, Marshall performs adequately for the tasks and responsibilities:

- consent to the employment of a person holding a vocational training recognized by the school or institution to be suitable for conducting classes in the field of vocational training (Article. 7 paragraph. 1d);
- arrangements for the development of a program and timetable for improving the efficiency of instruction or education, commissioned by the supervisor pedagogical (art. 34, paragraph 2).
- supervise the activities of the school or institution in the field of financial and administrative matters, including with regard to: the accuracy of budgetary resources and dispose of property management; compliance with applicable health and safety regulations relating to staff and students; compliance with the organization of schools and institutions; act on matters of teaching and education and care with applications to the school principal or facility and pedagogical supervisor - concerned by the guide, who does not have permission to pedagogical supervision (art. 34a);
- the provision of an opinion on entrusting the position of deputy director and other positions of responsibility and dismissal of them in schools and where such an approach, in accordance with the Framework statute can be created (art. Paragraph 37. 1);
- exercise instead Director employer's powers and superior official in relation to teachers and other employees kindergarten (art. 39, paragraph 6).
- the provision of an opinion on the decision of the pedagogical supervisor concerning the repeal of the resolution of the school board is incompatible with the law (art. 41, paragraph 3).
- authorization to establish a public school or facility by a legal person other than local government units or individual (art. 58, paragraph 3).
- taking over defunct public school documentation, with the exception of records of the teaching (art. 59, paragraph 3).
- Documentation takeover defunct public school or facility maintained by natural or legal person (art. Paragraph 59. 4);
- cooperation in setting conditions for using the school canteen, including charges for meals (art. 67a, paragraph 3).
- Release the parents or the student from all or part of the fees for meals at the school canteen issued (art. 67a, paragraph 5).
- the authority of the school principal to grant exemptions from charges for meals at the school canteen issued (art. 67a, paragraph 6).

- cooperation in the organization of early intervention child development; directors of special kindergartens, primary schools and special centers referred to in art. 2 point 5 *uso*, primary areas and integration of public and non-psychological-pedagogical, including specialist clinics, organize support early child development, in consultation with the authorities conducting (art. 71b paragraph. 2b);
- cooperation in the organization of individual compulsory year pre-kindergartens and primary schools in which they are organized nursery units (art. 71b paragraph. 5d);
- enabling higher education institutions and colleges organize teaching practice, and to cooperate in the organization of these practices (art. 77 Paragraph 6).

4. FINANCING OF EDUCATION BY LOCAL GOVERNMENT

Funding issues for educational tasks specified in the Act on the income of local government units¹² and an annual allocation of funds from the state budget allocated for educational purposes. Units of local government allocate funds each year within their own budgets and are in this respect a lot of flexibility. The measures necessary for the implementation of the tasks of local government in matters of education, including the salaries of teachers, as well as maintenance of schools and institutions that lead must be guaranteed in the income of the local government. As a result of our membership in the European Union, the obligation of municipalities to provide funds for additional free Polish language classes for people who are not Polish citizens and are subject to compulsory schooling. This obligation rests with the municipality in which the alien is domiciled. Generally speaking, the Polish legislator treats foreigners with Polish citizens in terms of access to public education in primary and secondary. But does not guarantee the people of free education. Sometimes, however, that local government own revenues are not sufficient to cover all the needs of schools in the area. In such a situation it becomes necessary assistance by the state. This appropriation is intended for financing local government's own tasks are transferred in the form of subsidies. It should be distinguished from grants, as opposed to the grant of a lasting nature and relatively constant altitude. Purpose for which the subsidy is granted, it is generally referred to, which gives local governments greater freedom to allocate those funds. Local governments have the right to claim the Treasury the payment of these funds from the state budget through the courts even if it has been stored in the Budget Act. For educational purposes are primarily responsible to local government units and their task is to provide funds for this purpose. The state budget plays a secondary role only¹³.

CONCLUSIONS

As a result of the process of political transformation state local self-government sent most of the educational public tasks at the same time making it more and more alone in this regard. In terms of educational tasks between the central government and the local government, the legislature must always be guided by the principles of fluids, but also weighing that with administration entities will implement them efficiently. It is important that the tasks and powers of the local authorities suit the inhabitants.

¹² Ustawa z dnia 13 listopada 2003r. *o dochodach jednostek samorządu terytorialnego*, t. j. Dz. U. 2014, poz. 1115 ze zm.

¹³ M. Herbst, A. Levitas, J. Herczyński, *Finansowanie oświaty w Polsce. Diagnozy, dylematy, możliwości*, wyd. Scholar, Warszawa 2009.

The distribution of tasks within the local government is characterized by dynamics, depending on the content of specific laws and agreements. Most tasks in the field of education is carried out by municipalities, which carry the majority of schools and educational institutions. Also visible is the process of transferring educational tasks by means of agreements between local government, as well as between them and the administration of the government (the ministers). The transfer of new educational tasks of local self-government raises increase its importance in the system of administrative bodies and public authorities.

In Poland, local government units have the responsibility for financing and management of education, but to provide funds for the implementation of these tasks is primarily the responsibility of the state budget. Despite the tensions surrounding the definition and division of the general subsidies does not seem to be able to move away from the instrument financing of educational tasks. It remains, however, scope for modification of educational subsidies both in terms of its size and the method of division. These changes should be the result of a dialogue between the central government and local governments.

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