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Activities of the Local Government During a State of Natural Disaster

Zasady działania samorządu terytorialnego w stanie klęski żywiołowej

ABSTRACT

As one of the states of exception, a state of a natural disaster often makes public administration, including local governments, take actions that restrict the sphere of human rights and civil liberties. One-person bodies are entrusted with being in charge in matters related to a state of natural disaster. Actions taken during a state of natural disaster to prevent or remove its effects are managed by the commune executive body when the state of a natural disaster was introduced only in the territory of the commune. However, if the state of a natural disaster was introduced in more than one commune in a district, then the starost is in charge of the operations. As a monocratic body is entrusted with executive powers, decisions can be taken faster and time is essential from the point of view of the effects of a natural disaster. Due to a formalized method of decision-taking, a collegial body may not respond adequately to a dynamically developing threat.

Keywords: local government; state of natural disaster; state of exception; threat

INTRODUCTION

Special threats of considerable intensity often require extraordinary measures. Such measures can be applied when a state of natural disaster is introduced. The actions aimed at preventing or removing the effects of a natural disaster at the local government level are conducted by communes and districts. Local govern-

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ments do not participate in actions aimed at mitigating the threat which was the basis for introducing the state of exception. The powers to take such actions at the voivodeship level were delegated to the voivode as a government administration body.[1] Therefore, matters associated with a natural disaster at the local level will be dealt with by local governments and those at the regional level – by government administration.

Article 232 of the Polish Constitution[2] states clearly that in order to prevent or remove the consequences of a natural catastrophe or a technological accident exhibiting characteristics of a natural disaster, the Council of Ministers may introduce, for a definite period no longer than 30 days, a state of natural disaster in a part of or upon the whole territory of the State. An extension of a state of natural disaster may be made with the consent of the Sejm. This provision specifies the conditions upon which it can be introduced, a possible territorial and temporal scope, as well as the mode of its introduction and the possibility of its extension.[3]

The Polish Constitution also mentions two reasons for which it may be necessary to introduce a state of natural disaster: preventing the effects of a natural disaster or a failure – preventive measures, removing those consequences – rescue operations.[4] The reasons for introducing this state of exception include sudden, violent phenomena, that pose a threat to people or that cause extensive human casualties (death or injuries of many people) as well as the loss of property or large-scale environmental damage.[5]

The local government, as an entity that best knows the needs and problems of local communities, is of great importance in preventing local threats, controlling them and removing their effects. Due to its position, it can respond to a threat and organize rescue operations until specialized rescue services arrive and it can protect against the spread of both the threat itself and its effects.[6]

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[1] J. Kostrubiec, *Status of a Voivodship Governor as an Authority Responsible for the Matters of Security and Public Order*, "Barometr Regionalny. Analizy i Prognozy" 2018, vol. 16(5), p. 36.

[2] Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws 1997, no. 78, item 483, as amended). English translation of the Constitution at: www.sejm.gov.pl/prawo/konst/angielski/kon1.htm [access: 10.09.2021].

[3] K. Sikora, *Komentarz do art. 232*, [in:] *Obronność, bezpieczeństwo i porządek publiczny. Komentarz do wybranych przepisów Konstytucji Rzeczypospolitej Polskiej*, eds. M. Karpiuk, P. Sobczyk, Olsztyn 2018, p. 362.

[4] P. Winczorek, *Komentarz do Konstytucji Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 roku*, Warszawa 2008, p. 437.

[5] B. Banaszak, *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2009, p. 986.

[6] J. Kostrubiec, *The Role of Public Order Regulations as Acts of Local Law in the Performance of Tasks in the Field of Public Security by Local Self-government in Poland*, "Lex localis – Journal of Local Self-Government" 2021, vol. 19(1), p. 115.

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This paper aims to define the place of the local government in the public administration executive system during a state of natural disaster and its role in removing the effects of the threat, which was the basis for introducing a state of exception.

METHODOLOGY

The legal-dogmatic method was used to prepare this paper. It was used to analyze the legal acts that regulate the state of natural disaster in Poland and then to define the place of the local government and its tasks during a state of exception. The analysis concerned both the constitutional and statutory level regulations, which define the legal status of public administration, including the local government in responding to a threat which is the basis for introducing a state of a natural disaster.

In turn, the theoretical legal method was applied to evaluate the tasks and competences of the local government during a state of natural disaster, as well as the possibility of government administration exercising its powers and encroaching upon the sphere of independence of this fundamental form of decentralization of public administration.

RESEARCH AND DISCUSSION

1. Local government

The local government can be defined as a separate entity – both from the organizational and legal perspective – which is the main manifestation of public administration decentralization.[7] According to the law, it is elected by inhabitants of an area. It is an entity which has its property and financial resources as a material basis for executing specific tasks, whose major features include administrative powers and independence of actions, an entity which has its legal personality and which performs public tasks defined in the legislation.[8] Local government has developed through democratic mechanisms that affect legal and social reality. As a public institution, it is of paramount importance due to its role in the democratic

[7] *Local Self-Government in Europe*, eds. B. Brezovnik, I. Hoffman, J. Kostrubiec, Maribor 2021, p. I (*Foreword*). See also M. Karpiuk, *The Local Government's Position in the Polish Cybersecurity System*, "Lex localis – Journal of Local Self-Government" 2021, vol. 19(3).

[8] M. Karpiuk, *Samorząd terytorialny a państwo. Prawne instrumenty nadzoru nad samorządem gminnym*, Lublin 2008, p. 58. Local self-government performs public tasks and has its own governing bodies and the attribute of independence acting on local or regional levels to exercise its competences in its own name and at its own responsibility. See idem, *The Organisation of the National System of Cybersecurity: Selected Issues*, "Studia Iuridica Lublinensia" 2021, vol. 30(2).

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legal state, functioning on the basis of the decentralization principle.[9] It participates in exercising public authority and performs significant public tasks as specified by the law on its own behalf.[10] The local government is a value in the democratic state and it is the foundation of the state, where inhabitants can put forward their grassroots initiatives in order to satisfy their own needs, as they know best how to do it. Therefore, the local government is a space to be arranged by those directly concerned.[11] Article 16 (1) of the Polish Constitution states clearly that all the inhabitants of the units of basic territorial division form a self-governing community in accordance with law. Therefore, the whole population determines the existence of the local government by being its basic element and a determinant of its actions. The local government structure in Poland has been changing over the years. It includes the commune, the district and the voivodeship. The 1998 reform of the territorial division and the territorial administration was essential to the present structure of the local government in Poland.[12]

To sum up, a local government is a public entity which is obligated to meet the needs of a local or regional community. It is made up of the inhabitants of a territory, who have the right to elect local government authorities (communal lawmakers and the executive authority). It has financial resources at its disposal and property used to perform public tasks. It has legally protected independence, which allows it to implement its own policy within the law and which limits any outside interference to supervision, provided it meets the criterion of legality.

2. A state of natural disaster

According to Article 2 of the Act of 18 April 2002 on the state of natural disaster,[13] a state of natural disaster can be introduced to prevent the effects of natural disasters or technical failure with the features of a natural disaster and in order to remove them. It shows that a state of natural disaster is introduced both as a preventive and a secondary measure. It can take place when the effects of a natural disaster or a technical failure occur or may occur. The point is not the very occurrence of a disaster or failure, but their effects, whose removal requires

[9] Idem, *Miejsce samorządu terytorialnego w przestrzeni publicznej*, "Administracja i Zarządzanie" 2008, no. 6, p. 123.

[10] M. Karpiuk, J. Kostrubiec, *Rechtsstatus der territorialen Selbstverwaltung in Polen*, Olsztyn 2017, p. 191.

[11] M. Karpiuk, *Działanie organów administracji publicznej w czasie stanów nadzwyczajnych*, "Studia Prawnicze i Administracyjne" 2015, no. 4, p. 32.

[12] Z. Bukowski, *Aktualna struktura organizacyjna samorządu terytorialnego w Polsce – czy czas na zmiany?*, [in:] *Samorząd terytorialny w Polsce i w Niemczech*, eds. M.E. Geis, G. Grabarczyk, J. Kostrubiec, J. Paśnik, T.I. Schmidt, Warszawa 2015, pp. 47–48.

[13] Consolidated text, Journal of Laws 2017, item 1897, as amended, hereinafter: ASND.

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the implementation of special measures. Not every natural disaster or technical failure will imply the need to introduce a state of natural disaster. If the state of natural disaster is introduced as a preventive measure, the threat must be real and probable. The state of exception is not a tool of political struggle or a manifestation of power, but its goal is to ensure (or restore) the normal function of the state or other public entities. It is introduced to protect safety, health, lives or to prevent considerable loss in property or in the natural environment, as well as to remove the effects of an existing threat.[14]

From the point of view of declaring a state of natural disaster, the negative effects of a natural disaster do not need to occur.[15] The introduction of a state of natural disaster is also justified by preventive measures if the threat can be avoided by actions possible only after such a state is introduced.

The state of natural disaster is a legal institution not identical to a natural disaster. A natural disaster can (but does not have to) be a reason for initiating a procedure with the resulting introduction of the state of natural disaster. According to Article 3 (1) (1) ASND, a natural disaster is understood to denote a disaster occurring for natural reasons or a technical failure whose effects pose a threat to many people, to property of great size or the natural environment on a large scale, and the assistance and protection can be provided effectively only by implementing extraordinary measures, in cooperation of different bodies and institutions and specialist services operating under a single command. A natural disaster can be caused either by a natural calamity or a technical failure, provided, however, that their effects have a considerable negative impact on people, property or the natural environment, and a response to the threat may involve an extraordinary measure because ordinary measures are not sufficient.

A natural disaster is defined in Article 3 (1) (2) ASND. According to this provision, a natural disaster is understood to denote an event associated with the action of natural forces, in particular, natural electric discharges, seismic shocks, strong winds, intensive atmospheric precipitation, long-term occurrence of extreme temperatures, landslides, fires, droughts, floods, ice-related phenomena on rivers, on the sea, on lakes and water reservoirs, mass occurrence of pests, plant or animal diseases or infectious diseases in people, or a different element.

According to Article 3 (1) (3) ASND, a technical failure is understood to denote violent, unexpected damage or the destruction of a building, structure, a technical

[14] See M. Karpiuk, T. Włodek, *Wygaśnięcie mandatu wójta na skutek skazania na karę grzywny za niedopełnienie obowiązków z zakresu zarządzania kryzysowego. Glosa do wyroku Sądu Rejonowego w P. z dnia 18 kwietnia 2019 r. (II K 1164/14)*, "Studia Iuridica Lublinensia" 2020, vol. 29(1), pp. 277–288.

[15] M. Karpiuk, *Kształtowanie się instytucji stanów nadzwyczajnych w Polsce*, Warszawa 2013, p. 145.

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device or a system of technical devices, resulting in a disruption in their operation or a loss of their properties.

A state of natural disaster as a state of exception can be introduced not only because of acts of nature but also of human acts, including in cyberspace, as well as terrorist actions bearing the features of a natural disaster. An analysis of the legal definition of a natural disaster shows that its elements include an occurrence of an event caused by natural forces, which poses a threat to the goods protected by law and causes a threat of such a size that normal measures taken by public administration are not sufficient to eliminate it.[16]

3. Legal status of the local government in a state of natural disaster

Pursuant to Article 8 ASND, actions taken during a state of natural disaster in order to prevent its effects are managed by: 1) head of the commune (mayor) – when the state of natural disaster was introduced only in the territory of a commune; 2) starost – if the state of natural disaster was introduced in more than one commune in a district. The government administrative body – the voivode – is in charge of actions aimed at preventing the effects of a natural disaster in a voivodeship.

The competence in matters associated with the state of natural disaster was given to local governments – the commune and the district. These are local government units (the commune in particular) with the greatest knowledge of the matters in its territory and with their inhabitants being the closest to their offices and institutions. Therefore, a response to a threat caused by a natural disaster and introducing the relevant state of exception will be the quickest if such decisions are made by entities at the place where the threat exists, i.e. in the territory of a commune as the basic and the smallest local government unit.

Since decisions during the state of natural disaster must be made quickly (because of the spread of the threat and its consequences), single-person bodies rather than collegial ones are in charge of the actions. It is similar in the state of natural disaster, when actions taken in order to prevent or remove its effects – when this state of exception was introduced only in the territory of a commune – are managed by the commune head (mayor). However, a starost is in charge of such actions if the state of natural disaster was introduced in more than one commune in the district.

Pursuant to Article 9 (2) ASND, the head of the commune (mayor) can issue binding orders to organs of auxiliary institutions, heads of the commune's units, heads of fire protection units operating in the commune and heads of units seconded temporarily to perform tasks in the commune under the command of the commune head. The entities which are given orders are obliged to follow the guidelines issued

[16] J. Stelmasiak, *Stany nadzwyczajne*, [in:] *Publicznoprawne podstawy bezpieczeństwa wewnętrznego*, ed. M. Zdyb, Warszawa 2014, p. 166.

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by the commune executive body. Cooperation of individual units of the commune facilitates managing the rescue operation and, in consequence, allows for effective actions in a threatening situation.

The commune executive body is subordinate to the starost with respect to actions taken in order to prevent or remove the effects of a natural disaster in the territory of the commune. By introducing this type of personal subordination, the legislator violates both the principle of decentralization of public administration and the principle of local government, when the principles make individual local government units independent, with the status of hierarchically insubordinate units. Subordination to the starost shatters the idea of the local government. The legislator is not entitled to restrict the independence of local government by laws which raise constitutional doubts.

Such far-reaching interference is introduced by the provision of Article 9 (5) ASND. According to it, if the head of a commune is unable to manage the actions aimed at preventing or removing the effects of a natural disaster, or if he is unable to do it properly, the voivode – either on his own initiative or upon the starost's request – suspends the powers of the head of commune (mayor) concerning the issuing of binding orders to the commune's institutions and to heads of the commune's units, operating in its territory, and appoints an authorized person to manage such actions. The criteria of "inability to manage" or "lack of ability to manage properly" are not constitutional criteria of supervision over local government, while the suspension of authority is clearly a supervisory measure, which can be applied only based on clear criteria allowing to limit the competence of a local government body.

By providing for the possibility of a lack of proper management of actions aimed at preventing or removing the effects of a natural disaster, the legislator allows for temporary replacement of the commune executive body, elected by a popular vote of the inhabitants, by a proxy.[17] There is a considerable disproportion of the status of both entities who can manage such actions. Being an elected local government body, the head of the commune (mayor) has a much better mandate to manage actions aimed at preventing or removing the effects of a natural disaster than a proxy which is politicized and appointed by means of an administrative decision (who does not need to have any proper competence).

With respect to managing actions aimed at preventing or removing the effects of a natural disaster, the starost can use Article 10 (2) ASND to issue binding orders to heads of communes (mayors), heads of district units, heads of district services, firefighting service, heads of fire protection units in the district and heads of units temporarily subordinate to him under decisions of competent authorities and assigned with tasks in the district territory. Issuing binding orders to heads of units

[17] M. Karpiuk, *Miejsce samorządu terytorialnego w przestrzeni bezpieczeństwa narodowego*, Warszawa 2014, p. 177.

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operating in the district seems obvious and it improves the effectiveness of actions aimed at overcoming the difficult situation associated with the natural disaster. A starost issuing binding orders to the executive body of a commune should no longer be present in the legal reality of Poland. The head of a commune (mayor) is not subordinate to the starost and a binding order is a form of influencing subordinate entities. The executive body of a commune and the starost are independent of each other and unrelated entities, which carry out the policies of their own local government units. Even a state of natural disaster does not justify an authoritative interference with the legal status of the executive body of a commune and ordering it to take specific actions by the starost, who – according to the Act of 5 June 1998 on district self-government[18] – is not even a district governing body (the district board is one).

Article 10 (4) ASND makes the starost subordinate to the voivode with respect to managing actions aimed at preventing or removing the effects of a natural disaster in the territory of the district, when the Council of Ministers introduced the state of natural disaster in more than one commune in the district. The starost is part of the local government structure, whereas the voivode is part of the government administration. Both structures are independent of each other, which is why the starost should not be subordinate to the voivode, even during a state of exception. Therefore, this solution should be regarded as defective.

Subordination of local government bodies to the voivode raises doubts because of the constitutional principle of decentralization, which rules out any subordination. Local government units are not subordinate to one another or to the government administration. Government administration can encroach on the local government's independence only through supervisory measures.[19]

As with the executive body of the commune, the legislation provides for the possibility of suspending specific powers of the starost. In the case of inability or lack of proper ability to manage the actions aimed at preventing or removing the effects of a natural disaster, the voivode – pursuant to Article 10 (5) ASND – can suspend the authority of the starost concerning the issuing of binding orders and demanding specific actions aimed at preventing or removing the effects of a natural disaster, and appoint a proxy to manage such actions. Local government operates under the supervision of the voivode, but he can interfere only when a violation of law occurs and not when a local government body proves incompetent or unable to manage the rescue operations properly. These are fuzzy criteria, related directly to the effects of actions, which do not have to appear immediately, but can be delayed. It may result in violations or wrong interpretations of the inability to manage or to manage properly actions aimed at preventing or removing the effects of a natural

[18] Consolidated text, Journal of Laws 2019, item 511.

[19] M. Karpiuk, *Kształtowanie…*, p. 166.

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disaster. Even a natural disaster which justifies the introduction of a state of exception cannot lead to violating the constitutional norms, including those related to the independence of local governments or the criteria of supervision over its operations.

4. The scope of restrictions on human rights and civil liberties introduced by local government bodies during a state of natural disaster

Article 20 ASND introduces a principle according to which restrictions on human rights and civil liberties during a state of natural disaster apply to individuals residing or staying temporarily in the territory where the state of natural disaster was introduced and, accordingly, to legal persons and units without a legal personality, with a seat or those conducting their operations in the territory where the state of natural disaster was introduced. In order to streamline the movements of means of transport used in the rescue operations, road, railway and air traffic restrictions can be introduced. This may also apply to vessels sailing on inland waters, on the internal waters and the territorial sea. Restrictions on common postal services or courier services can be introduced to ensure communication for rescue operations.

When introducing restrictions on human rights and civil liberties, a local government body is bound by the constitutional limits of such restrictions. According to Article 31 (3) of the Polish Constitution, the constitutional human rights and civil liberties can be restricted only by an act of the Sejm and only when necessary in the democratic state for its security or public order, or for the protection of the natural environment, human health and public morals, or the rights and liberties of other individuals.[20] Such restrictions cannot violate the essence of rights and liberties. This provision introduces substantive reasons for restricting constitutional rights and liberties.[21]

According to Article 23 (1) ASND, the necessary restrictions on human rights and civil liberties within the boundaries defined by the regulation of the Council of Ministers introducing the state of natural disaster are introduced by an ordinance or a decision by the executive body of the commune (if the state of natural disaster was introduced in the territory of the commune) or the starost (if the state of natural disaster was introduced in the territory of more than one commune in the district).

The ordinances introducing restrictions on human rights and civil liberties under Article 23 (2) ASND are announced by posting them at public places or in another, locally accepted manner, and in local newspapers. Such a method of announcing this type of normative acts is adopted because it must be communicated to as many

[20] See I. Hoffman, I. Balázs, *Administrative Law in the Time of Corona(virus): Resiliency of the Hungarian Administrative Law?*, "Studia Iuridica Lublinensia" 2021, vol. 30(1), p. 109.

[21] M. Karpiuk, *Ograniczenie wolności uzewnętrzniania wyznania ze względu na bezpieczeństwo państwa i porządek publiczny*, "Przegląd Prawa Wyznaniowego" 2017, no. 9, p. 13.

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people as possible. Because of the threat that caused the authorities to introduce the state of natural disaster, the information on the protective measures taken by the authorities must reach the recipients as quickly as possible.

An ordinance of decision which restricts human rights and civil liberties must contain two elements mentioned in Article 23 (3) ASND, i.e. the legal basis, defining the scope and type of restrictions, defining the obligated entities, place, date and time of personal appearance or implementation of other restrictions, duration of the restrictions, instruction on the penal responsibility or other legal consequences of a violation of the regulation, ordinance or decision. The absence of any of these elements makes the act invalid.

Pursuant to Article 107 of the Act of 14 June 1960 – Code of Administrative Procedure,[22] a decision should contain: the name of the public administration body, the date of issue, the name(s) of the party or parties, the legal authority referred to, a ruling, a factual and legal justification, an advisory notice as to whether and how an appeal may be brought and as to the right to waive the right to appeal and effects of such waiver of the right to appeal, the signature, name and position of the person authorised to issue the decision, and if the decision was issued as an electronic document – qualified electronic signature. Any decision which may be challenged by a petition to the civil court or a complaint to the administrative court should contain an advisory notice that such a petition or complaint may be brought, and the amount of the filing fee or the complaint fee, if they are fixed, or the basis for calculation of a fee of a relative nature, and that a party may request an exemption from payments or granting a right. The factual justification of the decision should contain the facts that the body regards as proven, the evidence relied upon and the reasons for which other evidence has been treated as not authentic and without probative force. The legal justification should contain the legal authority for the decision with reference to the relevant law. Specific regulations can also mention other elements of the decision. Here, they are mentioned in Article 23 (3) ASND.

According to Article 23 (4) ASND, decisions on restrictions on human rights and civil liberties during a state of natural disaster are immediately enforceable upon being delivered or announced. In sudden cases, they can be given in an oral form and then confirmed in writing without delay. Any appeal against them must be filed within three days of delivery or receipt of the written confirmation of an oral decision, with the appeals being passed on to the body of appeal within three days and considered within seven days of the delivery of an appeal. The voivode is the superior body for decisions issued by the starost and commune head (mayor). This provision contains exceptions from the rules provided for in the Code of Administrative Procedures. However, these exceptions should be regarded as a right.

[22] Consolidated text, Journal of Laws 2020, item 256, as amended.

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The legislation provides for these solutions for reasons of security as a legally protected value.

If the measures at the disposal of the commune head (mayor) or the starost are insufficient, an obligation to provide performance by a person or performance *in re* may be introduced, involving: 1) providing first aid to accident victims; 2) active participation in rescue operations or performing other actions required by the rescue operation leader; 3) performing specific work; 4) handing over movable or immovable property for use; 5) providing rooms for evacuees; 6) use of immovable property in a specific manner or within a specific scope; 7) accepting for storage and guarding property of affected individuals or evacuees; 8) securing endangered animals, in particular provision of fodder and shelter; 9) securing endangered plants or seeds; 10) keeping guard; 11) securing one's own sources of drinking water and food before they are contaminated or infected and providing it to evacuees or affected people in a manner indicated by the body demanding the performance; 12) securing endangered cultural assets. The catalogue of these obligations is contained in Article 22 ASND.

Article 26 ASND contains obligations of the media to publish announcements concerning the actions aimed at preventing or removing the effects of a natural disaster. Pursuant to this provision, chief editors of newspapers and broadcasters of radio and TV programs are obliged, at a request of starosts, heads of communes (mayors) to publish without delay and free-of-charge communiques of these bodies related to actions aimed at preventing or removing the effects of a natural disaster. The press, radio and television are obliged to inform the public about the threats, including those associated with a natural disaster. This obligation has to be performed without delay because of the need to ensure security.

CONCLUSIONS

In principle, public authorities operate within the organizational structures of the state and within the competences assigned to them during a state of natural disaster, including those assigned to them under the Act on the state of natural disaster. Specific rules, associated with restrictions on human rights and civil liberties or initiating a non-standard mode of operation of public administration are not introduced automatically.[23] The measures applied must be diversified in relation to the threat intensity, they must be proportionate to the objective that is to be achieved by them.

Public authority (including local government) activities during a state of exception (including a state of natural disaster) must be in proportion to the threat.

[23] M. Karpiuk, *Działanie organów administracji publicznej…*, p. 33.

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Therefore, a body should not introduce unnecessary measures. If the same goal can be attained with milder measures, they must be applied before those more severe. An assessment of which measures should be applied will be made each time by the body which must take such actions.[24]

The state of natural disaster is a state of special threat. Therefore, actions of public administration, including local governments, are subject to an exceptional legal regime. The exceptionality of the regime consists of extending executive powers, including those interfering with human rights and civil liberties. However, even the very fact of a considerable threat and the possibility that it may appear do not justify unlawful actions, freedom of legislation disregarding the constitutional values or an excessive, disproportionate interference of an administrative body in an individual's personal or material sphere.[25] The state of natural disaster does not authorize an executive body, including the local government, to make free use of its administrative powers. Preventing the effects of a natural disaster threatening the life and health of many people, property of a great size or the environment on a large scale must not be a goal to be attained at the expense of other values. The legal order must be respected even if a dangerous situation occurs because there are also legal norms provided for in such circumstances.

Local government bodies often fail to note issues related to natural disasters beforehand. They take appropriate actions only when a real threat occurs while disregarding preventive measures that would help to avoid the threats.[26] The financial outlays for protection against threats or the personal and material base do not justify an optimistic outlook. The shortages in this regard are particularly noticeable in local governments. Thinking about threats must be prevention-oriented rather than oriented to the removal of effects, although both scenarios should be taken into consideration.

[24] M. Czuryk, *Podstawy prawne bezpieczeństwa narodowego w stanie kryzysu i wojny*, "Roczniki Nauk Społecznych" 2013, no. 3, p. 70.

[25] M. Karpiuk, *Zasady działania samorządu lokalnego w czasie stanu klęski żywiołowej*, "Annales UMCS sectio G (Ius)" 2014, no. 2, p. 51.

[26] M. Czuryk, *Zadania organów jednostek samorządu terytorialnego w stanie klęski żywiołowej*, "Zeszyty Naukowe AON" 2009, no. 3, p. 411.

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ABSTRAKT

Stan klęski żywiołowej jako jeden ze stanów nadzwyczajnych bardzo często wymusza na administracji publicznej, w tym na samorządzie terytorialnym, podejmowanie działań ingerencyjnych, ograniczających sferę wolności i praw człowieka i obywatela. Kierownictwo w sprawach wynikających z wprowadzenia stanu klęski żywiołowej zostało powierzone organom jednoosobowym. W czasie stanu klęski żywiołowej działaniami, które są prowadzone w celu zapobieżenia skutkom klęski żywiołowej lub ich usunięcia, kieruje organ wykonawczy gminy, o ile stan klęski żywiołowej wprowadzono tylko na obszarze gminy. Jeżeli jednak stan klęski żywiołowej wprowadzono na obszarze więcej niż jednej gminy w ramach danego powiatu, to organem kierowniczym jest starosta. Powierzenie kompetencji kierowniczych organowi monokratycznemu pozwala na szybsze podejmowanie decyzji, a czas z punktu widzenia skutków klęski żywiołowej ma podstawowe znaczenie. Organ kolegialny, ze względu na sformalizowany sposób podejmowania decyzji, nie mógłby adekwatnie reagować na zagrożenie, które cechuje dynamika.

Słowa kluczowe: samorząd terytorialny; stan klęski żywiołowej; stan nadzwyczajny; zagrożenie