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STUDIA NAD SAMORZĄDEM TERYTORIALNYM  
EUROPY ŚRODKOWO-WSCHODNIEJ

# 25 LAT POLSKIEJ SAMORZĄDNOŚCI

SAMORZĄD TERYTORIALNY  
EUROPY ŚRODKOWO-WSCHODNIEJ  
A MODEL SAMORZĄDU TERYTORIALNEGO  
DLA UKRAINY

redakcja

IWONA LASEK-SUROWIEC

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# 25 YEARS OF POLISH SELF-GOVERNANCE

SELF-GOVERNMENT  
IN CENTRAL AND EASTERN EUROPE  
VS. THE MODEL OF LOCAL  
SELF-GOVERNMENT FOR UKRAINE

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## WSTĘP

Decentralizacja władzy publicznej jest elementem struktur demokratycznego państwa prawnego. Jej istoty upatrywać należy w obaleniu monopolów składających się na rozwiązania ustrojowe obowiązujące w państwach Europy Środkowo-Wschodniej do początku lat 90. XX wieku. Ich miejsce zastąpiły podmioty, jednostki i byty prawne, które były w stanie samodzielnie wziąć odpowiedzialność za rodzącą się wspólnotę samorządową. W tym kontekście należy podkreślić wagę procesu polskiej transformacji w kierunku budowania społeczeństwa aktywnego, obywatelskiego, przejmującego inicjatywę i odpowiedzialność za najbliższe otoczenie.

Procesy mające miejsce w PRL-u w latach 80. uitorowały drogę do rozwiązań prawnych z lat 1989-1991, wśród których na szczególną uwagę zasługuje ustawa reaktywująca polski samorząd terytorialny na szczeblu gminnym z dnia 8 marca 1990 roku.

Niemal we wszystkich państwach Europy Środkowo-Wschodniej odradzanie się autonomicznych struktur lokalnych rozpoczęło się od najniższych szczebli podziału terytorialnego. Wydaje się, że inspiratorom, twórcom i faktycznym realizatorom tych przemian przyświecała idea przywrócenia wspólnotom lokalnym prawa do podejmowania decyzji. Przybrała ona charakter procesów o wymiarze symbolicznym, zwłaszcza w początkowej fazie. Przekształcanie idei w efektywne struktury organizacyjne, mające umocowanie w systemie prawnym, było procesem wielowymiarowym, wymagającym sprawnego aparatu organizacyjno-prawnego, ale również optymalnego do realizacji tego celu kapitału ludzkiego. W Polsce procesy przeobrażeń ulegały intensyfikacji od początku lat 80. XX wieku. Wówczas nie było jednak oczywiste, czy w rezultacie dojdzie do gruntownej przebudowy ustrojowej państwa, bo przeświadczenie o konieczności jej urzeczywistnienia narastało stopniowo, a z czasem – przekształciło się w jednoznaczny i pewny cel polityczny, który uległ konkretyzacji podczas prac Okrągłego Stołu.

Publikacja pt.: 25 lat polskiej samorządności. Samorząd terytorialny Europy Środkowo-Wschodniej a model samorządu terytorialnego dla Ukrainy stanowi głos w dyskusji, podsumowującej ćwierćwiecze zmian ustrojowych w Polsce w obrębie struktur władzy lokalnej, z uwzględnieniem płaszczyzny europejskiej, w tym również ukraińskiej.



powers in the management of the administration of a municipality council or a municipality branch, they remain passive observers. The advisory powers of the residents are not very motivating.

The present self-government system is not favourable towards active influence of local communities, on the contrary – it is distanced away from the making of significant decisions. The duality of the present situation is noteworthy: the functioning legal framework mentions numerous forms of direct participation by the local residents and the possibilities for them to participate in the decision-making and implementation at the local level. However, due to both the dominant political and administrative culture as well as the public passivity, the instruments of community empowerment are often used only in a fragmented manner, many a time even formally. For this reason, the Lithuanian self-government is to be assessed from different perspectives: the façade, which is based on declarative self-government, and the expectations and special efforts by the enthusiasts from local communities.

Common processes of the democratization of the country's governance and the orientation towards good governance practices obligate state institutions to solve the issues of empowering self-government which is based on active communities. However, some of the state initiatives for the promotion of civil society or the implementation of self-government system corrections are assessed rather controversially. By singlehandedly establishing forced institutions that are supposed to represent communities (e.g. the elder), the state rather compromises the idea of democracy instead of promoting it. Thus, without denying (but rather the opposite, emphasising) the significance of the initiatives by the state and the municipal administration, a solid basis – consideration of the opinion, interests, initiatives and contributions of the residents – is of high importance to the encouragement of community life.

*Liudas Mažylis*

*Vaida Leščauskaitė*

## **Changing institutional models and reforms in Lithuanian local government**

### **Introduction**

This paper is aimed to analyse institutional models of Lithuanian local government in interconnection with centralization/decentralization processes employing explanatory and conceptual frameworks defined by Schneider (2003) and Ozman (2014) that distinguish three decentralization dimensions: fiscal, political and administrative<sup>196</sup>, presents a two-fold analysis of the Lithuanian territorial reform and the evolution of internal municipal institutional arrangement. Theoretical approach of historical institutionalism is used, and expanded upon, re-constructing two “samples” of critical junctures: one that corresponds to the territorial reform, and one that shows the changes of institutional arrangements. Sub-optimal consensus and drawing path dependency trajectories are depicted. Through these sets of critical junctures, political discussions regarding the ideas of territorial reform and internal institutions and changes in the legal system, experiences are discussed and analysed. The timeframe of analysis is broad – from the very beginnings of actual local government back in 1994-1995, to 2016. A number of challenges connected with political culture, political participation, and accountability are observed.

The overall task of the paper is to analyse the developments in both territorial and institutional structure of the Lithuanian local self-government, and present them within the approach of historical institutionalism, drawing path dependencies towards the current sub-optimal consensus from the historical critical junctures of various reforms.

The paper is based on the analysis of legal acts, put into historical perspective.

### **Changes in territorial structure of local government**

In 1990 a newly independent Lithuania inherited a highly complicated system of territorial administrative units, a system that was built to serve the soviet highly centralised system. This system contained a large number of small and different units and was not at all fit to



a modern democratic state. Although local self-government was institutionalised through the Constitution in 1992, the actual law that defined local self-government and removed the previous Soviet structure was not passed until 1994, as there was a great number of reforms to be implemented during the first state-building years. The essential reform of the local self-government units did not begin until 1995, which marks a definite critical juncture in the development of Lithuanian local self-government.

Until 1995 a complicated and fragmented two level territorial structure was in place in Lithuania. It consisted of 507 lower level and 55 upper level units that were directly subordinate to the upper level.<sup>197</sup> Those units were formed according to type of settlement they represented – cities, municipalities, regional cities, city-like settlements, neighbourhoods, etc.

From 1995 a new, simplified and unified system of 56 self-governing units was put in place. Only one level of self-government remained, while new higher level was established- 10 counties – NUTS III units, with no self-government, corresponding to the current definition of *decos*. The lowest level of self-government was turned into sub-municipal units for administration and public services (those units also had no self-governance, but rather became structural administrative units for the municipalities).<sup>198</sup> Most self-government units were formed by taking both the main regional city and its surrounding and connected countryside settlements, thus almost removing the problems of “ring municipalities” – except around the largest cities, where establishing a unit incorporating both the city and its surrounding areas was just not feasible.

One of the most problematic aspects of Lithuanian self-government units is their size. After the first step of the territorial reform, there were 56 self-governing units, that covered the whole of Lithuania, 2/3 of those units had 10 000 - 50 000 inhabitants, while in countries similar to Lithuania municipalities were rarely larger than 10 000 inhabitants (table 1)<sup>199</sup>. The large size of Lithuanian municipalities had some advantages – like economy of scale, financial resources of the municipality, but on the other hand, the local democracy suffered.

Table 1.  
Size of European municipalities

Country	Average number of inhabitants in a municipality	Average size of municipality (km <sup>2</sup> )	Number of municipalities of less than 1000 inhabitants (%)
Poland	16 000	130	0
Hungary	3 300	32	54
Slovakia	1 900	17	68
Czech Republic	1 700	13	80

Source: J. Mačiulytė, P. Ragauskas, Lietuvos savivalda: savarankiškos visuomenės link? 2007, p. 53.

When talking about the problem of relations between size of municipality and level of democracy, this problem of democracy in the too-large municipalities is permanently under research quite well-researched. There are two groups of arguments– the quality of administration and local services (similar to the principle of subsidiarity – a decision is the most effective if it is made on a level near the user of the services<sup>200</sup>. The second argument is the legitimacy of the local self-government – Baldersheim stressed that decentralised governance encourages civil society, better corresponds to the needs of the citizens, makes it easier for local elites to appear. These arguments might be combined: providing services on the possible lowest level is more effective due to better respond to community needs; self-perception of community is enhanced by that.<sup>201</sup>

These problems led to the idea that Lithuanian municipalities need to be further fragmented by establishing new municipalities. The reform began in 2000, the number of municipalities expanded up to 60, and then the reform stopped (figure 1). Experiences of reform of 2000 were rather limited: only one (mainly agriculture) “band” territory (Marijampolės rajonas) was amalgamated with “Marijampolės miestas”, and three new municipalities were established.<sup>202</sup> It was evident that unified quantitative criteria for establishing new municipalities (general number of inhabitants of municipality and its centre, distance between two centres in kilometres, indicator of financial capacity) do not stimulate the continuation of territorial reform.

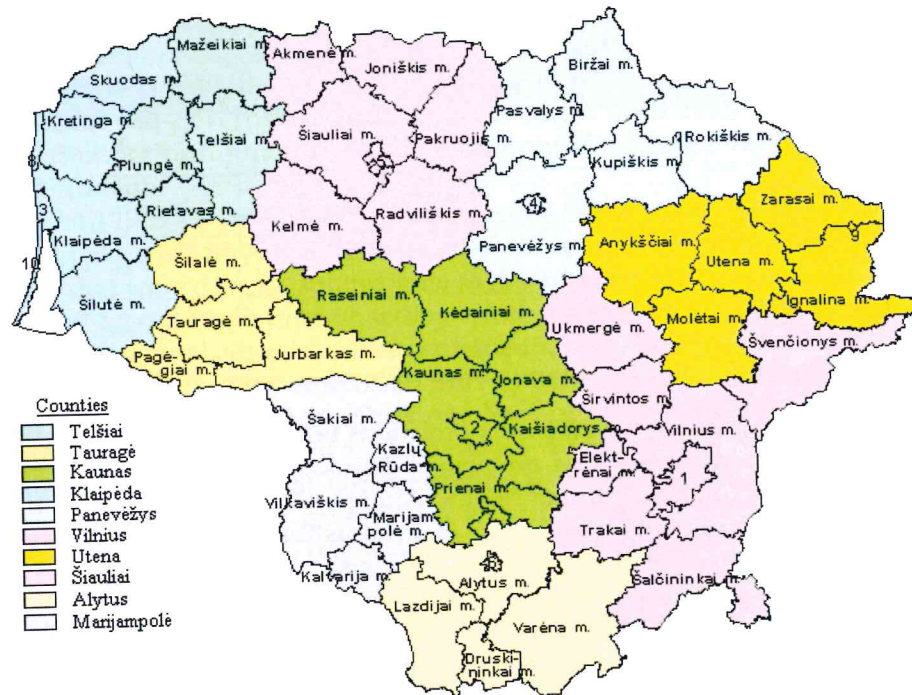
197 A. Astrauskas, Vietos savivaldos raida Lietuvoje 1990–2010 metais, “Viešojo politika ir administravimas/ Public Policy and Administration”, 2011 Vol. 10, No 2, p. 283–298

200 M. Illner, Territorial Decentralization: An Obstacle to Democratic Reform in Central and Eastern Europe? w: The Transfer of Power Decentralization in Central and Eastern Europe, (ed.) J.D. Kimball, Budapest 1999, p. 7-29.

201 L. Mažylis, E. Gadiškauskaitė, Development of sub-municipal units, seniūnijos, in Lithuanian cities, “Organizacijų vadovas. Sisteminių tyrimai” 2002 Nr. 25, p. 181-194



Figure 1.  
Municipalities and counties of Lithuania



Source: [https://en.wikipedia.org/wiki/Municipalities\\_of\\_Lithuania#/media/File:Municipalities\\_in\\_Lithuania.png](https://en.wikipedia.org/wiki/Municipalities_of_Lithuania#/media/File:Municipalities_in_Lithuania.png)

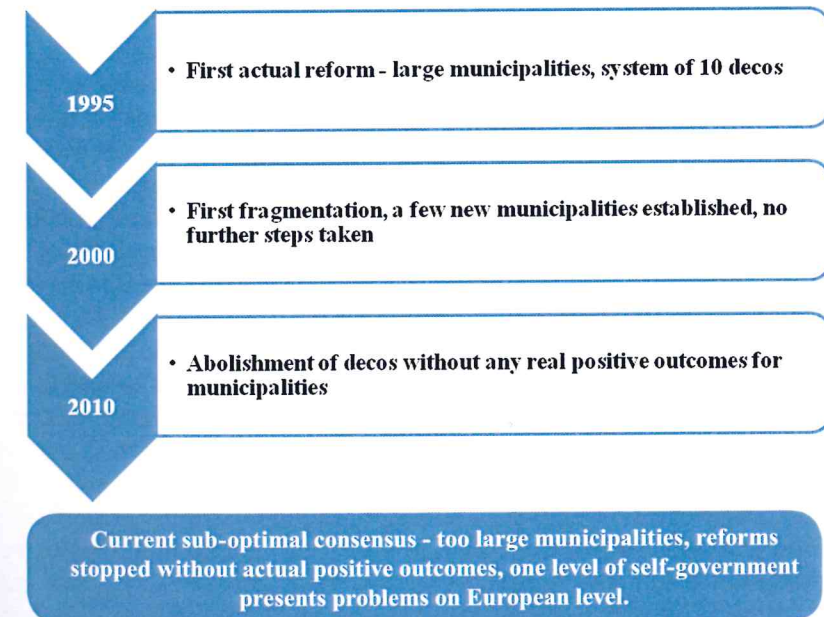
Thus, 2000 marks the second critical juncture – a reform that was lacking ambition in the first place and did not go past the first step. It did not encourage further fragmentation of municipalities and did not actually lower the average number of inhabitants. Analysis of further developments had shown that “discursive stasis” was put in place, with a political consensus that regards the establishment of new municipalities as a finished experiment. The parliaments elected in 2004, 2008, 2012, did not put any more effort into furthering this reform. The following suboptimal consensus can be characterized as “stopping further moves”, “freezing the problem” and “focusing away” discourses on local government reforms.

Another problem with the territorial system of Lithuania was the existence of the centrally-governed counties (*decos*). Those units were established as an area of activities for some prefecture-type central administrative subjects – Representatives of the Government, territorial agencies of some min-

istries and so on.<sup>203</sup> This system remained in place until 2010, when the county level *decos* were abolished. This abolishment was declared to be a step towards greater decentralisation, removing an additional government body and passing its functions to the local self-governments, however, the functions, previously fulfilled by those *decos* were mainly returned to the central government, and actual steps towards greater decentralisation were not made. Thus, only one level of local self-government remained in Lithuania. This shows that the level of political decentralisation remains comparatively low, and causes some problems both in Lithuanian and further – for example, Lithuanian representatives had lost their voting rights in the Chamber of Regions in the European Congress of Local and Regional Authorities.

This makes the final as of yet critical juncture in the territorial development of Lithuanian local self-government. The combination of aforementioned junctures lead to the suboptimal consensus of today – Lithuanian municipalities are non-precedent large and populous, there still remains a few “ring” municipalities around larger cities, but there is a marked lack of political will to take the territorial reform further.

Figure 2.  
A set of critical junctures of the territorial reform



Source: L. Mažylis, V. Leščauskaitė



### Changes in internal institutional structure

In 1990–1995 a dual model of local council and two executives, made NOT out of Council members was in place. This caused divisions, conflicts between the Council and its president, and the executives and the administration.<sup>204</sup> This led to the changes institutionalised in 1994 and implemented in 1995, along with the beginning of the territorial reform.

In 1995, the Municipal Council, at the beginning of its term in office, could choose between two institutional models. they could have either one person executive (mayor) or one person executive + collegial executive (mayor and cabinet), both formed out of Council members. In these models, it was possible for a Mayor to play a triple role – council chairman, executive, president of the cabinet, which once again caused some problems.<sup>205</sup> This marks the first critical juncture of the changes in institutional structure of the Lithuanian local government that led to a quite problematic sub-optimal consensus – a model was put into place that was not only heterogeneous among different municipalities, but also not exactly democratic, as the powers were concentrated solely in the hands on the executive. This also strengthened the foundations for the popularity of the idea of a strong mayor figure that kindled the later reform of 2015.

In 2002 the Constitutional Court ruled that the mayor and cabinet model did not fit the Constitution, as the power was concentrated too much in the hands of the executive branch, and the legislative (Municipal Council) became almost an afterthought in relations with a powerful executive.<sup>206</sup> This led to the formation of another model that was employed up to 2015.

After the Constitutional Court decision, in 2003 a dualistic model of council and one-person executive (director of administration) that is NOT part of the council came into being. This took out some of the powers of the executive and restored a relative balance between the executive and legislative branches, whose relations were now based on the superiority of the legislative council against the executive and the accountability of the executive to the legislative. The actual government is in the hands of the legislative, while the executive is carrying out its decisions. The director of administration became both an executive and the head of the actual administration, a vulnerable political appointee by the mayor. However, the mayor remained the chairman of the council and the head of self-government, and the public image of the mayor as a strong figure was still very much present.<sup>207</sup> This was reflected in the constant yearning of the society for direct mayoral elections and the popularity of this idea within the citizens. 2003 became a second critical juncture, that once again led to a sub-optimal con-

sensus – a system of consulted roles for the executive was put into place, that did not reflect the popular support for a strong, directly elected mayor.

The popularity of an idea of a directly elected mayor is reflected in quite frequent discussions in the Parliament. First mentions of the idea of directly elected mayors appeared in 1993. It was quite an attractive one for the people and was firmly entrenched into the political agenda. During the first term of the Parliament – Seimas – of independent Lithuania, that took place in 1992–1996 briefly touched the idea, but did not pursue it further. The Seimas of 1996–2000 saw the rise of this idea again, as the centre-left opposition sought ways to undermine the centre-right „territorial pyramid“ – the centre-right parties during that term had won the Parliamentary and Local elections, as was as having a sympathising President in the office from 1998 onwards. The centre-left forces, whose electorate was more concentrated in the rural areas, were hoping that the direct mayoral elections might turn the tide and put them back in power at least in the periphery of the country. They put a lot of emphasis on the popular opinion that supports direct elections, however, as they were in the minority in the Parliament, their suggestions were not accepted. At the same time in the local governments the mayoral powers were rising. The Seimas of 2000–2004 saw the first mention of a Constitutional amendment that was necessary to implement direct mayoral elections. The idea retained a positive popular opinion, but the necessary Parliamentary majority in order to implement the Constitutional changes was not achieved. The Seimas of 2004–2008 unsuccessfully attempted to amend the Constitution in 2006. After this failure, the idea of direct mayoral elections without a Constitutional amendment first appeared in 2006. The Seimas of 2008–2012 once again unsuccessfully attempted to pass a Constitutional amendment in 2010. After this third failure, the idea of bypassing the need for Constitutional amendment by changing only the laws returned. The Seimas of 2012–2016 retained this idea and the ruling coalition suggested changing the laws, not the Constitution. These laws were finally passed in 2014, and the first direct mayoral elections in were held 2015.<sup>208</sup>

It must be said, that although the Mayors powers were extended, the fundamental relations between the Mayor and the council did not change drastically. One of the most important changes in the institutional structure were the new principles of accountability of the directly elected Mayor. Before the changes the Mayor was accountable only to the council that had elected him. Now he is also accountable to the community and the voters. Those changes led to a drastic shift in the procedure of removing the Mayor from the office. Before direct elections, the fate of the Mayor depended on the majority of the council – he could be removed from office if the council voted accordingly. This procedure, fit for the system of council-elected Mayor, could not be kept if the Mayor was

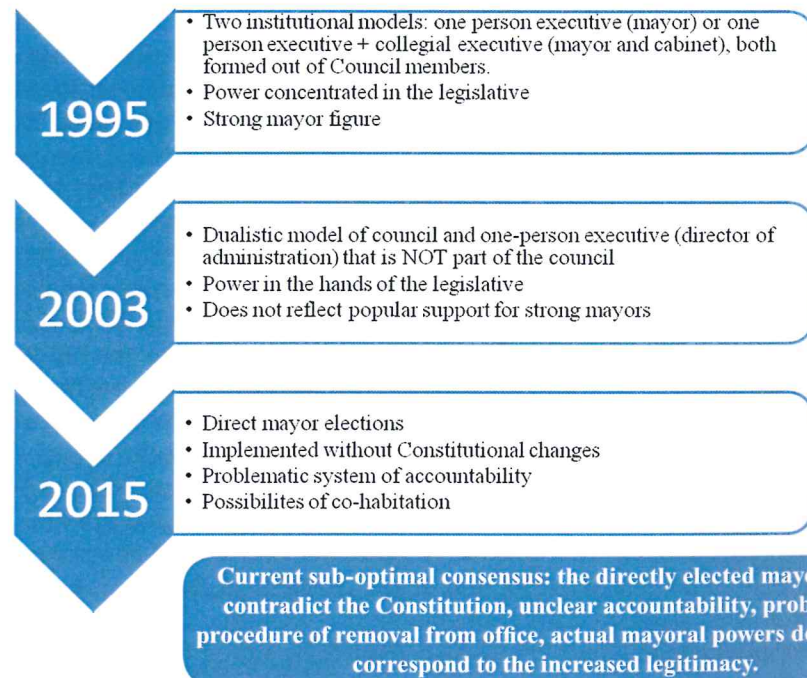
204 A. Astrauskas, *Vietos savivaldos raida Lietuvoje nuo 1990 metų iki dabar*, „Viešojo politika ir administravimas/ Public Policy and Administration“. 2013 Vol. 12, No. 2, p. 260–271.



voted in by the population. The procedure of removing the Mayor from office begins if the Mayor is deemed to have broken the laws or the Constitution or the oath of office. A group of council members suggest starting the procedure and the council forms a special commission to investigate it. If this commission decides so, and the council confirms this decision, the case goes to the Supreme Administrative Court of Lithuania, which presents its own conclusions. The Council then votes on those conclusions and might remove the Mayor from the Office by a majority of 3/5 of its members. This procedure basically mirrors the Impeachment of the President of Lithuania – only in the President's case, the court that presents its conclusions is the Constitutional Court of Lithuania, which is the most supreme legal institution in the country, and the votes are taken in the Parliament. This analogy leads to a conclusion that the new procedure of accountability is basically a „small impeachment in a small court“. The Constitutional Court of Lithuania is the supreme legal authority of the county. However, the Supreme Administrative Court does not boast a position that the Constitutional court has in the Lithuanian legal system, and thus it might be questioned whether its involvement in removing from the office an elected official is not a too small balance to overrule the decision of the voters.<sup>209</sup>

Figure 3.

A set of critical junctures of the institutional reforms

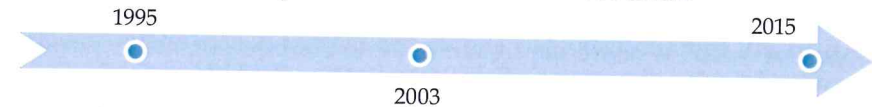


## Comparison of the critical junctures

Figure 4.  
Critical junctures of the territorial reform



Figure 5.  
Critical junctures of the institutional reform



Source: L. Mažylis, V. Leščauskaitė

As figures 3 and 4 show, there is only one clear overlap between the timeframes of the territorial and institutional reforms – 1995, when the Law of local self-government was implemented, and the Lithuanian local self-government system changed drastically from the Soviet model. Later reforms were independent from one another, brought by different pressures on the system. It is important to note, that although changes in institutional structure happen a few years after changes in territorial structure, the former are not brought on by the latter and the correlation does not imply any causation. For example, the territorial reform of 2003 was brought on by the size of municipalities and problems of “ring” municipalities, while the decision of the Constitutional court and the un-lawful separation of powers was a catalyst for the 2003 institutional reform.

## Conclusions

Two separate sets of critical junctures – one representing the territorial reform, and one – institutional reform – might be reconstructed through the analysis of the development of Lithuanian local self-government. However, those sets of junctures have only one overlapping point – the beginning of actual reforms in 1995. Further system changes were separate and independent of one another.

Three critical junctures are present on the axis of territorial reform – the beginning in 1995, establishment of a few new municipalities in 2003 and the abolishment of *decos* in 2010. The evolution of the sub-optimal consensus those junctures lead to can be summarised as: first, there is a consensus that the Soviet system must be optimised, then an agreement to experiment in



using this opportunity to further decentralisation, and at last the consensus that no further reforms were necessary.

Critical junctures on the institutional reform axis are also three: implementation of two strong executive models in 1995, passing the power to the legislative in 2003 and the rise of directly elected mayors in 2015. There is a clear trend of establishing a clear separation of powers at the local level. The evolution of sub-optimal consensus is an almost pendulum-like swing from a strong mayor to a strong legislative, to strengthening the mayor again, however, the final consensus after 2015 does not allow the mayor enough powers to correspond to the increased legitimacy of the office and raises some questions whether the current system does not violate the Constitution.

All in all, the analysis also shows the lack of a consensus to actually deepen and widen the scope of decentralisation in Lithuania. In fact, the opposite is visible – partial, not fully realised, lacking reforms establishes an elite consensus of regarding local matters as second order priorities, that can be decided without any regard to consistency of the reforms.

*Kamil Jaszczyk*

## **Prawne aspekty funkcjonowania samorządu województwa**

Zgodnie z ustawą z dnia 24 lipca 1998 roku o wprowadzeniu zasadniczego trójstopniowego podziału terytorialnego państwa, w Polsce funkcjonuje trójstopniowy podział terytorialny, a jego zasadniczymi jednostkami są: gminy, powiaty oraz województwa<sup>210</sup>.

Województwo jest zarazem największą jednostką administracyjnego podziału kraju oraz największą wspólnotą mieszkańców w ramach struktury trójstopniowej. Przed reformą systemu administracyjnego w Polsce, która miała miejsce wraz z początkiem roku 1999, Polska podzielona była na 49 województw w celu usprawnienia działań władz w terenie oraz budowy samorządności zmniejszono liczbę województw do szesnastu. W efekcie przeprowadzonej reformy zmniejszeniu uległy kompetencje wojewody na rzecz marszałka województwa oraz samorządu wojewódzkiego. Niektóre funkcje leżące do tej pory w gestii wojewody przeszły pod zarządek poszczególnych szczebli samorządowych. W rezultacie przeprowadzonych zmian samorząd województwa wyposażony został w nowe możliwości, przede wszystkim kształtowania własnej wewnętrznej organizacji<sup>211</sup>. Przejawia się to głównie poprzez możliwość wyboru poszczególnych organów samorządu wojewódzkiego takich jak sejmik województwa i zarząd województwa oraz możliwość stanowienia przez te organy prawa miejscowego<sup>212</sup>.

W artykule podjęta zostanie próba przedstawienia głównych aspektów prawnych, zadań oraz celów funkcjonowania samorządu województwa. Jego działalność jest o tyle interesująca, że występuje pewna odrębność w stosunku do samorządu gminnego czy też powiatowego. Na terenie województwa działają bowiem nie tylko organy samorządu terytorialnego, ale również administracji rządowej, której przedstawicielem w województwie jest wojewoda. Samorząd województwa koncentruje się co do zasady na realizacji zadań o znaczeniu regionalnym i podejmowane przez działa-

<sup>210</sup> Art. 1 ustawy z dnia 24 lipca 1998 r. o wprowadzeniu zasadniczego trójstopniowego podziału terytorialnego państwa (Dz. U. z 1998 r. Nr 06, poz. 602, z późn. zm.).





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CHEŁMSKIE TOWARZYSTWO NAUKOWE



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Samorząd terytorialny Europy Środkowo-Wschodniej  
a model samorządu terytorialnego dla Ukrainy

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