

wygaszonych zostało 380 mandatów radnych gmin. W większości przypadków przyczyną było pisemne zrzeczenie się mandatu przez radnego (168 przypadków) oraz wybór na wójta, burmistrza lub prezydenta miasta (151 przypadków). Pozostałe przesłanki to: orzeczenie o nieważności wyborów lub wyboru radnego (24 przypadki), śmierć radnego (16 przypadków), odmowa złożenia ślubowania (12 przypadków), naruszenie zasady *incompatibilitas* (7 przypadków) oraz utrata prawa wybieralności lub jego brak (2 przypadki)<sup>57</sup>.

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**CONDITIONS OF THE EXPIRY OF THE MANDATE  
OF A MUNICIPAL (CITY) COUNCILOR IN THE LIGHT  
OF THE PROVISIONS OF THE ELECTORAL CODE  
AND THE CASE LAW OF ADMINISTRATIVE COURTS**

Polish legislator has adopted the concept of a “free mandate” of municipal councilors. According to art. 23 of the Law on Municipal Self-government, councilors are independent in their activities, they cannot be bounded by the instructions of their electorate and they cannot be recalled. In the most typical case, the termination of the mandate of councilors takes place at the end of the term of office of the municipal council, which as a rule lasts four years. However, in certain circumstances provided in art. 383 of the Electoral Code it may also happen earlier. First of all, the councilor’s mandate will expire in case of the non-compliance of requirements necessary to candidate for a municipal council because of the loss of this right during the term of office of the council or proving the lack of this right already on the election day. Secondly, it will also happen in case of the councilor’s statement that he waives the mandate or refuses to take the oath. In the light of art. 383 § 1 p. 7 of the Electoral Code, the expiry of the mandate of a councilor is also the consequence of the failure to submit a financial (income) declaration. Finally, the expiry of the mandate of a councilor is connected with the violation of the *incompatibility* principle, meaning the prohibition of simultaneous exercise of the function of a councilor and certain positions or public offices. The list of cases provided by the art. 383 of the Electoral Code is supplemented by art. 390, according to which the expiry of the mandate may also occur as a result of changes in the territorial division of the state.

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<sup>57</sup> Statystyka wygaśnięcia mandatów radnych oraz wójtów (burmistrzów, prezydentów miast), <http://pkw.gov.pl/kadencja-2014-2018/statystyka-wygasniec-mandatow-radnych-oraz-wojtow-burmistrzow-prezydentow-miast.html>.