

# Position of County Government in the Security Space

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**Abstract.** Security is a very important human need, which is addressed at all levels of local governance both by the central and local government bodies. As regards local government, the scope of tasks involving the provision of security on the local and regional levels has been adjusted to the capabilities (including financial) of individual local government units. Basic tasks are carried out at the municipal district level, supra-municipal tasks — at the county level, and regional tasks — at the provincial level, except that in the province there is a dualism of administration, meaning that administrative authority is shared between a central government-appointed governor, called the provincial governor, and an elected assembly called the regional council. In the case of the county, security-related tasks, as well as the competences relevant to this area, must be clearly defined in the act. At this level of public administration there is no presumption of competence for the benefit of the county authority. The county council performs the public tasks of a supra-municipal character set out by statute rather than the tasks not reserved for other entities. In order to ensure public order and safety of citizens, as well as fire and flood protection, the legislator authorises the county council to use technical means to record what is happening (CCTV cameras) in the area of public space, with the consent of the area manager or an entity holding a legal title to this area, or on the property and in civil structures constituting the property of the county or organisational units of the county, as well as in the area around such premises and structures, if it is necessary to ensure public order and the safety of citizens or provide fire and flood protection.

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## Introduction

Local government is a basic, public-legal form of securing one's own needs by the interested parties themselves. It is at the forum of local government at all levels that residents can decide themselves (or through representative bodies) on the directions of the local (and in the province — regional) policy. The grass-roots initiative finds its biggest outlet in the local government, which also deals with security issues.

The territorial system of the Republic of Poland ensures the decentralisation of public authority<sup>1</sup>. There is an obligation on the part of the state to set

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<sup>1</sup> Article 15(1) of the Constitution of the Republic of Poland of 2 April 1997. (Dz.U. No. 78, item 483, as amended), hereinafter referred to as the Constitution of the Republic of Poland. The notion of decentralisation refers to the process of continuous expansion of the powers of subordinate public authorities through the transfer of tasks, competences and necessary resources. Decentralisation, as provided for in the Constitution of the Republic of Poland, is not a one-off organisational undertaking, but a permanent feature of the political culture of the state, built on appropriate statutory solutions, compliant with the constitutional prin-

up decentralised structures<sup>2</sup>. The basic form of decentralisation is the local government, which is an expression of the will of local residents. The will of the residents of a county (similarly to those of a municipality and province) is shaped by law, so they cannot take actions that are not allowed by law. The legislator grants the inhabitants of a county a certain scope of freedom, which is, however, limited by the provisions of generally applicable law. Therefore, as a public task, safety should also not be absolutised — it must be implemented on the basis and within the limits of the law.

In Poland, local government operates on the basis of a three-tier structure, which should include social, economic or cultural ties as well as provide the territorial units with the ability to perform public tasks. The legislator has adopted solutions in the light of which the municipal and county governments are a local form of governance in the area, while the provincial government is its regional form. Such a form of local government is determined both by the area of its operation and the scope of tasks delegated by the legislator.

The territory of a local government unit, and thus also its borders, is one of the basic factors shaping the identity of this unit as a political and territorial community. The interpersonal, economic and cultural ties, which determine the degree of cohesiveness of this community and its political ability to perform public tasks, are formed in a historical process, usually a long-term one, through the prism of ties with the place of residence<sup>3</sup>. The evolution process also applies to the tasks which involve providing security both to residents and authorities, as well as to infrastructure facilities of strategic importance to the county.

A county should be understood as a local government community (which is formed, by virtue of law, by the inhabitants of the county) together with the relevant territory<sup>4</sup>. And it is within the boundaries of county government understood in this way that security matters are implemented (the above rule also applies to other local government units).

## Security as a responsibility of county government

The county authorities perform public tasks of a supra-municipal character, as defined by law. To give an example, such tasks include: public order and safety of citizens, flood protection, including the equipment and maintenance of the

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principles of the Polish system. Decentralisation cannot be understood mechanically, in isolation from the interpretative context, which is a consequence of the whole set of constitutional principles and values that make up the state system, Judgement of the Constitutional Court of 18 February 2003, K 24/02, OTK-A 2003, No. 2, item 11. According to the principle of decentralisation, the first to perform public tasks are those authorities which are closest to citizens and are able to perform these tasks effectively, Karpiuk M, *Zasady regulujące funkcjonowanie samorządu terytorialnego w Polsce*, [in:] Karpiuk M (Ed.), *Samorząd terytorialny w Polsce i na Ukrainie*. Poznań–Kijów, 2013, p. 53.

<sup>2</sup> Bożek M, Karpiuk M, Kostrubiec J, Walczuk K, *Zasady ustroju politycznego państwa*. Poznań, 2012, p. 149.

<sup>3</sup> Judgement of the Constitutional Court of 4 November 2003, K 1/03, OTK-A 2003, No. 8, item 85.

<sup>4</sup> Article 1 of the Act of 5 June 1998 on County Government (i.e. Dz.U. of 2018, item 995 as amended), hereinafter referred to as the A.C.G.

county flood protection stock, fire protection and prevention of other extraordinary threats to human life, health, and the environment, as well as defence capability. The catalogue of these tasks was laid down in Article 4 of the A.C.G.

In accordance with the rule of law, public authorities are only allowed to do as much as permitted by law. Public authorities cannot presume their competence. The competences of these authorities must clearly and unambiguously result from statutory provisions. Local government performs only tasks delegated to it by law and has no right to create public tasks for itself. Their implementation always takes place within the competencies assigned to such bodies by law<sup>5</sup>. Therefore, not only does the legislator have to clearly define the tasks and assign them to specific county authorities, but it also has to provide the authorities with specific competences, which is extremely important in the case of security-related tasks — very often involving the use of intervention measures.

The application of measures of power towards a citizen for security reasons is permissible, but in compliance with the conditions set out in Article 31(3) of the Constitution of the Republic of Poland. This provision stipulates that “any limitation upon the exercise of constitutional freedoms and rights may be imposed only by statute, and only when necessary in a democratic state for the protection of its security or public order, or to protect the natural environment, health or public morals, or the freedoms and rights of other persons. Such limitations shall not violate the essence of freedoms and rights”<sup>6</sup> he need to restrict the freedoms and rights of an individual is justified in so far as the restrictions imposed comply with the principle of proportionality, which means that the measures applied lead to reaching the intended objectives and are necessary to protect the interests to which they are linked, while the effects of the restrictions are proportionate to the burden imposed on the citizen. The principle of proportionality requires choosing such a measure of restricting freedoms or rights which would lead to reaching the intended objective, having regard to the requirement of adequacy<sup>7</sup>. Security does not, therefore, legitimise every interference in the area of freedom and human and civil rights, but only those which arise from the law and are necessary and proportionate at the same time.

The constitutional concept of security, especially as a substantive premise under Article 31(3) of the Constitution of the Republic of Poland, should be analysed in the context of the circumstances justifying the restriction of the exercise of a freedom or right<sup>8</sup>. The authority using the measures of power must always take into account

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<sup>5</sup> Judgement of the Regional Administrative Court of 24 October 2017, III SA/Kr 397/17, LEX No. 2381414.

<sup>6</sup> Article 31(3) of the Constitution of the Republic of Poland.

<sup>7</sup> Judgement of the Constitutional Court of 13 October 2010, Kp 1/09, OTK-A 2010, No. 8, item 74. See also: Karpiuk M, *Bezpieczeństwo jako instytucja konstytucyjna. Zarys problematyki*, [in:] Gizicki W (Ed.), *Wybrane problemy bezpieczeństwa globalnego po zimnej wojnie*. Lublin, 2015, pp. 12–13; Karpiuk M, *Wolność sumienia i wyznania a przestępstwa przeciwko tym wolnościom*, [in:] Nikołajew J, Sobczyk P, Walczuk K (Eds), *Wolność sumienia i religii a bezpieczeństwo i porządek publiczny*. Warsaw, 2017, pp. 50–51; Karpiuk M, *Ograniczenie wolności uzewnętrzniania wyznania ze względu na bezpieczeństwo państwa i porządek publiczny*. *Przegląd Prawa Wyznaniowego*, 2017, Vol 9, pp. 12–14.

<sup>8</sup> Karpiuk M, Prokop K, Sobczyk P, *Ograniczenie korzystania z wolności i praw człowieka i obywatela ze względu na bezpieczeństwo państwa i porządek publiczny*. Siedlce, 2017, p. 29.

individual conditions determining the threat and choose appropriate tools limiting the freedom and rights of an individual based on these conditions. The rule resulting from Article 31(3) of the Constitution of the Republic of Poland shall also apply to public order regulations. As specified in Article 41(1) of the A. C. G, in the scope not regulated in separate acts or other generally applicable regulations, in particularly justified cases, the county council may issue county public order regulations if it is necessary for the protection of life, health or property of citizens, or the natural environment, or to ensure order, peace and public security, if these reasons occur in the area of more than one municipality. In urgent cases, the county public order regulations may be issued by the county management board<sup>9</sup>, as provided for in Article 42(2) of the A.C.G. The competence to establish public order regulations within the county must not violate the constitutional principle of proportionality and should be applied as a last resort, when it is impossible to ensure the safety of the local community in a certain dimension through less intrusive means.

In order to carry out the tasks of the County Governor in the field of authority over the county services, inspectors and guards as well as the tasks defined in public order and safety acts, pursuant to Article 38a of the A.C.G., a public order and safety commission shall be established. Its tasks shall include: the evaluation of threats to public order and safety in the county; provision of opinions on the work of the police and other county services, inspectors and guards, as well as organisational units performing public order and safety-related tasks within the county; preparation of a draft county programme for crime prevention and = public order and safety; provision of opinions on drafts of other cooperation programmes of the police and other county services, inspectors and guards, as well as organisational units performing public order and safety-related tasks in the county; provision of opinions on the draft county budget with regard to threats to public order and

<sup>9</sup> For public order regulations see also: Karpiuk M, Kostrubiec J, The Provincial governorship Governor's Role in Health Safety. *Studia Iuridica Lublinensia*, 2018, No. 2, pp. 69–70; Szczęch N, Przepisy porządkowe wydawane przez organy samorządu terytorialnego dla zapewnienia porządku, spokoju i bezpieczeństwa publicznego, [in:] Karpiuk M, Mazuryk M, Wiczorek I (Eds), Zadania i kompetencje samorządu terytorialnego w zakresie porządku publicznego i bezpieczeństwa obywateli, obronności oraz ochrony przeciwpożarowej i przeciwpowodziowej. Łódź, 2017, pp. 90–97; Czuryk M, Stanowienie aktów prawa miejscowego przez organy samorządu terytorialnego szczebla lokalnego i regionalnego, [in:] Karpiuk M (Ed.), Akty normatywne i administracyjne. Warsaw, 2009, pp. 130–137; Karpiuk M, Akty prawa miejscowego organów samorządu terytorialnego, [in:] Karpiuk M, Kostrubiec J, Paździor M, Popik-Chorąży K, Sikora K, Legislacja administracyjna. Warsaw, 2013, pp. 120–122; Walczuk K, [in:] Czuryk M, Karpiuk M, Mazuryk M (Eds), Ustawa o wojewodzie i administracji rządowej w województwie. Komentarz. Warsaw, 2012, pp. 161–166; Karpiuk M, Status prawny organów samorządu terytorialnego w sferze bezpieczeństwa publicznego, [in:] Karpiuk M, Walczuk K (Eds), Prawo bezpieczeństwa publicznego. Warsaw, 2013, pp. 110–111; Sikora K, Istota i charakter prawny aktów prawa miejscowego w zakresie ich sądowo administracyjnej kontroli. Lublin, 2017, pp. 97–101; Karpiuk M, Kostrubiec J, Rechtsstatus der territorialen Selbstverwaltung in Polen. Olsztyn, 2017, pp. 101–103; Czuryk M, Akty prawa miejscowego organów rządowej administracji niezespółonej, [in:] Czuryk M, Karpiuk M, Kostrubiec J (Eds), Niezespółona administracja rządowa. Warsaw, 2011, pp. 265–268; Karpiuk M, Przepisy porządkowe jako szczególny rodzaj prawa miejscowego. *Studia Iuridica Lublinensia*, 2015, No. 4, pp. 21–33.

safety in the county; provision of opinions on drafts of acts of the local law and other documents regarding various matters related to the performance of tasks concerning security; provision of opinions on issues concerning public order and safety assigned by the county governor<sup>10</sup>. The public order and safety commission is an entity supporting the chairman of the county management board in the scope of tasks aimed at counteracting threats and removing their effects.

As stated in Article 38b of the A.C.G., in order to perform the tasks of the commission, the president of the public order and safety commission may require the police and other county services, inspectors and guards, as well as county and municipality organisational units performing public order and safety-related tasks, to provide documents and information about their work, except for personal files of employees and officers, operational and exploratory or investigative materials and files referring to individual administrative cases. In carrying out its tasks, the commission may cooperate with local governments of municipalities within the county, as well as with associations, foundations, churches or religious associations and other organisations and institutions. The legislator grants the president of the public order and safety commission the right to request documents and information related to the tasks of the commission, which is to improve its work and allow county authorities to properly perform security-related tasks.

## **Competence of county government in crisis management**

Crisis management issues are performed at all levels of the fundamental territorial division of the state. Due to the importance of security, which also includes crisis management, the subject matter is extremely important from the point of view of the normal functioning of the state and the implementation of the basic social need, that is security<sup>11</sup>.

One of the most important aspects of security for which the legislator has assigned competence to county authorities is crisis management. Based on the legal definition, crisis management is the activity of the public administration as part of the management of national security, which consists in preventing crisis situations, preparing to take control of them by means of planned actions, responding to the occurrence of crisis situations, dealing with their consequences and restoring critical assets and infrastructure<sup>12</sup>. In the crisis management process,

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<sup>10</sup> See also: Czuryk M, Zadania organów jednostek samorządu terytorialnego w stanie klęski żywiołowej. *Zeszyty Naukowe AON*, 2009, No. 3, p. 403; Karpiuk M, Zadania i kompetencje zespolonej administracji rządowej w sferze bezpieczeństwa narodowego Rzeczypospolitej Polskiej. Aspekty materialne i formalne. Warsaw, 2013, p. 387.

<sup>11</sup> Karpiuk M, Terenowe organy administracji publicznej właściwe w sprawach zarządzania kryzysowego. *Annales Universitatis Mariae Curie-Skłodowska. Sectio G. Ius*, 2014, No. 1, p. 75.

<sup>12</sup> Article 2 of the Act of 26 April 2007 on Crisis Management (Dz.U. of 2018, item 1401 as amended). See also: Czuryk M, Zadania i kompetencje samorządu terytorialnego w zakresie zarządzania kryzysowego, [in:] Karpiuk M, Mazuryk M, Wieczorek I (Eds), *Zadania...*, *op. cit.*, p. 48.

it will therefore be important to counteract crisis situations that have a negative impact on people's security. It is in this area that the county governor has quite broad competence.

As stated in Article 17(1,2) of the Polish Crisis Management Act, the competent authority in matters of crisis management within the county is the county governor as the head of the county council. Their tasks include: management of monitoring, planning, response to and removal of the effects of threats in the county; implementation of civil planning tasks; management, organisation and implementation of courses, exercises and training sessions in crisis management; implementation of undertakings resulting from the operational plan for the functioning of counties and cities with county rights; prevention, counteraction and removal of the effects of terrorist incidents; cooperation with the Head of the Internal Security Agency with regard to the counteraction and prevention of as well as recovery from terrorist incidents; organisation and implementation of tasks in the area of critical infrastructure protection<sup>13</sup>. The range of tasks of the county governor in the field of crisis management is relatively wide. Their implementation has a significant impact on the level of security in the county; therefore, the diagnosis, which allows for counteracting emergency situations, becomes essential.

Tasks in the field of crisis management are performed by the county governor with the help of the county crisis management team, county crisis management centre as well as joint administration and organisational units of the county. The support apparatus assisting the county governor in the performance of crisis management tasks is extensive, which indicates the significance of these responsibilities and the need for wide participation of various entities in their performance.

According to Article 17(5) of the Act on Crisis Management, the tasks of the county crisis management team include in particular: assessment of existing and potential threats that may have an impact on public security and forecasting these threats; preparation of proposals for action and submission of applications regarding the implementation, amendment or abandonment of actions included in the county crisis management plan to the county governor; provision of information concerning the threats to the public; provision of opinions on the county crisis management plan. The county crisis management team performs an advisory function. It analyses, among others, threats in terms of crisis situations and presents its position to the starost, so it also performs an analytical function.

The county crisis management centre performs, first of all, the information function — it ensures the flow of information for the needs of crisis management. However, this is not its only function, although it is a basic one. It also performs tasks similar those of the county crisis management team, but these are complementary tasks, otherwise they would overlap.

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<sup>13</sup> See also: Czuryk M, Dunaj K, Karpiuk M, Prokop K, *Prawo zarządzania kryzysowego. Zarys systemu*. Olsztyn, 2016, pp. 75–76; Karpiuk M, *Miejsce samorządu terytorialnego w przestrzeni bezpieczeństwa narodowego*. Warsaw, 2014, p. 171; Czuryk M, Dunaj K, Karpiuk M, Prokop K, *Bezpieczeństwo państwa. Zagadnienia prawne i administracyjne*. Olsztyn, 2016, p. 235; Kitler W, [in:] Kitler W, Czuryk M, Karpiuk M (Eds), *Aspekty prawne bezpieczeństwa narodowego RP. General Part*. Warszawa, 2013, pp. 189–190.

## Operation of the county government during the state of emergency

A state of emergency may be introduced in order to prevent the effects of natural disasters or technical failures having the characteristics of a natural disaster and to remove their consequences<sup>14</sup>. The aim of the county authorities' activities will be to prevent the effects of natural disasters or technical failures, as well as to remove their consequences. Therefore, during the state of emergency, the county does not prevent threats but their consequences. Corrective actions, rather than preventive actions, are initiated already after the threat has occurred.

A natural disaster is defined in Article 3 (1)(1) of the Natural Disasters Act as a natural disaster or technical failure, the consequences of which pose a threat to the life or health of a large number of people, property of a large size or the environment in large areas, while assistance and protection can be effectively undertaken only through emergency measures, in cooperation with various bodies and institutions and specialist services and forces operating under uniform management. The county governor is the entity which needs to be distinguished from among the cooperating bodies to which the above definition refers.

During the state of emergency, if this state was introduced in the area of more than one municipality within the county, actions carried out in order to prevent or remove the effects of a natural disaster are managed by the county governor. This local competence of the county governor results from Article 8 (2) of the N.D.A.. The county governor is entitled to use power instruments interfering with the freedom and rights of an individual during the state of emergency only if it has been declared in at least two municipalities located in one county.

Within the scope of managing activities in the county in order to prevent the effects of a natural disaster or remove them, the county governor may issue orders binding on executive bodies of municipalities, heads of organisational units established by the county, heads of county services, inspectors and guards, heads of fire protection units operating in the county and heads of organisational units temporarily put at their disposal by the competent bodies and directed to perform tasks in the county area. The legal basis for the issuance of such binding instructions is Article 10 (2) of the N.D.A.<sup>15</sup>. The issuance of binding orders to executive bodies of municipalities by the county governor raises doubts. Even the value of security does not entitle authorities to exclude the constitutional principle of decentralisation the lawmaker does not provide for such a possibility, so the

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<sup>14</sup> Article 2 of the Natural Disasters Act of 18 April 2002, hereinafter referred to as N.D.A. (Dz. U. of 2017, item 1897). See also: Karpiuk M, Właściwość wojewody w zakresie zapewnienia bezpieczeństwa i porządku publicznego oraz zapobiegania zagrożeniu życia i zdrowia. *Zeszyty Naukowe KUL*, 2018, No. 2, p. 235.

<sup>15</sup> See also: Karpiuk M, Zadania i kompetencje samorządu terytorialnego w czasie stanów nadzwyczajnych, [in:] Karpiuk M, Mazuryk M, Wieczorek I (Eds), *Zadania...*, *op. cit.*, pp. 101–102; Karpiuk M, Działanie organów administracji publicznej w czasie stanów nadzwyczajnych. *Studia Prawnicze i Administracyjne*, 2015, No. 4, p. 34.

legislator is not entitled to do so, and the binding orders of the county governor undermine this principle.

In the event of improper action during a natural disaster, the supervisory powers of the county governor are introduced by Article 10 (5) of the N.D.A.. Pursuant to this provision, in the event of the inability to direct or properly direct actions carried out in order to prevent or remove the effects of a natural disaster, the provincial governor may suspend the powers of the county governor to issue binding orders and appoint a proxy to direct these actions. The suspension of the county governor's powers takes place on the basis of imprecise criteria — inability to manage or improperly managing actions carried out in order to prevent the effects of a natural disaster or remove them. Neither of these criteria — the 'inability' to direct and 'inappropriate' directing — is constitutionally established. The Constitution of the Republic of Poland introduces the only criterion — the criterion of 'legality'.

The necessary restrictions on human and citizens' freedoms and rights, within the limits allowed by the Regulation of the Council of Ministers on the introduction of a state of emergency, shall be introduced by, among others, the county governor, within the scope of its competence. Such powers are granted in Art. 23 (1) of the N.D.A.<sup>16</sup>. They are very important and must be applied not only in a balanced, but also in a definitive way (if security cannot be ensured otherwise) because they interfere with the basis of a democratic state governed by the rule of law. This interference can only be of an exceptional nature.

The catalogue of rights and freedoms, which may be restricted by order or decision of the county governor, is contained in Articles 21 and 22 of the N.D.A.. This catalogue is relatively wide, allowing the county governor to manage security matters during a natural disaster in the area of the county independently to a significant extent.

Decisions of the county governor which introduce restrictions on human and civil rights and freedoms during a state of emergency, pursuant to Article 23 (4) of the N.D.A.: are immediately enforceable upon delivery or announcement; may be issued orally in an emergency and then confirmed in writing immediately afterwards. An appeal against them is filed within three days from the date of delivery or written confirmation of the decision issued orally, and the appeals filed are to be submitted to the appeal body (provincial governor) within three days, and considered within seven days from the date of delivery of the appeal<sup>17</sup>. In the case of decisions of a county governor limiting human and citizens' freedoms

<sup>16</sup> The uniqueness of the legal regime during a state of emergency consists primarily in the extension of powers, including those interfering with human and citizen freedoms and rights, Karpiuk M, *Zasady działania samorządu lokalnego w czasie stanu klęski żywiołowej. Annales Universitatis Mariae Curie-Skłodowska. Sectio G. Ius*, 2014, No. 2, p. 51. An authority cannot introduce socially-harmful and unnecessary measures when the implementation of more lenient measures enables the achievement of the same objective. The decision on which measure from the statutory catalogue should be taken will be made by the body taking such action, Czuryk M, *Podstawy prawne bezpieczeństwa narodowego w stanie kryzysu i wojny. Roczniki Nauk Społecznych*, 2013, No. 3, p. 70.

<sup>17</sup> See also: Karpiuk M, *Kształtowanie się instytucji stanów nadzwyczajnych w Polsce*. Warsaw, 2013, p. 166.



and rights, within the limits allowed by the Regulation of the Council of Ministers on the introduction of a state of emergency, the legislator imposes a special legal rigour, which is directly related to the need to ensure security on the territory of the county. Immediate execution and oral issuance of a decision by a county governor may result from the necessity to take immediate actions (without undue delay) aimed at preventing the effects of natural disasters or technical breakdowns having the characteristics of a natural disaster and removing such effects. In the case of disagreement with the limitation, the party has the possibility to quickly verify the decision of the county governor, if the decision is flawed.

## **Conclusions**

According to Article 16(2) of the Constitution of the Republic of Poland, the territorial government (including county authorities) participates in the exercise of public authority and performs a significant part of the public tasks assigned to it by statute in its own name and on its own responsibility<sup>18</sup>. On their own behalf and on their own responsibility, county authorities also perform Security-related tasks, which should constitute one of the most important aspects of local government policy, are also performed by county authorities on their own behalf and on their own responsibility.

In Article 166(1) of the Constitution of the Republic of Poland, the lawmaker states that public tasks aimed at satisfying the needs of a local government community are performed by local authorities as their own tasks. Security constitutes a need of the local government community; therefore, as a rule, it will fall under the category of the county's own tasks. It may turn out, however, that the implementation of this task will exceed the possibilities (including financial ones) of the county local community, as a result of which the support of government administration will be necessary. It is also often the case that security-related tasks, although important from the point of view of county residents, do not have the character of own tasks but constitute outsourced tasks, in which case they are financed from the state budget rather than from the budget of a local government unit.

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<sup>18</sup> Along with the granting of competences related to the implementation of public tasks, an obligation was established for the local government has been made responsible to perform these tasks, as well as ensure the effectiveness, scope, quality and timeliness of their implementation, Karpiuk M, *Samorząd terytorialny a państwo*. Prawne instrumenty nadzoru nad samorządem gminnym. Lublin, 2008, p. 72.

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**Streszczenie.** Bezpieczeństwo stanowi bardzo ważną potrzebę człowieka, która jest zaspokajana na wszystkich szczeblach zarządzania w terenie, zarówno przez organy administracji rządowej, jak też samorządu terytorialnego. W samorządzie terytorialnym zakres realizacji zadań związanych z zapewnieniem bezpieczeństwa na lokalnym i regionalnym forum został dopasowany do możliwości (w tym finansowych) poszczególnych jednostek samorządu terytorialnego. Zadania o charakterze podstawowym realizowane są na szczeblu gminnym, o charakterze ponadgminnym — na szczeblu powiatowym, a o charakterze regionalnym — na poziomie województwa, z tym że w województwie mamy dualizm administracji, jest wojewoda jako organ administracji rządowej i samorząd województwa. W przypadku powiatu zadania z obszaru bezpieczeństwa, jak też kompetencje z tego zakresu, muszą wynikać jednoznacznie z ustawy. Na tym poziomie wykonywania administracji publicznej nie ma domniemania kompetencji na rzecz organu powiatu. Powiat wykonuje wyraźnie określone ustawami zadania publiczne o charakterze ponadgminnym, a nie zadania niezastrzeżone na rzecz innych podmiotów. Ustawodawca upoważnia powiat, w celu zapewnienia porządku publicznego i bezpieczeństwa obywateli oraz ochrony przeciwpożarowej i przeciwpowodziowej, do stosowania środków technicznych umożliwiających rejestrację obrazu (monitoring) w obszarze przestrzeni publicznej, za zgodą zarządzającego tym obszarem lub podmiotu posiadającego tytuł prawny do tego obszaru lub na terenie nieruchomości i w obiektach budowlanych stanowiących mienie powiatu lub jednostek organizacyjnych powiatu, a także na terenie wokół takich nieruchomości i obiektów budowlanych, jeżeli jest to konieczne do zapewnienia porządku publicznego i bezpieczeństwa obywateli lub ochrony przeciwpożarowej i przeciwpowodziowej.

**Резюме.** Безопасность является очень важной человеческой потребностью, которая удовлетворяется на всех уровнях системы местного управления как органами государственной администрации, так и местными органами власти. В органах местного самоуправления объем задач по обеспечению безопасности на местном и региональном уровне приспособлен к возможностям (в том числе финансовым) отдельных органов местного самоуправления. Основные задачи выполняются на уровне гмин, общегминного характера — на уровне повята, регионального характера — на воеводском уровне, при чем в воеводстве существует дуализм администрации, т.е. воевода является органом государственной администрации и самоуправления воеводства. На уровне повята задачи в области безопасности, а также компетенции в этой сфере должны однозначно вытекать из закона. На этом уровне публичной администрации не существует презумпция компетентности органа повята. Повиат выполняет публичные, четко определенные законами задачи сверхгминного характера, одновременно не выполняя задач, отнесенных к компетенции других субъектов. Законодатель в целях обеспечения общественного порядка и безопасности граждан, а также защиты от пожаров и наводнений наделил повиат полномочиями, связанными с правом использовать технические средства фиксации (мониторинга) общественного пространства с согласия территориального администратора или лица, имеющего право собственности на данную территорию или недвижимости и строительных сооружений, входящих в собственность повята или структурных подразделений повята, а также на территории вокруг таких недвижимостей и строительных сооружений, если это является необходимым для обеспечения общественного порядка и безопасности граждан или обеспечения пожарной безопасности и защиты от наводнений.