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Summary of a doctoral dissertation titled

***Concept of the Public Tasks System Within the Frameworks of
Municipal Waste Management by the Commune***

Subject of the study

The subject of this study is detailed considerations regarding characteristics of public tasks performed by administrative authorities at the commune level. Within the frameworks of the analysis conducted, a postulate was formulated with regard to the suggested way of classifying this kind of tasks, developed taking into account the achievements of the management science. Furthermore, a concept of model shaping of a legal regulation within their scope was proposed, based on the assumption that those tasks, in principle, constitute multi-facet conglomerates of activities carried out for the needs of achieving a given public purpose. The axis of the concept under consideration is the assumption that public tasks, understood – following M. Górski – as behaviours of administrative authorities necessary to realise a specific state's goal, by means of designated means and forms of activity – should be constructed taking into account systemic nature of regulations, ensuring:

- a) completeness of the catalogue of public tasks established for the needs of achieving a given goal (understood as the condition, in which administration becomes equipped with an adequate and exhausting scope of instruments used to achieve a given goal),
- b) coherence of the catalogue of public tasks (understood as a logical link between the elements of a set of public tasks in a given area, taking into account the need to perform a “bunch of tasks” for the needs of achieving the designated objectives).

The developed concept of the so-called system of public tasks, referring to shaping tasks in a given area of administrative activities in a way taking into consideration the above-formulated requirements, has been illustrated by confronting its assumptions with legal regulations concerning communal waste management by the commune (based in this scope, first of all, on the provisions of the Act of 13 September 1996 on Maintaining Cleanliness and Order in Communes). The foregoing has enabled making a complex assessment of the status of the said regulation and formulating *de lege ferenda* conclusions in areas in which no completeness or coherence of public tasks under analysis were identified.

Structure of the study

The study consists of three thematic parts. Part I is dedicated to the characteristics of notional categories, key to this study. It has been assumed that for the needs of characterising a public task in a suitable way, it is necessary to show its relation to the category of the public interest and the public purpose. For those purposes, positions of the doctrine, referring to the indicated notions, were analysed and the analysis was next supplemented with an attempt to characterise them by the author. When interpreting the elements of the said notional triad (“public interest – public purpose – public task”) an attempt was made to take into account aspects from the borderline between law and other social sciences, trying to demonstrate possible directions of cautious reinterpretation of those notions, e.g. in the context of public administration evolution, changing gradually its role from the “guardian” of the performance of specific orders and bans to the organiser of a number of spheres of the social life. Part I is summarised with the characteristics of the above-mentioned system of public tasks, constituting the basis for further considerations.

Part II analyses the issue of public tasks performance by commune self-government, beginning with identifying the concept of self-government, stemming from – again – the context going beyond the area of legal sciences. An attempt at grasping social mechanisms ruling formation of local communities and shaping of regulations structuring their operation – made taking into account a historic reflection – has enabled emphasising of aspects which are sometimes not noticed when analysing the essence of self-government (e.g. the phenomenon of a certain “grass-root trend” accentuated in this study, manifested in gradual extension of legal regulations within the scope of self-government tasks with aspects of communities’ operation formerly performed by “civic” informal methods; this phenomenon has been characterised as counterbalance for decentralisation understood in a classical way, consisting in “pushing down to a lower level” of tasks formerly performed by central administration; as has been emphasised in this study, both those phenomena occur jointly and a kind of keystone for both is the subsidiarity principle – on the one hand, supporting reallocation of a given community’s task from an informal level to the level of self-government regulations, e.g. due to the necessity of performing a task by means of coercive administrative action, originating from praxeological premises, and, on the other one, expressed by the occurrence of rational efficiency premises for the transfer of given competencies from the central level to a more adequate level – e.g. due to a possibility of better consideration of local conditions – the self-government level).

The analysis of the characteristics of self-government tasks covers the issue of differentiation between own and delegated tasks, with regard to which an attempt was made to determine to what extent their classical differentiation coexists with the realities of current self-government regulations. In addition, the category of public utility tasks is referred to in order to indicate

both their legal status and refer to economic aspects occurring in relation to them, which are frequently not noticed, and this in the context of M. Szydło's right observation, according to which in relation to that category of tasks, the doctrine popularises, to some extent, the understanding based on anachronistic interpretation of the role and characteristics of public utility tasks which are "non-market by nature."

The analysis of public tasks performed by commune self-governments is supplemented with the characteristics of the category referred to as municipal economy, the discussion of which has led to underlining a special importance of the so-called organisational freedom of communes, meaning a suitable level of commune self-government flexibility in order to perform public tasks effectively in the area of selecting forms and methods of performing municipal economy.

The remaining scope of Part II is dedicated to introducing the issue of municipal waste management by the commune, consisting in characterising it in the context of public purposes established within its scope. First of all, the said introduction includes the analysis of EU legislation development (including also soft-law acts) in the area of waste management, accentuating special development of that area over the last decades. The European normative context is further supplemented with considerations regarding domestic regulations concerning municipal waste management, which are presented in a wide historic context. That perspective aims at showing considerable changeability within the scope of waste management models adopted over the years and outlining of the foundation going beyond legal issues (including environmental and economic realities), constituting the basis for the adopted legislative solutions.

Part III conducts a complex analysis of public tasks performed by commune self-government under the municipal waste management system, mentioned in the Act of 13 September 1996 on Maintaining Cleanliness and Order in Communes. For the needs of the analysis in question, classification of those tasks has been proposed in the division into 1) organisational tasks, 2) tasks in the area of financing the municipal waste management system, 3) information and educational tasks, 4) inspection and supervision tasks, and 5) analytical tasks. With regard to each of the elements specified within the scope of the said classification, considerations were made aimed at, on the one hand, characterising of the scope and function of a given group of tasks, and, on the other one, the evaluation of the way in which they are regulated in relation to the concept of the public tasks system presented in Part I of the study.

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