

publicznych⁴⁷, a gmina zgodnie z przepisem art. 164 ust. 1 Konstytucji stanowi podstawową jednostkę tego samorządu. Prawidłowa realizacja celów publicznych przez podmioty administracji zdecentralizowanej warunkuje sprawność i skuteczność działania systemu administracji publicznej⁴⁸. Regulacja środków personalnych jest zatem uzasadniona, jednak *ratio legis* rozwiązania rady gminy zostaje istotnie osłabione brakiem wyraźnej podstawy prawnej umożliwiającej realizację sądowej ochrony gminy przed ingerencją Sejmu.

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EVOLUTION OF THE MEANS OF SUPERVISION OF A PERSONAL NATURE ON THE EXAMPLE OF THE DISSOLUTION OF A MUNICIPAL COUNCIL AND THE RECALL OF A MAYOR

The means of supervision of a personal nature have been subject to a statutory regulation since the restoration of local self-government in 1990. Especially important consequences are associated with the implementation of the measures stipulated in art. 96 p. 1 and p. 2 of the Law on Municipal Government, such as the dissolution of the municipal council by the Sejm and the recall of a mayor by the Prime Minister. The supervisory interference results in the end of the activity of the bodies directly elected by the members of the local community.

The reasons that justify the use of certain personal means include repeated violations of the Constitution or laws by municipal authorities. During 25 years of functioning of the local self-government in Poland, the regulation of supervisory control of the proceedings leading to the end of activities of municipal authorities has changed a lot, as well as the property of the supervising authority applying personal means in relation to the executive body.

The assumption of the completeness of the supervision over the local self-government justifies the regulation of measures aimed at the decisions of a municipal council and a mayor, and the measures directly aimed at the possibility of functioning of these bodies. A municipality is the basic unit of local self-government which carries out the essential part of public tasks on its own behalf and on its own responsibility. In practice, the local community primarily exercises the public administration by legislative and executive bodies. Providing an appropriate protection against repeated violations of law by the authorities that undertake decisions on behalf of the local community is a necessary condition for the effectiveness of supervision over the activities of a municipality. The regulation of personal means is also an essential component of the protection of law in local self-government. Personal means perform protective functions of the local community members, as well as other beneficiaries of public tasks.

⁴⁷ Zob. P. Chmielnicki, „Istotna część zadań publicznych” i zasada subsydiarności jako konstytucyjne dyrektywy określające zakres działania samorządu terytorialnego i ich realizacja w ustawodawstwie i orzecznictwie, [w:] *Samorząd terytorialny. Zasady ustrojowe i praktyka*, red. P. Sarnecki, Warszawa 2005.

⁴⁸ Zob. Z. Kmiecik, M. Stahl, *Akty nadzoru...*, s. 111.