

# CENTRAL GOVERNMENT-LOCAL GOVERNMENT RELATIONS ON THE EXAMPLE OF SELECTED EUROPEAN MICROSTATES

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*Marcin ŁUKASZEWSKI,  
PhD Assistant Professor, Adam Mickiewicz University in Poznań*

## SUMMARY

*The subject of the analysis are the constitutionally defined relations between the central government and the local authority in three European micro-states: Andorra, Monaco and Liechtenstein. The author carries out a comparative analysis of constitutional solutions in these countries.*

**Keywords:** *local authority, Andorra, Liechtenstein, Monaco, central authority.*

European microstates, regardless of the fact that they have a small area, also have local government units. In the case of Andorra, these are parishes (parròquies), in the case of Liechtenstein – municipalities (Gemeinden), and San Marino – castles (castelli). Monaco, on the other hand, is the only city-state of the four.<sup>1</sup> One of the characteristics of microstates is the smaller distance between citizens and local authorities and central authorities in relation to the same relationship in larger countries. The subject of the article is an attempt to indicate how the central authorities were equipped by the legislator with the possibility of influencing local government authorities and how the issue of the balance between the autonomy of local government authorities and the need to supervise the activities of local government authorities was resolved.

The basic research method is the comparative analysis, thanks to which it will be possible to indicate the similarities and differences of the tools used by individual legislators. The author will try to answer the question about the constitutional scope of the central authority within the political system in relation to self-government authority. The territorial scope of the analysis will be 3 out of 5 European micro-states: Andorra, Liechtenstein and Monaco. Due to the limited nature of the article, the evolution of the change of place of local government units will not be analyzed (although something like this may be the subject of further research), but only its current constitutional position within each of the analyzed microstates.

**Andorra.** For centuries, Andorra was divided into 6 parishes: Andorra la Vella, Canillo, Encamp, La Massana, Ordino, Sant Julià de Lòria. In 1978, the authorities decided to establish a seventh parish, which was separated from the capital parish. After the adoption of the first ever constitution in 1993, the construction of the parliamentary electoral law means that while there are still 28 deputies in the parliament, only half of them come from parish electoral lists (i.e. two from each parish), and the second - from the national list. It is worth noting that the position of the parishes in this case is still strong, because if the composition of the parliament was expanded (which is clearly allowed by the constitution), the parity of deputies coming from the national and parish lists would have to be preserved. Similarly, it is worth noting that the parishes themselves are mentioned by name in the constitution, which means that any division, merger or liquidation of them would mean the necessity to change the constitution.

The constitution also provides for some very unique solutions that clearly elevate the role of the parish to a kind of co-decision-making communities in political life at the central level. In addition to granting the right to 3 parishes (acting together) to submit legislative initiatives, a procedure has been defined for passing some types of laws. According to art. 57 the approval of the qualified laws for those concerning communal competence, and of transference

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<sup>1</sup> Another city-state is the Vatican, which due to its specificity will not be the subject of this article.

to the local councils requires the final favourable vote of the absolute majority of councilors elected in the parish constituencies and the absolute majority of councilors elected in the national constituency.

The constitution contains a chapter dealing with the system of local self-government. Six articles specify:

- subjectivity - local governments have been granted legal personality and the power to adopt local law; additionally, they have been guaranteed administrative autonomy, and its understanding is specified in a special act;
- representation rules – governing bodies must be democratically elected;
- competences are listed exhaustively, ordering the adoption of a relevant law; additionally, the principle was introduced that any additional state powers may be transferred to parishes only by law;
- financial autonomy – councils represent the interests of the parishes, accept and implement the local budget; within their territory, they define and implement public policy within the scope of their competence, and manage and administer the property of the parish; details must be specified in a special law;
- methods of resolving disputes between the central government and the local government and the right to apply to the Constitutional Tribunal has been guaranteed;
- the right to appeal against acts of local law issued by parish bodies (an administrative and court complaint may be brought in order to check the compliance of these acts with the legal order);
- and in art. 84 it was ensured that the legislator had to take into account traditions and customs in order to determine the powers of districts and communities and their relations with parishes.

**Liechtenstein.** Liechtenstein is historically divided into two regions. Already in art. 1 the constitution clearly states that the Principality is a state union of two regions, comprising eleven municipalities: the Vaduz region (Oberland) consists of the municipalities of Vaduz, Balzers, Planken, Schaan, Triesen and Triesenberg, and the region of Schellenberg (Unterland) of the municipalities of Eschen, Gamprin, Mauren, Ruggell and Schellenberg.<sup>2</sup> Thus, as in the case of Andorra, any change to this division would require an amendment to the constitution.

The Liechtenstein constitution deals with the issue of communes in a very limited way in the relevant chapter of the constitution (the chapter consists of only two articles) and largely requires the adoption of appropriate laws to regulate the issues of the commune's system. The constitution only indicates what elements have to be specified in these acts. They are: composition, organization and own communal tasks as well as these assigned to them, and acts on communes should take into account the following principles: free election of the mayor and other commune authorities; autonomous management of the municipal assets and of the administration of the municipal police under the supervision of the central government; the right of the municipality to grant citizenship and the freedom of Liechtenstein citizens to reside in any municipality; independent management of municipal property and management of the municipal police and maintenance of well-ordered services for the poor. It should be emphasized here that the last two issues belong to municipalities, but under the supervision of the central government.

However, I would be wrong to think that only two articles regulate the issue of municipalities. In a few other articles, the constitution guarantees municipalities certain rights, some of which appear unique on a global scale. Article 4 of the constitution gives the right to change the boundaries between communes, create new communes and merge existing ones, and order state authorities to hold a referendum on this matter.<sup>3</sup> The aforementioned tool, unique on a global scale, is the mechanism provided for in art. 4 sec. 2, according to which municipalities have the right to withdraw from the state union. The majority of citizens residing in a given commune

<sup>3</sup> The parliament consists of 25 deputies. 15 are elected from the Oberland constituency and the remaining 10 from the Unterland constituency.

<sup>4</sup> This is somewhat similar to the solution provided for in the German constitution.

and entitled to vote decides about starting the withdrawal procedure. Withdrawal from the relationship takes place pursuant to a law or, in special cases, an international agreement. In the case of regulation by an international agreement, after the conclusion of negotiations, another vote should be carried out in the given commune. Besides them there are also:

- granting communes a task in the field of the public social welfare system, and the central authorities a supervisory function; the possibility of supporting communes with appropriate subsidies was also included;

- granting individual communes the right to petition the parliament and the so-called the National Committee<sup>4</sup> through a parliamentarian;

- granting central authorities the right of supremacy over hunting, fishing and mining, while ordering the adoption of laws with respect for agriculture and municipal finances;

Liechtenstein is a country that uses the tools of direct democracy on a large scale. Therefore, apart from granting a group of citizens a number of rights, also municipalities, acting in the number of at least 3 or 4, may:

- demand that a parliamentary session be convened (at least 3 communes) and the right to call a referendum on the dissolution of parliament (4);

- submit a bill (in its content one may request the adoption of a new law, amendment to an existing law or repeal), while imposing an obligation on the parliament to consider this bill at the next session (3); the same law applies to the draft amendment to the constitution, (but the number of applying municipalities has to be at least 4);

- submit a motion for a referendum on a law adopted by parliament (3), and at least 4 municipalities in the event that it is law amending the constitution or a resolution on the ratification of an international agreement.

Apart from these provisions, there are also slightly less important legal solutions, such as: obliging the members of municipal authorities to take the oath, or introducing municipal liability for damages. Additionally, in art. 111, the constitution guarantees voting rights with respect to a municipality to Liechtenstein citizens who live in the municipality.

**Monaco.** Monaco is the only European country, next to the Vatican, whose area is the same as the city's territory.<sup>5</sup> The Monaco constitution, which generally belongs to one of the least extensive constitutional acts in the world, deals with the self-government of Monaco in an extremely broad manner. Apart from indicating the territorial system as a form of a city-state, the constitution quite precisely defined the election rules (including the possibility of combining the mandate of a councilor and a parliamentarian, which is usually prohibited in larger states).

The constitution also resolves such exceptional situations as, for example, the resignation of all councilors, and also indicates the organizational framework of the Commune Council: gathering for ordinary and extraordinary sessions, chairing the sessions of this body, the right of the head of government to raise objections to resolutions adopted by the Commune Council.

Art. 33 stipulates that goods belonging to the public domain to the commune require the adoption of an appropriate law. Art. 72 guarantees the commune the right to dispose of a part of the state budget, and in art. 87 defines the components of the community budget.

**Conclusions.** When analyzing the systemic position of local government units, at first glance you can see a high degree of autonomy in the case of Andorra and Liechtenstein, and its low level in the case of Monaco. An example is the right to submit various types of applications that must be considered:

- legislative - in both countries it must be done by several communes acting jointly: the municipality of Monaco could not formally initiate a legislative procedure;

- compliance with the constitution - again in both countries such a right was granted to local self-government units: such a right is not written down in the constitution of Monaco;

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<sup>4</sup> It is a body that deliberates after the dissolution of parliament, for example.

<sup>5</sup> It is true that for a short period of time Monaco was divided into 3 municipalities, but such a solution was considered ineffective and as a result, the formula of one municipality was returned to. Three communities were established in 1911 under the first constitution in the history of the principality. Its provisions were suspended in 1917, and after World War I, the construction of the city-state was restored.

- jurisdictional disputes between constitutional state organs - in this case only in Andorra.

It is worth noting that the supervision of central authorities over the operation of local government units has been very broadly included in art. 83 of the Monegasque constitution, according to which a commune's decision-making body may be dissolved by ministerial decree. It is worth emphasizing that the *de facto* dissolution of the Commune Council may be taken by a member of the government who himself is not accountable to the parliament for his decisions. The inclusion in the same article of the requirement to consult the Council of State does not radically change this view when we realize that the members of the Council of State are persons designated by the monarch (such as members of the government). The strong role of the central government in relation to the local government in Monaco is additionally indicated by the fact that the head of government may question (*de facto* even veto) the resolution adopted by the Commune Council.

While there are no explicit provisions in the Andorran constitution regarding the supervision of local authorities by the central government, in the case of Liechtenstein they do appear: municipalities can run the municipal police, and - here it is obligatory - they deal with the social welfare system and care for the regulation of poverty (in all 3 cases - under central government's supervision).

There is no doubt that the constitutions of Andorra and Liechtenstein defend the rights of local self-government units in a much better way than does the constitution of Monaco. In the constitutions of both these countries, even such special solutions are indicated as: the possibility of the commune disconnecting from the state organism (Liechtenstein), or the application of a special procedure for enacting laws on parish competences and subsidies for them, which require an absolute majority of votes of the members of the parliament elected in parish districts and the majority of the members of the parliament elected in the national constituency (Andorra).

There is a certain similarity in the solutions of all three countries with regard to the organization of local government. All three constitutions have provisions requiring local government to be constituted democratically. Analyzing all three solutions, it is surprising that the issue of local elections is regulated quite precisely in the Monaco constitution, which generally does not include many other provisions related to local autonomy.

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