

## **Public legal status of the department in France**

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### **SUMMARY**

The subject of the dissertation is the public legal status of the department as an intermediate degree in the concept of local government under French administrative and financial law. The consequence of such a field of scientific peregrinations is also to establish the impact of European law on the solutions adopted in France. The choice of French Republic legislation is not accidental, the local government in France has over two hundred years of tradition. Experience of the French Republic may indicate the direction of legislative work in Poland and other European countries.

In particular, the analysis covered legal provisions concerning the implementation of public utility tasks by the department and metropolises with a special legal status.

The local government in France is a local union separated in the structure of the state, which is established to independently perform public administration, equipped with material means enabling the implementation of imposed tasks. The local government is universal in nature as it concerns the entire territory of the French Republic. The entire state territory at the basic level has been divided into municipalities since 1798, and at the supra-municipal level into departments. Local authorities have legal personality. The basic constitutional principle resulting from the essence of self-governance is the principle of independence of local communities. In legal terms, the limits of independence (freedoms of territorial communities) are determined by the provisions of the French Constitution and constitutional laws. Independence concerns the independent shaping of the internal system of local government units, tax and financial independence, independent disposal of property, or performing public tasks.

The department has a long tradition in France. The origins of modern local government in France is associated with reforms introduced during the French Revolution. By decree of 14 December 1789 on the creation of communal authorities, the Constituent Assembly recognized the commune as the "fourth authority", adopting the concept of a "free commune" treated as a natural rights entity.

The basic method used in the work is the dogmatic-legal method based on the exegesis of the legal text and the historical-legal method.

In addition to the analysis of legal texts, the views of French and European doctrine are examined in the dogmatic and legal method. This method has been considered to be the most appropriate because of the subject matter of disparities, which focuses on existing legislation in the French Republic.

The department became the main beneficiary of decentralization reforms after 1982. Therefore, research problems related to: changes in the legal status of implementation of public tasks by the department were taken into account in the work; changes in the scope of the legal instruments used, enabling the department to perform its tasks; changes in the department's operating strategy, which has a direct and indirect impact on local development.

The department, performing public administration, operates independently, in accordance with the principle of decentralization. The department, being a part of public administration in a state, cannot be considered in isolation from state structures.

The legal status of the department in the French model refers to the European principles of the functioning of the intermediate degree: subsidiarity, decentralization, deconcentration, uniformity and independence.

The law of local government in the French model is a conglomerate of various legal norms. However, attention should be paid to EU regulations, i.e. the European Charter of Local Government.

The structure of the dissertation was adapted to the research purpose. The considerations are conducted in nine substantive chapters, creating the structure of the work. Each chapter contains synthetic conclusions of the presented topic. Chapter 1 is a theoretical introduction to the research work undertaken and aims to present a historical outline of the department. The analysis of the main trend of these changes turns out to be useful not only to outline the general public position of the department, but also to clarify many specific issues related to it.

In Chapter 2, the subject of consideration is the verification of the hypothesis that the proper legal organization of the department implies the possibility of performing public tasks by the department. The structure of this chapter includes provisions on the general principles of the department's functioning, i.e. decision-making and executive bodies. The analysis of the tasks performed by the department was aimed at highlighting its role and significance in the legal and territorial structure of the state.

Chapter 2 is closely related to the issues contained in Chapter 3, i.e. the tasks carried out by the department in the field of social and technical infrastructure, spatial and ecological planning, and tasks in the field of order protection, peace and public security.

Chapter 4 is devoted to the analysis of organizational and legal forms of implementing public tasks by the department. On the other hand, in chapter 5 and 6, issues related to the

privatization of public tasks, i.e. their performance on the basis of administrative contracts by private entities, including social economy entities or non-governmental organizations (associations, foundations) are addressed. As emphasized, the third and fourth sectors are an important partner of the department in the implementation of public tasks.

Chapters 7 and 8 deal with the issues of financial management of the department and control of the department's activities. The work presents the components of the department's budget (income and expenses) along with the legal instrumentalisation of the budget and financial economy in the context of public tasks. Public administration reforms carried out in the years 2014-2016 also changed the mechanisms of financing public tasks and the way of using funds from taxes of citizens and institutions. The department has a guaranteed share in public revenues in line with their tasks, independence in the field of financial management is limited by statutory regulations, including by prohibiting certain expenses on financing worship or clergy, private education, the salaries of state representatives, or the financing of political parties.

The final chapter 9 deals with the issue of changes in the legal status of the department and reforms carried out in 2014-2016 going towards the rationalization of territorial structures. As H. Izdebski rightly emphasizes, for over three decades Western democracies have been experiencing a continuous reform of territorial administration that results from its chronic crisis.

The thesis is closed with final conclusions in which reference was made to all the analyzes carried out.

In conclusion, local government departments are necessary to implement the decentralization principle. The department is obliged to a wide range of public tasks in the field of technical and social infrastructure, which have a direct and indirect impact on meeting the needs of the community and thus determine its important position in the model of local government as well as in the public administration system.

Keywords: local government, department, department tasks, administrative contracts, metropolises.

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