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Legality of the acts of local law in the light of the principles of a democratic state governed by the rule of law

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Summary

The subject of the work was to examine the possibilities and scope of application of article 2 of the Constitution of the Republic of Poland in the process of determining and verifying the legality / the rule of law of the acts of local law.

The principle of democratic state, like any other general clause, is characterized by constant evolution resulting from changes in social relations as well as values that at a given moment are preferred and become established as the norms. At the same time, there is no doubt that the above principle plays a fundamental and systemic role in shaping the state and framing legislation. Admittedly, this kind of influence concerns the law-making function in every aspect. Hence, the choice of the title issues and wording of the title of the dissertation: presenting the intention to identify the attributes of legality, on the example of the act of local law - in the context of a key (and at the same time non-casuistic, which promotes discretionary behavior) principle of the democratic state governed by the rule of law. Due to the structural arrangements of the title principle, and above all its general character, its detailed description required taking into account specific models that outline, in individual cases, different spheres and attributes of this kind of determinant of legality.

I have in turn analyzed the below listed in the individual chapters:

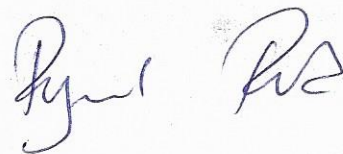
- 1) Doctrinal understanding of the clause of the democratic state governed by the rule of law, its essence and place in the legal system as well as the indications of constitutional jurisprudence in this respect;
- 2) Distinction of detailed rules derived from the principle of a democratic state governed by the rule of law, which constitute a real factor in ascertaining whether a given normative act falls within the limits of the rule of law;
- 3) Basic guidelines regarding the system of local self-government units as well as local administration authorities as entities (and their competent bodies) formulating local legal acts;

- 4) The concept and types of acts of local law as sources of universally binding law, including the basis and form of self-government and government local legal acts;
- 5) The concept of legality (and, as will be demonstrated, also of the rule of law; the issues related to this terminological and conceptual distinction will be gradually developed) of normative acts, including local legal acts; broken down into formal legality / rule of law as well as substantive legality / rule of law (with this that, what is worth noticing, an interesting coherence with the formal and material attributes of the state governed by the rule of law can clearly be noticed in this respect);
- 6) Semantic discrepancies of the terminologies related to legality / the rule of law of the acts of local law, with this that these terminologies, included in the structural or procedural laws, although *summa summarum* are synonymously different for self-government and government local legal acts. For the reasons outlined in the work, I will interchangeably use the terms such as "Consistency" and "compliance", "contradiction" and "non-compliance", due to their synonymous treatment (especially in the legal language). In this context, the problem of differentiating sanctions of illegality (especially in respect of the same local legal acts - not always subjected to defined interference in the same way; see, for example, repeal of the voivode's (province governor) regulation in the supervision procedure if the administrative court were to invalidate it) will also emerge;
- 7) the legislative powers of the legislative and executive bodies of the local government and field associations of combined and non-combined government administration agencies;
- 8) The issues of administrative supervision in the context of the acts of local law;
- 9) The issues of judicial review of the acts of local law and types of such review;
- 10) Forms of administrative and judicial system of review of legality / rule of law and the acts of local law;
- 11) doctrinal and political issues related to establishment of the acts of local law, taking into account the constitutional principle of a democratic state governed by the rule of law, along with specifying the models binding on the authorities establishing the acts of local law in this context;
- 12) The Activities of supervisory authorities as well as the law enforcement authorities in the process of examining the legality / the rule of law of the acts of local law, while adopting the constitutional principle of a democratic state governed by the rule of law.

In pursuing the research objectives, I have determined that that: 1) the principle of a democratic State governed by the rule of law and the specific models resulting from this principle are directly applicable in the assessment of the legality / the rule of law of the acts of the local law, on the same principles as "ordinary" acts; 2) the principle of a

democratic state governed by the rule of law and the detailed models resulting from this principle are undoubtedly used in the process of establishing the acts of local law and their application as well as in the practical activities of the authorities supervising (monitoring) proper legislative operation of the bodies implementing the acts of local law and this application may be direct and independent or indirect and related to other standards of the statutory law; 3) the limits of applications of the title charged with the system of control and supervision of principle and the conditions governing its application in practical operation of the authorities of the system of control and supervision of the acts of local law are fluid in nature and at present it is impossible to determine in detail the situations under which the principles of a democratic state governed by the rule of law and the specific models resulting from this principle apply and under which they don't.

In the process of examining the legality / rule of law of the acts of local law, as a result of the theoretical considerations so far undertaken, I would consider possibility of applying article 2 of the Constitution of the Republic of Poland and the resulting models as unlimited.

A handwritten signature in blue ink, appearing to be 'Ryszard R.' or similar, written in a cursive style.