

# **Self-Government as an Expression of Democracy**



Stanisław Wykrętowicz

# Self-Government as an Expression of Democracy

translated by  
Elżbieta Wykrętowicz



WYDAWNICTWO  
WYŻSZEJ SZKOŁY BANKOWEJ  
W POZNANIU  
POZNAŃ 2020

Original title: *Samorząd jako wyraz demokracji obywatelskiej*, in: S. Wykrętowicz (ed.), *Samorząd w Polsce. istota, formy, zadania*, 5<sup>th</sup> ed.: Poznań 2012, Wydawnictwo Wyższej Szkoły Bankowej w Poznaniu, ISBN 978-83-7205-260-313-8

Translated by  
*Elżbieta Wykrętowicz*

Editor / proofreader  
*Elżbieta Turzyńska*

Typeset by  
*Tomasz Brończyk*

Cover design  
*Martyna Dawidziak*

Author of the cover photo  
*Rob Curran, Unsplash.com*

© Copyright by Wyższa Szkoła Bankowa w Poznaniu, 2020

ISBN 978-83-7205-365-7

Wydawnictwo Wyższej Szkoły Bankowej w Poznaniu  
ul. Powstańców Wielkopolskich 5, 61-895 Poznań  
tel. 61 655 33 99, 61 655 32 48  
e-mail: [wydawnictwo@wsb.poznan.pl](mailto:wydawnictwo@wsb.poznan.pl)  
[www.wydawnictwo.wsb.poznan.pl](http://www.wydawnictwo.wsb.poznan.pl)

Druk i oprawa: Zakład Poligraficzny Moś i Łuczak, Poznań

# Contents

---

<b>Foreword</b> .....	7
<b>I. The origins and essence of self-governance</b> .....	9
1. The fall of the society of estates.....	9
2. The establishment of a democratic society.....	11
3. Decentralisation and local government.....	15
<b>II. Forms of social self-government</b> .....	19
1. Local government.....	19
2. Economic self-government.....	34
3. Professional self-government.....	64
<b>III. Theories of self-governance</b> .....	71
1. The natural law theory.....	71
2. The state theory.....	74
3. The political theory.....	77
<b>IV. Rebirth of self-government in Poland (after 1989)</b> .....	81
1. Local government.....	81
2. Economic and professional self-government.....	89
<b>Summary</b> .....	105
<b>Bibliography</b> .....	107



## Foreword

---

The purpose of publishing this book in the English language is to acquaint the English – speaking readers with the concept of self-government, its essence, forms and tasks. The author highlights the need for establishing self-government of the French model in Poland, after the democratic system had been introduced in 1989. The book is addressed to students of social, economic and law studies, as well as all people interested in issues of democracy and self-governance.

The author presents a brief historical outline of the development of self-government both in Poland and other EU countries. The text you are about to read comes from the fifth edition of the book „Economic Self-Government, its Forms, Goals and Tasks” edited by prof. Stanisław Wykrętowicz.

The origins of local self-government go back to the distant past. Its simple forms had already existed in the period prior to statehood. However, “the concept of local self-government as a legal entity, was created much later when relationships between an absolute ruler and his subjects began changing from that of authority and power into a legal relationship; when a man as a natural person began to acquire public and private rights and became a legal entity.”<sup>1</sup>

The turning point for the creation of self-government was the decline of the authoritarian feudal system and abolition of the society of estates, in which peasants or serfs were the overwhelming majority. They were bound to the land of the feudal lord (*glebae adscripti*) and deprived of civil rights.

The abolition of serfdom led to the emergence of a democratic society and the rule of law, where all people are free and equal, regardless of their nationality, property, or religion; where the nation’s will, and not that of a monarch, is the source of law and political authority.

---

<sup>1</sup> J. Panejko, *Geneza i podstawy samorządu europejskiego*, Wilno 1934, p. 9.

The birth of a democratic society is associated with the French Revolution (1789) and with the abolition of the absolute monarchy, after which constitutional, democratic, and self-governing states began to emerge. Only then, in conditions of the new constitutional and legal order, self-government of the decentralised public administration, could be created. Decentralisation means „independent self-rule of people, who are guaranteed freedom to manage local affairs and make – within the laws – their own decisions on their own responsibility.

The Industrial Revolution was conducive to the creation and development of different forms of self-government. As a result of this historical process, self-government assumed, in the mid-19<sup>th</sup> century, the form of a public law entity that had both a territorial and a non-territorial character.

The essence of self-government is, that it is a form of decentralised public administration with legal administrative powers. It may perform public tasks at the municipal, district and regional levels. The territorial self-government is in Poland termed “local government” according to the Polish Constitution.

In Europe, two models of chambers of commerce have eventually been established: the French model with mandatory membership, and the Anglo-Saxon model with voluntary membership.

The author frequently points out that only chambers of the French model, as public law corporations are the real self-government because they are entrusted, by law, with administrative powers; they are mandatory and universal. By contrast, chambers of commerce of the Anglo – Saxon model are neither mandatory nor are they universal. They operate under private law as more or less elite professional organisations of various interest groups and have no administrative powers. Chambers of agriculture, industry and commerce, crafts, and the like are, by law, mandatory public bodies of the decentralised state administration, and so are professional self-governing associations or chambers of physicians, pharmacists, lawyers, and others. Their objective is to protect these professions, which are called professions of public trust.

In a democratic state based on the rule of law, both the local and central government administrations are just two different forms of the same public administration; the former is a decentralised form of the latter and carries out *inter alia* its special public tasks at the local level.



# I. The origins and essence of self-governance

---

## 1. The fall of the society of estates

A breakthrough in the creation of the social self-government was the decline of the feudal state and the abolition of the feudal estates of society. According to Jerzy Panejko, “the origins of self-government existed, without doubt, in all periods of statehood. However, the idea of self-government as a legal concept originated with the change in attitude of an absolute monarch toward his subordinates – from that of a total power into a legal relationship; it originated when common people began to acquire public rights (aside from private ones), when an emerging constitutional and lawful state, by virtue of its legislative power, began organizing municipal associations and including them, as public bodies, into the state system. This was the moment when institutions of self-government, in the modern sense, were being created and studies on self-government began.”<sup>2</sup>

The collapse of the society of estates marked the beginnings of democracy, in which all people are free and equal before the law and are subjects of the state. The rise of the democratic society is linked to the French Revolution of 1789, in which a central role was played by the bourgeoisie. As a result of the revolution, the feudal system – in the form of the absolute monarchy – was abolished. In that system, the leading positions were held by nobles who descended from medieval knights. The nobility, especially

---

<sup>2</sup> J. Panejko, *Geneza i podstawy...*, op. cit., p. 9-10; Cf. P. Buczkowski, *Samorząd lokalny i budowa społeczeństwa obywatelskiego w Polsce do 1990 r.*, in: P. Buczkowski (ed.), *Odrodzenie samorządu terytorialnego. Budowa społeczeństwa obywatelskiego*, Poznań 1994, p. 9.

the court aristocracy, by virtue of their monopoly of the land, held a privileged social position. They supported the absolute monarch in managing the centralised public administration of the state. At that time, land was the main source of production and, therefore, the key source of wealth. In the feudal system of society, the privileged position of nobility passed down from generation to generation as a birthright.

In the feudal system, the extent of social inclusion or empowerment was small and limited mainly to nobility, which constituted not more than 10 to 15% of the total population of the country. The percentage of urban population was also low. Serfs, who were tied to the land of a Lord (*glebae adscripti*), accounted for about 70 to 80% of the state population. Serfs could not leave the land without the consent of their lord. It should be emphasized that nobility was strongly differentiated in terms of property, power, and prestige. The aristocracy was the ruling elite, though not numerous at the time. It owned large estates and performed the most important public functions in the state, which provided them with real influence on the ruler. The greatest aristocratic families formed the most important pillars in the highly hierarchical structure of the Feudal System (monarchy), headed by an absolute ruler. When a ruler had a strong personality, the influence of aristocracy was smaller. In the opposite case, the role of the monarch was limited to representational and ceremonial functions. For example, in France during the reign of Louis XIII (1601-1642) the state was ruled by Cardinal Richelieu (1585-1642).<sup>3</sup>

The French Revolution and its motto of “Freedom, Equality, and Brotherhood” had a huge impact on the world at that time. It was the turning point in the modern history of mankind. The bourgeois revolution, by abolishing the feudal estate system, empowered all people and made them free and equal before the law. The Revolution laid the political and economic foundations for a democratic system. No lesser impact on the creation and development of democracy had the American War of Independence (1775-1783). The famous Declaration of Independence from 1776, written by Thomas Jefferson, begins with the words: “All people are created equal [...] [and] they are blessed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”<sup>4</sup>

---

<sup>3</sup> J. Baszkiewicz, *Richelieu*, Warszawa 1995, p. 230.

<sup>4</sup> A.O. Kownslar, D.B. Frizzle, *Discovering American History*, New York–Toronto 1967, p. 104.

The ideas of the French and American revolutions also echoed in Poland, which at the time, was threatened by loss of independence, and inspired the brightest citizens of the country – especially people of the local patriotic groups – who took various actions to save the country from its ultimate demise of independence. Unfortunately, the Constitution of 3 May 1791 did not bring freedom or equality to all people of the Polish Republic. Only townspeople,<sup>5</sup> gained ‘civil rights’ and liberties, while peasants, who were the overwhelming majority of the population, remained serfs and gained only “protection by law and by the national government.”<sup>6</sup> Thus, the Constitution of 3 May 1791, by denying civil rights to peasants, still maintained the feudal ‘system of the estates’ and declined to establish a democratic state.

The Constitution of the Duchy of Warsaw, which was granted to Poles by Napoleon in 1807, only partly abolished the serfdom of peasants. However, it was the first step towards democracy in Poland. For more than half a century, the system of the serfdom economy prevailed as a relic of feudalism in Polish agriculture. It delayed the development of the market-monetary economy, especially in the territories annexed by Russia. The serfdom economy hindered the development of capitalism, technological advancement, and the enlightenment of the country. It was not conducive to the technical and industrial revolution, or urbanisation and the rise of a strong middle-class on the Polish lands. For many years, Poland lagged far behind other European countries, while by contrast, Western Europe at that time was undergoing major social and economic transformations, which favoured the development of democracy.

## 2. The establishment of a democratic society

The emergence of a modern democratic society in Western Europe dates to the mid-19<sup>th</sup> century. Absolute monarchies with authoritarian power had been overthrown by the revolution, known as the Spring of Nations

<sup>5</sup> *Ustawa rządowa o miastach z dnia 18 kwietnia 1791 r.* [The Government Act on Cities of 18 April, 1791], in: *Ustawodawstwo Sejmu Wielkiego z 1791 r.*, Kórnik 1985.

<sup>6</sup> *Ustawa rządowa; prawo uchwalone dnia 3 maja 1791 r.*, IV: *Chłopi włościanie* [Government Act; adopted on 3 May, 1791, IV. Peasants and Peasantry], in: M.R. Bombicki, *Konstytucje Polski*, Poznań 1998, p. 20.

(1848), after which constitutional monarchies arose. They were based on the English model of monarchy, in which the monarch reigns, but does not rule. The ideas of the Great French Revolution, which were suppressed during the rule of the Holy Alliance (1815-1848), once again prevailed in Western Europe. The rule of law was based on constitutions adopted by parliaments, chosen by the people in general elections. However, the elections were still not fully democratic as the number of eligible voters was limited by the so-called property assets or education. The last bastion of absolutism was Russia and the Polish territories under its rule, where the police-controlled system of tsarist authoritarian rule continued until the onset of the 1905 Revolution.

In a democracy, be it a constitutional monarchy or a constitutional republic, the position of an individual in society depended on one's personal qualities and the economic status acquired by one's own work and entrepreneurship. People who achieved economic success obtained high social status; the richest of them – who accumulated their wealth by building their businesses in the industry, trade, and banking – began to dominate the social and economic life. They pushed both the aristocracy and the nobility into the rear... It should be added that, after the abolition of serfdom, some of the nobility fell into economic ruin. They could not adapt to new conditions and requirements of the capitalist economy such as the money market exchange and competition. As a result of the development of capitalism and democracy, most of the landless nobility filled the ranks of the intelligentsia and began to form a new social class.

An important role in the establishment of a modern and free, though highly diversified society, in terms of its assets, was played by the doctrine of economic liberalism, established in England in the 18<sup>th</sup> century. It proclaimed economic freedom and competition, the two major driving forces of the market economy growth. According to this doctrine, economic success is achieved by the best entrepreneurs, whose main goal is to minimize the costs of production and maximize profit. The free market based on competition was to optimise the interests of producers and consumers<sup>7</sup>, and – by forcing changes in production technology – lead to large-scale factory production. Hence, goods and services became widespread and

---

<sup>7</sup> Cf. A. Smith, *Badania nad naturą i przyczynami bogactwa narodów* [An Inquiry Into the Nature and Causes of the Wealth of Nations], vol. 1, Warszawa 1954, p. 208.

available to the general public. It was a qualitative change compared to the feudal natural economy, whose market and the monetary exchange was marginal. For example, serfs and peasants had to meet most of their needs by producing goods and services by themselves.

As a consequence of the Industrial Revolution and technological progress, some new social classes emerged: factory workers and industrialists, technicians, engineers, and many others. Differences of interests between these groups were soon revealed, the most intense of them being between workers and manufacturers. They concerned such issues as working conditions, related in particular to the employment and workhours for minor employees or wages. These issues prompted different forms of worker unrest, mostly in the form of strikes. As these strikes intensified, trade unions began appearing and gaining political power. Over time, they were recognised as an important part of the democratic system. The first trade unions emerged in England, and by the second half of the 19<sup>th</sup> century, they became a powerful political force in France and Germany as well as in other industrialized Western European countries.

According to the liberal doctrine, a country's function was to mainly protect the existing constitutional order, which guaranteed freedom and equality of citizens before the law and protect, above all, the private property, which is the foundation of the capitalist economy. In other words, the State is to act as a guardian of the existing political and economic order in which the rich middle class – alongside the nobility and the financial plutocracy, were the biggest players since the end of the 18<sup>th</sup> century. Most of the latter (plutocracy), often coming from the social underclass achieved, over time, massive wealth as bank owners, manufacturers, shipping fleet owners, merchants, owners of overseas trading companies, etc. They owed their social and economic status to the system of democracy.

Capitalism boosted the existing social life. It wrested humanity from a sluggish feudal economic system, freed peasants from serfdom and socage, transformed them into agricultural entrepreneurs, and integrated them into the system of the market economy. Capitalism unleashed people's enormous amounts of creativity and revolutionized the world of technology and science; it prompted the development of the modern factory system based on steam and electricity-powered machines. Over time, new sources of energy substituted human and animal-powered industries, transportation and, communication. Visible progress took place

in agriculture. New methods of land cultivation and breeding were introduced including the use of machinery and fertilizers which increased crop and animal production. Social enclaves of poverty still remained, but acute and large-scale food shortages and hunger, which had been affecting the poor both in rural and urban areas, disappeared. Thus, the market competition, which is at the heart of the capitalist system, pushed the world forward and boosted economic growth and social development.<sup>8</sup>

As a result of the growing industrialisation and urbanisation, cities became new centers of social, economic, and political life. People migrated from rural to urban areas whose population began to grow rapidly; Łódź is a good example. In the early 19<sup>th</sup> century, Łódź was a small settlement with a population of a few hundred people, who made a living through agriculture. By the end of the 19<sup>th</sup> century, towns turned into large industrial and commercial centers with a population of a quarter-million or more.<sup>9</sup> Political clubs, which played the key role in the early bourgeois revolution in France and vastly contributed to the fall of the absolute monarchy and the rise of a democratic republic in the 19<sup>th</sup> century, gave way to political parties of the conservatives, centrists, social-democrats, peasant and other, which expressed the interests of the pluralistic society.

Many social organisations emerged, including trade unions, to defend the interests of the working class. Business societies of industrialists, merchants, and landowners were established. The economic self-government began to emerge in the form of chambers of industry, trade, agriculture, and crafts, while the professional self-government took the form of medical, pharmaceutical, or bar chambers. All these developments displayed extraordinary collective activity, unleashed by capitalism and the political doctrine of liberalism.

The world changed, owing to that remarkable burst of human ingenuity. We saw the biggest advances in science and technology and public education. Technological innovations spurred significant new developments

---

<sup>8</sup> I. Pietrzak-Pawłowska, *Przezwrot przemysłowy i warunki industrializacji do 1918 r.*, in: J. Pietrzak-Pawłowska (ed.), *Uprzemysłowienie ziem polskich w XIX i XX w. Studia i materiały*, Wrocław 1970, pp. 66-68; Cf. J. Topolski, *Próba modelowej interpretacji wzrostu gospodarczego ziem polskich w XIX w.*, "Kwartalnik Historii Kultury Materialnej" 1979, R. XXVII, no. 4, pp. 529-540.

<sup>9</sup> *Mały rocznik statystyczny 1939*, GUS, Warszawa 1939, Tab. 32, p. 36; Cf. H.S. Dinter, *Dzieje wielkiej kariery*, Łódź 1965, p. 47.

in medical treatment and hygiene (protective vaccinations). The infectious diseases, like smallpox and cholera, which once had decimated humanity, were eradicated. The rapid and profound developments mentioned supra, spurred profound changes in people's daily lives, in particular with regard to interpersonal relationships and their professional and social activity. Furthermore, one should mention the emancipation of women, who obtained active voting rights and became important players in the socio-political and economic life of society.

### 3. Decentralisation and local government

The Revolution of 1789 swept away the absolutist monarchy in France and established the country's first democratic republic. The nation became its sovereign ruler and the source of law. This brought about a far-reaching decentralization of the public administration, in which communes or municipalities – as local authorities – were entrusted with administrative power. On 14 December 1789, the National Constituent Assembly passed a law, which granted the French municipal and rural communes a wide range of public tasks, both their own and the ones delegated by the state. The Law was based on the natural law theory of the time and considered a commune, as regards its own tasks<sup>10</sup>, as a separate legal unit or the so-called *pouvoir municipal* or the fourth power of the state, next to its legislative, executive and judiciary powers. On the other hand, a commune, in terms of the commissioned supra-local tasks, had no legal personality and was only a part of the government administration. It performed the commissioned tasks as a unit subordinate to a higher administrative hierarchy. This dual character of the French commune resulted from both the contemporary philosophy of the Enlightenment and the theory of Natural Law; it also stemmed from ideas of the liberal bourgeoisie, whose catchphrase “a free municipality is a foundation of a free state” targeted the reactionary political system of the absolute monarchy and the centralised

---

<sup>10</sup> J. Panejko, *Geneza i podstawy...*, op. cit., p. 23; S. Wykrętowicz, *Decentralizacja i samorząd*, “Kronika Wielkopolski” 1982, no. 1, p. 5.

hierarchical system of the authoritarian state. Thus, the commune, as a local authority, was a synonym for decentralization.<sup>11</sup>

The Act of Law passed by the National Constituent Assembly, lists some of the following tasks of a commune, and includes competences in the scope of:

- managing assets and revenues,
- estimating local expenses to be covered from communes' assets,
- managing and carrying out public works,
- managing local establishments and “striving for cleanliness, health, safety and peace on public streets, squares and buildings”.

The supra-municipal tasks of interest to the whole community, which go “beyond the interests of the commune”, include:

- collecting (public) taxes from local citizens,
- paying taxes to (royal) tax collectors of local districts and departments,
- managing public buildings intended for general use and mm.

It should be emphasized that the status of a commune in public administration changed over time. So did the view on commune's mandatory tasks and on those delegated by the central authority. But undoubtedly, the principles that define communes (municipalities) as units of local government, in terms of their system and functions provided for by the Act of the

---

<sup>11</sup> In the early days of democracy, the concept of dichotomy or the duality of the state administration, *e.g.* its division into the government administration and local government, had been unknown. The only known form of the state administration was the government administration. The situation changed in the mid-19<sup>th</sup> century under the influence of the state theory on self-government. According to this theory, in conditions of democracy, the state administration becomes dichotomous or divided into the government administration and the local government (administration). Both are equal and represent just two different forms of the same state administration: the first is centralised and hierarchical, the other is a decentralised form of government. The latter performs public tasks along with people directly interested in executing them. According to the aforementioned theory, widely accepted nowadays in many study works and political life, a municipality is self-governing and independent of the government administration bodies as regards the execution of its own and the commissioned tasks. All public tasks are performed by a municipality on its behalf and its own responsibility; S. Wykrętowicz, *Rozwój samorządu korporacyjnego jako zdecentralizowanej administracji publicznej*, “Zeszyty Naukowe Wyższej Szkoły Bankowej w Poznaniu” 2008, no. 21, pp. 17-33.



National Constituent Assembly of 1789, “became the basis of commune (municipal) organization in most contemporary states.”<sup>12</sup> These principles, repeated subsequently in the first Constitution of the French Republic in 1791, laid legal foundations and became a paradigm for the contemporary self-government; they showed the ability and responsibility of local citizens to manage a substantial share of their local affairs in the interest of the local population. This is the very essence of self-government, conferred upon people by a democratic state. Additionally, self-government bodies are (legally) independent of the state or the public administration.<sup>13</sup>

In the second half of the 19<sup>th</sup> century, basic forms of social self-government developed and evolved under the influence of political, economic, and cultural changes in society of the time. These changes, in particular, resulted from the rapid industrialisation and urbanisation.

Thus, local affairs were delegated to be handled by local government and the directly interested members of a local community. To handle economic affairs, the economic self-government took the form of chambers of commerce and industry, agriculture, skilled crafts, and others. The nature and the scope of powers given to chambers, which represent interests of local and regional economic groups, were indicators of decentralization of public administration in the economy. It also showed the confidence of a democratic state in its society. The professional self-government, which emerged last, took the form of chambers of physicians, pharmacists, attorneys, and other professions of public trust. They aimed to protect professions, which – for reasons of social good – required the highest professional and moral qualifications from people practicing them.

The types of self-government mentioned supra, are public-law associations of people united by some kind of territorial, economic or professional bonds. However, in the process of building democracy, non-corporate forms of self-government did also develop; these included independent public institutions such as universities or other academic schools (technical

---

<sup>12</sup> J. Panejko, *Geneza i podstawy...*, op. cit., p. 25.

<sup>13</sup> Z. Leoński, *Ustrój i zadania samorządu terytorialnego*, in: S. Wykrętowicz (ed.), *Samorząd w Polsce. Istota, formy, zadania*, Poznań 1998, p. 66; T. Rabska, *Podstawowe pojęcia organizacji administracji*, in: J. Starościak (ed.), *System prawa administracyjnego*, vol. I, Wrocław, 1977, p. 345.

universities or art schools).<sup>14</sup> Thus, in the first half of the 19<sup>th</sup> century, academic self-government was created in the liberal model of universities, under the influence of ideas of the French Revolution. The autonomy of universities means that the academic bodies (rectors, faculty boards, senates) are independent of any government administration, in terms of the rights they have, and may confer academic degrees and enjoy freedom in teaching and learning.<sup>15</sup> In this respect, universities and academic schools have exclusive competence and autonomy and are guaranteed independence from the interference of non-scientific, political, and ecclesiastical factors. They have the status of decentralised state administration and – just like local self-governments – are independent of the government administration.

---

<sup>14</sup> T. Bigo, *Związki publicznoprawne w świetle ustawodawstwa polskiego*, Warszawa 1928, pp. 155, 176 and 179; Cf. J. Hubert, *Ogólne stanowisko prawne Uniwersytetu Poznańskiego*, Poznań 1926, pp. 36 and 113.

<sup>15</sup> Ustawa z 13.07.1920 r. o szkołach akademickich, Dz.U. RP nr 72, poz. 494 [Act on Academic Schools of 13 July 1920, Journal of Laws no. 72, item 494].

## II. Forms of social self-government

---

### 1. Local government

Both the concept of self-government and decentralisation are inseparable and closely related to each other; they are treated as synonyms. Self-government is the result of decentralization of the government administration. Local government was the very first form of self-government.<sup>16</sup> It was based on communes, being the oldest territorial units of social organisation. The crucial historical moment in the development of communes, which transformed them into units of the local government “was the great French Revolution and transition from the police state to the constitutional one,”<sup>17</sup> from the society of estates to a democratic society and from the authoritarian system to democracy. The local government as the local authority elected by people, who are free and equal before the law, became the opposite of the previous “omnipotence” of a centralised authoritarian state, in which the will of the ruler was the source of law. Fritz Fleiner aptly remarked that “the local government puts limits on an all-powerful state.”<sup>18</sup>

Antoni Wereszczyński in his study of ancient states underlines the well-known fact, that the fall of Asian satrapies was caused chiefly by the ‘hypertrophy’ of the state power and by the transfiguration of communities into voiceless masses of slaves, passive and indifferent to the fate of the state.<sup>19</sup> Alexander Kroński writes that a modern state can exist only, “when

---

<sup>16</sup> According to the Constitution of Poland, the term „local government” should be used instead of the “local self-government” written down in the European Charter of Local Self-Government.

<sup>17</sup> J. Panejko, *Geneza i podstawy...*, op. cit., p. 64.

<sup>18</sup> F. Fleiner, *Institutionen des deutschen Verwaltungsrecht*, Tuebingen 1922, p. 98 (Cf. A. Kroński, *Teoria samorządu terytorialnego*, Warszawa 1932, p. 15).

<sup>19</sup> A. Wereszczyński, *Państwo antyczne i jego renesansy*, Lwów 1928, p. 11.

its supremacy is limited by the freedom of its people or by the civil rights.” Furthermore, he notes that “the existence and the development of a state are both closely related to self-government [...]. Therefore, the presence of self-government is not only in the interests of people living in a given territory but in the interests of the state itself.”<sup>20</sup>

The concept of contemporary self-government grew out of the philosophy of the Enlightenment, the liberal bourgeois ideology, and the political and legal doctrines at the time. It grew out of the conviction that the territorial self-government is the very essence of democracy, which – in contrast to the authoritarian system – offers to all citizens, as free and equal before the law, the ability to participate directly or indirectly in exercising the public authority.

As already mentioned, the municipal government was first termed as a municipal authority or as *pouvoir municipal* in the Act passed by the National Constituent Assembly on 14 December 1789, and in the Constitution of the French Republic (1791). The said Constitution introduced a uniform system of municipal organisation in the entire country, both in rural and urban municipalities and thus marked the beginning of modern local government. Both the Assembly Act and the French Constitution created the legal basis for the modern self-government as a local authority. The French Revolution introduced an exemplar solution for communes, different from the medieval ones, which N.B. did not survive the period of the absolute monarchy, laid foundations for reforms of local governments, and introduced regulations for all European countries, except England.

The French model of the *territorial self-government* (or municipal government) from the period of the First Republic was based on three fundamental principles still valid today. They best reflect the essence of self-government, as its being independent of public administration and as the one having powers to exercise independent management by involving people directly concerned.<sup>21</sup> The said principles are:

- election of municipal councils by all eligible citizens of the local community,
- separate legislative (councils), and executive bodies (boards and their chairpersons: wójt, mayors, etc.),

---

<sup>20</sup> A. Kroński, op. cit., p. 9.

<sup>21</sup> J. Panejko, *Geneza i podstawy...*, op. cit., p. 64

– independence of other state authorities, especially the government administration bodies.

Napoleon's rise to power in 1799, and his adoption of the hereditary title of Emperor of the French in 1804, led to the collapse of the First Republic. The "omnipotent state took over all organisations in France, including communes. During Napoleon's rule, all communes became dependent on the central government and the policy of appointing all commune bodies was introduced."<sup>22</sup> A municipality, as the lowest tier of the administrative hierarchy in France, was governed by an appointed official (mayor or *maire*). All municipal councillors were also appointed. Communes lost their independence and importance at the local level. This is the example of *deconcentration* of public administration of the authoritarian state (despite upholding the republican form),<sup>23</sup> which is the opposite of *decentralisation* of the system of self-government, both being the essential elements of the democratic state. This status quo prevailed in France until the 1880s. Finally, the municipal code of 1884 gave the French municipalities the right to elect their own legislative bodies, that is the municipal and executive councils (*maires* or mayors). Thus, the former self-governing status of the French municipalities was reinstated by law, so that citizens themselves could again be involved in the direct and independent management of their own affairs.<sup>24</sup>

More favourable conditions, than those in Napoleon's France arose in Prussia and other German states after the defeat of Prussia in the war against France in 1806 and were conducive to the development of local government. Napoleon's armies, in which Poles also fought, defeated the Prussian Army in the battle of Jena-Auerstedt and thus subjugated the Kingdom of Prussia to the French Empire. One should note, that Prussia had, not so long ago, played a pivotal role in the process of territorial annexations and seizures of for example Warsaw, after the Third Partition of Poland. Prussia, at the time, was the leading political and military power in Europe. After the defeat of Prussia and the signing of the humiliating peace Treaties of Tilsit (Tylża) in 1807, the Warsaw Duchy was established

---

<sup>22</sup> Ibidem, p. 26; Cf. M. Żywczyński, *Historia powszechna*, Warszawa 1964, p. 117.

<sup>23</sup> M. Żywczyński, op. cit., p. 118.

<sup>24</sup> M. Jaroszyński, *Nadzór nad samorządem. Pamiętnik zjazdu przedstawicieli sejmików powiatowych w Warszawie*, Warszawa 1925, p. 22.

on Polish territories seized by Prussia after the Second and Third Partition. It turned out to be a great shock for the German people, especially for Prussians, which resulted in their deep political apathy. The Prussian Queen Luiza wrote: "I see a structure destroyed in one day, upon whose erection great men have laboured through two centuries. The Prussian State, Prussian army, and Prussian glory exist no longer."<sup>25</sup> So, when generals failed, "the state, accustomed to the ever-growing number of conquests since the end of the 17<sup>th</sup> century, staggered."<sup>26</sup> An outstanding politician and reformer Karl von Stein began a reform of the Prussian administration in the spirit of the French Revolution.

Stein perceived in the municipal self-government – as a local authority – the way to revive the national spirit and restore the faith of Germans in their strength. In 1807, to justify the need for the reform of public administration, he firmly called for decentralisation and strengthening of the local government. Stein wrote that "a nation should learn how to manage its interests to finally emerge from the state of infancy,"<sup>27</sup> in which it had remained for centuries, deprived of empowerment by the centralised political system of the absolute monarchy. Stein also knew that the memory of the medieval free Hanseatic cities and free rural municipalities was still alive among Germans. They ceased to exist – just like in France – during the period of the absolute monarchy. But because of this memory, which lingered on in minds of many German burghers and peasants, Stein was deeply convinced, that by appealing to the entire society (which coincided with the abolition of serfdom), he would boost social and economic life of the country. He wanted to include municipalities and all social classes in this process, to overcome the bitterness of the defeat Germans had suffered during the war with Napoleon.

The *Städteordnung* (Municipal Ordinance) law of 1808 initiated the programme of the local government reform in Prussia. The law was about municipalities only, just like the Polish ordinances applied only to free cities of the Polish-Lithuanian Commonwealth (adopted by the Great Sejm in 1791). So, villages or rural municipalities remained beyond the legal scope

---

<sup>25</sup> Ibidem, p. 123.

<sup>26</sup> Ibidem.

<sup>27</sup> Cit. after A. Kroński, op. cit., p. 15.

of these acts. Panejko noted: “the Prussian law considered municipality as a political entity and gave it new life and modern representative system.”<sup>28</sup>

Stein’s leading idea was to organise the urban community in the spirit of self-reliance. The organisation of Prussian municipality councils relied on principles provided for by the aforementioned French Act on communes, passed by the National Constituent Assembly of 14<sup>th</sup> December 1789 and confirmed by the Republican Constitution of 1791. Municipal councils were to be elected by the direct and secret ballot. But just like the Polish Acts on cities (18 April, and 24 June 1791), the Prussian law was not fully democratic because only wealthy landowners and industrial property-owners with a taxable revenue had the right to stand for election. The executive body of municipal council was *Magistrate* headed by a mayor, who represented the municipality. However, the mayor could not chair the council, because the function was *honorific*, without *remuneration* and was performed by the most distinguished citizens, for whom it was an honour and privilege to perform such duties.<sup>29</sup> As honorary officials, they were expected to be more independent of political parties represented in the council.

In contrast, the German countryside still had to wait many years to obtain autonomous rural municipalities.

Until the 1880s, the rural community was ruled by the so-called ‘patrimonial’ system of local administration, exercised by the landed nobility, who managed to oppose all changes. Despite the abolition of serfdom of peasants in Prussia (1807), they prevented the rural communities, during Stein’s lifetime, from being granted the status of local self-government. The most important reason for their resistance was the lengthy process of the enfranchisement of peasants, which lasted in Prussia until 1850. As a result of reforms, serfdom which was a *form of feudal* tenure paid by peasants for the land they worked and lived on, but never owned, was finally abolished. In other words, until the enfranchisement had been completed, peasants worked on the land, but only the nobility was entitled to own it. It was not until the enfranchisement of peasants in 1872

<sup>28</sup> J. Panejko, *Geneza i podstawy...*, op. cit., p. 30; Cf. M. Żywczyński, op. cit., p. 145.

<sup>29</sup> Cf. A. Jędraszko, *Samorząd w Niemczech na przykładzie Stuttgartu*, Warszawa 1994, p. 38; Cf. M. Sczaniecki, *Powszechna historia państwa i prawa*, vol. 1, Warszawa 1968, p. 424.

and 1891, that self-government in Prussian rural municipalities and on Polish territories under the Prussian rule (Greater Poland and Pomerania) was put in place. In Germany, the local authority was most accurately called *Selbstverwaltung*, meaning the local government. *Selbstverwaltung* is a blend of two German words, *Selbstständige* and *Verwaltung*, which mean ‘independent management’. Self-government, therefore, means independent management by people directly concerned or, as Georg Jellinek put it, “Verwaltung durch die interessanten selbst.”<sup>30</sup> The Polish term *samorząd* (self-government) is, therefore, closest to the German *Selbstverwaltung*.

The history and the development of local government in England were quite different from that in France, Germany, or in most Continental European countries. Continental Europe, while emerging from the Middle Ages and entering the early modern era, abandoned the seigneurial and vassal system that was the basis of the feudal relationship (*feudum*) and broke political bonds between a monarch and his subjects. As an illustration of this historical situation is the well-known saying: “the vassal of my vassal is not my vassal.” At the same time, countries of Continental Europe, upon entering the early modern era, clearly tended to strengthen the power of a monarch by centralizing public administration and eliminating the autonomy of medieval local municipal structures to ultimately adopt the system of absolute rule in the 17<sup>th</sup> and 18<sup>th</sup> centuries. King Louis XIV (1643–1715) of France furnished the most familiar assertion of absolutism when he said, “l’Etat, c’est moi” (I am the State).

England, on the other hand, when entering the early modern era evolved towards a constitutional monarchy, with the parliament as the legislative and with the king as the executive body.<sup>31</sup> The parliamentary system in England, in which the House of Commons took a dominant position and pushed the House of Lords to the rear at the turn of the 16<sup>th</sup> century, prevented the country from becoming an absolute monarchy.

In the historical process herein presented, English municipalities represented landowners, tenants, rich peasants (the so-called yeomen) and townspeople, and ensured for themselves – through the House of Commons – influence on important state affairs such as law passing, taxation,

<sup>30</sup> G. Jellinek, *Allgemeine Staatslehre*, Berlin 1928, p. 629; Cf. A. Kroński, *op. cit.*, p. 8.

<sup>31</sup> Cf. G.M. Trevelyan, *Historia Anglii* [History of England], Warszawa 1963, pp. 221 and 455.



electing or deposing of kings from the throne. Thus they prevented the rise of the absolute monarchy in England. Since the evolution of monarchy took quite a different turn in England from that on the continent, “the English could not understand what exactly the French Revolution was about.”<sup>32</sup> They could not understand this because, unlike France – there was no antinomy or conflict between local and central authorities in England, that is between the municipal authority and the royal government. The birth of the (English) parliament, which possessed legislative powers and control over the government, was a victory of the “commons”; it was the victory of society over the king’s power. It prevented the authoritarian rule of the absolute monarchy in England. It was the victory of law over autocracy. George Macaulay Trevelyan wrote that the English Parliament “grew up gradually as a convenient means of smoothing out differences that would lead to collective decisions of such groups of the society as [...] the king, church, barons [aristocracy S.W.], townsmen or burghers, knights” and peasants. It was the result of a compromise between the said main classes of the English society of the time. Hence, the English Parliament did not arise abruptly, like in France but owing to this historic compromise, the English society was gradually “evolving from the feudal society to the parliamentary nation.”<sup>33</sup>

The rise of the English parliament with the dominant role of the House of Commons (as the legislative body) and the constitutional monarchy with the king as the executive power, helped the country avoid a bloody revolution and the dichotomy or division of public administration into the twofold system of both the highly hierarchical government administration and the independent local self-government. Since the 13<sup>th</sup> century, a uniform public (government) administration, headed by the king and his ministers, which was implementing legislation passed by the Parliament. In the English administrative structure, “municipalities” (parishes, cities, boroughs, urban and rural counties, and others), were the lowest tier of administration, subject directly to the King. All administration officials including the *Justices of the Peace*, who headed a municipality, were appointed by the ruler (or his ministers in his name). This above is an example of the distinction between deconcentration and decentralisation of

---

<sup>32</sup> Ibidem, p. 248.

<sup>33</sup> Ibidem, p. 241.

the public administration; English “municipalities” were not corporations under the public-law, or independent (self-governing) of the government administration. They were, however, an integral part of the administration both during the several hundred years old history of their community service and after the 19<sup>th</sup>-century reform of the local administration, when the institution of Justices of the Peace was abolished.

One should add, that owing to the Industrial Revolution at the turn of the 19<sup>th</sup> century, England experienced a period of unprecedented economic growth and the rise of the factory industry when mass production of manufactured goods would successfully compete on European and global markets. At that time, England dominated international trade; the English merchant ships reached the furthest corners of the globe. The British Empire was born. The country’s industrialisation and its progress in urbanisation were followed by the rapid increase in the *urban* population. At the end of the 18<sup>th</sup> century, London was the largest city in Europe with a population of about one million people. For comparison sake, Warsaw at the time had a population of 65,000 people. A new social class of factory workers was emerging. The wealth of the propertied classes of the factory and commercial warehouse owners, commercial fleet operators or shippers was growing. The importance of the *bourgeois* (*townsmen* – burghers) was rising, therefore, so did their pressure for democratisation (of public life) and for their participation in structures of local administration units, which so far had been dominated by wealthy landowners. It was the landowners who were appointed by the king (or his ministers) as the Justices of the Peace. To meet the political aspirations of the bourgeoisie, the House of Commons, dominated mostly by the wealthy bourgeoisie and the still influential landowners (*gentry*), decided to implement a profound reform of the public administration at the local level.

Under the Parliament Act of 1835 (the Municipal Reform), county councils were established as legislative bodies in cities, boroughs, or other municipal towns, and elected in the general, equal, *direct*, and *secret* ballot. Only city residents, wealthy townsmen and property owners who paid local taxes for the poor, were granted voting rights. In practise, less affluent urban residents, such as factory workers or the so-called urban proletariat, including women, were denied such rights, regardless of their financial status. County councils elections introduced in the 19<sup>th</sup> century were tantamount to the abolishment of the position of Justices of the Peace. For

many centuries, they had been performing their responsibilities both in towns and counties. Their functions and powers were honorific, for which they received no remuneration. The property ownership was equivalent to qualifications. Also, the required precondition of appointment was, that those entitled to hold the office, had to be financially independent.<sup>34</sup>

Half a century later (1888), a similar reform of local self-government system led to the establishment of elective local government in counties and rural districts (the equivalent of municipalities on the Continent). Until then, the local level administration was performed by Justices of the Peace. At the time, county and rural district councils were elected by general and secret ballot. The largest English cities received the status of county towns with powers of a district, i.e. London – the County Council of London.<sup>35</sup> Councils were assigned some public tasks. The new law on local authorities of 1928, contributed significantly to the increase in their duties and responsibilities. Most of them were social, and included: providing housing and medical care to the impoverished families; granting scholarships for talented but poor students; and free access to libraries and recreation centres; bus and tram discounts; and other benefits.

However, the creation of councils as representative bodies did not change the essence of the English local authorities. Both before and after reforms, Justices of the Peace and councils of boroughs, county and rural districts (the lowest tier of the administrative division), still remained under the supervision of the Royal government administration. “Under this system, writes Trevelyan, “the elected local authorities have more power but less independence than before.” Further, he adds that: “there is an ever-increasing tendency (of the government) to apply a single standard operation mode for local authorities.”<sup>36</sup> As mentioned above, the concept of self-government is about the independent execution of tasks by the directly interested citizens. The said reforms were only a democratic form of deconcentration of the government authority and introduced changes only within its structure. Decentralisation is the opposite of deconcentration. According to Zbigniew Blok, it “goes beyond the government structure. Decentralisation means an automatic transfer of authority to self-governing structures”.

---

<sup>34</sup> J. Panejko, *Geneza i postawy...*, op. cit., p. 36; Cf. G.M. Trevelyan, op. cit., p. 331.

<sup>35</sup> G.M. Trevelyan, op. cit., p. 818.

<sup>36</sup> *Ibidem*, p. 833.

In other words, decentralisation enhances the process of democratisation. It is fundamental for creating a democratic society.<sup>37</sup>

The reforms of local government in England in the 19<sup>th</sup> century and later did not contribute to the creation of local government under the administrative law, independent of the central government and based on the French or German model. In Continental Europe, local government evolved from the concept of decentralisation of public administration; whereas “what the English call *self-government*, is a ‘product’ of specific historical relationships in England and a form of government with the parliament at the forefront. It is opposite to the form of government based on unrestrained royal power;”<sup>38</sup> as in the case of the absolute monarchy on the Continent. Thus, the development of monarchy in the early modern era was different in England to that in France. In England, it turned towards deconcentration of the central government and the transfer of public tasks from the (royal) government to local authorities: city councils, counties and rural districts being the lowest tier of the central administration. In France, the decentralised state administration was divided by law into two independent entities – the hierarchical government administration and the decentralised local administration, initially at the municipal level, and later expanded to the district level. However, both entities were independent of each other and the government.

Therefore the essence of local government lies in its being the decentralised form of public administration; it is a body of the state and not of the government. Local government and the central government are two independent forms of the same state administration. They perform the same public tasks; they only differ in terms of their scope and methods of implementing them. Local government focuses on local issues such as education, health care, social welfare, combating unemployment, environmental protection, etc., while the government administration focuses on state-wide, supra-local and supra-regional matters, such as border security, foreign affairs, treasury, monetary policy, and other.

At the end of the 19<sup>th</sup> century, the local government in Western Europe was already well-established and looked upon as the expression of mature democracy and stability. One should add that from the 1870s until the

---

<sup>37</sup> Z. Blok, *Teoria polityki – studia*, Poznań 1998, p. 63.

<sup>38</sup> J. Panejko, *Geneza i podstawy...*, op. cit., p. 41.

outbreak of World War I in 1914, Europe lived in peace. Serious military conflicts of the time, which involved some European countries, took place outside the borders of the “old” continent. It was a period of frenzied development of industry, transportation (cars, planes), and a global scale trade. The economic development and the ensuing growth of wealth of the bourgeoisie went along with the thriving science and art. The Art Nouveau architecture with its rich external decoration and the variety of forms changed and shaped the appearance of many European cities, to convey the spirit of the *fin-de-siècle* era and the beginning of the new century.

During the time of turbulent economic, political and social changes, tsarist Russia was the only remaining authoritarian power in Europe, in which the will of the tsar was the source of law until the onset of the 1905 Revolution. Russia did not have proper democratic institutions; it neither had a constitution nor a parliament. In conditions, where the will of the people, and not that of the ruler was the source of law, no territorial self-government, which is an institution of democratic and parliamentary countries, could be established. Autocracy and democracy are mutually antagonistic. Therefore, the idea of self-government with devolved responsibilities of a local community, independent of the government administration, did not fit into the doctrine of the tsarist autocracy.

Actually, in 1899 Tsar Nikolai II, was considering a possibility of introducing local self-government in Russia, hoping to mitigate the pressure from the people, who demanded administrative reforms that would transform Russia into a democratic State with a constitutional monarchy similar to that of the Austro-Hungarian Empire and Germany. A document was prepared and presented to the Tsar. One reads there, that: “territorial self-government is opposite to autocracy. These two concepts are mutually antagonistic. Local government is based on principles of constitutional democracy, in which a nation participates in governing the state. The non-independent and deprived of all agency hierarchically subordinate officials, who acted only according to instructions from the central authority, should now concede power to people chosen by the whole nation and act by the will of the people. A centralised bureaucracy acting by the will of the ruler and the self-governing institutions, which operate by the will of the people are two conflicting concepts. Therefore, wherever self-government

is created, the power of the state is restricted and subordinate to people's rule. In places where people have power, there is ... local government."<sup>39</sup>

The said quotation renders most aptly the difference between *democracy* and autocracy. The touchstone of this difference is the local government. On the other hand, Russia had a kind of economic quasi-self-government in the form of agriculture, industry and credit societies. However, these societies were neither public-law corporations nor had they any legal power to perform public duties.

Self-government continued to develop further into the 20<sup>th</sup> century. After the First World War, a wave of revolutions swept through Europe, and brought further democratization of public life as well as new social gains for the working class, mainly factory workers. Except for a few countries, women were finally granted active and passive suffrage, and could stand for elections on equal footing with men to parliaments. They also could enter governments as ministers. The deepening of democracy furthered decentralization of public life; the State appealed to people for participation in all local, economic and professional spheres of life.

With the end of the First World War, several European countries gained independence. After over a 100 year-long period of Annexation, the re-born Polish State adopted the democratic parliamentary system, in which the local government assumed its prominent place. A municipality (*gmina*) was its basic unit. However, self-government also extended to the district (*powiat*) level, at which it assumed the function of the local and public administration. Self-government was by law provided for in the Constitution of the Republic of Poland, known as the March Constitution (1921). We read in it, that "for administrative purposes, the Polish State will be, by law, divided into voivodships, districts, urban and rural municipalities, which will also function as local government units" (Article 65).

However, it was not easy to implement the general provisions of the Constitution, considering the experience with local governments in different parts of the country during the period of Partitions. Therefore, it was not easy to find a uniform or optimal model for the organisation of the local government for the entire country. The process required time. Finally, the so-called Merger Law (the Act on the Partial Change of the System of the

---

<sup>39</sup> *Samodzierzawie i ziemstwo*, foreword T. Struwe, Stuttgart 1903, p. 27 (cit. after A. Kroński, op. cit., p. 10).

Territorial Self-Government) of 23 March 1933<sup>40</sup>, introduced a coherent and optimal model of local government along with uniform regulations for the entire country. The new law revoked obsolete legal Acts from the period of Partitions and the first years of independence.<sup>41</sup> It was the unquestionable merit of the Act of 1933 to introduce a uniform system of rural and urban municipalities and the local government at the district level.

According to the Integration Act, rural and urban councils became legislative and control organs of the local government at the rural and urban levels, respectively; district councils, previously called 'district parliaments' became, in Central and Western Poland, legislative and control organs at the district level.<sup>42</sup> In turn, the rural municipality boards headed by *wójt* (head of the village) became administrative and executive organs in rural municipalities. Urban municipalities – traditionally called magistrates – were headed by mayors (presidents, in cities detached from districts). Accordingly, a head of district offices called *starosta* was, at the same time, head of the government administration at the district level.

Thus, the public administration at the district level had a dichotomous character – that of both the local and central government administration. The organ of the government administration at the district level was called *starostwo*. In practise, its head called *starosta* shared two positions at the district level; one as head of the local government and also as head of the government administration. He had wide competences and administrative authority.

A similar dichotomous model of public administration for voivodships was provided for by the Constitution of 1921 but never implemented, even after 1933. Consequently, self-government at the regional (voivodship) level existed in the interwar period, only in the territories, which had previously been incorporated by Prussia (Greater Poland and Pomerania). The legislative and control organ of these regions was the regional assembly (*sejmik wojewódzki*). The governing and executive organ of the assembly

---

<sup>40</sup> Ustawa z 23.03.1933 r. o częściowej zmianie ustroju samorządu terytorialnego, Dz.U. nr 35, poz. 294 [Act on the Partial Change of the System of the Territorial Self-Government of 23 March 1933, Journal of Laws no. 35, item 294].

<sup>41</sup> Z. Leoński, *Tradycje samorządu terytorialnego w Polsce*, "Samorząd Terytorialny" 1991, no. 3, p. 42.

<sup>42</sup> R. Pacanowska, *Podstawy prawne i organizacja samorządu powiatowego w Wielkopolsce i na Pomorzu (1919-1939)*, "Zeszyty Naukowe Wyższej Szkoły Bankowej w Poznaniu" 2008, no. 21, p. 78.

was a local department – headed by a chairperson – which included *starosta*, as the head of office<sup>43</sup>. The government administration at the regional level was represented by a voivode.

It was essential, that local government performed both a number of their tasks and the ones devolved by the central government administration. Municipalities were independent of the government authorities and autonomous in performing their tasks. As regards the delegated tasks, “organs of local government,” writes Hubert Izdebski, “were dependent on the central administration, which limited their autonomy and subordinated them to government administration.”<sup>44</sup> This situation became even more evident after the new Constitution was announced in April 1935. According to Izdebski: “as far as the scope of the local self-government is concerned, the April Constitution was a step backwards, in comparison to the Constitution of March 1921.”<sup>45</sup> Hence, Stanisław Głąbiński wrote in 1938, that “local government still exists formally, but in fact, is only tolerated.”<sup>46</sup> The situation would not change until the outbreak of World War II which began with the attack of Nazi Germany on Poland on 1 September 1939.

It should be emphasized that in the interwar period, vibrant intellectual ferment concerning the idea of self-government in Poland arose. Serious scientific studies on the subject about the essence, forms and tasks of self-government showed a high level of scholarly knowledge of such intellectuals and academics as Władysław Leopold Jaworski, Jerzy Panejko, Kazimierz Kumaniecki, Wojciech Wasiutyński, Maurycy Jaroszyński, Tadeusz Bigo and others. They introduced the Western European studies on self-government and continued to develop and enrich them with new ideas and postulates, that remain intellectually fresh and up-to-date even today. Their works are, since then, considered classic examples of the academic literature on self-governance.<sup>47</sup>

<sup>43</sup> F. Bujak, Z. Pazdro, Z. Próchnicki, S. Sobiński, *Polska współczesna*, Lwów 1926, p. 276.

<sup>44</sup> H. Izdebski, *Samorząd terytorialny w II Rzeczypospolitej*, cz. II, „Samorząd Terytorialny” 1991, no. 6, p. 47.

<sup>45</sup> *Ibidem*, p. 51.

<sup>46</sup> S. Głąbiński, *Skarbowość samorządowa w Polsce i potrzeba jej reformy*, Bielsko 1938, p. 30.

<sup>47</sup> Cf. S. Wójcik, *Samorząd terytorialny w Polsce w XX wieku*, Lublin 1999, p. 169; J. Sobczak, *Koncepcja administracji i samorządu w polskiej myśli polityczno-prawnej*



However, after the Second World War, there occurred asymmetry in the development of local government in Europe. Due to the Yalta Conference, the old continent had divided into two opposing blocs of countries, that had different political and economic systems. In Western European countries, after the fall of Nazi Germany, a democratic and constitutional system was re-established; and so was the local government, along with other forms of self-government. At the same time, the term “local authority” became ampler in recognition of the *supra-municipal e.g. district responsibilities* and duties; a new term “regional government” came into use. The territory of the EU countries was subdivided into large regions, the borders of which, often corresponded to former historical boundaries of provinces or district, i.e. the Greater Poland (Wielkopolska). Hence, self-government at the regional level was created and became economically stronger and able to involve local communities in carrying out a larger number of tasks, in comparison to municipalities and districts. By using their geographical, economic or cultural specificities, regions could create better conditions for the material and spiritual development of their regional population than the centralised government administration could ever do. The new units could also run regional public services more efficiently and create regional policies that would satisfy the needs and aspirations of their regional communities.

The development of the local and the economic self-government in countries of the Central and Eastern Europe dominated by the Soviet Union took a different turn. After the Second World War Poland found itself among countries of the so-called Eastern bloc. In conditions of the authoritarian system (monopoly of the communist party, lack of political pluralism, restrictions on civil and political rights, lack of freedom of the press, and lack of democratic elections to representative and legislative bodies), there was no room for self-governance, which implied decentralization of state power. People were not allowed to participate directly (or indirectly) in decision making, even at the local (municipal) level. The system of self-rule and autocracy are mutually exclusive; the concept of the first assumes democracy and citizen participation while the other is its negation. In other words, in countries of the ‘real socialism’, such as

---

okresu międzywojennego, in: B. Nawrot, J. Pokładecki (eds.), *Samorząd gminny w Polsce. Doświadczenia i perspektywy*, Poznań 1999, p. 42.

Poland, no form of self-government could fit the political doctrine of the communist party. Consequently, not long after the elimination of the opposition parties, the local government at the municipal and district levels, after being shortly restored in the post-war period, was dissolved in 1950.

## 2. Economic self-government

The contemporary economic self-government was established in the mid-19<sup>th</sup> century as a result of the rapid economic growth, owing mainly to the increase in factory production and the growing national and international trade turnover. The said growth was the result of the Industrial Revolution that had begun in the 18<sup>th</sup> century.<sup>48</sup> The introduction of steam-powered machinery revolutionized the industry. The factory system replaced the domestic system to fabricate goods, which was based on human labour and brought an unprecedented increase in labour productivity level and industrial production. The new system helped reduce costs of production, made products accessible to an ampler group of people and included agriculture in the capitalist monetary-market exchange. And all that strengthened the economic and social position of the bourgeoisie, which in the second half the 19<sup>th</sup> century moved to the forefront of the political life and helped stabilize the democratic system in Europe. As already mentioned, Russia was an exception; it maintained the authoritarian system until the early 20<sup>th</sup> century.

The social implication of this process was the rise of modern business environment of entrepreneurs and manufacturers from various branches of industry, merchants of different trades, large wholesalers, owners of specialized warehouse chains and small retailers scattered all over the country.

The number of business groups grew by including landowners who, after the enfranchisement of peasants, had to adapt to the capitalist economy and its market competition, and transform themselves into industrial and agricultural entrepreneurs. Peasants, finally free from serfdom, also turned

---

<sup>48</sup> I. Pietrzak-Pawłowska, *Przewrót przemysłowy...*, op. cit. p. 66; Cf. W. Rusiński, *Pierwsza rewolucja przemysłowa z perspektywy dwóch stuleci*, "Roczniki Dziejów Społecznych i Gospodarczych" 1970, vol. 31.

towards entrepreneurship, and compelled by competition, began functioning in conditions of the liberal market economy. All who ran business activities at their own account and risk, formed a new class of entrepreneurs; they became capitalists. However, those who – instead of accumulating earnings and investing in new production technologies – ignored the ruthless laws of the market competition and consumed excessively, eventually dropped out or ended up as contractors. Those who were lucky enough to have any education or vocational training joined the newly established class of *intelligentsia*. One of the first Polish economists, Józef Supiński (1815-1893), wrote the following about the first entrepreneurs living in the Annexed Polish lands: “a credit granted for a useful work will feed the present and the future; a credit granted for consumption consumes the present and the future.”<sup>49</sup>

The French Revolution and the parallel technological progress triggered great economic and social changes, and alongside the development in agriculture, transportation and industrial production, had an enormous impact on the entire social economy. As a result of this historical process, self-government finally assumed a twofold form: a) that of the territorial public law unions (corporations) of the local character and b) the special non-territorial public law unions (corporations).

In the first case, it is about the local government, initially limited to municipalities. In the second one, it is about economic and professional self-government. The essence of both forms of self-government is the same: they are a form of decentralised state administration, and by law, are vested with administrative authority to perform public tasks. Therefore, the local (territorial), economic and professional self-governments operate under public law. The membership of natural and legal persons in these corporations is mandatory.

The status of associations under private law, which include various groups of merchants, industrialists, economic societies, business clubs and the like, is entirely different. These associations are created by the will of people and not by law, and are not mandatory. In the legal sense, private-law associations though termed as ‘economic self-government’, differ from the latter in that “they do not carry out duties of public administration, nor have they legislative powers. They are not corporations under public law.

---

<sup>49</sup> M. Scheffs, *Ziemstwo kredytowe i kredyt rolniczy*, Poznań 1918.

[...] The rules regarding associations should apply accordingly.<sup>50</sup> In the existing literature on the subject, these business associations are sometimes referred to as self-government *in potentia*<sup>51</sup> in the sociological sense.<sup>52</sup>

Because of different historical circumstances that occurred in some European countries, two models of economic chambers have eventually evolved: a) of the French model with mandatory membership, b) of the Anglo-Saxon model with voluntary membership. Only chambers of the French model, as public-law corporations, have lawful administrative authority and mandatory membership. They include all entrepreneurs who represent different businesses and operate in the area covered by a chamber. In contrast, chambers of commerce, as private-law associations with non-mandatory membership, operate as elitist professional organisations of sorts, which represent various interests groups, and have no administrative authority.

Thus, the economic self-government is a non-territorial mandatory public law corporation in the form of chambers of agriculture, crafts, industry, commerce, etc. At the regional level, it includes certain groups of entrepreneurs, that share common economic interests. The state may, by virtue of law, delegate specific public tasks to these chambers that would otherwise be implemented by the government administration. It seems that, the economic self-government, by replacing the state bureaucrats, performs its tasks much better and more efficiently, in cooperation with competent entrepreneurs organized in chambers. The aforesaid principle 'the more self-governance, the less bureaucracy' also applies to chambers of commerce of the economic self-government.

## 2.1. Chambers of industry and trade

The economic self-government in the form of chambers of commerce, industry and trade, had been created first. The earliest recorded mention of trade associations dates to the 9<sup>th</sup> century and comes from Spanish sources.

<sup>50</sup> Z. Leoński, *Ustrój i zadania samorządu terytorialnego*, op. cit. p. 136.

<sup>51</sup> Cf. B. Klimczak, *Teoretyczne podstawy badań grup interesu na rzecz ładu rynkowego*, in: B. Klimczak (ed.), *Samorząd gospodarczy i zawodowy w procesie powstawania ładu rynkowego w Polsce*, Wrocław 2001, p. 54.

<sup>52</sup> S. Wykrętowicz, *Rozwój samorządu korporacyjnego...*, op. cit., p. 18.

It pertains to an association of merchants operating in Barcelona under the name of *Consulado del Mar*, which means ‘a sea consulate’. In the 13<sup>th</sup> century, similar merchants associations followed the example of the *Consulado* and operated in major Spanish harbour cities, serving as the “archetype” of future chambers of commerce. In addition to representing and defending their own interests, these associations performed tasks delegated by municipal authorities that granted them administrative authority. According to Panejko, they settled in particular: “commercial matters, carried out some harbour and river policing, kept the ship registry, examined qualifications or navigational skills of helmsmen [...], set up trade and industrial schools, submitted opinions to authorities, and made proposals regarding the development of trade, industry, and shipping.”<sup>53</sup>

In later centuries, along with the development of the overseas trade and with the Spanish experiences, similar collective merchants and commercial shipping owners’ associations began opening up in other harbour cities in Europe at the time. The first chamber of commerce was founded in 1485 in Antwerp. A council, that aimed at protecting commercial matters, was founded in Marseille in 1599. In 1650 it was renamed as the chamber of commerce (*La Chambre de Commerce*) which is the oldest existing chamber in France. Its legal status has been changing over the centuries. The Marseilles chamber was one of the first supralocal chambers. It included the business elite, which could competently advise the French government of Louis XIV on how to best promote and protect not only the local trade and industry but also France’s national interests. The Marseilles chamber played an ancillary role in the economic policy of the central government, whose goal was – according to the 17<sup>th</sup>-century economic doctrine of mercantilism, to boost the country’s wealth through the “export of goods that outweigh their import value.” It meant, in other words, to obtain a positive trade balance in gold and other precious metals. The establishment of the chamber of commerce began the capital accumulation process, as well as conquest and exploitation of the overseas colonies. Thus, the Marseilles chamber of commerce was the key element in the historical

---

<sup>53</sup> J. Panejko, *Początek izb zawodowych i gospodarczych*, in: W.L. Jaworski, *Projekt kodeksu agrarnego*, Warszawa 1928, p. 202; S. Wykrętowicz, *Powstanie i rozwój samorządu gospodarczego w Europie i w Polsce*, in: S. Wykrętowicz (ed.), *Spór o samorząd gospodarczy w Polsce*, Poznań 2005, p. 12.

process that led to the creation of chambers of economic self-government in the meaning of the administrative law.<sup>54</sup>

At the turn of the 18<sup>th</sup>-century, several trade councils operated in ports and harbours of the Netherlands. Their roots reach back to medieval merchant guilds.<sup>55</sup> The Netherlands was one of the most developed regions of Continental Europe. Dutch trading companies, such as the Dutch East India Company, belonged to the largest oversea trade companies and successfully competed with the English and the French ones. In 1749 a similar trade council, the *Collegium Commerciale*, was established in Gdańsk. It was the first association of its kind on the Polish territory.<sup>56</sup> It should be emphasized that the said chambers, councils and collective merchants associations were private corporations with voluntary membership. As such, they lasted until the French Revolution (1789), which ended the period of 'quasi-self-governments of collective merchants associations that worked for the economic order in the feudal economy.

However, the first modern chamber of commerce was established in Paris (1802) by a consular Decree of Napoleon.<sup>57</sup> By the same Decree, 22 other chambers of commerce were established in France, based on the model of the Marseilles Chamber, that was the oldest. It had existed before the revolution. The new chambers of commerce differed from the old ones by their legal status. They were corporations under public law with compulsory membership for all entrepreneurs: merchants, industrialists, bankers, carriers, craftsmen and others, who operated within the area covered by the chamber. In contrast to the local government, which was initially limited to communes (municipalities), chambers of commerce expanded to departments (regions). It was Napoleon's intention, that chambers of trade should be a "bridge" between the government administration at the regional level and the business community. As Panejko writes: "at that time, they (chambers) were financially dependent on local authorities. Their prime task was to advise these authorities on trade, industry and craft."<sup>58</sup> Thus, the new chambers of commerce, despite their public-law

<sup>54</sup> P. Puaux, *Les Chambers de commerce et d'industrie*, Paris 1998, p. 15.

<sup>55</sup> *The Chamber of Commerce in the Netherlands*, Woerden 1992, p. 10; Z. Grelowski, *Samorząd specjalny*, Katowice 1947, p. 52.

<sup>56</sup> K. Piwarski, *Dzieje Gdańska w zarysie*, Gdańsk 1997, p. 159.

<sup>57</sup> *The Chamber of Commerce...*, op. cit.; P. Puaux, op. cit., p. 15.

<sup>58</sup> J. Panejko, *Geneza i podstawy...*, op. cit., p. 58.

status, were government-dependent institutions. In terms of the administrative law, they were not self-governing units, nor were they a form of decentralised public administration. It should be noted, that the regime installed by Napoleon in France was authoritarian; there was no room for any form of decentralised public administration, be it a local government or the economic self-government.

Since the establishment of the Paris Chamber of Commerce, other chambers of the French model were created in other European countries: in Rotterdam and later in Amsterdam (1803) and other European countries, including the Warsaw Duchy (1809). They were referred to as 'trade councils'.<sup>59</sup>

After the fall of Napoleon (1815), the Congress of Vienna restored the legal and political order from before the French Revolution. Absolute monarchies as the opposite of democracy were restored in Europe, with the feudal aristocracy at the forefront. The political order in Europe, after the Vienna Congress, was based on the alliance of reactionary and anti-liberal absolute monarchies known as the Holy Alliance. There was no room in them for any form of local government, nor even the economic one, that would allow citizens to participate in public affairs. Under the autocratic system, chambers of commerce, wherever they remained, were subordinate to the government's administration. They were a kind of quasi-self-government, deprived of administrative authority, which the real economic self-government should have.

The revolution of 1848, known in the history of Europe as the Spring of Nations, was a breakthrough as regards the transformation of 'Napoleonic' chambers of commerce into institutions of economic self-government, independent, by virtue of law, of the government administration. The revolution began in February with the insurrection in Paris and brought about the fall of the monarchy. The French Second Republic with a president as head of State was born. A month later (in March) the revolution broke out in Berlin, the capital of Prussia, and in other German cities. Military unrest took place in Vienna, the capital of Austria, in Hungary, and the Polish lands, mainly in the territory Annexed by Prussia (Greater Poland). The

---

<sup>59</sup> J. Kuciński, *Izby przemysłowo-handlowe na ziemiach polskich (1809-1919)*, „*Studia Prawno-Ekonomiczne*” 1974, vol. 12, p. 171; Cf. B. Kłapkowski, *Rady handlowe z 1809 r. oraz izby handlowe i rękodzielnicze z 1817*, „*Czasopismo Prawno-Historyczne*” 1964, vol. 16, (I), p. 253.

most liberal and educated part of the bourgeoisie, supported by the urban poor, mostly by the industrial proletariat and partly by the peasantry, led the German revolution. The Revolution was directed against the absolute monarchies of Prussia and Austria, which alongside with Russia, were the main refuge of the Holy Alliance.

The German bourgeoisie was guided by two goals: a) unification of Germany and creation of the common market, that would accelerate the economic growth; b) overthrow of the absolute monarchy to introduce democracy based on freedom and equality of all citizens before the law. The first goal was not achieved, but the German bourgeoisie was victorious in achieving the second one. Absolute monarchies in Prussia and Austria were abolished and the democratic system (constitutional monarchy) was introduced. The victory of German liberals, in comparison to French liberals, was incomplete. It should be emphasized that during the Spring of Nations, the German bourgeoisie was not politically and economically uniform; it was weaker than the French bourgeoisie and submissive to Junkers, great landowners and supporters of absolutism. In this situation, as Mieczysław Żywczyński observed, the German bourgeoisie faced the following alternatives “either democracy and unification of Germany at the cost of a revolution (and bloodshed) or compromise and implementation of civil liberties. The Germans chose the second option.”<sup>60</sup> By doing so, German business groups associated with the industry, banking and trade chose to establish the economic self-government under the administrative law (as a form of decentralised public administration), despite the fear of Junkers who still retained their influence in the state administration and the army.

Chambers of commerce of the economic self-government helped the German community of entrepreneurs in Prussia and Austria gain legal recognition and administrative power in many areas of the German economy, which so far had been exclusively reserved to the government administration. The community also achieved significant influence on shaping both the economic market order in the spirit of the liberal economic doctrine and the liberal economic policy of the state, which until then, had been dominated by Junkers and focused mainly on agriculture.

Thus, the economic self-government significantly changed the economic and political situation of German entrepreneurs, who were involved

---

<sup>60</sup> M. Żywczyński, *op. cit.*, p. 329.



– through chambers of the economic self-government – in creating and shaping the liberal market order based on economic freedom and competition, in accordance with the principles of *laissez-faire*. Furthermore, the constitutional monarchies in Prussia and Austria, by introducing the economic self-government, gained an appreciation of the democratic and civic system, which for many years, had been limited by censuses of property and education.

The empowerment of business groups gave rise to a new self-governing community under public law. Now they were bound by ties of common economic interests and not only by those of residence, that were prior to the former. Thus, the level of social autonomy grew, proving that democracy was being strengthened. The Spring of Nations, which embraced most countries of Europe at the time, ended fundamental liberal social and economic reforms, which had been initiated by the French Revolution half a century earlier.

It should be emphasized that among the first moves of the new constitutional monarchies of Austria and Prussia was the adoption of laws and regulations that would allow for the establishment of chambers of commerce. In Austria and France, they were first termed as chambers of trade,<sup>61</sup> and later renamed as chambers of commerce and industry. Prussia adopted the term chambers of trade<sup>62</sup> as they included both industry and trade (commerce), which was also the reason why informally they were named as chambers of industry and commerce. According to the Decree of the Prussian king (11 February 1848), chambers should serve to reach a substantial “increase of turnover in trade and industry.”<sup>63</sup> Both chambers, just like the Paris Chamber of Commerce, adopted the structure of a public-law corporation, but they differed from the latter in that they

---

<sup>61</sup> The Chamber of Commerce in Vienna was established by act of law on 3 November, 1848. Source: *Dziennik Rządowy Miasta Krakowa*, nr 62-65 (10.03.1849). *Archiwum Państwowe w Krakowie, Oddział IV* [State Archives, Kraków].

<sup>62</sup> Pursuant to the Ordinance of King Prussia of March 11, 1848, 33 chambers of commerce opened in Prussia, the first one in Wrocław (1848); Cf. U. Valentin, *Geschichte der deutschen Revolution 1848-1849*, Berlin 1939, p. 340; *Zeugnisse der Zeit: 125 Jahre Deutscher Industrie- und Handelstag*, Bonn 1986, p. 11.

<sup>63</sup> A. Zarzycki, *Rozporządzenie królewskie o zaprowadzeniu izb handlowych z 11 lutego 1848 r.*, in: A. Zarzycki, *Wielkopolska Izba Przemysłowo-Handlowa. Tradycja i współczesność 1851-2001*, Poznań 2001, p. 149.

were, paraphrasing Rudolf von Gneist, the real self-government because they were independent of the government administration<sup>64</sup> and in keeping with the administrative law theory. For the first time in history, the said chambers were established by law and could perform public tasks. They were institutions of the state, not of the government. Therefore, Germany is the homeland of the economic self-government, just like France of the First Republic is the homeland of the local government. This means that chambers of commerce and industry, as institutions of economic self-government are, by virtue of law, equal partners both to the government administration and the local government.

The transformation of German chambers of commerce into institutions of economic self-government of the decentralised public administration was not accidental. It was conditioned by various objective and subjective factors, in particular by a) Germany's economic backwardness when compared with England and France and b) the "German state of mind" influenced by the social philosophy from the turn of the 19<sup>th</sup>-century (Johann Gottlieb Fichte, Georg Wilhelm Friedrich Hegel, Friedrich Wilhelm Joseph von Schelling, and others) and by the economic historicism (Friedrich List, Wilhelm Roscher, Karl Knies and others), from the mid-19<sup>th</sup> century.<sup>65</sup>

Therefore, it is worth remembering that in the mid-19<sup>th</sup> century, despite the visible technological progress, Continental Europe was highly diversified, in terms of economic growth and development. Europe remained, except for France and Belgium, under England's overwhelming economic and technological supremacy, its competitive factory industry, and foreign trade turnover. In the mid-19<sup>th</sup> century manufacturing and crafts still prevailed in German lands.<sup>66</sup> At the same time, the liberal economic doctrine reigned supreme in England. The doctrine proclaimed economic freedom and free competition, as principles of the *laissez-faire* economy. On the Continent, however, because of the uneven economic development mentioned above, the concept of economic freedom was understood ambiguously and varied in individual countries. Eventually, the national interest came first. England having a strong and technologically

---

<sup>64</sup> J. Panejko, *Geneza i podstawy...*, op. cit., p. 59.

<sup>65</sup> Cf. E. Taylor, *Historia rozwoju ekonomiki*, vol. 1, Poznań 1967, p. 204.

<sup>66</sup> I. Pietrzak-Pawłowska, *Przewrót przemysłowy...*, op. cit., p. 68.

advanced economy, would favour the classic principles of laissez-faire, that “Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his industry and capital into competition with those of any other man, or order of men.”<sup>67</sup> Notwithstanding this, the economically weaker states such as Prussia and Austria, which technologically lagged far behind England, voiced the opposite slogans, and argued that in conditions of uneven competition, the state is obliged to support the national industry and trade, and protect the local market against foreign competitors by applying duties, export bonuses, preferential loans from the state banking system or use other forms of interventionism.

This view was represented by German business circles, especially the industrial ones. It was also shared by German liberals, who were aware of the economic and technological gap between Germany and England. They were convinced that the classical liberalism, which was advantageous to England, would be harmful to Germany, because it could obstruct the country’s economic growth, which was contrary to what everybody expected.<sup>68</sup> Therefore, the German liberals rejected Adam Smith’s theory on classical economics, that laid *foundations* for England’s economic policy. They also rejected the English philosophy of individualism, in which the selfish self-interest and egoism of an individual and his or her attempt to maximize profit, was the main driving force of the economic and social growth.

The German philosophy was contrary to English philosophy. It placed the interests of society above the interests of an individual. This philosophy expressed aspirations of the German bourgeoisie, who aimed to accelerate the economic growth of the German lands and to unify the country into a one-nation state. Out of this idea grew the economic theory of the so-called *historicism*. The new economic thought contrasted with the “national view of the classical cosmopolitanism,”<sup>69</sup> because the latter put the interests of society above the interests of an individual.

The economic ideas of historicism would respond best to the deepest desires and expectations of Germans, especially the liberal intellectual

---

<sup>67</sup> A. Smith, op. cit., vol. 2, p. 394.

<sup>68</sup> E. Taylor, op. cit., p. 205.

<sup>69</sup> Ibidem.

bourgeoisie. According to historicism, a state should be active and endorse protectionist policy measures that would help accelerate the industrial revolution in Germany, and the transition from craft production to machine-based manufacturing to eliminate Germany's economic backwardness in comparison to England, France, and Belgium. The German bourgeoisie, for which unification of Germany into one market and one nation-state was of utmost importance, was the main driving social force during the Spring of Nations.

This was the factor, which predetermined, in 1848, the legal status of Prussian and Austrian chambers of commerce, which linked the interest of all entrepreneurs with that of the state. It also defined chambers as being a form of decentralised public administration and organs of the state, not the government. German chambers as public-law corporations with mandatory membership and administrative authority, became institutions of the economic self-government in the sense of the administrative law. They were the first organisations of the business community in history, that, in terms of the assigned tasks, acted as equal partners to the government administration in creating the new liberal market order and the country's economic policy.

Thanks to economic self-government, groups of dispersed and individual entrepreneurs became organised, under public law, a self-governing community with administrative powers, to carry out tasks delegated by the government administration in the economy. The business community thus became a public administration entity, and as such, became a partner – not a petitioner – equal to the government administration. And this is the real essence of the economic self-government. The legal status of German chambers of commerce and industry established in 1848, is different from the Napoleonic chambers of commerce, that – in the first half of the 19<sup>th</sup> century – served as a model for many countries in Europe.

It should be emphasized that many European countries, especially those, which at the beginning of the 19<sup>th</sup> century had been under the direct or indirect influence of the Napoleonic France, followed the German model of chambers. In those countries, chambers of trade of the French model as public-law corporations became, by law, institutions of economic self-government. The transition of chambers from government-dependent into government-independent institutions (though still linked to the state as units of the decentralised public administration), showed that they were

an effective form of collective actions of entrepreneurs. They all aimed at establishing the liberal market order to better protect the interests of local industrialists, merchants and other business groups against foreign competitors.

The transformation of the French chambers of commerce, which received its status of self-government in the Act of 9 April 1898, was particularly interesting. In 1851, the French chambers were, by statute, named “institutions of public utility”. Consequently, the French model of chambers based on prior experience of the French and German chambers of commerce, was finally adopted in most European countries.

Spain was yet another European country to have adopted economic self-government. As mentioned supra, the beginnings of Spanish chambers of commerce, known as *Consulado del Mar*, date to early Middle Ages. Modern chambers were established by the Royal Decree of 9 April 1886 and named Chambers of Trade, Industry, and Shipping. At first, they had a status of associations with voluntary membership and were different from the German and the French chambers of 1802. Fifteen years later, by another Royal Decree of 21 June 1901, the Spanish chambers obtained the status of corporations under the public law with mandatory membership, just like chambers in Germany, Austria, and France.<sup>70</sup>

Institutions of economic self-government were also established in the Polish territories during the period of Annexation. In the territory annexed by Austria, chambers of commerce and industry were established in Lwów, Kraków and Brody in 1850 and the territory annexed by Prussia – Poznań (1851), Toruń (1852), Bydgoszcz (1875), and Grudziądz (1899)<sup>71</sup>. Although they were institutions of the partitioning countries, they included Polish entrepreneurs, who were citizens of these countries. Since Germans and Jews had the majority as property owners in the territory annexed by Prussia, hence there were far fewer Poles in these trade chambers. Polish entrepreneurs were financially too weak to effectively affect markets, by way of these chambers, for the benefit of their economic interests and profits. Therefore, Poles decided to create their own collective forms of action,

---

<sup>70</sup> Ley 3/1993, de 22 marzo, *Básica de las Camaras de Comercio, Industria y Navegación* [The Act on Chambers of Commerce, Industry and Shipping of Spain of 1993, from the author's library].

<sup>71</sup> Z. Pietkiewicz, *Samorząd gospodarczy w Polsce*, Poznań 1930, pp. 6-7.

agricultural, trade, and banking cooperatives (“Rolnik” and other). Following the motto of Fr. Piotr Wawrzyniak, an advocate of the movement, these organisations successfully defended Polish holdings in agriculture, industry, and trade “with their own work, aid, and joined forces.” They also influenced the liberal market order, initially at the local level only, but later in the entire Annexed territory. It should be added, that in contrast to Prussian chambers, the number of Polish entrepreneurs prevailed in chambers of commerce and industry in the territory annexed by Austria, and managed them right from the start.

In the second half of the 19<sup>th</sup> century, the Industrial Revolution and technological progress, large-scale factory production based on steam and electricity-powered machines, and the new railroad transportation, as well as the introduction of steamships on regular ocean lines, triggered a significant wealth increase of the middle class (bourgeoisie). They were owners of large-scale businesses in industry, trade, land and sea transportation. With the growing riches of the business community, their importance in public life was also increasing and so was the number of duties performed by chambers of industry and commerce. The extent of independent management of the economy by those directly concerned was expanding. To sum up, economic self-government as a unit of decentralised administration, reinforced and authenticated the system of democracy.

The number and scope of public duties assigned by law to chambers of commerce and industry are not the same in individual countries. The most important of them are: a) expressing binding opinions on government bills or other important legal acts concerning the industry, trade, mining, banking, and other fields of the economy. Consequently, entrepreneurs who have an interest in particular areas of the economy are, by law, guaranteed influence on legislation passed by the parliament); b) keeping a register of entrepreneurs and collecting statistical data concerning business activities of companies that operate in the geographic area covered by the chamber, c) scrutinizing activities of entrepreneurs to ensure that they comply with the law and business ethics. The chief purpose of this commitment was to prevent incidents, that would disrupt the market through corruption, tax evasion, or production and trafficking of counterfeits, d) providing vocational education and training for industry, trade, banking, etc. The educational task is carried out by agreement between chambers of commerce and industry and public education authorities.

Thus, as a result of the rapid development of industry and trade, strong business communities emerged. With the growing prosperity and position of townsmen or burghers, chambers of commerce and industry became, in the second half of the 19<sup>th</sup> century, and even more so in the 20<sup>th</sup> century, important self-governing institutions. Considering the aforementioned historical experience and traditions, eventually, two models of chambers of commerce and industry developed as: a) public-law corporations with mandatory membership and administrative authority; b) private-law associations with voluntary membership but without administrative authority. The first type of chambers followed the French model and was adopted in most European countries, including Germany, France, Spain, the Netherlands, Italy, and Austria. Chambers of the French model are independent of the government administration; they are strong financially and managed by democratically elected statutory authorities. As public-law entities, they participate in the state tax system, which allows them to employ their own professional staff from the field of science and technology and provide their members with high-level services in law and economics. The latter type of chambers (the so-called Anglo-Saxon model) was adopted by Great Britain, Ireland, the Scandinavian countries, Portugal, and Belgium. They were not institutions of economic self-government under the administrative law; they represented only narrow groups of business people that show more disparities than similarities. Having no mandatory membership, they could not perform duties delegated by the state administration [had no administrative powers S.W.]; we cannot, therefore, term them as self-government,<sup>72</sup> even if they are often called so.

Deep conflicts of interests were the reason, why most European countries, along with Germany, adopted, in the 19<sup>th</sup> century, the French model of chambers of industry and commerce. The model shows “the very essence of self-government, and its legal capacity to perform public administration tasks”<sup>73</sup> by the most concerned and competent citizens than most of the public government officials.

In the interwar period, Poland also adopted the French model of chambers of industry and commerce. In the first years of Poland’s independence,

---

<sup>72</sup> T. Jędrzejewski, *Samorząd gospodarczy a współczesne ustawodawstwo polskie*, “Przegląd Ustawodawstwa Gospodarczego” 1994, no. 7-8.

<sup>73</sup> M. Jaroszyński, *Nadzór nad samorządem...*, op. cit., p. 22.

they operated only in regions formerly annexed by Prussia (Poznań, Pomerania) and Austria (Kraków, Lwów). Their activity was initially limited and aimed to increase only the number of Polish citizens in chamber boards and adapt legal regulations from the period of Partitions to the new political and economic situation of the re-born Polish State. This situation changed in 1927 when new legislation on chambers of commerce and industry of the President of the Republic of Poland was published.<sup>74</sup> According to Art. 1, chambers obtained the right to permanently represent the economic interests of the industry, trade, mining, insurance and institutions of finance. Crafts and agriculture were excluded from their jurisdiction, because they were planned to be established separately through other regulations.

In the interwar period, Polish chambers of commerce and industry of the French and German models were mandatory public law corporations of the economic self-government, independent of the public administration. As decentralised public administration with administrative authority, they had a wide range of tasks and represented the economic interests of the business community.

Polish chambers, along with the French, Dutch, and the German ones, were standard self-governing economic institutions in Europe of the time. They featured such important tasks as:

- issuing opinions on government draft bills related to industry and trade,
- fostering trade and industry by creating and maintaining research institutes, museums, exhibitions, fairs, information offices, etc.,
- establishing, running and supporting vocational and further education training courses in cooperation with educational authorities,<sup>75</sup>

---

<sup>74</sup> Rozporządzenie Prezydenta Rzeczypospolitej Polskiej z 15.07.1927 r. o izbach przemysłowo-handlowych, Dz.U. nr 67, poz. 591 [Ordinance of the President of the Republic of Poland on Chambers of Commerce and Industry of 15 July 1927, Journal of Laws no. 67, item 591], Cf. A. Zarzycki, *Wielkopolska Izba Przemysłowo-Handlowa...*, op. cit., p. 44.

<sup>75</sup> For example, in 1926 the Chamber of Industry and Commerce in Poznań established the High School of Commerce to educate economists for the needs of regions; Cf. Z. Zakrzewski, *Rozwój uczelni w latach 1926-1950*, in: Z. Zakrzewski (ed.), *Akademia Ekonomiczna w Poznaniu 1926-1976*, Poznań 1976, p. 10; S. Waschko, *Samorząd gospodarczy w Polsce*, Poznań 1929, p. 10. In 1910 the Chamber of Commerce and Industry in Lviv established the Academy of Economics and the Institute of Technology.



– keeping a register of enterprises operating in the area covered by a chamber,

– issuing certificates of the origin of goods etc.

Chamber statutory bodies included: a) legislative body, *i.e.* a plenary meeting made up of councillors elected in general and secret ballot, appointed by the Minister of Industry and Trade and the co-opted ones, b) executive body, *i.e.* board headed by a chairperson who represented the chamber and supervised its activity. Chambers operated under the inspectorate of the Minister of Industry and Trade.

During World War II (1939-1945), in most countries of Continental Europe, occupied by Nazi Germany, all chambers of commerce of both the French and Anglo-Saxon models, were dissolved. In Germany too. As institutions of collective entrepreneurship, they did not fit the political and economic system of the totalitarian State created by Adolf Hitler. The defeat of Nazi Germany (1945) brought about the rebirth of both types of chambers in Europe.

The French model was adopted by most Western European countries, Austria, France, Greece, Spain, the Netherlands, Luxembourg, Germany, and Italy. The compulsory character of chambers under public law made them universal. For example, in 1992 in the Netherlands, 36 chambers of commerce and industry had over 740 thousand member companies from various industries. The majority (80%) belonged to the category of small and medium businesses that employed up to 100 people. In total, these companies employed circa 4.5 million people, *i.e.* 75% of the total workforce of the country. One of the five largest chambers in Europe is the Chamber of Industry and Commerce in Amsterdam with 67,000 entrepreneurs.<sup>76</sup> For comparison's sake, the Stockholm Chamber of Commerce, which belongs to the Anglo-Saxon model, has about 2.5 thousand members, with a population comparable to that of Amsterdam. Chambers of the Anglo-Saxon model, as private-law associations with voluntary membership, are less numerous and not representative of all business groups, which, as Andrzej Matysiak noted, “manage their own affairs but with little impact on the public sphere. Unlike the local governments (of the French model – S.W.] the Anglo-Saxon chambers are not capable to fully apply

---

<sup>76</sup> *The Chamber of Commerce...*, *op. cit.*, p. 8.

the democratic rules to keep balance between public good and private interests.”<sup>77</sup>

Chambers of commerce and industry of the Anglo-Saxon model are associations without specific public tasks and administrative authority. As private-law associations with voluntary membership, they are a ‘quasi-self-government’. In other words, they are private business associations created by entrepreneurs on their own initiative. The Anglo-Saxon model operates in Great Britain, Ireland, Belgium, Portugal, and the Scandinavian countries. The oldest Scandinavian chamber is the Copenhagen Chamber of Commerce. It was established in 1857 but had its roots in merchants’ guilds that date to 1742.

What makes chambers of commerce of the voluntary type different from the compulsory ones is their legal position in the public administration. Chambers of the French model are institutions of economic self-government, and as such, they perform specific public tasks. This means that, by law, they both operate as organs of both the central the local government. Their decisions are binding for all business entities that operate within their jurisdiction. As emphasized by Eugeniusz L. Zieliński, “only chambers of industry and commerce as public law organisations, may be strong proponents of the economic interests of the whole business community.” He also added that “they (chambers) are much more reliable and competent in fulfilling their tasks and responsibilities related to issues important to the whole region than any organisation under private law would ever be.”<sup>78</sup>

The tasks of chambers of commerce and industry under public law (of the French model) are comparable in individual countries, although sometimes they differ in scope. In general, among the most frequently mentioned tasks, besides keeping a register of entrepreneurs mentioned supra, are those of:

– facilitating cooperation of the business community with government administration and the local government at the regional level, to create favourable conditions for the development of trade and industry, and other economic initiatives in a region,

---

<sup>77</sup> A. Matysiak, *Samorząd gospodarczy w świetle koncepcji społeczeństwa obywatelskiego*, in: B. Klimczak (ed.), *Samorząd gospodarczy i zawodowy...*, op. cit., p. 78; Cf. *Stockholms Handelskammare*, Stockholm 1988, p. 11.

<sup>78</sup> E.L. Zieliński, *Rola samorządu gospodarczego w kształtowaniu środowiska przedsiębiorców*, Ph.D. diss., University Library, Poznań 1995, p. 21.

---

- providing expert advice and formulating regional economic development strategies; creating a friendly environment for new businesses, maintaining and furthering the development of the existing ones; assisting exporting companies by providing assistance programmes; facilitating contacts with foreign trade partners; providing information on foreign markets, duties, prices, customs, etc.,

- evaluating draft bills in the interests of local businesses or drawing up draft bills regarding industry and commerce; implementing the legal regulations adopted by the legislator,

- providing commercial arbitration and courts of arbitration to resolve disputes that occur within the business community,

- providing staff development and professional business training, along with maintaining and running schools and universities such as secondary schools, trade academies or business vocational schools for industries, commerce etc.,<sup>79</sup>

- establishing and maintaining contacts between domestic and foreign chambers; mutual exchange of economic information; consultations and brokerage between exporters; organisation or participation in national and international fairs and exhibitions, etc.

One should emphasize, that chambers of the Anglo-Saxon model under private law performed similar tasks. However, the difference is that chambers of the French type perform their tasks by virtue of law. Their opinion on new draft bills is binding for the government administration. Opinions of the Anglo-Saxon chambers, as private associations, do not have such binding powers. For example, the Chamber of Commerce in Stockholm, which belongs to the latter group, among its most important tasks, mentions only:

- creating favourable conditions for the development of trade and industry in the region,

- influencing economic legislation through regular contacts with state authorities and politicians,

- informing members of the chamber about new laws and regulations regarding taxes, customs and other economic issues,

---

<sup>79</sup> In France, for example, chambers of commerce and industry run the Paris School of Economics. In departments and regions outside Paris, they run 27 schools of economics and commerce, 30 management and trade schools and 35 prep schools that prepare students for higher education P. Puaux, *op. cit.*, p. 12.

– issuing appropriate documents required for the export and import of goods; providing special assistance to companies in evaluating product quality on the market,

– maintaining contacts with international organisations, such as Eurochambres and foreign chambers of commerce to facilitate the exchange of goods and services as well as information on taxation, legal regulations, customs and trade practises in other countries.<sup>80</sup>

As mentioned supra, both chamber models have comparable tasks because interests of entrepreneurs are the same. The only difference is that chambers under public law operate on the same principles as bodies of the public administration; they are, by law, a form of decentralised government administration in the economic field with administrative powers. Their advantage over chambers under private law consists in their having compulsory membership for all entrepreneurs as equal partners to both the central and local government at the regional (voivodship) level. As regards chambers of the Anglo-Saxon model, they are non – mandatory associations under private law and are not established by virtue of law, but by the will of business entrepreneurs; they have neither administrative authority nor are they partners to the public administration. They are petitioners to both the central government and to local governments.

One should add that in the 20<sup>th</sup> century, the supra-national trade organisations were established to facilitate international trade transactions and implement long-term strategies in the global economy. One of such organisations is the International Chamber of Commerce (ICC) with headquarters in Paris. It was established in 1919 to create a platform for consultations between governments and representatives of the business community.<sup>81</sup> It is an international private organisation. The ICC is a network of about 5,700 chambers of commerce, industry and trade from 53 countries (1990). The ICC itself represents business communities of countries with a free-market economy. The ICC's operates through its specialized committees that deal with the following issues: international trade and monetary policy; customs, trade taxes and insurance; protection of

---

<sup>80</sup> *Stockholms Handelskammare*, op. cit., p. 11.

<sup>81</sup> *The Chamber of Commerce...*, op. cit., p. 35; Cf. L. Ceballos, *Diccionario de organizaciones economicas internacionales*, Madrid 1995, p. 178; B.W. Buenk, *De Kamers van Koophandel in de praktijk*, Kluwer 1991, p. 225.

industrial property (trademarks); international arbitration; protection of natural resources; commercial practices in various countries and regions of the world, etc.<sup>82</sup>

EUROCHAMBRES (Association of European Chambers of Commerce and Industry, established in 1958), is the Brussels based free trade organisation, which represents chambers of commerce of the EU countries. The main aims and objectives of *Eurochambres* are to promote foreign trade and European business interests of the EU countries to the EU institutions in Brussels and develop business cooperation among the EU Member chambers. The attention of *Eurochambres* focuses, in particular, on issues of key importance to the interests of the EU business community such as trade policy, customs and tax policy, economic legislation or laws concerning the economy, regional policy, transportation and others.<sup>83</sup> The exchange of commercial information between chambers is pivotal in contributing to the increase of goods and the capital turnover between both the EU Member States and the non-EU States. Eurochambres represents more than 1,200 local and regional chambers of commerce and industry, which in turn represent a huge economic capacity that has a significant impact on economic and social policies in the European Union and worldwide. Among them, an important role is played by the European Club of Five Chambers (Amsterdam, Frankfurt/M, Madrid, Milan and Paris) launched in 1993.<sup>84</sup>

## 2.2. Chambers of agriculture

Chambers of agriculture hold a prominent position in the system of economic self-government. The first chambers of agriculture – known initially as agriculture councils – were established in France in the mid-19<sup>th</sup> century. Council members were appointed by the government administration and did not stand in elections. This system lasted for many decades. The real chambers of agriculture, “as an auxiliary to agricultural interests at the departmental level” were established in France by the Act of

---

<sup>82</sup> *The Chamber of Commerce...*, op. cit., p. 35; Cf. L. Ceballos, *Diccionario de organizaciones...*, p. 173.

<sup>83</sup> *The Chamber of Commerce...*, p. 34; B.W. Buenk, op. cit., p. 223.

<sup>84</sup> E.L. Zieliński, op. cit., p. 46.

3 January 1924, after the end of World War I.<sup>85</sup> One should emphasize, that the French legislation treated “councils of agriculture as advisory organs representing the agricultural profession. Therefore, the agricultural sector was not granted any significant share in the public administration”.<sup>86</sup> In fact, the 19<sup>th</sup>-century French chambers of agriculture were only mandatory associations representing the interests of farmers. They were a ‘quasi – professional’ rather than economic self-government.

The first chambers of agriculture in the German lands were founded in Prussia by the Act of 30 June 1894.<sup>87</sup> The Prussian chambers of agriculture covered the territory of one province. Their task – by the Prussian Law – was to represent and defend agricultural and forestry-related interests of a province, support, establish and run agricultural schools to increase the vocational education for farmers and enhance agricultural productivity. In addition to that, chambers of agriculture were obliged to cooperate with the government administration to improve the economic legislation and update the government on the situation in agriculture and forestry in provinces or regions. They were also obliged to express opinions and cooperate in matters regarding crediting in agriculture. Chambers of agriculture cooperated with the stock exchange, which provided information about trends in market prices of agricultural products to ensure the farm production profitability. They were also free to present important issues regarding agriculture in provinces to the government administration.

The Prussian chambers of agriculture were, by the law of 1894, public-law corporations. Their powers were limited to providing mainly opinions, postulates and information to the government administration on the situation and needs of the agricultural sector of a province. However, the administrative authority of the Prussian chambers of agriculture was particularly evident in the case of two issues, which showed, that they were the real self-government: one refers to agricultural education and the other one to legislation and forestry. Chambers of agriculture provided farmers

---

<sup>85</sup> *Izby rolnicze we Francji*, France – Poland Foundation, Paris 1994, p. 20.

<sup>86</sup> J. Panejko, *Zagadnienie organizacji urzędów agrarnych*, in: W.L. Jaworski, *Projekt kodeksu agrarnego*, op. cit., p. 204.

<sup>87</sup> R. Kmieciak, *Wielkopolska Izba Rolnicza jako forma samorządu zawodowego i gospodarczego*, Poznań 1995, p. 32; Cf. S. Wykretowicz, *Podstawy prawne działalności izb rolniczych w Polsce*, “Zeszyty Naukowe Uniwersytetu Gdańskiego: Nauki Polityczne” 1992, no. 11, p. 34.

not only with administrative authority but had an impact on the following areas: a) developing of vocational education for farmers who, by the end of the 19<sup>th</sup>-century, began gradually using machinery and factory-made means of production, b) shaping government economic policy, to further progress in agriculture and forestry. The agricultural self-government guaranteed law friendly regulations, that would contribute to the advancement of agriculture and forestry and give real meaning to the Act of 1894. It provided, that nothing that concerned agriculture, as the strategic section of the national economy, should be decided without farmers. According to Jellinek, that was precisely the essence of self-government: farmers must be independent in managing their own affairs as the ones directly concerned.

The chambers of agriculture in Pomerania (Pomorze) and in Greater Poland (Wielkopolska), (formerly annexed by Prussia) were quite similar. After Poland restored its sovereignty in 1918, chambers of agriculture became Polish again. Their tasks did not change much but had to be only adapted to the new political situation. The situation changed in 1928, when the President of the Republic of Poland signed a new Law, which “introduced agricultural chambers,<sup>88</sup> known so far in the territories formerly annexed into Prussia, to the entire country. The Law provided the legal basis for establishing the agricultural self-government in all Polish regions.”<sup>89</sup> One should emphasize that the structure and functions of the newly established chambers, were based on the French and German models and were in keeping with the economic theory on self-governance and practice of the time. It was obvious that Polish lawyers and politicians were well acquainted with the administrative law and understood well how to meet the essential goals and needs for agriculture. They also perceived the newly founded chambers as a part of the national economy, closely connected with trade and industry, and the agro-food sector. One year earlier, the very same scholars and politicians prepared draft legislation on chambers of commerce and industry, signed by the President in 1927. Both Acts were internally consistent and built on one guiding idea: to create – together with local organisations of businesses – a uniform legal basis for

---

<sup>88</sup> Rozporządzenie Prezydenta Rzeczypospolitej Polskiej z 22.03.1928 o izbach rolniczych, Dz.U. nr 39, poz. 355, [Ordinance of the President of the Republic Poland on Chambers of Agriculture of 22 March 1928, Journal of Laws no. 39, item 355].

<sup>89</sup> R. Kmiecziak, *Wielkopolska Izba Rolnicza*, op. cit., p. 44.

the economic self-government, in the form of chambers of commerce. According to this Act, chambers are universal public-law corporations with administrative authority and mandatory membership, and represent all entrepreneurs. They are not private-law associations with no public duties or administrative powers.

The guiding idea of the presidential Act was fully expressed in the Constitution of the Republic of Poland of April 1935. The Article 72 provided that “the State administers its sovereignty through: a) government administration, b) local self-government, c) economic self-government.”<sup>90</sup> According to Constitution, both local government and economic self-government are two forms of administrative decentralization. Considering this provision, the system of self-government advanced the interests of local communities and entrepreneurs and the interests of the whole country, which is of the highest value for each nation.

The fundamental scope of mandated tasks of the Polish agricultural chambers of the interwar period, was similar to those in other countries, and included the following:

- represent and protect the interests of the agricultural sector,
- make independent decisions concerning the full support of agriculture,
- perform delegated tasks in cooperation with the central and local government, as well as evaluate new draft bills and other legal acts regarding agriculture,
- establish and run agricultural schools and promote extracurricular education in agriculture,
- organize agricultural experimentation in all branches of agro-production,
- organize agricultural exhibitions,
- organize animal husbandry, maintain livestock quality management and keep breed registries,
- provide seed certification to supply high-quality seed to markets,
- organize veterinary care services for pets and provide artificial fertilizers, seeds, agricultural machinery, crediting for farmers and others.<sup>91</sup>

---

<sup>90</sup> R.M. Bombicki, *op. cit.*, p. 64.

<sup>91</sup> *Ibidem*, pp. 45-46; S. Waschko, *op. cit.*, p. 17.



By the Ordinance of the President of the Republic of Poland, agricultural chambers became true institutions of self-government, independent of the central government administration. Chambers of agriculture, in terms of their scope and tasks, were similar to chambers of trade and industry. The said Ordinance, by distinguishing chamber's own and delegated tasks, introduced a common understanding of the economic self-government for industry, trade and agriculture. Agricultural chambers as public-law corporations along with chambers of industry and commerce were, by law, vested with administrative authority and independent of the government administration.

The said Ordinance, was also proof, that the State had its confidence in farmers' professional competence and responsibility and that chambers and farmers themselves, as members of the agricultural self-government, would perform their tasks better and more efficiently than officials of the public administration.

The chamber structure was comparable to that in individual countries. In Poland, according to the Law of 1928, organs of agricultural chambers included a council (legislative body), a board (executive body) and a chairperson who represented the chamber. Councillors were both elected and appointed to the council, of which the former were elected by the assembly and by agricultural organisations, while the latter, were appointed by the Minister of Agriculture, respectively. Oftentimes, they had among them some of the most prominent specialists in agriculture; however, they could only account for a maximum of 20% of the elected council members. Similarly, organs of chambers of commerce and industry were elected from among the business and merchant communities of a region (voivodship) and also appointed by the Minister of Trade and Industry.

### **2.3. Chambers of skilled crafts**

Among institutions of economic self-government, an important position had chambers of skilled crafts. The origins of craft associations date to the early Middle Ages. As noted by Eugeniusz Dębowski, "at that time craft production dominated the entire manufacturing production. Craftsmen who settled in cities formed associations based on their trades, later known

as craft guilds.<sup>92</sup> Guilds were an important economic growth factor of cities at the time. Products manufactured by craftsmen were destined for the local market to cater to the needs of the town and village inhabitants. Over the years, many new specialized craft occupations and craft guilds (or corporations) emerged. The guild system and its functions, along with the rights and obligations of their members *i.e.* master craftsmen, apprentices and journeymen, was determined by statutes issued by a ruler. For centuries, guilds performed a variety of important functions, among which was: to maintain town walls in good condition or defend the city in the event of an enemy attack. Guilds also fulfilled important social functions: they kept funds to support infirm or elderly members, as well as widows and orphans of guild members.

Craft education was based on the system of apprenticeship; members of the guild were divided into a hierarchy of masters, journeymen, and apprentices. The well-known “exam”, which could raise a journeyman or a craftsman to the status of a guild master, was to provide proof of his technical competence or a “masterpiece”. This “schooling” system, no doubt, helped improve or master one’s craftsmanship and craft techniques. The advancements in work tools and techniques were expressed in the form of ever-more impressive buildings, especially the sacral ones (churches, monasteries), in the construction of stone bridges, and ever-larger commercial vessels as well as the production of household goods. Eventually, in the 18<sup>th</sup> century, this process led to the technological and industrial revolution and the establishment of mass manufacturing and machine-based factories operated by steam energy.

But then the guild system – which tended to restrict production and employment and fight competition between craftsmen (which was a pretext to remove blunderers or unskillful craftsmen without guild certificates) – hampered the technological advancement in production. It stood in opposition to the liberal economic doctrine, which advocated for the free market based on competition as the basic premise of the technological and industrial revolution. At the turn of the 19<sup>th</sup> century, the medieval guild system began to decline as a relic of feudalism. Meanwhile, the wealthy,

---

<sup>92</sup> E. Dębowski, *Dzieje rzemiosła w krótkim zarysie*, Łódź 1947, p. 13; Cf. J. Rutkowski, *Zarys gospodarczych dziejów Polski w czasach przedrozbiorowych*, Poznań 1923, pp. 41-45.

liberal bourgeoisie became involved in the newly emerging factories and new manufacturing industries and demanded economic freedom and free competition of businesses, and that innovation and new technologies are implemented, which thus would lead to an unlimited increase in production and trigger production growth. Finally, bourgeoisie demanded, that “every man (including blunderers) is free to pursue his chosen profession in industry and crafts, provided that he pays taxes.”<sup>93</sup>

Adam Smith also spoke for the abolition of guild or corporation laws which obstructed economic freedom and no longer fit the free market economy of early capitalism. In his book *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776), he wrote that “the obstruction which corporation laws give to the free circulation of labour is common [...] it does this chiefly in the three following ways. First, by restraining the competition in some employments to a smaller number than would otherwise be disposed to enter into them; secondly, by increasing it in others beyond what it naturally would be; and, thirdly, by obstructing the free circulation of labour and stock, both from employment to employment and from place to place.” And further he wrote, that “The pretence that corporations are necessary for the better government of the trade is without any foundation. The real and effectual discipline which is exercised over a workman is not that of his corporation, but that of his customers. It is the fear of losing their employment which restrains his frauds and corrects his negligence.”<sup>94</sup>

At the turn of the 19<sup>th</sup> century, guilds – influenced by the economic theory of liberalism – lifted restrictions, that impeded two main concepts of the new capitalist market economy, such as freedom and competition. Restrictions were lifted first in England, France and Belgium. Prussia followed in 1810 by introducing free exchange of goods and economic competition between cities and villages. The new law endorsed the right to a free choice of profession in industry and crafts and thus ending the guild restrictions. In France, by Napoleon’s Decree of 1802, craftsmen were obliged to join the chamber of commerce.

In the second half of the 19<sup>th</sup> century, it became apparent that modern industry, despite its sizeable concentration and conditions of transport,

---

<sup>93</sup> A. Smith, op. cit., vol. 1, p. 155.

<sup>94</sup> Ibidem, p. 170.

was not competitive to goods and services provided by craftsmen. They produced for the local market using the locally available raw materials and their own family to reduce production costs. It also turned out that in conditions of the capitalist economy and the free market and competition, there was a place for crafts production and services.<sup>95</sup> Prussia was one of the first European countries that recognized this issue and tackled it by issuing in 1869 the so-called Procedural Act,<sup>96</sup> which provided new regulations for guilds and crafts to help them function in conditions of the competitive free market economy. The said Act was the first step towards creating chambers of crafts as institutions of economic self-government of the decentralised public administration. Three decades later in 1899,<sup>97</sup> during the reign of the Hohenzollern, the first chambers of crafts were established in the German Second Reich. They became public-law corporations and obtained the same legal status as chambers of commerce and industry, and agriculture. Let us remember that the latter had been established five years before, in 1894. German chambers of crafts were later used as templates for other such establishments in Europe.

Chambers of crafts were founded in 1900 in the Polish territories annexed by Prussia, in the cities of Poznań, Bydgoszcz, and Grudziądz. As they were institutions of the economic self-government of the Prussian State, Polish craftsmen were wary of them, and only a few participated in chamber elections. Therefore, the German members held the majority. In the territories annexed by Austria, the crafts remained within the structure of chambers of trade and industry.<sup>98</sup> Under the Industry Act of 1859, Austrian guilds transformed into organisations of mutual assistance providing material assistance and moral support for craftsmen in case of accident or disability.<sup>99</sup> In the territory annexed by Russia, craft chambers and other institutions of the economic self-government were non-existent, except for some professional crafts associations, that aimed to provide apprentices with craft training and master examinations in individual professions.

---

<sup>95</sup> E. Dębowski, op. cit., p. 59.

<sup>96</sup> M. Grzelak, R. Kmiecik, *Ustrój i zadania samorządu gospodarczego*, in: S. Wykretowicz (ed.), *Samorząd w Polsce...*, op. cit., p. 244.

<sup>97</sup> Z. Pietkiewicz, op. cit., p. 13; M. Grzelak, R. Kmiecik, op. cit., p. 244.

<sup>98</sup> E. Dębowski, op. cit., p. 77.

<sup>99</sup> Ibidem; por. Z. Pietkiewicz, op. cit., p. 15; por. M. Grzelak, R. Kmiecik, op. cit., pp. 244-245.

When Poland restored its independence, chambers of crafts, trade and industry, and agriculture, which had earlier operated on the Polish territories annexed by Prussia, had to adapt to new political and economic conditions. To increase the Polish character of the chambers, more Polish entrepreneurs entered their boards. A few years later, a new Polish law on industry issued on 7 June 1927, provided the legal basis for establishing chambers of crafts in other parts of the country.<sup>100</sup> Polish chambers of crafts gained the status of public-law corporations with a wide range of tasks and administrative powers. They were institutions of self-government and a form of decentralised public administration. Craftsmen who ran their own businesses were obligated to become members of these chambers.

Only craftsmen with Polish citizenship, who had been running their own craft workshops for at least three years in the area of a chamber jurisdiction, had the right to elect chamber councillors that would later participate in chamber plenary meetings. Any craftsman, who was at least 30 years old and did not have any criminal record could be elected councillor. Chamber councillors were elected for a 6 year-term, while half of the council was elected every 3 years. Such a method of replacement provided continuity to chamber work. The plenary meetings of the board (legislative body), took place at least once every three months. The board of councillors (executive body) was elected at plenary board meetings, chaired by the Chairperson, who managed works of the board and represented the chamber.

The tasks of chambers of crafts were, as follows:

- collaboration with public administration and local government on issues concerning the development of the craft industry,
- evaluation draft bills before presenting them to the Sejm (Parliament),
- creating and supporting craft schools and helping enhance professional skills of craftsmen; supporting research institutes, museums, exhibitions, shows, and craft fairs,
- setting up arbitration courts to settle disputes between craftsmen,

---

<sup>100</sup> Rozporządzenie Prezydenta Rzeczypospolitej z 7.06.1927 r. o prawie przemysłowym, Dz.U. nr 53, poz. 468 [Ordinance of the President of the Republic of Poland on Industrial Law of 7 June 1927, Journal of Laws no. 53, item 468]; J. Bartnik, *Izby rzemieślnicze jako organizacje samorządu gospodarczego w Polsce*, in: S. Wykrętowicz (ed.), *Spór o samorząd gospodarczy*, op. cit., p. 124.

– regulating issues related to vocational education of craft students or apprentices; creating and running apprentice and master examinations.<sup>101</sup>

One of Chamber duties was to supervise guilds. The Law of 1927 provided, that “guilds must follow regulations issued by chambers of crafts” and that “statutory provisions and guild decisions concerning training in crafts are deemed invalid if contrary to chamber rulings.” The Minister of Industry and Trade supervised chambers of crafts and issued chamber statutes.

Summing up, chambers of commerce in Poland of the Interwar Period, established by the State as public law corporations, were based on the French model with mandatory membership. They had administrative authority and performed public tasks. Chambers of commerce were a form of decentralised public administration, independent of the central and the local government. The structure of Polish chambers was based on the French model introduced during the period of Partitions.

What were the decisive reasons for Poland to adopt the French model? One of them was Poland’s experience from the period of Partitions, when the first local chambers of commerce had been established on Polish territories annexed by Prussia and functioned efficiently for nearly seventy years. The other reason was, that after a century-long period of Partitions, Poland did not have a uniform and coherent economic system; individual districts of the country were detached from one another and constituted peripheries of the partitioning countries. Customs borders, tax systems and currencies differed in the annexed territories, and thus distanced them from one another. Poland’s priority, after restoring its independence, was to create a single internal market, and this was a great challenge for the political class and the entire business community of re-born Poland. To face such a daunting task, chambers of commerce, as corporations under public law could be linked only with the state. All business groups of the time agreed that this would be the most effective form of cooperation which would help establish the new market and unify the economic system of re-born Poland. Arguments in favour of the French model of chambers were grounded in the economic relations between Poland and other institutions of the kind abroad. The owners of most industries, such as coal mines, iron and steel mills in Upper Silesia; textile factories in Łódź; sugar mills; steam

---

<sup>101</sup> Z. Pietkiewicz, *op. cit.*, p. 15.

mills and breweries were predominantly German but also French, English and others. The mandatory membership of chambers of industry, trade and agriculture, in which Polish entrepreneurs had the majority, was to secure Polish strategic economic interests. All these circumstances pleaded in favour of the French model of chambers of commerce.

In the second half of the 1920s, central unions of chambers of commerce began to emerge. The following chambers were established by regional chambers to coordinate their “legislative intent”: Association of Chambers of Commerce and Industry of the Republic of Poland (RP), Association of Chambers and Agricultural Organisations of the Republic of Poland and the Association of Polish Chambers of Crafts. However, it was not possible to implement the constitutional provision of 1921 as regards the establishment of the Supreme Chamber of Commerce, which apart from representing all chambers of the economic self-government, would cooperate “with state authorities in managing the economy in terms of the legislative intent.”

One should add, that in addition to institutions of the economic self-government, there were also private organisations of various business groups with voluntary membership: associations of merchants, industrial and agrarian societies, credit institutions, small agricultural groups, and others. Some of these organisations, like the Central Union of Polish Industry, Mining, Trade and Finance “Lewiatan” and the Association of Polish Sugar Industries used diverse methods including lobbying to achieve their aims. This situation, with minor changes implemented in the early 1930s, prevailed until the outbreak of World War II (1939).

During the Second World War (1939-1945), almost all countries in Europe were under the direct and indirect occupation of the totalitarian regimes of Nazi Germany and the Soviet Union. As mentioned supra, in authoritarian systems there was no place for self-governing institutions such as chambers of agriculture, industry, trade, or crafts. From the early days of the occupation, all Polish institutions of the territorial, economic and professional self-government, were dissolved. The same happened in other countries occupied by Nazi Germany.

After World War II ended, the situation of economic self-government in Europe was much the same as that of the local governments, mentioned above. The Soviet Union imposed the communist rule on Poland and other Central and Eastern bloc countries. The authorities of the new system

nationalized private industry and trade, and cracked down on private entrepreneurs. There was obviously no place for any kind of independent business institutions. Any form of decentralization of power, which is one of the principles of democracy, posed a threat to the monopoly of the communist party. Nevertheless, chambers of commerce had at first been reestablished in 1945, but shortly after (1946), closed down again on grounds, that they represented interests of great landlords, owners of large estates. By the Decree on Land Reform of 6 September 1944, of the Polish Committee for National Liberation (PKWN), the State nationalized private land and property. Communists established a party named “Peasant Self-Help Union”, to represent small-scale farming. It had nothing to do with the agricultural self-government. The same happened to chambers of commerce and industry; they were dissolved in 1950. The situation changed after 1989.

### 3. Professional self-government

The professional self-government represented by chambers of physicians, pharmacists, attorneys and others<sup>102</sup> assumed an important place in the democratic system. It aims at protecting interests of professions of public trust (lawyers, doctors, pharmacists, notaries, etc.), that for social good, demand high professional and moral qualifications.

These professions had existed in the past but gained a new social dimension in conditions of industrial capitalism. Owing to the market economy, capitalism – based on economic liberties and competition – intensified the industrial and agricultural production, as well as the world trade exchange. Capitalism took advantage of advances in science and technology, which resulted, in the second half of the 19<sup>th</sup> century, in an unprecedented expansion of technological invention and scientific discoveries. New inventions gave rise to new branches of industry, like the

---

<sup>102</sup> M. Rutkowska, *Zaufanie publiczne w działaniach zbiorowych na przykładzie samorządów zawodowych w Polsce*, in: A. Matysiak (ed.), *Działania zbiorowe – teoria i praktyka*, Wrocław 2003.



pharmaceutical one; new and more effective drugs appeared to combat diseases that had once decimated humanity.

New drugs were more effective but could also prove to be more hazardous when wrongly administered, which was an error of lesser gravity in previously dominant herbal therapy. The smallest mistake in dispensing ingredients, which are measured not in grams but milligrams or millilitres, may do more harm than good. Now doctors and pharmacists were required to have extensive university-level knowledge and experience in specialist clinics and laboratories. But even then mistakes happen, although less frequent than in the case of “treatments” by various healers or quacks. Therefore, public trust in professions of medical doctors, dentists and pharmacists, began to grow, and so did their social status.

Following the development of the capitalist economy, other most trusted professions (or the so-called ‘professions of public trust’), as that of lawyers, notaries, and stockbrokers took on new importance. A new generation of well-trained professionals with higher education qualifications emerged, ready to meet the demands of the new industrial civilization and its challenges. Naturally, due to legal and technical complexity of economic transactions, such challenges as financial, banking and commodity transactions, the stock exchange and property transfers were unknown in the past. Furthermore, the growing number of bankruptcies, often followed by complicated bankruptcy processes and long-lasting disputes on the division of assets was a far greater challenge, not to mention the stock trading of industrial, commercial and insurance shares.

They all had to be faced by a new generation of highly specialized attorneys, notaries public and stockbrokers. Thus, professions related to law, economy and medical fields, were regarded as professions of high prestige and public trust.

The exceptionally high status of the most trusted professions ensues from the fact, that patients and clients turn to doctors, attorneys, notaries public and stockbrokers, respectively, in very personal matters. They turn to people with higher professional knowledge and moral integrity. Patients and clients expect professional secrecy, loyalty and discretion, and guaranteed, that their secret is subject to protection. Otherwise, their private interest, no less than their dignity, good name or private resources would be in a vulnerable position. “Doctors, in particular, are by profession depositaries of secrets, they are entrusted with, and must keep all information

on their patients confidential.”<sup>103</sup> Likewise, an attorney is the sole party privy to know whether the person accused of committing a crime is or is not guilty of committing the criminal offence and must keep such information secret, regardless of the court ruling. And this is why the said professions are called professions of ‘public trust’ and why they acquired a new dimension in the lawful, democratic state.<sup>104</sup>

In the second half of the 19<sup>th</sup> century, professionals of public trust, not numerous though, became the new educated elite and professional group in the democratic society. It was soon clear, that the specificity of these professions and complexity of matters, surpassed the knowledge and competence of government administration officials. Therefore, it turned fundamental to the democratic state to further decentralize the public administration and delegate public health competences, legal affairs and issues of the stock exchange to others. Over time the government administration delegated the said tasks to more competent professionals. And thus, the professional self-government, along with the economic one, began to develop.

In Europe, associations of public trust began to be first established in the second half of the 19<sup>th</sup> century. One of the first associations to be founded was the Austrian Bar Association (in 1868) and the Austrian Notary Association (in 1871). The Prussian Bar Association and medical chambers were established in 1878 and in 1887, respectively, while Chambers of stockbrokers and pharmacists in 1896 and 1901, respectively.<sup>105</sup>

Soon, professionals of public trust, which require the highest professional education confirmed by a university qualification, formed professional self-government with universal and mandatory membership.<sup>106</sup> Medical chambers obtained important administrative functions, such as the right to keep a register of all licensed medical professionals and i.e. grant the right to practise the medical profession, as well as impose penalties on physicians or lawyers who violate the professional ethics. In

<sup>103</sup> S. Wykrętowicz, *Rozwój samorządu korporacyjnego...*, op. cit., p. 31.

<sup>104</sup> B. Klimczak, *Lojalność i odpowiedzialność członków korporacji zawodowych*, in: R. Kmieciak (ed.), *Z badań nad samorządem zawodowym w Polsce*, Poznań 2010, p. 33.

<sup>105</sup> Cf. Z. Grelowski, op. cit., p. 53.

<sup>106</sup> Cf. M. Rutkowska, *Wolne zawody prawnicze*, in: B. Klimczak (ed.), *Samorząd gospodarczy i zawodowy...*, op. cit., p. 237.

practise, a chamber court could suspend a professional from practise for a definite or indefinite period.

Hence, chambers of professional self-government took over important public tasks which would otherwise be performed by less competent administration officials. One of such duties was to ensure that the professional qualifications of medical doctors, attorneys, notaries public, pharmacists, etc. were high and met the required standards and criteria. Additionally, chambers would conduct certification or speciality exams for representatives of the professions mentioned supra. At the same time, chambers of physicians would i.e. protect the reputation and medical practice of doctors in the best interests of society against possible healers and quacks. Furthermore, chambers of the professional self-government, which operated in the Polish territories annexed by Austria and Prussia, were institutions of the annexing countries and mandatory for Polish professionals, who were members of these chambers.

After having restored its independence in 1918, Poland was again a free and sovereign country. Chambers of the professional and economic self-government, which had existed during the period of Annexation, became Polish institutions and had to be incorporated into the legal and political system of the reborn State. Among the first chambers that officially became Polish institutions were the bar chambers, reestablished in December 1918. However, it took fourteen years to pass the first legislation (1932), which would formulate new regulations and standards for a self-governing organisation of the “professional associations of barristers in Poland.”<sup>107</sup> Bar associations made up of attorneys and trainee lawyers and operated in district courts of appeal. The area of the district court did not overlap the country’s territories of voivodships. For example, in 1929 there were 8 district courts of appeal for 16 voivodships and in 1938, only 7.

The bar associations had a large number of tasks. The most important one was to ensure the ethical conduct of attorneys, who have a license to practise law. The disciplinary tribunal for bar associations had powers to sanction attorneys who violate the code of professional conduct; to suspend or even permanently disbar or expulse them from the profession. The disciplinary penalties imposed by bar chambers had the same powers as decisions of the general court. The re-born Polish State showed

---

<sup>107</sup> Ibidem, p. 103.

understanding to self-governing institutions convinced that professionals of public trust: lawyers, doctors and others were more competent to resolve their own matters and protect their professions from people without proper qualifications or ethical conduct. Therefore, bar associations had the right to keep a register of lawyers. Upon entering the register a lawyer has the right to practise his profession. Once this right is revoked, the permission to practise law is denied.

Organs of bar associations were elected by lawyers and trainees from individual districts by direct and secret ballot and made up of a general assembly, disciplinary tribunal, district bar council headed by a dean, who represented the council, and the revision commission.

The term of office of a bar association was three years, while 1/3 of its members were up for reelection every year (the revision commission was elected on annual basis). The district bar councils of the first instance were supervised by the Polish Bar Council, while Bar Councils of the second instance were supervised by the Minister of Justice. The Polish Bar Council was also the appeal body against decisions of disciplinary courts and chambers.<sup>108</sup>

By virtue of the Act of 2 December 1921, medical doctors obtained their own professional self-government. The Act provided, that medical chambers were established with the aim to help medical doctors to “sort out and tackle by themselves issues, that regard their medical professional interests, duties and responsibilities towards the society at large. One of such important tasks was to cooperate with the state administration and with the local government bodies in matters of public health.”<sup>109</sup>

Membership of physicians and dental practitioners was mandatory, although, the latter established in 1938 their own self-government in the form of chambers of dental medicine. The Polish Chamber of Physicians was the umbrella organisation representing regional medical chambers with mandatory membership. Each region usually covered the territory of a voivodship. Bigo wrote that “all registered physicians living in a given region were listed as members of the medical chamber. Doctors, after being

---

<sup>108</sup> T. Bigo, *op. cit.*, p. 108.

<sup>109</sup> Ustawa z 2.12.1921 r. o ustroju i zakresie działania izb lekarskich, Dz.U. nr 105, poz. 763, art. 1 [Act on Medical Chambers of 2 December 1921, Journal of Laws no. 105, item 763].

registered became, by virtue of law, members of their regional chambers.”<sup>110</sup> A medical chamber was a public-law corporation with mandatory membership and administrative powers and could perform tasks delegated by law. For example, in matters of professional ethics, decisions were made by the disciplinary tribunal of the medical chamber. In the case of a serious violation of doctor’s “self-respect and reliability,” the tribunal of the regional medical chamber had the right to expel a doctor from the chamber, and “withdraw the license to practise medicine.” Thus, “the disciplinary tribunal of the medical chamber proved to have administrative authority, because it could implement administrative coercive measures. Control over decisions made by the tribunal was granted by law (1921) to the Polish Chamber of Physicians and excluded court proceedings.”<sup>111</sup>

In view of the Act, the basic tasks of medical chambers were to: represent and defend interests of physicians, supervise the medical practice alongside the government authorities, supervise the code of ethics and professional diligence of medical doctors, and the respectability of chamber members. Chambers had the right to keep a register, which was a way of exercising “medical discipline”. All medical doctors must obtain a medical register, to have a licence to legally practise medicine. The Polish Chamber of Physicians was a compulsory union of medical chambers and included members from individual medical chambers.

At the same time, the Chamber could assume functions of a court of appeal in the case of disputes between the Chamber and its members and between individual medical chambers. One should add that medical chambers including the Polish Chamber of Physicians were supervised by the Minister of Health, who assessed the way medical chambers including the said Polish Chamber of Physicians, functioned to make sure that they performed their tasks in keeping with the law on medical self-government.

Organs of medical chambers were: a) council, as legislative and control body, b) a board headed by a chairperson, who represented chambers, managed its current affairs and supervised the implementation of council’s resolutions, c) the revision commission; and d) disciplinary court, which ruled, bypassing general courts, on matters concerning violation of deontology of the *medical* profession.

---

<sup>110</sup> T. Bigo, op. cit., p. 104.

<sup>111</sup> Ibidem, p. 107; Cf. Z. Grelowski, op. cit., p. 11.

Well-functioning professional self-government proves that a democratic state has confidence in its citizens to entrust them with public tasks and that representatives of such professions as lawyers, medical doctors, pharmacists, notaries public and others, are more competent and experienced to handle their own affairs better than the government officials or the common courts.

Hence, in countries where the number of tasks entrusted to self-governing organisations, exceeds the number of tasks delegated to the government administration, a well-known catchphrase says *the more local governance, the less bureaucracy*. This saying is especially true in the case of the “old” Member States of the European Union when its society got involved in handling their own local or regional social and economic affairs. As a result, the EU countries achieved their economic growth and high postindustrial consumer status in the post-war period. History has shown us that a strong, self-governed democratic state will prevail over an authoritarian state. We can see this in the obvious developmental disparity between Central Europe and Western Europe in the 20<sup>th</sup> century.

## III. Theories of self-governance

---

The establishment of local governments based on municipalities and the rise of other self-governing institutions, such as the economic and professional self-governments, is associated with democracy and consequently, with the decentralisation of the state administration.

From the very beginning, the key questions for scholars and administrative lawyers, in particular, were: What is self-government? What is it in the legal sense? What is its “legal structure” concerning municipal authorities and to the government administration? What distinguishes the local government from other institutions of a democratic society?

It is not easy to answer these questions because for over two hundred years the role of municipalities as local government was understood in many different ways varied, and so was their attitude towards the state and vice versa. Discussions and disputes over local governments, economic and professional self-governments continue to this day. Throughout the decades, a lot of publications have appeared. One needs to acknowledge a serious input on this subject from many Polish scholars, especially the administrative lawyers and lately from economists, political scientists and sociologists. Studies on local government present diverse views. Among these, only three theories on self-governance are widely recognized: the natural law theory, the state theory and the political theory.<sup>112</sup>

### 1. The natural law theory

The natural law theory perceives a municipality as a public-law corporation, which has several “legislative” and “executive” issues, that may only be dealt

---

<sup>112</sup> J. Panejko, *Geneza i podstawy...*, op. cit., p. 57.

with by democratically elected communal bodies.<sup>113</sup> In other words, a municipality as the unit of the local authority (*pouvoir municipal*) is independent of the state in performing its duties such as those regarding free elections to municipal bodies (its council and board being chaired by a mayor) and tax collection. It has also rights to “municipal” assets. A municipality is recognized as the fourth power in the state, next to its legislative, executive and judiciary powers. Such a perception of a municipality stems from the historical context, in which a municipality as a local authority, is a form of social organisation before the formation of the state itself.

Therefore, according to supporters of the naturalistic concept of self-governance, a municipality is not a product of the Positive Law theory or the State Law, but a product of the “natural course of things,” a category of natural law. Otto von Gierke, one of the leading theoreticians of the naturalistic theory of self-governance claims, that a municipality is a legal entity. As a natural formation, it has its own undisputable laws which the state must not violate.<sup>114</sup> In other words, a municipality has its own somewhat ‘private’ affairs, just like private affairs of individual persons. In this respect, a municipality can impose legal sanctions and in doing so, it must not be controlled by other state organs. Except when performing the delegated tasks, a municipality is, by law, subordinate to the government administration bodies; local authorities assume the role of state organs. Concluding, supporters of the naturalistic theory prove, claim, that a municipality as a local authority is a historical category older than the state, that the state as such is for municipalities and not the other way round.

Such a view, which places municipalities in opposition to the state, was not accidental. This view particularly dominated in the first half of the 19<sup>th</sup> century. The leading catchphrase of progressive liberal-democratic forces of the time, which were against absolutism, was as follows: “*free municipalities are at the core of the free state.*” Jaworski maintained, that with the help of local government – according to the concept of “a free municipality,” – people struggled against the absolutist state. Through the local authorities, other people of various nationalities kept struggling for living in one or the other country. Finally, it was considered a means, the

---

<sup>113</sup> Ibidem, p. 22.

<sup>114</sup> Ibidem, p. 46.



democratic society grew and could manifest itself.”<sup>115</sup> In other words, along with the development of the democratic society, there grew the natural human tendency towards decentralization of the state administration. The local government is thus the result of the decentralisation of the state.

When the first Belgian constitution was about to come into force in 1831, the first doubts concerning the naturalistic theory of self-governance began to arise. One should note, that Belgium was a constitutional monarchy and one of the few democratic states in Europe at the time. According to the country’s Constitution, a municipality was the fourth power of the State, next to the legislative, executive and judiciary powers. At the same time, a municipality as a local authority was an integral part of the public administration.

In practical terms, this means that there was a certain dichotomy in the public administration, and that it was divided into two independent entities: the government administration (centralised and hierarchical) and the local government at the municipal level. The conclusion is, that municipalities were created by the state law and that a local community had the right to manage its own affairs. This right stemmed from both the natural and state laws. Thus, the law on local government was a part of the state law; otherwise, it would have been a “state within a state” situation. Therefore, a municipality was a local authority, and had its place and responsibilities in a constitutional and democratic country.

The natural law theory of self-governance is history now. However, it had a major impact on the theory of self-government, which is a form of decentralised public administration. The said theory was a reaction of most liberal and democratic parts of society at the time, mostly the middle class, on the autocratic rule of the Holy Alliance and, during the Spring of Nations, vastly contributed to overthrowing this system in France and Belgium (1830), Austria and Prussia (1848).<sup>116</sup> On the other hand, the natural law theory considered municipality superior and placed it in opposition to the state authority. After the victory of liberalism over absolutism and emergence of a constitutional democratic state, the natural law theory could not adequately determine mutual relations between a municipality

---

<sup>115</sup> W.L. Jaworski, *Nauka prawa administracyjnego: zagadnienia ogólne*, Warszawa 1924, p. 140.

<sup>116</sup> A. Kroński, *op. cit.*, p. 19.

and the state, nor could it determine, how to share public tasks between the local government and public administration.

Supporters of the natural law theory did not realize that a municipality in a democratic state does not exist alone, nor is it independent of the state but its integral part. Historically, a municipality as a group of people living in a given territory could and did emerge before the state. But, along with the establishment of the state as the highest form of community organization entrusted with powers and coercive authority, a municipality remains subordinate to the state. The state itself tacitly acknowledges the “natural” and historically evolved rights and public tasks of each municipality. Therefore, only the state, can, by virtue of law, delegate to municipalities a range of tasks and administrative power, including law enforcement. Kroński observed, that “a municipality thus exists by the will of the state.”<sup>117</sup> In other words, a contemporary municipality is established under the state-enforced law and not under the natural law. The latter can only be and often is, inspiration for the former.

## 2. The state theory

Criticism of the natural law theory gave rise, chiefly among the German scholars of the second half of the 19<sup>th</sup> century, to the state theory of self-governance. Despite various modifications, it has withstood the test of time and still inspires scholars who continue to reflect further on the essence of self-governance. The starting point of this theory is the assumption, as noted by Panejko, that “there are no two equal legal entities in public law; there is only one and it is the state. Natural or legal persons, especially the self-government units as public law entities cannot stand in opposition to the state.” Therefore, Panejko concludes that “the local government is by law, a form of the decentralised state administration, and is performed by local authorities, hierarchically independent of other bodies and independent within the limits of the law and general legal order.”<sup>118</sup>

<sup>117</sup> Ibidem, p. 6.

<sup>118</sup> J. Panejko, *Geneza i podstawy...*, op. cit., p. 98; Cf. Z. Leoński, Z. Niewiadomski, *Samorząd terytorialny Rzeczypospolitej Polskiej*, Warszawa–Zielona Góra 1994, p. 66.

Maurycy Jaroszyński presents a similar view, by saying that: “there is no place for self-government outside the state because there are no public tasks outside the state. However, there is a very important place for self-government in the organisation of the state itself. Therefore, a local government had to become and still is the organ of the state [... not of the government!].”<sup>119</sup> The state theory of self-governance has rejected the view, that there are fundamental differences between the central and local government administrations. Moreover, views on natural rights of municipalities and on those entrusted by the state, did not withstand the test of time. Both rights come by the will of the state and can be expressed in the form of a legal act or by the state’s tacit consent.

The definition of self-government as a form of decentralised state administration fully reflects its essence. Jaroszyński views “local government” and “special self-government” (economic and professional one), as both being just a different form of the same government administration and sees no conflict of interests between the two.” The difference is only formal and consists in “their different organisational structure”, and that is the fundamental autonomy and independence of the government bodies.”<sup>120</sup> On the other hand, in terms of their content, “self-government is entrusted with coercive powers and performs the same functions as the government.”<sup>121</sup> In this respect, self-government and the central government administrations belong to the same state administration.

The question arises, why a democratic state decides to decentralize its public administration. One of the many reasons is, that the local government brings citizens closer to the state; its bodies are free from the hierarchical structure and their decision-making process is shorter. So, public tasks, devolved by the state, are handled quickly and more accurately by the local community than the government bodies, because local citizens have powers to perform these tasks. This means, that when there is *more self-governance, there is less bureaucracy*. In other words, local government is “the opposition to inertia and bureaucratic indifference to

---

<sup>119</sup> M. Jaroszyński, *Rozważania ideologiczne i programowe na temat samorządu*, Warszawa 1936, p. 8.

<sup>120</sup> *Ibidem*, p. 8.

<sup>121</sup> *Ibidem*.

social issues.”<sup>122</sup> Therefore, a democratic state entrusts local government with public tasks, knowingly that it would accomplish them with greater competence, commitment, and in compliance with expectations of the local community. The other reason is that local government results from decentralisation, the term which best expresses the meaning of democracy. Though democracy may be menaced by threats of “centralism and bureaucracy, which are rooted in the very organisation of any state,”<sup>123</sup> but both threats can be counterbalanced by the decentralised public administration: the territorial, economic and professional self-governing institutions. In practise, people themselves may be directly involved in resolving individual public tasks of their concern and interest. In this very sense, local government “limits the power of the state,”<sup>124</sup> e.g. limits the hierarchized, multi-level government bureaucracy and strengthens democracy. In other words, social self-government and democracy are mutually conditioned.

Denmark may serve as a good example of a country with widely decentralised public administration. It has a rich tradition of local governance which dates to 1851. In Denmark, Sweden and other Western European countries, the majority of social policy issues concerning the existential and cultural needs of the local community, as well as the environment protection, have been delegated by the state to local municipalities that are “on-site,” as Holger Pyndt puts it.<sup>125</sup> According to him, there were three reasons, why the country decided to decentralize the public administration in favour of the municipality. The decentralization aimed at:

(1) increasing of employees’ motivation; independent decision-making by competent employees or local government officials, which is more work effective, and of better quality, both gratifying to office callers and to employees themselves,

(2) influencing of local communities on decisions of local authority to create the effect of the so-called “close democracy”,

<sup>122</sup> A. Chodubski, *Samorząd lokalny jako zjawisko cywilizacyjne odwrótu od społeczeństwa masowego*, in: B. Nawrot, J. Pokładecki (eds.), *Samorząd gminny w Polsce...*, op. cit., p. 13.

<sup>123</sup> M. Jaroszyński, *Rozważania ideologiczne...*, op. cit., p. 8.

<sup>124</sup> F. Fleiner, *Institutionen des deutschen*, op. cit., p. 98.

<sup>125</sup> H. Pyndt, *Decentralizacja kompetencji w gminie*, Roskilde 1990, no. 15, p. 4; A. Gustafsson, *Samorząd terytorialny w Szwecji* [Local Government in Sweden], Szczecin 1992, p. 48.

(3) increasing the need for more efficient use of public funds, because local residents may increase their impact, through the local government, on more rational management of municipal assets and finance. Pyndt explained, that “expenses, which have formerly been treated as obvious, became subject to assessment and to questioning: how to reduce the costs of cleaning? is it possible to save on fuel by modernizing the heating system? can savings be used for other purposes?”<sup>126</sup>

Supporters of the state theory of self-governance point out that local government is a form of decentralised public administration and indicate that powers of local government can be limited and that – in accordance with law – only specific and strictly enumerated tasks are delegated by the state. Therefore, there is no such situation where local government may fully replace the government administration; the reason is that there are tasks which no other authority but the government can perform (defense, currency, foreign affairs). The state can never delegate tasks that may harm the interests of the general public. There is, therefore, a strictly defined limit of activities, that local government cannot exceed. Therefore, the state legislature is responsible for the supervision of local, economic and professional self-government. The supervision applies to one criterion only and that is the legality of activities of the local government units and control, that they are performed in accordance with the law and its legal order. The government however, does not interfere in those actions, in which self-government is independent and not subordinate to a higher level of authority.

### **3. The political theory**

The political theory of self-governance is based on the English historical experiences, which were different from those of most European countries, such as of France, and related to the development of local administration and the role of a municipality. Evolution of public administration in England tended towards its deconcentration, rather than decentralization, as in

---

<sup>126</sup> *Ibidem*, p. 4.

France and other countries of the Continent. Deconcentration and decentralization are two different systems of the public administration. Tadeusz Bigo draws attention to the difference between the two and implications they have to understand the essence of self-government. He writes that decentralization “is a system of administration, in which administration bodies are independent of the central authority.” And further he continues that “decentralization consists in revoking hierarchical subordination.” By contrast, “in the system of deconcentration, such independence is denied. Lower offices are subordinate to the higher ones (of the government), which means that their actions are neither final, nor independent. There are several degrees of such subordination or hierarchy.”<sup>127</sup> Thus, a municipality – instead of being a unit of self-government, independent of the central authority – turns out to be only the lowest tier in the multi-level structure of the government administration.

Supporters of the political theory prove, that self-government is a political category and that no rules nor legal principles can be derived from it. According to Rudolf von Gneist, the leading representative of this theory claims, that the main factor which determines the self-governing character of a municipality is, that honorary officials are part of the municipal bodies and not that it is independent of the central authorities. Gneist believed that “officials who receive no remuneration for their duties are personally independent; will not be monopolized by any political party in power at the time; and will not act without objection to just any assignment delegated by the central authorities.”<sup>128</sup> This means that only officials who are politically independent may effectively defend the interests of the local community. Gneist further proves that English city councils or county and district councils are self-governing bodies not because they are elected in democratic election<sup>129</sup> (by Acts of 1835 and 1888), but because they are governed by honorary officials independent of the government or political parties. In other words, parliamentary elections result in the change of governments, but have no vital impact on the situation in municipalities, because honorary officials are guaranteed the independence of any government or political party that win elections. Thus, according to supporters

---

<sup>127</sup> T. Bigo, op. cit., p. 122; Cf. Z. Blok, op. cit., p. 64.

<sup>128</sup> J. Panejko, *Geneza i podstawy...*, op. cit., p. 62.

<sup>129</sup> Cf. G.M. Trevelyan, op. cit., p. 614; J. Panejko, *Geneza i podstawy...*, op. cit., p. 33.

of this theory, self-government is not a legal but political category; the essence of self-government consists in its being independent of local authorities (city councils, counties and districts) or of any political party that forms the government. Thus, independence of the English *self-government* is guaranteed by the institution of honorary officials.

On the other hand, critics of the political theory prove that local government is a legal category associated with decentralization of the public administration. As a result of decentralization, two legally independent administration entities are established: the government administration and the local government, or a local authority at the municipal level. According to Panejko, “the essence of self-government is not about the system of election to offices, regardless of whether they are profitable or not; it is not about officials, who receive no remuneration nor is it about the eligibility to local government bodies either. Its essence lies [...] in the legal and hierarchical independence of self-government of other organs or institutions.”<sup>130</sup>

A similar opinion is expressed by Bigo, who claims, that Gneist and other supporters of the political theory of self-governance, identify local government with the government administration. The distinction between the two is important, even if it seems blurred: the difference is that bodies of the local government are locally elected and are corporations under public law, independent of any administration, while honorary officials are appointed by the government administration, and are dependent upon it just like the civil servants, who receive a monthly salary. Bigo wrote, that “if we admit that honorary officials represent government bodies, we thus negate the difference between the public and local government in administrative terms.”<sup>131</sup> At the same time, local government and the government administration are bodies of the state independent of each other but both perform the same or similar public tasks. “Local government deals with issues that are not much different from those of the government administration. Given this, self-government cannot stand in opposition to the government administration, because local government is only another form of public administration.”<sup>132</sup>

---

<sup>130</sup> J. Panejko, *Geneza i podstawy...*, op. cit., p. 63.

<sup>131</sup> T. Bigo, op. cit., p. 127.

<sup>132</sup> *Ibidem*, p. 120.

It should be emphasized, that although the English term *self-government* and the German term *Selbstverwaltung* are not identical, both refer to local authorities. These two terms however, show that local authorities in England have been developing differently from those of the Continent. The English *self-government* is the result of deconcentration of public administration, in which a municipality remains the lowest tier of government administration. In Germany, *Selbstverwaltung* is the result of decentralization and of the division of public administration into the government administration and local government administration, while organs of the latter at the municipal, district and regional level, are independent of the government administration and of each other. In other words, self-government is an organ of the state, and not of the government.<sup>133</sup>

---

<sup>133</sup> Por. M. Jaroszyński, *Rozważania ideologiczne...*, op. cit., p. 7.



# IV. Rebirth of self-government in Poland (after 1989)

---

## 1. Local government

After the Second World War, self-government was completely eliminated from the Polish political system. It was associated with decentralization of the state administration, and therefore, could pose a threat to the monopoly of the communist party and the authoritarian system. Real socialism and self-government are mutually exclusive. Self-government “limits the power of the state” and defends people against the centralised, bureaucratic state and such was Poland and other USSR-controlled countries. After the collapse of real socialism in 1989 in Poland, the process of transition began.

Under Local Governments Act on of 8 March, 1990 new measures were taken to reform the public administration with the aim to establish democracy and empower the people.<sup>134</sup> The Law ended hitherto the uniform system of state administration, in which the communist party banned any kind of local government. After fifty years of non-existence, local government was finally restored in 1990. Extensive efforts were made to prepare and adopt amendments to the Polish Constitution as regards local government, and electoral regulations for municipal councils. The first election to municipal councils took place on 27 May 1990. It was a historical date, that began transformation of the political system and the rebirth of local government in Poland.

Evidently, “self-government is about fulfilling public tasks by members of a community on behalf of the public administration. Therefore,

---

<sup>134</sup> Ustawa z 8.03.1990 r. o samorządzie gminnym, Dz.U nr 16, poz. 95 [Act on Local Governments of 8 March 1990, Journal of Laws no. 16, item 95].

a community is organized in mandatory unions (corporations) or local self-government;<sup>135</sup> it is entrusted, under the public law, with powers to exercise public duties. These corporations have legal personality separate of the government and may perform their duties at their own initiative and responsibility. Local government is then a public-law corporation. According to Article 1 of the Act on Local Governments, “municipal residents constitute, by law, a self-governing community. Whenever [...] a municipality is mentioned, one should understand that it is a self-governing community living in a defined territory; a municipality performs public tasks on its own behalf and on its own responsibility.”<sup>136</sup>

Therefore, a municipality is a dual legal concept; it is, on the one hand, a self-governing community of people living in a territory that corresponds to country’s basic unit of the administrative division. This concept also shows the separateness of municipal interests and that a municipality is still the integral part of the whole country and that local interests cannot obscure interests of the state as a whole. Panejko emphasized that “a contemporary self-government [...] unit (municipality), is not an ‘intrinsic’ corporation, that exists separately of the state [...] though entrusted with powers, nor is it [...] an ordinary administrative unit, either. The municipality is a body of the state, that exercises the statutory powers in keeping with public law principles, on its (local) territory and without administrative control but only under the statutory supervision of the government bodies.”<sup>137</sup>

The Local Government Act of 8 March 1990 grants a municipality, a wide range of public duties which are important to the local community, unless they are restricted by law to other bodies (Article 6). “This means that a municipality as a local government may exercise independent authority within its own territories. Its powers may only be limited by law.”<sup>138</sup> Unless the law provides otherwise, decisions on important public issues may be taken by a municipality.

According to Article 7 of the Act, it is up to municipalities to satisfy the collective needs of the local community. These duties may be either compulsory or voluntary.

---

<sup>135</sup> M. Jaroszyński, *Nadzór nad samorządem...*, op. cit., p. 22.

<sup>136</sup> Ustawa z 8.03.1990 r. o samorządzie gminnym, op. cit.

<sup>137</sup> J. Panejko, *Geneza i podstawy...*, op. cit., p. 103.

<sup>138</sup> *Ibidem*, p. 103.

The municipality may carry out its tasks in various ways: either through its own local government bodies or the so-called budgetary establishments (schools, libraries, public health care centers, etc.), or through other budgetary or trade companies. It should also be emphasized that “municipalities may not carry out commercial activity to make profit, except for of public utility actions.”<sup>139</sup>

In addition to statutory duties which are financed from municipality own funds, a municipality performs tasks delegated by the government administration. Tasks may be imposed by law or carried out by agreement with the government. But to implement the commissioned tasks, municipalities receive, in both cases, the necessary funds either from their own increased revenues or from the state subsidies (Article 7, paragraph 3).

The scope of public tasks of local authorities in Poland corresponds to European standards. The major problem is, that local authorities are financially weak. Municipalities cannot still appropriate adequate funds to the state budget. The direct and obligatory source of local revenues (taxes) comes from the income taxes, i.e. taxes levied on local households (currently amount to 39.34%), and businesses (natural persons) and other organisational units without legal personality; they amount to 6.71 % respectively.<sup>140</sup> The saying: “if there is democracy there is more self-governance...” could be supplemented by the following: the stronger self-government is, the more independent it is of the state budget. The shortage of resources limits the array of municipal tasks that aim to satisfy the existential and spiritual needs of a local community. And the needs, according to our research, grow faster than the municipal revenues. In this situation, more

---

<sup>139</sup> An exception to this rule is provided by the Act of December 20, 1996 on municipal services; Art. 10.1 of this Act provides: “Outside the public domain, the commune may establish and join commercial law companies under the following conditions: 1) to meet the needs of the local community in respect of the local market; 2) if the rate of unemployment in a municipality affects negatively the standard of living of the local community, and if the applied measures, which result from law, do not improve the local economy nor contribute to the revival of the local market or to permanently reduce unemployment” (Dz.U. 1997, nr 9, poz. 43 [Journal of Laws no. 9, item 43]).

<sup>140</sup> Ustawa z 13.11.2003 r. o dochodach jednostek samorządu terytorialnego, tekst jedn. Dz.U. 2008, nr 88, poz. 539, art. 4, para. 2 and 3 [Act on Revenues of Territorial Self-government Units of 13 November 2003, the consolidated text: Journal of Laws of 2008, no. 88, item 539].

and more municipalities take up actions to find new sources of income by creating a business-friendly environment for local business initiatives to attract new investors.<sup>141</sup> Some municipalities however, do not explore the likely opportunities to expand their revenues. Much depends on people elected by voters; some are not good enough to carry out duties which have been entrusted to local governments.

The Local Governments Act of 8 March 1990 stipulates that considering the essence of a democratic society, the local community itself is the highest municipal authority, which exercises its power through elections, referenda and the municipal council that is elected by universal and secret ballot. The municipal council is the legislative and control body (Article 15). In turn, the executive board (Article 26) is the executive body. The law of June 20 2002, on direct election of *wójt* (head of municipality), mayor and a city president changed notably the hitherto situation.<sup>142</sup> Under this law, the collective executive board, which had so far been elected by the municipal council, is replaced by *wójt* (mayor or president), elected in the general and secret ballot. Hence, the council is still the collegial body at the municipal level, while *wójt* or mayor is a one-person (monocratic) body. By contrast, the municipal office is an auxiliary body that assists the head of municipality (*wójt* or mayor); it also assists the municipal council and the special task committees appointed by the council. The internal organization and functions of municipal bodies are both well-defined in the statute; separate rules pertain to the municipal office.

The municipal council has exclusive competence in all matters of interest to the municipality unless the legal acts provide otherwise (Article 18). These include in particular: adoption of the municipal statute which specifies the internal organisation and functions of municipal bodies; adoption of the municipal budget and local spatial plan and resolutions on taxes, local fees and others.

---

<sup>141</sup> The promising perspective is opened by the Act of 28 July 2005 on public-private partnership (Ustawa z 28.07.2005 r. o partnerstwie publiczno-prywatnym, Dz.U. nr 169, poz. 1420 [Journal of Laws no. 169, item 1420]). This law aims to raise capital to finance local joint socio-economic ventures in cooperation with the local government.

<sup>142</sup> Ustawa z 20.06.2002 r. o bezpośrednim wyborze wójta, burmistrza i prezydenta miasta, Dz.U. nr 113, poz. 984 [The Act on Direct Elections of Head of Municipality, Mayor and President of the City of 20 June 2002, Journal of Laws no. 113, item 984, as amended].

The council chairperson is elected from among the council members-at-large. The term of office lasts four years.

The executive municipal body is headed by a *wójt* or mayor in rural and urban municipalities respectively (president in cities with population of over 100,000).<sup>143</sup>

One should emphasize, that the rebirth of the local government after 1989 was the first and undoubtedly the most important move to stimulate reforms of the local government system in Poland. Preparations soon began to further reforms that fell in line with the philosophy and experiences of the European Union countries. As is well known, the subsequent reform was linked to the profound reform of the previous organisation and structure of the entire state administration. The debate on reforms was heated and took several years, especially in regard to the issue of 'districts'. Eventually, the Polish Sejm (parliament) decided to add 'districts' as the third tier of the two-tier local government. According to this concept, the district government was to perform local and supra-municipal public tasks. In other words, a municipality was still the basic unit of the territorial organisation, while a district was to perform only those tasks which could not be effectively performed by a municipality; these tasks, considering the size of territory and population included for example, education (secondary schools), or special education institutions, and protection of health (incl. management of hospitals and the specialist clinics etc.).

The Local Government Act of 5 June 1998, outlined the structure and tasks of the district authorities.<sup>144</sup> In Article 1.1 of the Act, we read: "inhabitants of a district form, by law, a local self-governing community". The Law provides that a district performs supra-municipal public tasks in its own capacity and at its own responsibility: public education, promotion and protection of health, social assistance, pro-family policy, support for people with disabilities, counteracting unemployment and local labour market activation, local public transport and public roads, culture and cultural heritage protection, physical culture and tourism, geodesy, cartography,

---

<sup>143</sup> Art. 26.1 ustawy z 8.03.1990 r. o samorządzie gminnym, tekst jedn. Dz.U. 2020, poz. 713 [Act on Local Governments of 8 March 1990, the consolidated text: Journal of Laws of 2020, item 713].

<sup>144</sup> Ustawa z 5.06.1998 r. o samorządzie powiatowym, Dz.U. nr 91, poz. 578 ze zm. [Act on District Self-Government of 5 June 1998, Journal of Laws no. 91, item 578, as amended].

real estate management, spatial planning, water management, environmental protection and nature conservation and other.

It follows that district tasks are similar to those of a municipality. Although they differ in range, they all relate to local issues. Education may serve as a good example; primary and secondary schools represent a comprehensive and obligatory model of education for contemporary society. As the demand for secondary schools is far beyond the real needs of any rural municipality, considering the size of its territory and population, primary and secondary schools have been assigned to rural municipalities and districts, respectively. The situation looks different in urban municipalities where secondary schools are extensions of urban primary schools and thus, meet the needs of the population of the “adjacent municipalities”; e.g. the border area with a district. Therefore, Art. 3 of the Local Government Act stipulates, as follows: “when creating, merging, dividing, abolishing and establishing district boundaries, it is essential that district boundaries are defined, based on the criteria related to the socio-economic homogeneity of the settlement area namely the topographical or spatial arrangement features”, which would allow them to perform their supra-municipal tasks – given the historical, ethnic or cultural specificity of a district (e.g. areas Łowicz or Sieradz). This applies to most of today’s districts, that have been called “lands” in the past.

The district organs are:

- district council as legislative and controlling body; the term of the council is four years, its councillors are elected in secret and direct ballot,
- executive board elected by the district council in the number of 3 to 5 persons, including the *starosta* (head of district) as its chairperson and deputy *starosta*”. According to Article 27 of the said Act, board members may also be elected from outside the council. The Board performs its tasks with the help of *starostwo* (district office), which is chaired by *starosta*. As the head of all structural district units, *starosta* is also the head of district services, inspections and guards, which are part of the district authorities.

The emergence of districts as new territorial units in Poland resulted from the need for further changes to the administrative structure of the state; the number of regions (voivodships) was reduced from 49 to 16. The boundaries of the new large regions were at times based upon the pre-existing similar territorial demarcations or former historic provinces, such as Wielkopolska or Mazowsze. The regions could begin to act the

same way, as regions of the “old” European Union countries.<sup>145</sup> So, the aforementioned administrative reform of 1 January 1999, introduced the regional and the district government, but maintained the government administration at the regional (voivodship) level, headed by a voivode.

The result of this reform is seen in the aforementioned dichotomy in the relationship between the central and local administrations: municipal and district authorities perform tasks of interest to local communities, while the regional government implements tasks related to regions.

The Act on Regional (Voivodeship) government initiated the process of regionalization of the country; the number of public tasks of local governments increased significantly. The implementation of the Act moved Poland closer, considering the country’s territorial division and its model of local government, to standards of the “old” EU Member States.

In view of the Act (Article 11), the regional government defines the development strategy for the region and implements its objectives in relation social and economic issues. The main issues of the strategy are:

- create conditions for the regional economic and local labour market development,
- maintain and boost investments in social and technical infrastructure of significance to the region,
- acquire and merge public and private financial resources; carry out tasks of public utility.
- promote and support activities, raise the educational level of citizens,
- use rationally natural resources and protect the natural environment, in accordance with the principle of sustainable development,
- support the scientific research development and cooperation between science and economy; support technological progress and innovations,
- support the cultural development, promote voivodship assets and their potential advantages to create development opportunities for the region.

It should be emphasized that the regional development strategies and tasks are similar to those exercised by municipalities and districts, as mentioned *supra*. However, “they account for the basic existential and

---

<sup>145</sup> Cf. B. Słobodzian, *Współczesny system samorządu terytorialnego w Polsce*, Toruń 2005.

cultural advancements and needs of all people who form, by law, the regional self-governing community (Article 1.1).<sup>146</sup>

It should be added, that responsibilities of the regional government neither violate the district nor the municipal autonomy (Article 4.1); in other words, district and municipal bodies, are not subject to supervision of the voivodship authorities, which are not the high instance bodies in administrative proceedings. At the same time, a municipality is still the basic unit in the three-tier system of the local government; other tiers of the public administration perform auxiliary public tasks within a district and a region.

The establishment of the regional government only confirms that it aims to meet the historically conditioned socio-cultural distinctions in individual districts, which during centuries, enjoyed their specificity regarding folklore, dialectical language or the natural environment (mountains, sea). Therefore, according to the Local Government Act of 1 January 1999, voivodships (regions); it may – as stated supra – create their own regional development strategy, regardless of the government policy. The local government policy could be a great asset to the region, as it may take advantage of the local (regional) “otherness” and appeal to local patriotic feelings of for example Poznaniacy (residents of the city of Poznań) or Ślązacy (Silesians) in an effort to stimulate the economic activity of a region and contribute significantly to their social and cultural development. The experience of the European Union countries shows that the role of regional governments will gradually grow; the Law of 12 May 2000 on supporting the regional development may also contribute significantly to this process. It should be emphasized however, that the regional policy cannot run contrary to the government policy; there should, instead, be a mutually complementing relationship and a feedback connection between goals of the regional and of the government policy.<sup>147</sup> In this sense, the regional and state interests are the same, as they both form one indivisible whole. In other words, the regional government cannot violate the principles of a unitary country.

---

<sup>146</sup> Ustawa z 5.06.1998 r. o samorządzie województwa, Dz.U. nr 91, poz. 576 ze zm. [Act on Regional Self-Government of 5 June 1998, Journal of Laws no. 91, item 576, as amended]; Cf. A. Chodubski, *Samorząd lokalny jako zjawisko cywilizacyjne odwrotu od społeczeństwa masowego*, in: B. Nawrot, J. Pokładecki (eds.), *Samorząd gminny w Polsce...*, op. cit., p. 13.

<sup>147</sup> Cf. Z. Zoll, *Regionalna wspólnota samorządowa, czyli samorząd województwa*, “Wspólnota” 1998, no. 36.



In view of the Act, all regions have identical legal status and are part of the territorial structure of the country. Regionalism and unitarism are not mutually exclusive; it cannot be otherwise, because the actual historical experience of Poles has shown, that, for them to have their own sovereign, efficient and citizen-friendly State was of the utmost importance.

As a result of this reform, the said dualism is seen in regions, too: its organs such as sejmik of the voivodeship or regional parliament (legislative) and the board (executive), headed by a voivodship marshal, operate alongside the so-called *combined and non-combined* government administration. The combined administration is formed by the voivode and by heads of the combined inspection and guard services, who assist voivodes to perform their functions as government representatives in voivodships (regions).

The voivode, in particular, is responsible for the government policy in the region as regards the tasks delegated by law and agreed upon with the government administration. They are implemented both by organs of the combined (government) administration and the local authorities on all levels. At the same time, the voivode, as the supervisory organ of the local government units (Article 7), is also indirectly responsible for the regional policy in terms of its compliance with the binding legal order (the Constitution, statutes). To sum up: the public administration in regions (voivodships) is performed by both a) the government administration bodies, b) the local government administration and by the *non-combined* administration which is independent of the voivode. The latter includes inter alia: tax, defense, mining, surveying, metrology, customs, maritime, statistical and the forestry administrations and firms.<sup>148</sup>

## 2. Economic and professional self-government

The rebirth of economic self-government was proceeding in a far slower pace than the rebirth of local government. The Polish Constitution of

---

<sup>148</sup> Ustawa z 5.06.1998 r. o administracji rządowej w województwie Dz.U. nr 91, poz. 577 ze zm. [Act on Government Administration in Voivodships of 5 June 1998, Journal of Laws no. 91, item 577, as amended).

2 April 1997, provides only – *expressis verbis* – for local governments (Article 16) and professional self-governments (Article 17.1). The Constitution does not mention the economic self-government but only indicates that “other forms of self-government shall also be created by means of statute.” However, a reservation was made that: “such self-governments may not infringe the freedom to practise a profession nor limit the freedom to undertake economic activity” (Article 17.2). This is a step backwards in relation to the March Constitution of 1921, in which we read: “alongside the local self-government, a separate law will establish the economic self-government for individual areas of economy in the form of chambers of agriculture, trade, industry, crafts [...] and other, which will jointly form the Supreme Chamber of Commerce of the Republic of Poland. Its cooperation with state authorities in respect to economy and legislation, will be determined by law” (Article 65).<sup>149</sup> The April Constitution of 1935 (Article 72) clearly provides that “the state administration is exercised by: a) the government administration, b) the local self-government, c) the economic self-government.”<sup>150</sup>

So far, only chambers of agriculture were among the first to be established under the public law on 14 December 1995.<sup>151</sup> They are public-law corporations and institutions of the economic self-government in the meaning of administrative law. The agricultural chambers include (a) individual farmers (natural persons) – payers of the agriculture tax, (b) farm producers, payers of the agriculture or income tax for special agricultural production, and (c) members of agricultural co-operatives who contributed equity (land) to cooperative corporations.

According to the Act, Polish chambers of agriculture exercise a wide range of tasks and these include:

- preparing analyses, evaluations, opinions and conclusions related to agricultural production and market; presenting analyses and opinions to the government administration and to local government authorities,

<sup>149</sup> Konstytucja Rzeczypospolitej Polskiej z dnia 17 marca 1921 r. [Constitution of the Republic of Poland of 17 March 1921], in: A. Peretiatkowicz, *Kodeks polityczny*, Poznań 1947, p. 7.

<sup>150</sup> Ustawa konstytucyjna z 23.04.1935 r. Dz.U. nr 30, poz. 227 [Constitutional Act of 23 April 1935, Journal of Laws no. 30, item 227].

<sup>151</sup> Ustawa z 14.12.1995 r. o izbach rolniczych, Dz.U. 1996, nr 1, poz. 3 [Act on Agricultural Chambers of 14 December 1995, Journal of Laws of 1995, no. 1, item 3].

- initiating new legislation and issuing opinions on bills related to agriculture,
- building the agricultural market and improving sales conditions of agricultural products,
- collecting, processing and providing economic information to agricultural holdings or other business entities,
- advising on agricultural activities in rural households to improve farmers' income,
- taking initiatives that would contribute to the development of infrastructure in agriculture and to reform the agrarian structure,
- improving competence of people employed in agriculture; providing assistance in running agricultural schools, establishing new schools and introducing changes in school curricula; organizing internships,
- keeping a list of evaluators, awarding certification in the field of agricultural education, in compliance with separate regulations,
- improving the quality of products and promoting export of agricultural products,
- promoting cooperation with foreign organisations of agricultural producers and others.

The most striking feature, when comparing tasks of contemporary chambers of agriculture to those of the inter-war period, is that the former are rather general; they are devoid of powers the latter chambers had, namely: setting up and running agricultural schools; qualifying seeds and crops introduced to trade as refined materials; qualifying breeding livestock and keeping herd books, and organizing medical treatment of domestic animals. According to Tomasz Jędrzejewski, the present day chambers of agriculture as institutions of economic self-government have powers to implement the following two tasks only: (a) keeping a list of appraisers and (b) awarding certification in the field of agricultural education.<sup>152</sup> Despite such limited administrative authority, only chambers of agriculture, unlike the other ones, are recognized as chambers of the economic self-government. As part of the decentralised state administration, they are self-governing institution in the sense of the administrative law,

---

<sup>152</sup> T. Jędrzejewski, *Samorząd gospodarczy a współczesne ustawodawstwo polskie*, in: S. Wykretowicz (ed.), *Spór o samorząd gospodarczy...*, op. cit., p. 87.

equal and independent, by law, of the government administration and of the local government.

Pursuant to the Act of 1995, organs of agricultural chambers are as follows:

- general assembly (legislative body), made up of members elected in secret ballot. The general assembly has authority in the following matters: adopting and amending the statute, adopting the annual budget and, adopting, by agreement, public tasks of both the government administration and the local government, granting permission to chambers' membership in other national and foreign organisations,

- audit commission, elected in secret ballot by the general assembly. Functions and powers of the commission include monitoring the implementing assembly resolutions and supervising chamber financial activity,

- executive board, elected from the membership of the general assembly is composed of the president, the vice-president and three members. Tasks of the board are performed by the chamber office and by its director as head of office (not elected), appointed and dismissed by the board.

Agricultural chambers of the economic self-government are corporations under public law. In the Act of 1995, they are referred to as the agricultural self-government. Their financial resources are based on revenues from:

- the 2% write-offs from the agricultural tax levied on income from the areas covered by a chamber or voivodship,

- fees for services provided by the chamber,

- from membership fees, donations, contributions, grants and other payments,

- funds earmarked for the implementation of tasks assigned by both the public and local governments and others.

One should add, that chambers of agriculture established – by virtue of law – the National Council of Agricultural Chambers. It is made up of a president (chair) and delegates elected by the general assembly, one from each chamber. The tasks of the National Council are: represent chambers to the state authorities, give opinions on draft bills in respect to agriculture, food economy and agricultural policy programs. In this context, the Article 45 of the Act mentioned supra deserves a particular attention; it provides that “government administration bodies are obliged to consult the National Council of Agricultural Chambers on draft bills

and regulations concerning agriculture and food economy.”<sup>153</sup> The phrase “are obliged” means implicitly that the government administration has a statutory obligation to carry out consultations, when drafting a new bill related to agriculture and the food economy.

Opinions of the agricultural self-government can exert real influence on the agricultural policy and food economy of the State in the interest of all entities associated with it, i.e. farmers. Their opinions are binding for the government administration.

The Act of 30 May 1989, on economic chambers, provided the statutory basis for the establishment of chambers of commerce and tourism.<sup>154</sup> However, as regards their powers, they are different from those of chambers of agriculture. Contrary to the latter, they are private law associations with voluntary membership. They operate in Poland since 1989 and are not a “real” self-government. The agricultural chambers, as mentioned *supra*, have been established by law, independently of the will of their members (business community) and have mandatory membership. Jaroszyński wrote in 1925 that “the essence of self-government consists in fulfilling tasks of public administration by those directly interested. For this purpose, the state may organize citizens, within powers prescribed by law, in ‘unions’ known as ‘self-government’ with compulsory membership.”<sup>155</sup> Meanwhile, the Act on Chambers of Commerce of 1989, stipulates, that “a chamber of commerce may be established, if at least 50 business companies in a region, hereinafter referred to as ‘founders’, undertake such initiative” (Article 7.1). Therefore the economic chambers as private law entities of the Anglo-Saxon model are a ‘quasi-self-government’ with no administrative powers to perform public tasks.<sup>156</sup>

A similar view was expressed by Jędrzejewski, who wrote that “the law on Chambers of Commerce does not refer to any organisation that can be termed as economic self-government. None of them [chambers of industry and commerce – S.W.] meets the statutory requirements. One cannot

<sup>153</sup> Ustawa o izbach rolniczych z 14.12.1995, op. cit.

<sup>154</sup> Ustawa z 30.05.1989 r. o izbach gospodarczych, Dz.U. nr 35, poz. 195 [Act on Chambers of Commerce of 30 May 1989, Journal of Laws no. 35, item 195].

<sup>155</sup> M. Jaroszyński, *Nadzór nad samorządem...*, op. cit., p. 22.

<sup>156</sup> S. Wykrętowicz, *Podstawy teoretyczne Obywatelskiego projektu ustawy o izbach przemysłowo-handlowych w Polsce*, in: S. Wykrętowicz (ed.), *Obywatelski projekt ustawy o izbach przemysłowo-handlowych w Polsce*, Poznań 2012, p. 15.

agree [...] with the view, that despite the missing mandatory membership and incapacity to perform public duties, which should be considered most important, the said chambers are allowed to be termed as self-government. When creating legal institutions, the legislator should not use this broad sociological definition of self-government.” Concluding, Jędrzejewski claims that “from the point of view of administrative law, the economic self-government does not exist in the present day legal system of Poland.”<sup>157</sup> And further he says that “the lack of mandatory membership deprives such organisations of characteristics attributed to self-government. Therefore, they are voluntary associations.”<sup>158</sup> So, both chambers of commerce and industry and tourist chambers are voluntary associations in Poland. They were established by the Act on Chambers of Commerce in 1989. The only exception are the agricultural chambers, established in 1995, a year after the publication of Jędrzejewski’s work.

It should be noted, that the Act on Chambers of Commerce of 30 May 1989, could not assign public tasks and administrative powers to chambers of industry and trade because the law had been created during the system of “Real Socialism”. In the authoritarian one-party communist system, there was no place for any real self-government, including the economic one, that could be autonomous in performing public tasks, represent the interests of business people and be independent of and not submissive to the communist party.

The first attempt to draw up the new legislation on economic self-government in Poland was made by the Senate of the Republic of Poland under the new political system in 1992, and then in 1993, however, without positive results. In the following years, further parliamentary and senatorial initiatives were undertaken, but to no avail.

The approach to this issue has not changed in the Constitution of 1997, which only provides, that “by means of a statute, other models of self-governments may be created”. A reservation has been added that they (models) “shall not infringe the freedom to practise a profession nor limit

---

<sup>157</sup> T. Jędrzejewski, *Samorząd gospodarczy a współczesne ustawodawstwo polskie*, “Przegląd Ustawodawstwa Gospodarczego” 1994, no. 7-8, p. 27; Cf. ustawa z 19.11.1999 r. Prawo działalności gospodarczej, Dz.U. nr 101, poz. 1178 [Act on Business Law of 19 November 1999, Journal of Laws no. 101, item 1178].

<sup>158</sup> T. Jędrzejewski, *Samorząd gospodarczy...*, p. 27.

the freedom to undertake economic activity (Article 17.2).<sup>159</sup> Ryszard Tupin has accurately noted, “two issues have been mixed up: the freedom of entrepreneurs to associate and the model economic self-government, in which membership is mandatory by law.”<sup>160</sup> In the first case, we deal with private business organisations and business clubs which may only indirectly influence the liberal markets, mostly by lobbying through informal interest groups, (sometimes) known for financial scandals (the gambling scandal and the like). In the latter case, we deal with economic chambers as public-law corporations, having the right to participate in the process of law making in the sector of economy.

As evidenced by numerous examples from countries, chambers of the Anglo-Saxon model as private law associations have no such right; they are not conferred upon administrative powers to make a law. In Poland, the Polish Chamber of Commerce or the Business Center Club are voluntary associations, that represent only some individual business groups. None of the two are universal, nor are they representative for the entire business community. None of them represents the interests of the entire business community to the government administration and to the local government.

In 2004 the Euro-Regional Chamber of Commerce and Industry in Jelenia Góra made the last attempt to introduce statutory regulations on economic self-government. The reply of the left-wing government of the time was negative. The Minister of Economy and Labour, to justify the government’s decision “not to undertake this initiative [...] nor provide the legal framework to establish the economic self-government,” pointed out to the following four factors:

- “lack of explicit opinion of most business organisations on issues on the economic self-government;”
- “inexistence of legal loopholes in the Polish legislation that would not allow the existing business organisations to perform tasks of the economic self-government;”
- “inability to specify additional tasks that business groups should like to perform but had no chance of doing so;”

---

<sup>159</sup> Konstytucja Rzeczypospolitej Polskiej z 2.04.1997 r., Dz.U. nr 78, poz. 483 [Constitution of the Republic of Poland of 2 April 1997, Journal of Laws no. 87, item 483].

<sup>160</sup> R. Tupin, *Trzecia sfera samorządności*, „Rzeczpospolita” of 24.03.1999.

– “lack of ‘entrepreneurial maturity’ of business groups to acknowledge the need and importance of establishing economic self-government; the issue which only means for them.... some additional operating costs.

The minister has concluded, that “considering the obvious and justifiable theoretical conclusions, [...] there is no hope, at present, to effectively pass the legislation on the economic self-government.”<sup>161</sup>

In the present day Poland there is still no political will to pursue such initiative. The government bureaucracy defends the monopoly of the central power and keeps rejecting the legislation on the economic self-government, justifying the refusal by the indifference of business people on this issue. Consequently, significant economic reforms, privatization, modernization and restructuring of the Polish economy to increase its innovative capacity and make it more competitive are carried out by government officials, without a say from the directly concerned business community. Therefore, Poland’s part in the implementation of the Lisbon Strategy, which aims at transforming the European Union into the most contemporary or avant-garde area in the world, is inadequate to the size of Poland’s territory and population.

The failure of the Sejm and the Senate of the Republic of Poland to re-establish chambers of industry and commerce with administrative powers, encouraged a team of experts, including academics and representatives of local governments<sup>162</sup> to prepare, in 2007, a legislative proposal. Article 1 of the draft bill says that “chambers of trade and industry as public-law corporations with compulsory membership are being established by law; they are institutions of economic self-government and bodies of the public

<sup>161</sup> Minister Gospodarki, Pracy i Polityki Społecznej, DR-V-07802-1759-HL/04, Warszawa 23.03.2004 r.; Minister Gospodarki, Pracy i Polityki Społecznej, DR-V-07000-6095-HL/04, Warszawa 23.12.2004 r.

<sup>162</sup> The draft bill on chambers of industry and commerce in Poland was prepared by a team of authors: Tomasz Jędrzejewski Ph.D., Nicolaus Copernicus University, Toruń; Kazimierz Kubiak MA, Chamber of Industry and Commerce, Łódź; prof. Zbigniew Leoński, Adam Mickiewicz University, Poznań and WBK University, Poznań; Katarzyna Walkowiak Ph.D., WSB University, Poznań; prof. Stanisław Wykrętowicz, Adam Mickiewicz University, Poznań, WSB University, Poznań – as head of the team. The following scholars participated as consultants: prof. Robert Kmieciak, University of A. Mickiewicz, Poznań; prof. Jan Sikora, University of Economics, Poznań, WSB University, Poznań and Bogdan Golik, President of the Regional Chamber of Commerce and Industry, Leszno.



administration. This initiative is provided for by the Polish Constitution (Art. 118.2), which reads as follows: “the right to introduce a draft bill shall also belong to a group of at least 100,000 citizens having the right to vote in elections to the Sejm”.

The legislation is based on the theoretical research of European scholars from France and Germany on collective actions of business people. But principally, the results of studies of Polish scholars from the following academic schools: the Adam Mickiewicz University (Poznań), Wyższa Szkoła Bankowa w Poznaniu (WSB University in Poznań),<sup>163</sup> University of Economics (Wrocław),<sup>164</sup> Nicolaus Copernicus University (Toruń),<sup>165</sup> and the University of Gdańsk,<sup>166</sup> have also vastly contributed to the revival of theoretical studies on economic self-government in Poland after 1989 and have been instrumental in drafting the bill.

In 2004, the University of Adam Mickiewicz in Poznań held a nationwide “Dispute Over the Economic Self-government of the Decentralised Public Administration in Poland,” which contributed, in terms of the legal requirements, to drafting the final proposal of the said law. The conference was attended by representatives from Polish chambers of industry, trade, crafts and agriculture. Both scholars and business people, who represented the present day chambers, agreed on the fundamental issues related to the

<sup>163</sup> S. Wykrętowicz, *Decentralizacja i samorząd*, op. cit., p. 5; S. Wykrętowicz, *Samorząd jako wyraz demokracji obywatelskiej*, in: S. Wykrętowicz (ed.), *Samorząd w Polsce...*, op. cit.; S. Wykrętowicz, *Ustrój prawny izb gospodarczych a lobbying*, in: B. Klimczak, A. Matysiak (ed.), *Działania zbiorowe w teorii i praktyce*, Wrocław 2001; R. Kmiecik, *Samorząd gospodarczy w Polsce. Rozważania na temat modelu ustrojowego*, Poznań 2004; S. Cyganek, *Izby przemysłowo-handlowe w Polsce i w Niemczech*, Poznań 2004; K. Walkowiak, *Rola izb rolniczych w rozwoju wsi i rolnictwa w Polsce*, Poznań 2004; Z. Leoński, *Zasada wolności gospodarczej a samorząd gospodarczy*, in: S. Wykrętowicz (ed.), *Spór o samorząd gospodarczy...*, op. cit.

<sup>164</sup> B. Klimczak, *Teoretyczne podstawy badań...*, op. cit.; A. Matysiak, *Samorząd gospodarczy w świetle koncepcji społeczeństwa obywatelskiego...*, op. cit.; A. Matysiak, *Rola samorządu gospodarczego w koordynacji działań zbiorowych w gospodarce rynkowej*, in: S. Wykrętowicz (ed.), *Spór o samorząd gospodarczy...*, op. cit.

<sup>165</sup> T. Jędrzejewski, *Samorząd gospodarczy a współczesne ustawodawstwo polskie*, “Przegląd Ustawodawstwa Gospodarczego” 1994, no. 7-8; T. Jędrzejewski, P. Rączka, *Izby rolnicze*, “Przegląd Ustawodawstwa Gospodarczego” 1996, no. 11.

<sup>166</sup> A. Chodubski, *Idea samorządu gospodarczego jako wyzwanie globalne*, in: S. Wykrętowicz (ed.), *Spór o samorząd gospodarczy...*, op. cit.

economic self-government, and voted for chambers that operate within the framework of the administrative law, as entities of the state, not of the government.

Both scholars and business representatives also expressed a view that it was high time to accelerate efforts and move legislation on chambers of trade and industry in Poland based on the French model, to enhance the civic governance and promote the economic development in Poland. Both parties also rejected arguments of the government bureaucrats, who refused to speed up the legislative procedure by arguing, that “entrepreneurs were still not ‘mature’ enough”...<sup>167</sup> The arrogant and ignorant bureaucrats seem to have overlooked one historical fact, that the economic success of the “old” European Union countries is inseparably associated with the economic self-government. By curbing the bureaucratic power, the growing business communities, when organized in chambers of trade and industry, will be able to perform public tasks in the same way as local governments do.

Both parties have also realized that chambers of trade and industry of the Anglo-Saxon model established by the Act of 30 May 1989, cannot perform public tasks. Therefore, despite being referred to as “economic self-government”, they are private-law corporations and as such, do not meet the criteria of the administrative law. This observation was behind the theoretical foundations of the abovementioned draft bill.

However, all efforts to establish the new law failed and further attempts to re-establish the economic self-government have, so far, been abandoned. The reason why all attempts failed has been associated with the major shift in the state economic policy, namely the departure from the social market economy affirmed by the Solidarity movement and transition to the neo-liberal economic system.

It should be noted, that both systems are similar as they are both about the liberal market economy. Both are based on the same legal principles of private property, economic freedom and competition. However, they only have a *different philosophy of values*.

The social market economy system combines the economic freedom and competition with social responsibility. This system based on philosophy of empathy, which is the ability to understand the interests of the other party, assumes a symmetrical balance of interests between entrepreneurs

---

<sup>167</sup> S. Wykrętowicz, *Powstanie i rozwój samorządu gospodarczego...*, op. cit., p. 27.

and employees, i.e. between capital and labour. Therefore, the very essence of the social market economy is to keep a sensible balance between the economic and social development, which secures social peace.

Priorities for the economic and social policy as well as for democracy are fiscal sustainability, progressive fiscal policy, coherent symmetry of capital and labour, stable currency, high employment and the state support for economically weaker sections of the society.

In other words, the core values and ethical principles of the social market economy system with social responsibility are accomplished “when a man, who does not live up to the demands of the economy (or its market) because of illness or unemployment and has no means of income to cover medical treatment, has the inalienable right to receive help from the state to live in proper conditions, and cannot be left alone.”<sup>168</sup> The social market economy system “can successfully attempt to keep a balance between economic growth and social progress by applying instruments of state intervention.”<sup>169</sup>

The system of the social market economy was recognized at the time, as the most favourable liberal political economic system for Poland. It was proclaimed by Tadeusz Mazowiecki in his Sejm speech in September 1989. Therefore, chambers of trade and industry are the integral part of this system. As organs of the state, they represent not only the interests of business groups but also interests of the whole of society. Together with employees and trade unions they participate in the constitutional “dialogue” and cooperation between all social partners that pledge symmetry between capital and labour; the said symmetry guarantees social peace. The absence of such chambers proves, that provisions of Article 20 of the Constitution of the Republic of Poland on the social market economy, based on “the freedom of economic activity, private ownership, social solidarity, dialogue and cooperation between social partners”, are no longer “foundations of the economic system of the Republic of Poland.”<sup>170</sup>

<sup>168</sup> A. Müller-Armack, *Soziale Marktwirtschaft*, in: *Handwörterbuch der Sozialwissenschaften*, Bd. 9, Stuttgart 1956, p. 90; Cf. M. Balcerek, *Ordoliberalna koncepcja społecznej gospodarki rynkowej w RFN (1945-1963)*, in: S. Wykretowicz (ed.), *Obywatelski projekt...*, op. cit., p. 135.

<sup>169</sup> A. Müller-Armack, op. cit., p. 90; Cf. W. Eucken, *Podstawy polityki gospodarczej*, Poznań 2005, p. 391.

<sup>170</sup> Konstytucja Rzeczypospolitej Polskiej z 2.04.1997 r., op. cit.

A completely different philosophy of values is represented by the neo-liberal market economy. Its essence was most accurately described nearly 50 years ago by Milton Friedman, co-creator of the neoliberal doctrine. He concluded that “there is one and only one [...] responsibility of business, and that is to use its resources and engage in activities designed to increase its profits.”<sup>171</sup> The philosophy of values of the neoliberal economic system, is contrary to the system of social market economy. It is characterized by egoism and asymmetry of interests between capital and labour; the individual good is above the common good. In this system, the Anglo-Saxon model of chambers of trade based private law with voluntary membership prevails. Deprived of administrative authority, it has no major impact on public life, i.e. “on the balance between public and private good.”<sup>172</sup> The egoism of small interest groups overrides the employee-led interest groups, and generates conflicts and social unrest. At the same time, David Harvey wrote, regarding capital, that “there was unquestionably a power shift away from production to the world of finance, for the benefit of the latter”. In other words: “Neoliberalization has meant, in short, the financialization of everything. This deepened the hold of finance over all other areas of the economy, as well as over the state apparatus and [...] the daily life.”<sup>173</sup>

The important features of the neoliberal market economy are: low taxes and high profits. Therefore, the state budget revenues are lower than real social needs and expenditures. The chronic state budget deficit occurs and, accordingly, the public debt increases. The burden of debt eventually becomes uncomfortable to endure by all; both by entrepreneurs and employees, especially by the most economically vulnerable groups. “Neoliberalism”, as Harvey writes, “seeks the State withdrawal from social welfare provision [...]. The powers of trade unions and other working-class institutions are curbed or dismantled within a particular state (by violence if necessary)”. Flexible labour markets are established. The individualized and relatively powerless worker then confronts a labour market in which only short-term contracts are offered on a customized basis. Security of

---

<sup>171</sup> M. Friedman, *Capitalism and Freedom*, Chicago 1962, p. 133 (cit. after A. Kubiak, *Rola izb gospodarczych w promowaniu idei społecznej odpowiedzialności przedsiębiorstw*, “Zeszyty Naukowe Wyższej Szkoły Bankowej w Poznaniu” 2008, no. 21, p. 95).

<sup>172</sup> A. Matysiak, *Samorząd gospodarczy...*, op. cit., p. 78.

<sup>173</sup> D. Harvey, *Neoliberalizm. Historia katastrofy* [A Brief History of Neoliberalism], Warszawa 2008, p. 45.

tenure becomes a thing of the past. And he added that ‘a personal responsibility system [...] is substituted for social protections (pensions, health care, and protections against injury) that were formerly an obligation of employers and the state. Individuals buy products in the markets that sell social protections instead. Individual security is therefore a matter of individual choice tied to the affordability of financial products embedded in risky financial markets.’<sup>174</sup>

As a result of the asymmetry between capital and labour, mentioned supra, the neoliberal hegemony brought an immense increase of inequality on the local and the global scale<sup>175</sup>. The “concentration of income and wealth, and political power in the upper echelons of society caused the spread of poverty, chaos, violence and uncertainty all over the globe.”<sup>176</sup> This asymmetry of interests triggered the current global crisis; the economy of many countries was on the verge of bankruptcy. The global crisis has also affected the Polish economy.

The said asymmetry has led in Poland, to the social and economic turmoil, to corruption and organized crime such as the dubious business groups’ connections with criminal groups, in which a part of the Polish political class was implicated. This was evidenced by numerous examples of corporate or financial scandals, law breaking, adverse law regulations, no respect for proper conduct and business ethics, and the declining status of the cultured elite of the society. The neoliberal economic system, as mentioned supra, has been adopted in Poland but without constitutional authority.

Meanwhile, the constitutional foundations of the economic system in Poland, is the “social market economy, based on the freedom of economic activity, private ownership, and solidarity, dialogue and cooperation between social partners.”<sup>177</sup> The most important social partners in this system are trade unions and chambers of industry and trade of the economic

---

<sup>174</sup> Ibidem, p. 227.

<sup>175</sup> J. Stiglitz, *Globalizacja* [Globalisation and Its Discontents], Warszawa 2004, p. 21; J. Attali, *Zachód. 10 lat przed totalnym bankructwem?* [Tous ruiné dans dix ans?], Warszawa 2010, p. 102; I. Romiszewska, *Państwo jako stabilizator w trakcie globalnego kryzysu*, “Zeszyty Naukowe Wyższej Szkoły Bankowej w Poznaniu” 2011, no. 33, p. 7.

<sup>176</sup> D. Harvey, *Neoliberalizm...*, op. cit., p. IV (cover); Cf. D. Cohen, *Bogactwo świata, ubóstwo narodów* [The Wealth of the World and the Poverty of Nations], Kraków 2000.

<sup>177</sup> Art. 20 Konstytucji Rzeczypospolitej Polskiej z 2.04.1997 r., op. cit.

self-government. They represent the interests of the whole business community; but as state organs, they also represent interests of the entire society and the interests of employees (indirectly). In this aspect, they differ from the economic chambers of the Anglo-Saxon model, which represent individual interests of business elite groups and have no major impact on public life or balance between public and private interests.

Only chambers of trade and industry, under the public law, stand as advocates of the social market economy with social responsibility and the sustainable socio-economic development. The introduction of the new model of chambers in Poland based on provisions of the Article 20 of the Constitution of the Republic of Poland (so far never implemented) is in the interest of the state. It is the constitutional imperative to reinstate, in practical terms, the social market economy system, which secures the symmetry of interests of entrepreneurs and employees, that is between capital and labour, and is in line with the philosophy of values based on empathy.

Both the economic self-government and social market economy with social responsibility are based on the same philosophy of values, which is the philosophy of empathy. They are mutually conditioned and constitute an integral whole. They legitimize democracy by giving it a human dimension. In the economic aspect, they both can unleash the dynamic innovative entrepreneurship and reduce the cultural and development gap between Poland and the leading "old" EU countries.

On the other hand, the rebirth of the professional self-government has been more successful.<sup>178</sup> The medical self-government was reestablished as one of the first by the Act of 17 May 1989.<sup>179</sup> Under this act, the Polish Chamber of Physicians and Dentists (and its regional medical chambers) is

---

<sup>178</sup> S. Wykrętowicz, *Odrodzenie samorządu zawodowego w III Rzeczypospolitej*, in: B. Nawrot, J. Pokładecki (eds.), *Samorząd gminny w Polsce...*, op. cit., p. 253.

<sup>179</sup> Ustawa z 17.05.1989 r. o izbach lekarskich, Dz.U. nr 30, poz. 158 [Act on Chambers of Physicians of 17 May 1989, Journal of Laws no. 30, item 158]; ustawa z 9.03.1990 r. o zmianie ustawy o izbach lekarskich, Dz.U. nr 20, poz. 120 [Act on Amending the Act on Medical Chambers of 9 March 1990, Journal of Laws no. 20, item 120]; ustawa z 2.12.2009 r. o izbach lekarskich, Dz.U. nr 219, poz. 1708 [Act on Medical Chambers of 2 December 2009, Journal of Laws no. 219, item 1708]. The Bar Chambers and the Chamber of Legal Advisors (1982) were created before the medical ones in the final period of the authoritarian communist regime, called the real socialism. They were not institutions of professional self-government, because authoritarianism and self-government are mutually exclusive. They became institutions of professional

the central organisation in the system of medical self-administration in Poland. The main tasks of the Chamber are: a) supervise medical doctors, that they perform their duties properly and with diligence; b) establish ethical and deontological principles of professional conduct for all physicians and ensure that they are followed; c) represent and protect the medical profession; d) perform other tasks specified in separate regulations.

Medical chambers are corporations under public-law with compulsory membership and independent of the government administration. They are, by law, a form of decentralised public administration and carry out the delegated tasks, that had before been performed by the government administration. In particular, one of the most important tasks is to keep an official medical Register. In order to enter into the Register and be issued a license to practise, physicians are required to meet certain conditions. In this way, the aforementioned Act transfers the moral responsibilities in matters pertaining to medical practice, from the government officials to the medical community organized in chambers as a form of professional self-government. At the same time, in case of breach of the Code of Ethics and deontology, the regional medical court or the Supreme Medical Court (in the case of appeal), is responsible to perform the adjudication of medical professional liabilities and arbitration. The medical court may impose penalties, subject to the extent of the doctor negligence or misbehaviour and may issue warnings or a censure, suspend from the register for a period of six months to three years, and in exceptional cases, withdraw the license to practise and erase a doctor from the medical Register.

Medical chambers as professional self-governing bodies have their own assets such as funds from membership fees, subscriptions, donations, income from business activities or the government funding, that help “cover the costs of specified regulatory activities, that had previously been performed by the government administration bodies” (Article 60). Provisions of the Medical Chambers Act of 1989, amended in 1990 and in 2009,<sup>180</sup> are in keeping with the state theory on self-government. They establish the professional self-government of medical doctors with a wide range of public tasks and administrative authority and are a form of decentralised administration.

---

self-government, according to the administrative law theory, and an entity of decentralised state administration in 1989, after country's transition to democracy.

<sup>180</sup> Ustawa z 2.12.2009 r. o izbach lekarskich, op. cit.

The professional self-government for pharmacists operates on similar principles. It was re-established in accordance with the law on Chambers of Pharmacists Act of 4 April 1991,<sup>181</sup> in which we read that “the Supreme Pharmaceutical Chamber and its regional units represent the professional, social and economic interests of professional pharmacists and have the status of professional self-government for pharmacists, independent and subject only to law. Both the Supreme Pharmaceutical Chamber and the regional pharmaceutical chambers have legal personality and mandatory membership.” The pharmaceutical self-government keeps a Register of pharmacists. It also grants the licence to practise the pharmaceutical profession and may revoke a pharmacist’s license to run a pharmacy or pharmaceutical warehouse. The professional self-government of pharmacists works on the same principles as the medical one. Quite similar is the issue of the professional liability of pharmacists. In case of gross violation of the principles of ethics and deontology, the Act confers, upon the pharmacy courts, the responsibility to perform the adjudication of professional liabilities including the withdrawal of licence to practise the pharmaceutical profession.

Similar regulations apply to professional self-governing organisations of nurses and midwives<sup>182</sup>, barristers, attorneys-at-law, veterinary surgeons, notaries public, auditors, patent attorneys, architects, urban planners and others. As most trusted professions, considering their high level of competence and social functions, they need special protection from the state. Notwithstanding, the democratic state of law, by granting its licensed professionals their professional self-government, shows confidence that they will carry out their tasks effectively and as the honorable public service commitment.

---

<sup>181</sup> Ustawa z 19.04.1991 r. o izbach aptekarskich, Dz.U. nr 41, poz. 179 [Act on Pharmaceutical Chambers of 19 April 1991, Journal of Laws no. 219, item 1708].

<sup>182</sup> Ustawa z 19.04.1991 r. o samorządzie pielęgniarek i położnych, Dz.U. nr 41, poz. 178 [Act on Self-Government of Nurses and Midwives of 19 April 1991, Journal of Laws no. 41, item 178].



## Summary

---

As emphasized above, one of the important implications of the French Revolution (1789) was the emergence of self-government as a form of decentralised state administration. The abolition of the feudal system gave rise to democracy. One of the first legal acts passed by the National Constituent Assembly on 14 December 1789, was the Law on municipalities, which led to the establishment of a new liberal and democratic State. This law gave rise to the first local government as a corporation under public-law with mandatory membership and administrative authority. The system of self-government is, by law, based on three basic principles still in force today: a) election of legislative bodies; b) division into the legislative and the executive; and c) independence of the government administration.

The Law on municipalities served as a template for the future legal system and as reference term for chambers of economic and professional self-government. One should note that both are public-law corporations with mandatory membership and administrative authority. However, there is an essential difference between them, and it is the character of bonds between members of the said chambers.

In the case of chambers of the economic self-government, the economic bond is based on individual egoism or business groups. Their main goals are: (1) to optimise interests of business groups with the whole society and (2) set limits to selfish business groups by the state which represents public interests and public good.

However, chambers of commerce of the Anglo-Saxon model, under private law in Poland, cannot optimise interests of the state with that of business groups. As associations without administrative authority, they can only “manage their own affairs, but have no significant impact on public

affairs. In contrast to local governments, they cannot apply democratic principles to keep balance between public and private good.”<sup>183</sup>

The situation looks different in the case of chambers of professional self-government. It is not the profession itself, that bonds members of these chambers (of public trust), but the ethos of professions of public trust, which is understood as public service guided by empathy and not by selfishness. Therefore, a profession of public trust is not merely a profession but a state of mind. In the first Polish Act on medical chambers of 1921, we read that “with the intention to resolve and organize health care services and set the main tasks and objectives, [...] medical chambers and the Supreme Chamber of Physicians (Article 1) are being established to represent the medical profession.”<sup>184</sup> The profession of public trust is a vocation. Its main purpose is public service and, according to Emanuel Kant, its categorical imperative is to bring specialized assistance to every individual who needs it, to bring the kind of help that only a doctor, lawyer or a representative of other professions of public trust can offer. The professions in question are *aristos*, which in Greek means ‘the few best’ among all professions; the intellectual elite of the society. They are people with outstanding academic education, cultural behaviour, perfectly prepared to perform their responsible public service. *Aristos* means: great honor and an even a greater responsibility.

The remuneration of doctors, lawyers, notaries public or other professions of public trust is not a mere pay for the work performed. It is an honorary compensation for the public service performed; it is a form of honorable donation (Latin) and falls “within the limits of the public interest”; it is not a category of profit motivated by egoism.

In the developed countries, professions of public trust enjoy high social prestige. There is a social understanding that a fee for medical services (or that of a lawyer and others) is decent and adequate to their responsibilities. There is a wide conviction, that such a fee is “within the public interests” and ensures that these professions are performed in accordance with expectations of the whole society. However, when a fee of physicians and other representatives of public trust professions is not “decent” or adequate to the rank of their public service, then the public interest may be violated and may debilitate the system of public administration.

---

<sup>183</sup> A. Matysiak, *Samorząd gospodarczy...*, op. cit., p. 78.

<sup>184</sup> Ustawa z 2.12.1921 r. o ustroju i zakresie działania izb lekarskich, op. cit.

# Bibliography

---

- Attali J., *Zachód. 10 lat przed totalnym bankructwem?* [Tous ruiné dans dix ans?] Warszawa 2010.
- Balcerek M., *Ordoliberalna koncepcja społecznej gospodarki rynkowej w RFN (1945-1963)*, in: S. Wykrętowicz (ed.), *Obywatelski projekt ustawy o izbach przemysłowo-handlowych w Polsce*, Poznań 2012.
- Bartnik J., *Izby rzemieślnicze jako organizacje samorządu gospodarczego w Polsce*, in: S. Wykrętowicz (ed.), *Spór o samorząd gospodarczy w Polsce*, Poznań 2005.
- Baszkiewicz J., *Richelieu*, Warszawa 1995.
- Bigo T., *Związki publicznoprawne w świetle ustawodawstwa polskiego*, Warszawa 1928.
- Blok Z., *Teoria polityki – studia*, Poznań 1998.
- Buczkowski P., *Samorząd lokalny i budowa społeczeństwa obywatelskiego w Polsce do 1990 r.*, in: P. Buczkowski (ed.), *Odrodzenie samorządu terytorialnego. Budowa społeczeństwa obywatelskiego*, Poznań 1994.
- Buenk B.W., *De Kamers van Koophandel in de praktijk*, Kluwer 1991.
- Bujak F., Pazdro Z., Próchnicki Z., Sobiński S., *Polska współczesna*, Lwów 1926.
- Ceballos L., *Diccionario de organizaciones economicas internacionales*, Madrid 1995.
- Chodubski A., *Idea samorządu gospodarczego jako wyzwanie globalne*, in: S. Wykrętowicz (ed.), *Spór o samorząd gospodarczy w Polsce*, Poznań 2005.
- Chodubski A., *Samorząd lokalny jako zjawisko cywilizacyjne odrotu od społeczeństwa masowego*, in: B. Nawrot, J. Pokładecki (eds.), *Samorząd gminny w Polsce. Doświadczenia i perspektywy*, Poznań 1999.
- Cohen D., *Bogactwo świata, ubóstwo narodów* [The Wealth of the World and the Poverty of Nations], Kraków 2000.
- Cyganek S., *Izby przemysłowo-handlowe w Polsce i w Niemczech*, Poznań 2004.
- Dębowski E., *Dzieje rzemiosła w krótkim zarysie*, Łódź 1947.
- Dinter H.S., *Dzieje wielkiej kariery*, Łódź 1965.

- Eucken W., *Podstawy polityki gospodarczej*, Poznań 2005.
- Fleiner F., *Institutionen des deutschen Verwaltungsrecht*, Tuebingen 1922.
- Głąbiński S., *Skarbowość samorządowa w Polsce i potrzeba jej reformy*, Bielsko 1938.
- Grelowski Z., *Samorząd specjalny*, Katowice 1947.
- Grzelak M., Kmieciak R., *Ustrój i zadania samorządu gospodarczego*, in: S. Wykrętowicz (ed.), *Samorząd w Polsce. Istota, formy, zadania*, Poznań 1998.
- Gustafsson A., *Samorząd terytorialny w Szwecji* [Local Government in Sweden], Szczecin 1992.
- Harvey D., *Neoliberalizm. Historia katastrofy* [A Brief History of Neoliberalism], Warszawa 2008.
- Hubert J., *Ogólne stanowisko prawne Uniwersytetu Poznańskiego*, Poznań 1926.
- Izby rolnicze we Francji*, France – Poland Foundation, Paris 1994.
- Izdebski H., *Samorząd terytorialny w II Rzeczypospolitej*, cz. II, „Samorząd Terytorialny” 1991, no. 6.
- Jaroszyński M., *Nadzór nad samorządem. Pamiętnik zjazdu przedstawicieli sejmików powiatowych w Warszawie*, Warszawa 1925.
- Jaroszyński M., *Rozważania ideologiczne i programowe na temat samorządu*, Warszawa 1936.
- Jaworski W.L., *Nauka prawa administracyjnego: zagadnienia ogólne*, Warszawa 1924.
- Jędraszko A., *Samorząd w Niemczech na przykładzie Stuttgartu*, Warszawa 1994.
- Jędrzejewski T., *Samorząd gospodarczy a współczesne ustawodawstwo polskie*, „Przegląd Ustawodawstwa Gospodarczego” 1994, no. 7-8.
- Jędrzejewski T., *Samorząd gospodarczy a współczesne ustawodawstwo polskie*, in: S. Wykrętowicz (ed.), *Spór o samorząd gospodarczy w Polsce*, Poznań 2005.
- Jędrzejewski T., Rączka P., *Izby rolnicze*, „Przegląd Ustawodawstwa Gospodarczego” 1996, no. 11.
- Jellinek G., *Allgemeine Staatslehre*, Berlin 1928.
- Kłapkowski B., *Rady handlowe z 1809 r. oraz izby handlowe i rękodzielnicze z 1817*, „Z czasopismo Prawno-Historyczne” 1964, vol. 16, (I).
- Klimczak B., *Lojalność i odpowiedzialność członków korporacji zawodowych*, in: R. Kmieciak (ed.), *Z badań nad samorządem zawodowym w Polsce*, Poznań 2010.
- Klimczak B., *Teoretyczne podstawy badań grup interesu na rzecz ładu rynkowego*, in: B. Klimczak (ed.), *Samorząd gospodarczy i zawodowy w procesie powstawania ładu rynkowego w Polsce*, Wrocław 2001.

- Kmieciak R., *Samorząd gospodarczy w Polsce. Rozważania na temat modelu ustrojowego*, Poznań 2004.
- Kmieciak R., *Wielkopolska Izba Rolnicza jako forma samorządu zawodowego i gospodarczego*, Poznań 1995.
- Kownslar A.O., Frizzle D.B., *Discovering American History*, New York–Toronto 1967.
- Kroński A., *Teoria samorządu terytorialnego*, Warszawa 1932.
- Kubiak A., *Rola izb gospodarczych w promowaniu idei społecznej odpowiedzialności przedsiębiorstw*, „Zeszyty Naukowe Wyższej Szkoły Bankowej w Poznaniu” 2008, no. 21.
- Kuciński J., *Izby przemysłowo-handlowe na ziemiach polskich (1809-1919)*, „Studia Prawno-Ekonomiczne” 1974, vol. 12.
- Leoński Z., *Tradycje samorządu terytorialnego w Polsce*, „Samorząd Terytorialny” 1991, no. 3.
- Leoński Z., *Ustrój i zadania samorządu terytorialnego*, in: S. Wykrętowicz (ed.), *Samorząd w Polsce. Istota, formy, zadania*, Poznań 1998.
- Leoński Z., *Zasada wolności gospodarczej a samorząd gospodarczy*, in: S. Wykrętowicz (ed.), *Spór o samorząd gospodarczy w Polsce*, Poznań 2005.
- Leoński Z., Niewiadomski Z., *Samorząd terytorialny Rzeczypospolitej Polskiej*, Warszawa–Zielona Góra 1994.
- Mały rocznik statystyczny 1939, GUS, Warszawa 1939.
- Matysiak A., *Rola samorządu gospodarczego w koordynacji działań zbiorowych w gospodarce rynkowej*, in: S. Wykrętowicz (ed.), *Spór o samorząd gospodarczy w Polsce*, Poznań 2005.
- Matysiak A., *Samorząd gospodarczy w świetle koncepcji społeczeństwa obywatelskiego*, in: B. Klimczak (ed.), *Samorząd gospodarczy i zawodowy w procesie powstawania ładu rynkowego w Polsce*, Wrocław 2001.
- Müller-Armack A., *Soziale Marktwirtschaft*, in: *Handwörterbuch der Sozialwissenschaften*, Bd. 9, Stuttgart 1956.
- Pacanowska R., *Podstawy prawne i organizacja samorządu powiatowego w Wielkopolsce i na Pomorzu (1919 1939)*, „Zeszyty Naukowe Wyższej Szkoły Bankowej w Poznaniu” 2008, no. 21.
- Panejko J., *Geneza i podstawy samorządu europejskiego*, Wilno 1934.
- Panejko J., *Początek izb zawodowych i gospodarczych*, in: W.L. Jaworski, *Projekt kodeksu agrarnego*, Warszawa 1928.
- Panejko J., *Zagadnienie organizacji urzędów agrarnych*, in: W.L. Jaworski, *Projekt kodeksu agrarnego*, Warszawa 1928.
- Pietkiewicz Z., *Samorząd gospodarczy w Polsce*, Poznań 1930.

- Pietrzak-Pawłowska I., *Przewrót przemysłowy i warunki industrializacji do 1918 r.*, in: J. Pietrzak-Pawłowska (ed.), *Uprzemysłowienie ziem polskich w XIX i XX w. Studia i materiały*, Wrocław 1970.
- Piwarowski K., *Dzieje Gdańska w zarysie*, Gdańsk 1997.
- Puaux P., *Les Chambers de commerce et d'industrie*, Paris 1998.
- Pyndt H., *Decentralizacja kompetencji w gminie*, Roskilde 1990, no. 15.
- Rabska T., *Podstawowe pojęcia organizacji administracji*, in: J. Starościk (ed.), *System prawa administracyjnego*, vol. I, Wrocław, 1977.
- Romiszewska I., *Państwo jako stabilizator w trakcie globalnego kryzysu*, „Zeszyty Naukowe Wyższej Szkoły Bankowej w Poznaniu” 2011, no. 33.
- Rusiński W., *Pierwsza rewolucja przemysłowa z perspektywy dwóch stuleci*, „Roczniki Dziejów Społecznych i Gospodarczych” 1970, vol. 31.
- Rutkowska M., *Wolne zawody prawnicze*, in: B. Klimczak (ed.), *Samorząd gospodarczy i zawodowy w procesie powstawania ładu rynkowego w Polsce*, Wrocław 2001.
- Rutkowska M., *Zaufanie publiczne w działaniach zbiorowych na przykładzie samorządów zawodowych w Polsce*, in: A. Matysiak (ed.), *Działania zbiorowe – teoria i praktyka*, Wrocław 2003.
- Rutkowski J., *Zarys gospodarczych dziejów Polski w czasach przedrozbiorowych*, Poznań 1923.
- Scheffs M., *Ziemstwo kredytowe i kredyt rolniczy*, Poznań 1918.
- Szczaniecki M., *Powszechna historia państwa i prawa*, vol. 1, Warszawa 1968.
- Słobodzian B., *Współczesny system samorządu terytorialnego w Polsce*, Toruń 2005.
- Smith A., *Badania nad naturą i przyczynami bogactwa narodów* [An Inquiry Into the Nature and Causes of the Wealth of Nations], vol. 1-2, Warszawa 1954.
- Sobczak J., *Koncepcja administracji i samorządu w polskiej myśli polityczno-prawnej okresu międzywojennego*, in: B. Nawrot, J. Pokładecki (eds.), *Samorząd gminny w Polsce. Doświadczenia i perspektywy*, Poznań 1999.
- Stiglitz J., *Globalizacja* [Globalisation and Its Discontents], Warszawa 2004.
- Stockholms Handelskammare*, Stockholm 1988.
- Taylor E., *Historia rozwoju ekonomiki*, vol. 1, Poznań 1967.
- The Chamber of Commerce in the Netherlands*, Woerden 1992.
- Topolski J., *Próba modelowej interpretacji wzrostu gospodarczego ziem polskich w XIX w.*, „Kwartalnik Historii Kultury Materialnej” 1979, R. XXVII, no. 4.
- Trevelyan G.M., *Historia Anglii* [History of England], Warszawa 1963.
- Tupin R., *Trzecia sfera samorządności*, „Rzeczpospolita” of 24.03.1999.

- Ustawa rządowa o miastach z dnia 18 kwietnia 1791 r.* [The Government Act on Cities of 18 April, 1791], in: *Ustawodawstwo Sejmu Wielkiego z 1791 r.*, Kórnik 1985.
- Ustawa rządowa; prawo uchwalone dnia 3 maja 1791 r.*, IV: *Chłopi włościanie* [Government Act; adopted on 3 May, 1791, IV. Peasants and Peasantry], in: M.R. Bombicki, *Konstytucje Polski*, Poznań 1998.
- Valentin U., *Geschichte der deutschen Revolution 1848-1849*, Berlin 1939.
- Walkowiak K., *Rola izb rolniczych w rozwoju wsi i rolnictwa w Polsce*, Poznań 2004.
- Waschko S., *Samorząd gospodarczy w Polsce*, Poznań 1929.
- Wereszczyński A., *Państwo antyczne i jego renesansy*, Lwów 1928.
- Wójcik S., *Samorząd terytorialny w Polsce w XX wieku*, Lublin 1999.
- Wykrętowicz S., *Decentralizacja i samorząd*, „Kronika Wielkopolski” 1982, no. 1.
- Wykrętowicz S., *Odrodzenie samorządu zawodowego w III Rzeczypospolitej*, in: B. Nawrot, J. Pokładecki (eds.), *Samorząd gminny w Polsce. Doświadczenia i perspektywy*, Poznań 1999.
- Wykrętowicz S., *Podstawy prawne działalności izb rolniczych w Polsce*, „Zeszyty Naukowe Uniwersytetu Gdańskiego: Nauki Polityczne” 1992, no. 11.
- Wykrętowicz S., *Podstawy teoretyczne Obywatelskiego projektu ustawy o izbach przemysłowo-handlowych w Polsce*, in: S. Wykrętowicz (ed.), *Obywatelski projekt ustawy o izbach przemysłowo-handlowych w Polsce*, Poznań 2012.
- Wykrętowicz S., *Powstanie i rozwój samorządu gospodarczego w Europie i w Polsce*, in: S. Wykrętowicz (ed.), *Spór o samorząd gospodarczy w Polsce*, Poznań 2005.
- Wykrętowicz S., *Rozwój samorządu korporacyjnego jako zdecentralizowanej administracji publicznej*, „Zeszyty Naukowe Wyższej Szkoły Bankowej w Poznaniu” 2008, no. 21.
- Wykrętowicz S., *Samorząd akademicki a wolność nauki*, „Prace Naukowe Akademii Ekonomicznej we Wrocławiu: Ekonomia” 2006, no. 1131.
- Wykrętowicz S., *Samorząd jako wyraz demokracji obywatelskiej*, in: S. Wykrętowicz (ed.), *Samorząd w Polsce. Istota, formy, zadania*, Poznań 1998.
- Wykrętowicz S., *Ustrój prawny izb gospodarczych a lobbying*, in: B. Klimczak, A. Matysiak (ed.), *Działania zbiorowe w teorii i praktyce*, Wrocław 2001.
- Zakrzewski Z., *Rozwój uczelni w latach 1926-1950*, in: Z. Zakrzewski (ed.), *Akademia Ekonomiczna w Poznaniu 1926-1976*, Poznań 1976.
- Zarzycki A., *Rozporządzenie królewskie o zaprowadzeniu izb handlowych z 11 lutego 1848 r.*, in: A. Zarzycki, *Wielkopolska Izba Przemysłowo-Handlowa. Tradycja i współczesność 1851-2001*, Poznań 2001.

- Zeugnisse der Zeit: 125 Jahre Deutscher Industrie- und Handelstag, Bonn 1986.
- Zieliński E.L., *Rola samorządu gospodarczego w kształtowaniu środowiska przedsiębiorców*, Ph.D. diss., University Library, Poznań 1995.
- Zoll Z., *Regionalna wspólnota samorządowa, czyli samorząd województwa*, „Wspólnota” 1998, no. 36.
- Żywczyński M., *Historia powszechna*, Warszawa 1964.

## Acts of Law

- Dziennik Rządowy Miasta Krakowa, nr 62-65 (10.03.1849). Archiwum Państwowe w Krakowie, Oddział IV [State Archives, Kraków].
- Konstytucja Rzeczypospolitej Polskiej z 2.04.1997 r., Dz.U. nr 78, poz. 483 [Constitution of the Republic of Poland of 2 April 1997, Journal of Laws no. 87, item 483].
- Konstytucja Rzeczypospolitej Polskiej z dnia 17 marca 1921 r. [Constitution of the Republic of Poland of 17 March 1921], in: A. Peretiatkowicz, *Kodeks polityczny*, Poznań 1947.
- Ley 3/1993, de 22 marzo, *Basica de las Camaras de Comercio, Industria y Navegacion* [The Act on Chambers of Commerce, Industry and Shipping of Spain of 1993, from the author's library].
- Rozporządzenie Prezydenta Rzeczypospolitej Polskiej z 15.07.1927 r. o izbach przemysłowo-handlowych, Dz.U. nr 67, poz. 591 [Ordinance of the President of the Republic of Poland on Chambers of Commerce and Industry of 15 July 1927, Journal of Laws no. 67, item 591].
- Rozporządzenie Prezydenta Rzeczypospolitej Polskiej z 22.03.1928 r. o izbach rolniczych, Dz.U. nr 39, poz. 355 [Ordinance of the President of the Republic Poland on Chambers of Agriculture of 22 March 1928, Journal of Laws no. 39, item 355].
- Rozporządzenie Prezydenta Rzeczypospolitej z 7.06.1927 r. o prawie przemysłowym, Dz.U. nr 53, poz. 468 [Ordinance of the President of the Republic of Poland on Industrial Law of 7 June 1927, Journal of Laws no. 53, item 468].
- Ustawa z 13.07.1920 r. o szkołach akademickich, Dz.U. RP nr 72, poz. 494 [Act on Academic Schools of 13 July 1920, Journal of Laws no. 72, item 494].
- Ustawa z 2.12.1921 r. o ustroju i zakresie działania izb lekarskich, Dz.U. nr 105, poz. 763, art. 1 [Act on Medical Chambers of 2 December 1921, Journal of Laws no. 105, item 763].
- Ustawa z 23.03.1933 r. o częściowej zmianie ustroju samorządu terytorialnego, Dz.U. nr 35, poz. 294 [Act on the Partial Change of the System of the



- Territorial Self-Government of 23 March 1993, Journal of Laws no. 35, item 294].
- Ustawa konstytucyjna z 23.04.1935 r. Dz.U. nr 30, poz. 227 [Constitutional Act of 23 April 1935, Journal of Laws no. 30, item 227].
- Ustawa z 17.05.1989 r. o izbach lekarskich, Dz.U. nr 30, poz. 158 [Act on Chambers of Physicians of 17 May 1989, Journal of Laws no. 30, item 158].
- Ustawa z 30.05.1989 r. o izbach gospodarczych, Dz.U. nr 35, poz. 195 [Act on Chambers of Commerce of 30 May 1989, Journal of Laws no. 35, item 195].
- Ustawa z 8.03.1990 r. o samorządzie gminnym, Dz.U nr 16, poz. 95, tekst jedn. Dz.U. 2020, poz. 713 [Act on Local Governments of 8 March 1990, Journal of Laws no. 16, item 95, the consolidated text: Journal of Laws of 2020, item 713].
- Ustawa z 9.03.1990 r. o zmianie ustawy o izbach lekarskich, Dz.U. nr 20, poz. 120 [Act on Amending the Act on Medical Chambers of 9 March 1990, Journal of Laws no. 20, item 120].
- Ustawa z 19.04.1991 r. o izbach aptekarskich, Dz.U. nr 41, poz. 179 [Act on Pharmaceutical Chambers of 19 April 1991, Journal of Laws no. 219, item 1708].
- Ustawa z 19.04.1991 r. o samorządzie pielęgniarek i położnych, Dz.U. nr 41, poz. 178 [Act on Self-Government of Nurses and Midwives of 19 April 1991, Journal of Laws no. 41, item 178].
- Ustawa z 14.12.1995 r. o izbach rolniczych, Dz.U. 1996, nr 1, poz. 3 [Act on Agricultural Chambers of 14 December 1995, Journal of Laws of 1995, no. 1, item 3].
- Ustawa z 20.12.1996 r. o gospodarce komunalnej, Dz.U. 1997, nr 9, poz. 43 [Act of December 20, 1996 on municipal services, Journal of Laws no. 9, item 43].
- Ustawa z 5.06.1998 r. o administracji rządowej w województwie Dz.U. nr 91, poz. 577 ze zm. [Act on Government Administration in Voivodships of 5 June 1998, Journal of Laws no. 91, item 577, as amended].
- Ustawa z 5.06.1998 r. o samorządzie powiatowym, Dz.U. nr 91, poz. 578 ze zm. [Act on District Self-Government of 5 June 1998, Journal of Laws no. 91, item 578, as amended].
- Ustawa z 5.06.1998 r. o samorządzie województwa, Dz.U. nr 91, poz. 576 ze zm. [Act on Regional Self-Government of 5 June 1998, Journal of Laws no. 91, item 576, as amended].

- Ustawa z 19.11.1999 r. Prawo działalności gospodarczej, Dz.U. nr 101, poz. 1178 [Act on Business Law of 19 November 1999, Journal of Laws no. 101, item 1178].
- Ustawa z 20.06.2002 r. o bezpośrednim wyborze wójta, burmistrza i prezydenta miasta, Dz.U. nr 113, poz. 984 [The Act on Direct Elections of Head of Municipality, Mayor and President of the City of 20 June 2002, Journal of Laws no. 113, item 984, as amended].
- Ustawa z 13.11.2003 r. o dochodach jednostek samorządu terytorialnego, tekst jedn. Dz.U. 2008, nr 88, poz. 539, [Act on Revenues of Territorial Self-government Units of 13 November 2003, the consolidated text: Journal of Laws of 2008, no. 88, item 539].
- Ustawa z 28.07.2005 r. o partnerstwie publiczno-prywatnym, Dz.U. nr 169, poz. 1420 [Act of 28 July 2005 on public-private partnership, Journal of Laws no. 169, item 1420]).
- Ustawa z 2.12.2009 r. o izbach lekarskich, Dz.U. nr 219, poz. 1708 [Act on Medical Chambers of 2 December 2009, Journal of Laws no. 219, item 1708].