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PLANNING ACTS AS A LEGAL FORM OF ENSURING SOLIDARITY IN THE LOCAL SELF-GOVERNMENT*

Abstract: The principle of social solidarity is an essential element of a democratic state of law. Its legal expression affects public authorities, including the executive. In most European countries, public administration is obliged to follow and implement it. However, binding administration to the law — characteristic of modern democratic states — requires creating legal forms of ensuring this principle in regulations of a statutory rank.

The primary aim of this paper is to verify the hypothesis that planning acts in local self-governments may serve to ensure the realisation of the principle of social solidarity. Therefore, planning acts should be considered in the social policy of local authorities. Although the author has chosen the legal order of a specific European country (Poland) as a point of reference, the article's conclusions are universal. The paper uses the dogmatic-legal and theoretical-legal research methods. The author also attempts to take into account the achievements of administrative policy science, including the particularly significant accomplishments of the Wrocław school.

Keywords: planning acts, solidarity, legal form

INTRODUCTION

Since the collapse of the People's Republic of Poland (1989/1990), local Polish self-government has been an indispensable element in constructing a democratic legal state.¹ It might not come as a surprise, then, that one of the first decisions in post-Second World War Poland, tragic for the development of the country, was

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¹ J. Stępień, "Decentralizacja — 10 lat doświadczeń odrodzonego samorządu terytorialnego", [in:] *Nowe prawo samorządu terytorialnego. Komentarze, wyjaśnienia, przepisy*, eds. H. Izdebski, M. Dercz, Warszawa 2000, comment 22.

liquidating territorial self-government. This resulted in centralised management.² The state-wide unification of decisions and solutions, linking local development to departmental-level decisions, led to many years of stagnation and weakened the social fabric in the field. This was particularly evident in the state's social policies, which did not take into consideration the need for social welfare services on the ground level. Managing social policy from the main level had the bizarre effect of negating the existence of fundamental social problems such as homelessness. The state's response to the issues of local communities were centrally controlled directives sanctioning specific social behaviours. The lack of local self-government and its independent policies in solving social problems caused significant backwardness in the state's social policy. This became particularly visible after 1990, when social problems that had been covered up for years or suppressed by criminal law regulations "came out of the shadows." One of the crucial achievements of local governments in the first years after Poland regained its sovereignty in 1990 was counteracting social exclusion.

However, the threats to self-government and local communities did not disappear with the fall of communism in Central and Eastern Europe and strengthening local policy-making in the years ahead. On the contrary: currently we can observe depriving local authorities of their competences and responsibilities, politicising fund distribution, and opportunism of public authorities. This serves the purpose of re-centralisation and deviation from the hitherto path of development, and in the coming years may lead to the destruction of thirty years of development and innovation.³

Territorial self-government is an integral part of cultural identity in Poland and should not be weakened. Moreover, the existence of local and regional authorities is guaranteed by the 1997 Constitution as well as by an international agreement — the European Charter of Local Self-Government,⁴ which Poland ratified in 1993.

Today, the strength of local self-government in Poland comes from within and is based on the values the development of which has always been the purpose of local communities and the legal instruments that serve them. The value that theoretically defines local self-government is social solidarity due to the community character of the subjective factor which — besides the territory and according to each local government law — forms the current local government (Art. 1(2) of the Act of 8 March 1990 on communal self-government,⁵ hereinafter: u.s.g.; Art. 1(2) of the Act of 5

² I. Lipowicz, *Samorząd terytorialny XXI wieku*, Warszawa 2019, p. 124; cf. M. Kasiński, "Oblicza centralizmu demokratycznego — próba interpretacji", [in:] *Decentralizacja i centralizacja administracji publicznej. Współczesny wymiar w teorii i praktyce*, eds. B. Jaworska-Dębska, E. Olejniczak-Szałowska, R. Budzisz, Warszawa-Lódź 2019, pp. 21–63.

³ *Ibid.*, pp. 59–60.

⁴ Journal of Laws of 1994, No. 124, item 607, as amended.

⁵ Journal of Laws of 2020, item 713, as amended.

June 1998 on county self-government,⁶ hereinafter: u.s.p.; Art. 1(2) of the Act of 5 June 1998 on province self-government,⁷ hereinafter: u.s.w.).

Free people within the borders of the local self-government unit can make decisions about their affairs within the limits of the law — this is not an ideal, but a constitutional requirement stemming from defining the state by the category of the common good. Territorial self-government is an intrinsic part of the state, called upon to implement these requirements within the constraints of statutory law. We should use the notion of the common good in a classical, not statist manner. Bodies of government and self-government administration are to serve the people, not the other way around.⁸ Achieving social solidarity also requires taking specific long-term actions, especially if they are related to the provision of specific infrastructure.

Following this assumption, the present paper focuses on proving the hypothesis that legal forms which may ensure social solidarity in contemporary Polish local government are planning acts, also called administrative policy acts. The research requires dogmatic-legal methods comprising the interpretation of binding legal regulations, as well as theoretical-legal method, which serves the purpose of applying concept-tools in the research relevant to the subject under investigation. The main research hypothesis is related to the assumption developed in the third part of the article that the perception of planning acts as a form of ensuring social solidarity is also influenced by considering law as a social technique.

Although the arguments in this text refer to the law in force in only one European country, it should not be forgotten that planning on a local government level is not only a Polish phenomenon, but is also present in local governments of many countries. Therefore, the author believes that the reference area of nation-specific, local government law is suitable for drawing general conclusions that are also of interest to international readers.

PLANNING ACTS IN LOCAL GOVERNMENT — AN OVERVIEW

The concept of planning acts combines the planning (programming) process. Therefore, the planning process either precedes the formation of the planning act or takes place simultaneously. Planning activity consists of setting goals and tasks to be implemented by certain entities in a specific time horizon and determining the path to achieve the set goals and perform the related tasks.⁹

⁶ Journal of Laws of 2020, item 920, as amended

⁷ Journal of Laws of 2020, item 1668, as amended.

⁸ M. Piechowiak, "Prawne a pozaprawne pojęcie dobra wspólnego", [in:] *Dobro wspólne. Teoria i praktyka*, eds. W. Arndt, F. Longchamps de Berier, K. Szczucki, Warszawa 2013, pp. 2345.

⁹ A. Mituś, "Cele i zadania samorządu terytorialnego oraz mierniki ich realizacji", [in:] *Kontrola zarządcza: podstawowe zagadnienia kontroli zarządczej: poradnik dla jednostek samorządu terytorialnego*, ed. M. Ćwiklicki, Kraków 2015, pp. 89–90.

The planning of public administration activities is not an exclusive domain of the legislator,¹⁰ whose role is to regulate the activity of local government administration while respecting the principles of self-governing, subsidiarity, and decentralisation. In every action of the legislator, who creates general and abstract norms, the point is to create the conditions for future action and influence on external entities of the public administration bodies. Also, determining the general framework for planning development and solving social problems are among the primary tasks of the legislator. However, the impassable limit of the legislator's discretion is the recognition that the management of local affairs belongs to self-government authorities. Here, it is worth mentioning, e.g., Art. 3 section 1 of the European Charter of Local Self-Government (ECLS), which is crucial in this respect: "Local self-government denotes the right and ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their responsibility and in the interests of the local population."

The ECLS explicitly states that regulating and managing a substantial share of public affairs can be the right and power of local governments. In a democratic state governed by the rule of law which recognises the primacy of the law over administrative action (the organs of public authority function based on and within the limits of the law), the legislature is obliged to adopt legal solutions ensuring the independence of self-government authorities' administrative action. These activities are aimed not only at the current satisfaction of social needs, but also at planning future tasks and objectives.

Planning acts are documents which make it possible to account for the achievement of goals and the realisation of tasks, and — if published — fulfil the principle of openness and access to public information.¹¹ They very rarely have the character of normative acts unless the law shows this explicitly. Planning strategies, plans, and programmes are, therefore, planning acts, i.e., acts setting tasks, timetable, and the manner of their implementation, addressed to executive bodies. According to the findings of administrative law theory, planning acts, plans and programmes are acts of administrative policy, understood as the "policy of the public administration to carry out in various fields various public tasks, to set objectives and priorities, to design means and ways of action and to expect effects." These acts "cannot contain obligations directly addressed to entities remaining outside the system of public administration."¹²

¹⁰ See notably representatives of the Wrocław school: F. Longchamps, *Założenia nauki administracji*, Wrocław 1991 (reprint); J. Jeżewski, "Polityka administracyjna. Zagadnienia podstawowe", [in:] *Nauka administracji*, ed. J. Boć, Wrocław 2013, pp. 298–322; J. Korczak, "Refleksja nad aksjologią stanowienia aktów polityki komunalnej", [in:] *Aksjologia prawa administracyjnego*, ed. J. Zimmermann, Warszawa 2017, pp. 605–617.

¹¹ A. Mituś, op. cit., p. 91.

¹² M. Górski, "Strategie, plany i programy", [in:] *Prawo administracyjne materialne. System prawa administracyjnego*, vol. 7, eds. R. Hauser, Z. Niewiadomski, A. Wróbel, Warszawa 2017, p. 192.

Even though, in principle, planning acts have the character of internal law, they fundamentally impact the executive bodies obliged to implement them, and inspire the doctrine of administrative policy science. Let us take a closer look at these two factors.

In Polish local self-government, significant changes in terms of openness and accountability of planning acts result from amendments to local government acts (u.s.g., u.s.p., and u.s.w.) made by the Act of 11 January 2018 on amending other acts to increase the participation of citizens in electing, functioning, and controlling some public authorities.¹³ This was an essential change in Polish law, introducing an annual obligation for a local government body to report on the state of the commune (Art. 28aa of u.s.g.), county (Art. 30a of u.s.p.), and self-governing province (Art. 34a of u.s.w.). Every year by 31 May, executive authorities must submit to the legislative bodies (the municipal council, district council, and voivodeship assembly) a summary of the activities of the executive in the previous year, including implementing policies, programmes, strategies, resolutions of the legislative body, and the civic budget.

The literature rightly shows that the basic functions of these reports are control and increasing the transparency of the activity of local government bodies. It also makes it possible to assess to what extent the executive body has implemented the planning acts.¹⁴ The report is put up for debate, in which the residents of the local government units concerned may also participate.

In Polish local government law, there are several dozen grounds for planning acts. In principle, there is no single legal name for planning acts, so the legislator uses the terms “plan,” “programme,” “strategy” without introducing specific features which would make it possible to delimit them. However, there is a tendency to label top-level planning documents as strategies and include specific plans and action programmes. From the theoretical and legal standpoints, there is a distinction between plans and action programmes: plans concern objectives and tasks while programmes formulate specific tools for their implementation. However, this division is indicative and is not respected by the legislator.¹⁵

In the classic triad of administrative sciences, one can distinguish the science of administration, administrative law, and administrative policy. Nevertheless, all these branches form essential elements of a relatively comprehensive description of public administration.¹⁶

¹³ Journal of Laws of 2018, item 130.

¹⁴ *Raport o stanie gminy, powiatu, województwa*, eds. M. Bokiej-Karciaż, M. Karciaż, Warszawa 2019.

¹⁵ M. Górski, op. cit., pp. 194–197.

¹⁶ J. Korczak, op. cit., pp. 605–618; R. Mędrzycki, “Rola polityki administracyjnej w implementacji solidarności międzypokoleniowej w gminie”, [in:] *Wyzwania rynku pracy, ubezpieczeń i polityki senioralnej*, eds. A. Organiściak-Krzykowska, M. Wysocka, Olsztyn 2020, pp. 265–276.

Administrative policy as a science also has an equal place in the triad of administrative sciences. It includes the following elements: programmes and means of their implementation, as well as “channels” by which assumptions of administrative policy are passed on to the recipients. Here I should also mention the definition of goals and tasks by the public administration, the motives for which they are chosen, and how they are implemented. To put it in yet another way, “the essence of administrative policy consists, above all, in determining the most useful (effective) methods of legal regulation in a given field and in determining the most effective ways of administrative action, ways acceptable in the existing legal conditions.”¹⁷

The science of administrative policy (administrative politics) plays a particularly intriguing role in the study of public administration — if only because it does not have an indisputable status among administrative sciences. The practical difficulties of separating the science of administration and administrative policy are mentioned in the theory of administrative law. Moreover, similar connections can be found between administrative policy and administrative law. “Escaping” into law alone often seems impossible, especially if one considers that legal norms in a sense programme administrative policy.¹⁸ Moreover, some norms of administrative law give rise to the definition of administrative purposes or tasks, concepts characteristic of the discourse in administrative policy science. It is difficult to study anything related to this branch without knowing the legal environment, just as it is not easy to evaluate existing law without considering its connection with administrative policy. Therefore, a necessary element in the administrative policy of the local government is an adequate knowledge of the needs and conditions existing in the local or regional community.¹⁹

DIVISION OF PLANNING ACTS

The material scope of planning acts in local government correlates with the tasks assigned to its different levels by law. Thus, the following documents can be distinguished in relation to the spheres of activity of local authorities: spatial planning, social welfare, health protection, environmental protection, municipal economy, housing management, infrastructure, public transport, and crisis management.

Planning acts are of both obligatory and optional nature. Sometimes the obligation to adopt them relates to certain circumstances. In most cases, these documents have complementary object identity, and the legislator shows they should be adopted at each level of local government. Obligatory acts include: a long-term

¹⁷ M. Kulesza, D. Sześciło, *Polityka administracyjna i zarządzanie publiczne*, Warszawa 2013.

¹⁸ J. Filipek, *Elementy strukturalne norm prawa administracyjnego*, Warszawa-Kraków 1982; Z. Cieślak, *Zbiory zachowań w administracji państwowej. Zagadnienia podstawowe*, Warszawa 1992.

¹⁹ R. Mędrzycki, op. cit., passim.

plan for the management of commune housing resources; a study of the conditions and directions for spatial development; a strategy for solving social problems/ social policy strategy; a programme for cooperation with non-governmental organisations and other entities conducting public benefit activities; a programme for counteracting family violence and protecting victims of family violence; a programme involving care for homeless animals and prevention of animal homelessness; a programme of family support/foster care development; a programme for preventing and solving alcohol-related problems; a programme for counteracting drug addiction; a waste management plan; a plan for the use of real estate resources; a programme for environmental protection; a programme for care for historical monuments; a plan for development and modernisation of water supply and sewage systems; a crisis management plan. Some of the planning acts are indirect; they are mandatory after certain conditions have been met. Such acts include the plan for protecting monuments in armed conflict and crises, the plan for the sustainable development of collective public transport, and the plan for the development and modernisation of water supply and sewerage facilities. Optional acts include: local spatial development plan; programmes supporting families with many children; economic programmes; development strategies including supra-local development strategies; revitalisation programme; health policy programme.

Poland lacks a single central planning act in local governments. The already large number of planning acts becomes even more overwhelming with the realisation that these acts are adopted at different local government levels, each handling its own sphere of activity. For example, in social assistance, one of the central planning documents is the strategy for solving social problems. This comprises: a diagnosis of the social situation, the forecast of changes in the area covered by the strategy, the objectives of the projected changes, the directions of the necessary actions, the ways of implementing the strategy, the framework for its financing, and the indicators for the implementation of the actions. Irrespective of the level of territorial self-government (commune [gmina], powiat [powiat], voivodeship [województwo]), the strategies adopted in these units should contain the same elements. Only the nature of social problems and a specific vision can differentiate the given acts.

Among the general planning acts, we can show the commune, the supra-local and the voivodeship development strategies. While formulating these documents, the principle of integration should be considered. This principle means in practice that the voivodeship development strategies should be linked and consistent with the medium-term national development strategy and the national, regional development strategy referred to in Art. 14a section 1 point 1 of the Act of 6 December 2006 on the principles of development policy.²⁰ Supra-local and municipal development strategies should show consistency with those regarding voivodeships.

²⁰ Journal of Laws of 2019, item 1295, as amended.

Strategic documents, prepared at different levels, are to be interrelated and coherent. Mutual integration of documents refers both to the content of documents (integration of social, economic, and spatial issues) and concerns mutual dependence and complementarity of documents created on different levels of management, including areas of the strategic intervention.²¹

Naturally, consistency is best achieved procedurally, i.e., by creating strategies starting from the national and ending with the municipal level. However, the municipal development strategies do not reply to the current legislation. This situation is due to the fact that many existing strategies have still not been revised (adapted to the existing legal condition). Many of the strategies have also gone into force before 13 November 2020.²² The amendment to the law concerns the legal characteristics of municipalities' development strategies, the procedure for drawing up such a strategy, its update, as well as supra-local development plans.

In the new legal situation, the municipal development strategy contains conclusions from the diagnosis referred to in Art. 10a section 1 of the Act of 6 December 2006 on the principles of development policy,²³ prepared for the purposes of this strategy. It determines in particular: 1. strategic objectives of development in the social, economic, and spatial dimension; 2. directions of activities undertaken to achieve the strategic objectives; 3. expected results of the planned actions, including the spatial dimension and indicators of their achievement; 4. model of the functional and spatial structure of the municipality; 5. findings and recommendations in the scope of shaping and conducting spatial policy in the municipality; 6. areas of strategic intervention identified in the voivodeship development strategy along with the scope of planned activities; 7. areas of strategic intervention crucial for the municipality, if such have been identified, together with the scope of planned activities; 8. strategy implementation system, including guidelines for the preparation of implementation documents; 9. financial framework and sources of financing.

Among the planning acts in Poland, only development strategies have a significantly general character, i.e., they can designate areas of strategic intervention. This is an interesting conclusion in relation to the subject under study. The atomisation of planning documents means that there is no possibility of applying a central planning mechanism (within a local government unit) by which social solidarity could be achieved. This does not mean that individual planning documents will not perform a modelling function in terms of solidarity. This is due to their subject matter, e.g., social welfare. It must not be forgotten, however, that social welfare does not exhaust solidarity planning. There are, after all, other areas, such as revitalisation, spatial policy — remaining within the sphere of local government responsibilities — which also require the principle of social solidarity to be considered.

²¹ Explanatory Memorandum, Sejm Paper 64/IX.

²² As a result of this amendment, Art. 10e–10g were added to the u.s.g. after Art. 10d.

²³ Journal of Laws of 2021, item 1057.

PLANNING ACTS IN LOCAL GOVERNMENT BETWEEN LAW AS A TECHNIQUE AND LAW AS A CONVERSATION

Social solidarity is an essential subject of interest for legal scholars. This is clear in the sphere of EU law, which involves the direct impact of the solidarity principle on the European community and its legislation.²⁴ However, social solidarity is also an essential category of national law, including the law of economic policy of the Polish state and development aspects. Furthermore, it is often linked with administrative law and people's behaviour.²⁵

European science attributes a vital role in forming desirable social behaviour to administrative law.²⁶ In a democratic state under the rule of law, the law makes up the fundamental element of influencing people's actions. Philosophers of law and representatives of administrative sciences agree on the designing and shaping role of law. Lech Morawski wrote:

Economic crises, wars, totalitarianism and many other social misfortunes have proved that spontaneously running social processes are not always the way to paradise. It turned out that the visible hand of law is not only required by the invisible hand of the market, but that the visible hand of law is the guarantor of the liberal-democratic order and an indispensable tool of reforms, which do not happen spontaneously.²⁷

The conceptualisation of interventionist law is targeted at economic and social interventionism programmes designed to achieve specific goals. The point of reference for these goals is solving systemic problems in pursuit of collective solidarity rather than only individual issues.²⁸ Hence, law can be understood as a form of normative programme of action.²⁹ We are talking about law as a tool for implementing the will of the legislator. However, we should not forget that the same legislator, relying on the axiological premises of a democratic legal state, delegates part of his authority to decentralised public administration, including local self-government. In Poland, the undeniable role of territorial government in shaping the development and management of local and regional affairs is expressed in Art. 16 section 2 of the Constitution of the Republic of Poland, which states that local government shall take part in the exercise of public power. Nevertheless, the substantial part of public duties in which local government is empowered to discharge by statute shall be done in its name and under its responsibility.

²⁴ *Solidarity in the European Union: A Fundamental Value in Crisis*, eds. A. Grimmel, S.M. Giang, Cham 2017.

²⁵ *Państwo solidarne*, ed. A. Łabno, Warszawa 2018.

²⁶ W. Schmidt-Aßmann, *Ogólne prawo administracyjne jako idea porządku. Założenia i zadania tworzenia systemu prawnoadministracyjnego*, Warszawa 2011.

²⁷ L. Morawski, *Główne problemy współczesnej filozofii prawa. Prawo w toku przemian*, Warszawa 2005, p. 84.

²⁸ *Ibid.*, pp. 86–87, 93.

²⁹ N. Luhmann, *Rechtssoziologie*, Opladen 1987, p. 227.

It is worth mentioning, the scientification of the creation of planning acts. This is clear at the stage of formulating development strategies, where the role of the legislative body often consists only of accepting the draft document prepared by a team of experts. Implementing the functional-spatial model required by law in the strategies will not weaken this process. In simple terms, this concept assumes a functional link between objectives and spatial factors, and that it achieved the objectives through planned investments.³⁰ Adopting such a model in strategic documents will translate into an increase in the importance of spatial planning acts in the overall vision of the local government unit development. It is even possible to speak of an increasingly important function of infrastructure administration and infrastructure control, which in turn relates to the concept of service administration.³¹ Indeed, the development of infrastructure will lead to achieving economic and social objectives. Planning the measures aimed to implement the principle of social solidarity in the new programming perspective will require a diagnosis and investment policy as well as the maintenance and efficient management of existing resources. We can see how a specific vision of creating planning acts influences managing local and supra-local infrastructure. Thanks to rational planning, this infrastructure can remain at the service of the solidarity principle.

We can see this very well in the process of creating the infrastructure required to help people come out of homelessness or, for instance, those who have exceptional communication needs. The creation of infrastructure for such people is a manifestation of social solidarity. Although *a priori* assertions in a scientific text are fundamentally questionable, in Western and Polish literature, actions towards people in homelessness crisis or people with disabilities are treated as examples of solidarity.³² Such qualification should not come as a surprise, especially if we consider that social solidarity is a legal principle which demands actions towards social inclusion and equal opportunities from the addressees.

Moreover, the adoption of different models of ending the homelessness crisis requires appropriate infrastructure, which may take years to build. For their construction it is necessary to secure financial resources, allocate appropriate communal land, and, if this is not available, negotiate with the owners and the local community, or apply the mechanism of expropriation. The effect of building a shelter for the homeless or homes available under the Housing First programme requires careful planning. This also applies to obtaining housing from the market.

As a rule, Poland is a country with a so-called ladder model of getting out of homelessness. Dominika Cendrowicz writes:

³⁰ Ministerstwo Funduszy i Polityki Regionalnej, *Model struktury funkcjonalno-przestrzennej w strategiach rozwoju*, Warszawa 2020.

³¹ H. Faber, *Allgemeines Verwaltungsrecht*, Tübingen 1989, p. 332.

³² Ch. Jencks, *The Homeless*, London 1994; R. Mędrzycki, *Zadania administracji publicznej w zakresie przeciwdziałania bezdomności: studium administracyjnoprawne*, Warszawa 2017.

Shelter in a shelter, night shelter, and a heating facility is only a temporary form of assistance. Moreover, it is assistance that follows the assumptions of the so-called ladder model, according to which homeless people on their way to full independence should go through all the stages leading to achieving this goal. The ladder model assumes that the social, health, and psychological problems of a homeless person and those related to their professional activity (or rather the lack thereof) should be solved first. Only after these have been resolved does the homeless person have a chance to obtain permanent housing outside a support institution. In the ladder model, therefore, obtaining a home does not appear to be a form of realisation of the right to housing to which every person is entitled, but as a certain reward to be earned only after having climbed all rungs of the ladder leading to independence.³³

A similar mechanism can be seen in the case of other groups which are socially excluded or at risk of exclusion. Thus, if, for example, adapting the conditions for receiving in the office or serving persons with communication difficulties (e.g., deaf, blind, with needs for the use of alternative and assisted communication — AAC) is a statutory requirement, it needs planning in the acts of the territorial self-government.

RISKS IN PLANNING

The technological approach to law in its essence assumes a three-element relationship between the controlling subject, the tool it possesses, and society as the object of influence. Without denying such a characterisation of law as technology, we should note that the legislator weakens the authoritativeness of influence through the participation of the social factor in decision-making. At the same time, the responsibility for the results becomes inherent in the responsibility of the official. Therefore, they must care more and more about implementing the set goal instead of only about not violating the existing rules.³⁴

The recognition of planning acts as an element of the technological conception of law should relate to the selectivity of planning acts in the third part of the article. General plans are rare; the legislator often directs their interventionism to selected social groups or situations. The classic examples in local government include plans to counteract drug addiction or alcoholism; in a broader perspective, special laws — *Ausnahmerecht* — are being singled out, subjecting a particular group of people to special regulation.³⁵ Solidarity with specific social groups is an overt example of this (elderly, youth). On the one hand, solidarity could be a practical realisation of the common good by levelling the opportunities of marginalised groups and leading to conflicts within a community, primarily if the actions concern positive discrimination in terms of limited resources (e.g. space). A flagship example of this type of conflict is the quantitative skewing of infrastructural investments,

³³ D. Cendrowicz, “Ograniczanie występowania zjawiska bezdomności na przykładzie programu Housing-First”, *Ekonomia Społeczna* 2, 2017, pp. 38–39.

³⁴ L. Morawski, op. cit., pp. 89, 92.

³⁵ Ibid., p. 90.

ensuring the needs of the elderly at the expense of investments ensuring the needs of children and young people, and vice versa. Therefore, it is necessary to take the principle of sustainable development into account in social solidarity planning.

Another feature characteristic of interventionism and connected with planning acts is their discretionary character. Of course, the impassable limit here should be axiological factors, with the common good principles and the rule of law at the forefront. However, this does not diminish the role of praxeological factors, the balancing of which together with the care taken to observe the two principles mentioned above are necessary elements of rational planning.

The principle of decentralisation characterises the issues concerning planning acts at the local government level. The expression of decentralisation is a move away from material control towards procedural control, i.e., away from the model where the law sets out explicitly clear goals and means of achieving them, but orders or allows certain decisions to be taken based on organisational structures and procedures within the competence of the institution concerned. This vision, however, is closer to the concept of law as a conversation and autopoietic law, the feature of which is self-determination.³⁶ Decentralisation processes are unquestionably linked to the legally embedded freedom of action and innovation in local government.³⁷ Strengthening civil society and participation in decision-making are a trend in Polish local government. Participatory budgets, councils with consultative and advisory features, and the solecki funds represent the so-called dialogue structure of decision-making processes. Although planning acts are examples of interventionism, sometimes their formation is regulated and they are adopted with consideration for the principle of social partnership as well as for the social factor. For many years, social consultations have ensured this in the procedure of drafting local spatial development acts, while recently, the rules of socialisation have appeared in the adoption of development strategies by local government units. These occurrences seem to show a hybrid regulation of at least some planning acts. However, one should not forget the dangers of control by negotiating systems — which also include dysfunctions consisting in one-man rule with the appearance of cooperation, e.g., the illusory nature of social consultations.³⁸

CONCLUSIONS AND OUTLOOK

The research aimed to verify the hypothesis that it is possible to treat planning acts as forms of action which may ensure social solidarity in local governments in contemporary Poland.

³⁶ Ibid., p. 133.

³⁷ S. Fundowicz, *Decentralizacja administracji publicznej w Polsce*, Lublin 2005.

³⁸ P.J. Suwaj, “Udział społeczeństwa w decydowaniu publicznym — oblicza partycypacji społecznej w polityce publicznej w zakresie inwestycji drogowych”, *Samorząd Terytorialny* 1, 2010, p. 71.

There is a significant shift in the focus of planning for social change from the level of the legislator to that of public administration. One can probably say that the role of public policy is significantly enriched — if not replaced — by administrative policy.³⁹ This trend also responds to the dynamics and acceleration of social changes caused by globalisation and IT processes.⁴⁰ One among the features of plans is their permanence, but the legislator provides for changes in this area depending on the emerging circumstances. Nonetheless, self-government administration can make these modifications much faster than the legislature.

The analysis has shown that the local government has numerous tools of projective impact. In Poland, however, no single source regulation would comprehensively cover the rules on creating planning acts at the local government level, which seems to be due to their significant object difference.

When introducing the framework for adopting individual planning acts, the legislator leaves the territorial self-government bodies essentially free to choose the objectives and means of implementing their intentions. However, because of the local and supra-local specificity, great importance should be attached to diagnosing the socio-economic situation. Thanks to the diagnosis, the local government bodies can rationally plan their actions for the future.

When planning certain activities in the infrastructure sphere, territorial government bodies respond to current or imminent problems connected with the functioning of the local community. Solving some of them involves applying criteria derived from the principle of social solidarity, e.g., preference for particular social groups. Such privileging may take the form of relocating infrastructural resources or constructing new infrastructure to realise social solidarity towards a certain group. Theoretical and legal research shows the verification of the research hypothesis.

The author recognises that planning acts in local government are essentially a form of social interventionism. They are subject to far-reaching scientification and detailing, which are characteristic of the law as a technique of controlling people's behaviour. At the same time, the legislator introduces specific planning act patterns more typical of the concept of law as a conversation. These elements are mainly consultations with the public or the representatives of social organisations.

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³⁹ On the possibility of distinguishing between these concepts see M. Kulesza, D. Sześciło, op. cit., p. 19.

⁴⁰ L. Morawski, op. cit., pp. 91, 94.

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