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The Role of Parliamentary Bodies of Autonomous Territories in European States

Rola organów parlamentarnych terytoriów autonomicznych w państwach europejskich

ABSTRACT

The article presents the competences of the parliamentary bodies of autonomous territories in European states where these territories have a different status from the core part of the state territory. The legislation on the parliamentary bodies of Greenland, the Faroe Islands, the Åland Islands, Madeira, the Azores and Mount Athos has been analysed using the legal-dogmatic and legal-comparative method. The aim of the study was to prove that the powers of the parliamentary bodies of these territories allow them to decide on matters that are important for the populations of those territories and to establish and maintain international relations with other states and international organisations. The broad and ever-increasing scope of the autonomy granted to those territories and the good relations between the territories and their states contribute to democratisation of national structures and diminish the tendencies in the authorities and the population of the autonomous territories towards achieving sovereign independence. However, it should be stressed that the processes taking place in the modern international community are dynamic and may entail further changes in the legal situation of the European autonomous territories.

Keywords: autonomous territories; parliamentary bodies; legislative competences; European states; international relations; European Union

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INTRODUCTION

The legal situation of autonomous territories is of interest to legal scholars as well as representatives of political and administrative sciences and security sciences. This issue is presented in legal literature primarily as part of studies in international law and constitutional law since the status of autonomous territories was established on the basis of international documents and national laws. The interest in these issues stems also from the fact that the establishment and functioning of autonomous territories have been a *signum temporis* for decades, and the development of their political-systemic forms can be regarded as a way of reducing the negative effects of the processes of globalization and tendency to strengthening the democratization of national structures.[1] It should be noted, however, that defining territorial autonomy and determining its legal nature poses difficulties resulting from the great diversity and variability of forms and scope of autonomy found in the modern world.[2] In legal literature, the issue of autonomous territories is presented in relation to questions such as the concept and essence of autonomy, the classification of autonomous territories, the competences of their authorities and relations with the central authorities of their respective states. The article seeks to assess the role played by the parliamentary bodies of autonomous territories in European states since an essential element of the system of territorial autonomy is to confer on it the power to adopt legal acts in areas within its responsibility.[3]

The assessment of the role of the parliamentary bodies of autonomous territories in European states is made on the basis of an analysis of the legal regulations and organisational arrangements concerning these bodies. The main research method is therefore the dogmatic-legal method applied to the national regulations and provisions of international documents which define the status of autonomous territories and the competences of their legislative authorities. The legal-comparative method, on the other hand, has been used to show the differences and similarities between the parliamentary bodies of the autonomous territories of European states. The analytical and comparative approach has been adopted in order to demonstrate that the parliamentary bodies of the autonomous territories, owing to the functions conferred upon them, are able to enact legislation on matters of importance to their

[1] J. Iwanek, *Pojęcie autonomii terytorialnej we współczesnej europejskiej przestrzeni demokratycznej*, [in:] *Autonomia terytorialna w perspektywie europejskiej*, vol. 1: *Teoria – historia*, eds. M. Domagała, J. Iwanek, Toruń 2014, p. 12.

[2] Y. Dinstein, *Autonomy Regimes and International Law*, "Villanova Law Review" 2011, vol. 56(3), pp. 437–438; M. Tkacik, *Characteristics of Forms of Autonomy*, "International Journal on Minority and Group Rights" 2008, vol. 15(2–3), p. 370.

[3] T. Brańka, *Treść i zakres pojęcia „autonomia". Wyzwania definicyjne*, "Acta Politica Polonica" 2018, vol. 45(3), p. 14. Cf. H. Hannum, R.B. Lillich, *The Concept of Autonomy in International Law*, "American Journal of International Law" 1980, vol. 74(4), p. 865.

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people, while maintaining, within the areas of their competence, independence from the authorities of the states to whom they are subordinated. It must be taken into account that autonomous territories are granted powers of various scope and type, and it should be noted that the cooperation between the authorities of territories and states, pursued under adopted legal regulations, constitutes a factor that stabilises the existing ties and enhances their security. In such a situation of the parliamentary bodies, accepted by the population living in the autonomous territory, the autonomous territories' aspirations to acquire the status of a sovereign state do not intensify.

THE CONCEPT AND NATURE OF AUTONOMOUS TERRITORIES

Various definitions of autonomy have been formulated in the scientific literature, which, according to Ruth Lapidoth, can be classified as four main categories: 1) those equating autonomy with the right to free action within a certain scope, 2) those considering it more or less as a synonym of independence, 3) those equating autonomy with decentralization, and 4) those emphasizing the exclusive legislative, administrative and judicial rights of autonomous communities.[4] The diversity of definitions is reflected in Polish legal literature, which highlights various features of autonomy and presents the currently occurring forms of autonomy. According to Hubert Izdebski, "the essence of autonomy lies in the division (decentralization) of legislative power between the parliament and the bodies of territorial units",[5] which acquire legislative powers while preserving the unity of the state as a whole. Sławomir Fundowicz describes autonomy as "a more profound form of decentralization", which means autonomy in lawmaking.[6] Krzysztof Skotnicki expressed the view that autonomy is "a form of state system enshrined in the legal acts of the central authority and it means that a territory or territories are distinguished from other parts of states by at least one specific characteristic and by virtue of they have a scope of rights established by that authority, which is wider than that enjoyed by the administrative and territorial divisions of the state".[7]

In the science of international law, autonomy is seen by many authors as an intermediate form between a dependent territory and a sovereign state. According to Luis B. Sohn, autonomous territories have powers in economic, social and cul-

[4] R. Lapidoth, *Autonomy: Potential and Limitations*, "International Journal on Group Rights" 1994, vol. 1(4), p. 277.

[5] H. Izdebski, *Samorząd terytorialny. Podstawy ustroju i działalności*, Warszawa 2014, p. 58.

[6] S. Fundowicz, *Autonomia*, [in:] *Encyklopedia samorządu terytorialnego*, eds. K. Miaskowska-Daszkiewicz, B. Szmulik, Warszawa 2010, p. 128.

[7] K. Skotnicki, *Pojęcie autonomii w teorii prawa państwowego*, "Studia Prawno-Ekonomiczne" 1986, vol. 36, p. 86.

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tural matters, free from interference by the government of the state within which they operate, but the government retains its authority in foreign affairs and state security.[8] A similar view was presented by Lech Antonowicz, who stated that autonomous territories are geopolitical entities "which are not independent, but also are not wholly subordinate to the authorities of the states whose part they form or on which they depend".[9] He has also noted that such territories exist in the structure of differentiated states, which are uniformly built in their essential part and containing within their borders and activities territories with distinct systemic features.

In the definitions of autonomous territories proposed by various authors, it is indicated that their characteristic feature is the granting of certain rights to communities living in a given region in the state.[10] At the same time, most scholars in the field express the opinion that autonomous territories differ one from another significantly, not only in terms of their area, population figures, geographic location, but above all in terms of the legal basis shaping their status, scope of their competences, and the nature of their relations with the authorities of their respective states.[11] There is also a view formulated that the analysis of the legal status of such territories should take into account the provisions of constitutional law and international law.

The systemic changes that have taken place in modern states have rendered it necessary to distinguish between a situation where territorial autonomy covers the entire or a significant part of the territory of a state, and one where autonomy has been granted to a strictly defined territory or territories, the status of which differs from that established over most of the state. In the first case, one can speak of an autonomy-governed state or a regionalised state where the decentralization of the exercise of power was introduced on a universal basis,[12] in the second – a differentiated state, in which only clearly specified territories exercise certain powers and use established bodies.[13] However, also in the latter case, the lists of such territories

[8] L.B. Sohn, *The Concept of Autonomy in International Law and the Practice of the United Nations*, "Israel Law Review" 1980, vol. 15(2), p. 190.

[9] L. Antonowicz, *Autonomia terytorialna ze stanowiska prawa międzynarodowego*, "Annales UMCS sectio G (Ius)" 1995, vol. 43(3), p. 25.

[10] Cf. T. Brańka, *Znaczenie autonomii we współczesnych stosunkach międzynarodowych*, [in:] *Dylematy państwowości*, ed. K. Trzciński, Warszawa 2006, p. 24.

[11] Cf. F. Harhoff, *Institutions of Autonomy*, "Nordic Journal of International Law" 1986, vol. 55(1–2), pp. 39–40; J. Iwanek, *Pojęcie autonomii terytorialnej…*, pp. 10–24; M. Tkacik, *op. cit.*, pp. 370–374. See B. Broms, *Links between Autonomous Territory and Suzerain State*, "Nordic Journal of International Law" 1986, vol. 55(1–2), p. 12.

[12] Cf. J. Iwanek, *Prawnokonstytucyjne położenie regionów autonomicznych w Hiszpanii*, [in:] *Oblicza decentralizmu*, ed. J. Iwanek, Katowice 1996, pp. 27–41.

[13] Idem, *Pojęcie autonomii terytorialnej…*, p. 20. See also M. Domagała, J. Iwanek, *Regionalne i lokalne ustroje polityczne, część II*, "Studia Politicae Universitatis Silesiensis" 2014, vol. 12, pp. 37–41.

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differ in content. The differences in the perception of the legal situation of these territories result from their history, often related to colonial past, and from their geographical location. The article discusses parliamentary bodies of autonomous territories under the sovereignty of European states, in which these territories have a legal status different from other territorial divisions.

COMPOSITION AND COMPETENCES OF PARLIAMENTARY BODIES OF NORDIC AUTONOMOUS TERRITORIES

Several European autonomous territories are located in the Nordic region. These are the two Danish territories: Greenland and the Faroe Islands, and the Åland Islands forming part of the Finnish territory.[14]

Of the Nordic autonomous territories, Greenland holds the most prominent place in scientific literature. This is due to a number of factors: it is the largest non-continental island in the world; it has been granted a very broad autonomy within the Danish state; it is economically important due to its natural resources and large-scale fishing industry; and it is an important territory in the context of climate issues. Greenland's legal and political situation changed significantly after World War II when, instead of its status as a dependent territory, it was granted autonomy within the Danish state according to the Greenland Home Rule Act of 29 November 1978.[15] The scope of autonomous powers was significantly extended by the Greenland Self-Government Act of 12 June 2009.[16] Greenland's authorities were granted powers related to foreign affairs, including negotiating and concluding agreements with states and international organizations.[17] Due to the extent of these powers, the view is expressed that the 2009 Act can be seen as an interim constitution or a "roadmap" in the period of Greenland's journey towards full independence, especially as its Chapter 8 was titled "Greenland's access to independence".[18]

The Greenland Parliament, referred to as the *Inatsisartut*, was established on 1 May 1979, replacing the Greenland Provincial Council that had existed since

[14] The systems of Nordic territories were described by such authors as, e.g., K. Kubiak, *Nordic Autonomous Territories*, "Polish Quarterly of International Affairs" 2002, vol. 11(4), pp. 77–91; S. Sagan, V. Serzhanova, D. Wapińska, *Charakterystyka aktów ustrojowych autonomii nordyckich*, "Studia Iuridica Lublinensia" 2014, vol. 22, pp. 121–133.

[15] Greenland Home Rule Act No. 577, 29 November 1978, http://www.stm.dk/_p_12712.html (access: 10.12.2022).

[16] Act on Greenland Self-Government, Act No. 437, 12 June 2009, https://www.ilo.org/dyn/natlex/docsELECTRONIC/110442/137381/F-520745313/DNK110442 Eng.pdf (access: 10.12.2022).

[17] A. Przyborowska-Klimczak, *Status prawny Grenlandii*, [in:] *Państwo i terytorium w prawie międzynarodowym*, eds. J. Menkes, E. Cała-Wacinkiewicz, Warszawa 2015, pp. 438–443.

[18] D. Rozmus, *Grenlandzka niepodległość – głos w dyskusji*, "Roczniki Administracji i Prawa" 2019, vol. 19(1), pp. 237–241.

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1950. The Parliament initially was composed of 21 members, but since 1999 their number has increased to 31. The members of the unicameral parliament are elected by universal and direct suffrage, by secret ballot, according to a proportional representation system, and their term of office is four years. Greenland also has two deputies in the Danish parliament, the *Folketing*. The Greenlandic Parliament has broad legislative powers, which were extended by the 2009 Act and set out in the lists attached to it. Laws to be passed should comply with both that Act, the Danish Constitution and international law. The legislative initiative is vested in each member of Parliament and the Government of Greenland. The substantive work on bills is carried out in parliamentary committees. Once a bill is passed by the Parliament, the Prime Minister of the Government has four weeks to promulgate it. The Parliament also performs the functions of adopting the budget, which should comprise all revenue and expenditure. In addition, it performs a controlling function in relation to the government, scrutinizing the government's implementation of laws and parliamentary resolutions, and has the power to decide on the political accountability of the government.[19]

The 2021 parliamentary election in Greenland was won by the green-leftist and pro-independence party *Inuit Ataqatigiit* – People's Community (founded in 1976). The victory brought about a change in attitude towards the issue of uranium and rare earth mining. The party, which had been the largest opposition grouping, won 37% of the vote, defeating the social democrats of the *Siumut* (Forward) party (established in 1977), who had been in power for many years, which won 29% of the vote, which translated into 12 seats in the 31-member Parliament, while *Siumut* has 8. It may be noted that the election was, as regards economic matters, a sort of a referendum about the Kvanefjeld mine planned to be constructed by an Australian company in the south of the island, a location considered to be the largest unexploited deposit of rare earth elements and uranium. These are raw materials of strategic importance for the global production of, e.g., electronics, of which China is a major manufacturer. The party that won the elections is against the project, which was also pointed out in their election programme, while the government, which collapsed due to the dispute on the project, had perceived the operation of the mine as an opportunity for economic independence from Denmark. It should also be noted that the construction and operation of the mine is opposed by almost two-thirds of the population of more than 56,000 inhabitants of the island, primarily due to concerns about the state of the environment and contamination of the waters with radioactive materials. In this context, one should mention the President

[19] P. Uziębło, *Podstawy ustroju Grenlandii (wybrane zagadnienia)*, "Przegląd Prawa Konstytucyjnego" 2014, vol. 17(1), pp. 22–25.

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Donald Trump's proposal of 2019 to buy Greenland from Denmark, which met with a strongly negative reaction from the Danish authorities.[20]

It is also worth pointing to Greenland's relations with the European Union, which are based on a number of documents, including the Declaration of 19 March 2015.[21] The Declaration underlines Greenland's geostrategic importance to the European Union and identifies the areas where cooperation should be continued and developed. The development of this cooperation in fisheries is confirmed by the Sustainable Fisheries Partnership Agreement between the European Union, of the one part, and the Government of Greenland and the Government of Denmark, of the other part, concluded in Brussels on 2 April 2021.[22] The Agreement sets out the rules and procedures for economic, financial, technical, and scientific cooperation in the fisheries sector in order to continue sustainable fishing in Greenland's exclusive economic zone, and determines the conditions for access to and fishing in that zone by EU vessels, and it also provides for the development of partnerships between undertakings that operate in the fisheries sector. A joint committee has also been set up, whose main task is to monitor the application of the Agreement and to ensure its implementation.

The second Danish autonomous territory is the Faroe Islands, located in the Norwegian Sea between Great Britain, Iceland and Norway. The parliamentary traditions of this territory date back to the 9th century, because after the settlement of people who came from the today's western part of Norway, an assembly called Althing was established in Torshavn, in a place called Tinganes. It was composed of men only. The assembly used to be convened once a year (in spring or early summer), during which it performed legislative and judicial functions and settled current affairs.[23] It should be mentioned that the history of the Faroe Islands was connected first with Norway and then with Denmark, with separatist sentiments growing or weakening at different times. During World War II, the archipelago came under the power of Great Britain, but after the declaration of independence by the Faroese parliament *Løgting* in 1946 (following an earlier referendum in which the idea of secession had a slight advantage), the Danish government dissolved the

[20] E.M. Basse, *Why Greenland Is Not for Sale*, "Journal of Comparative Urban Law and Policy" 2020, vol. 4(1).

[21] Joint Declaration by the European Union, on the one hand, and the Government of Greenland and the Government of Denmark, on the other, on relations between the European Union and Greenland, Brussels, 19 March 2015, https://ec.europa.eu/europeaid/sites/devco/files/signed-joint-declaration-eu-greenland-denmark_en.pdf (access: 10.12.2022).

[22] Sustainable Fisheries Partnership Agreement between the European Union, of the one part, and the Government of Greenland and the Government of Denmark, of the other part, 2 April 2021 (OJ L 175/3, 18.5.2021).

[23] K. Szwed, *Ewolucja dążeń niepodległościowych Wysp Owczych*, "Przegląd Europejski" 2019, no. 2, p. 197.

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parliament and ordered new elections, during which groups supporting the union with Denmark have won. Pursuant to the Act of 23 March 1948 on the national system of the Faroe Islands, they obtained the status of an autonomous territory of the Kingdom of Denmark, governed by the parliament and the government.[24] The internal political system of the archipelago was regulated by the Act of 26 July 1994.[25] Legislative power is shared by the parliament and the prime minister. The Faroese parliament is unicameral and consists of no more than 33 deputies elected for a four-year term. The most important function of the parliament is the legislative function, but it also performs the budgetary-financial, appointing and controlling functions. The right of legislative initiative is vested in the prime minister, ministers and deputies. Laws are passed by a simple majority of votes. They are to be approved by the Prime Minister of the Faroe Islands within 30 days of their enactment. The parliament exercises supervision over the government, ratifies certain international agreements, approves government borrowing and lending, adopts a budget, approves a report on its implementation, and appoints financial auditors. Pursuant to the Act of 12 May 2005, the matters of the constitution, citizenship, the Supreme Court, foreign policy, security, and defence as well as monetary and currency policy are the exclusive competence of the Danish authorities.[26] It should be noted, however, that the act adopted two days later allowed the Faroese government to negotiate and conclude agreements in accordance with international law with states and international organizations, including agreements of an administrative nature that relate only to matters within the jurisdiction of the Faroese authorities.[27] They exercise these powers by concluding agreements, mainly with the European Union, concerning, i.a., fisheries, trade, and scientific and technological cooperation.

It should be noted that the Constitution of Denmark of 5 June 1953 does not contain regulations regarding the legal situation of the autonomous territories, and its § 1 stipulates that it applies to all parts of the Kingdom of Denmark.[28] In § 28,

[24] Home Rule Act of the Faroe Islands, Act No. 137, 23 March 1948; https://www.government.fo/en/foreign-relations/constitutional-status/the-home-rule-act (access: 10.12.2022). Cf. A. Olafsson, *International Status of the Faroe Islands*, "Nordisk Tidsskrift for International Ret" 1982, vol. 51(1–2), pp. 29–31; A. Grahl-Madsen, *The Evolution of the Nordic Autonomies*, "Nordisk Tidsskrift for International Ret" 1985, vol. 54(1), p. 6.

[25] Parliamentary on Home Rule in the Faroe Islands, Act No. 103, 26 July 1994, https://www.government.fo/en/the-government/parliamentary-act-on-home-rule-in-the-faroes (access: 10.12.2022).

[26] Assumption Act of Matters and Fields of Responsibility by Faroese Authorities, Act No. 79, 12 May 2005, https://www.government.fo/en/the-government/act-of-responsibility-by-the-faroese-authorities (access: 10.12.2022).

[27] Foreign Policy Act of the Faroe Islands, Act No. 80, 14 May 2005, https://www.government.fo/en/the-government/act-on-the-conclusion-of-agreements-under-international-law (access: 10.12.2022).

[28] Constitutional Act of the Kingdom of Denmark, 5 June 1953, http://biblioteka.sejm.gov.pl/wp-content/uploads/2015/07/Dania_eng_010115.pdf (access: 10.12.2022).

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describing the composition of the Danish unicameral parliament, the *Folketing*, it is decided that the *Folketing* has no more than 179 members, two of whom being elected in the Faroe Islands and two in Greenland.

The Nordic autonomous territories also include the Åland Islands, located in the Baltic Sea at the entrance to the Gulf of Bothnia, between the coasts of Sweden and Finland. Their status was determined one hundred years ago by a 1921 decision of the League of Nations[29] and a respective agreement between the governments of Sweden and Finland.[30] The same year, the Convention on the demilitarisation and neutralisation of the Åland Islands was concluded.[31] In international-law terms, the status of the Islands was also regulated by the 1940 peace treaty between Finland and the USSR,[32] followed by the 1994 Treaty of Finland's accession to the European Union, which contained the so-called Åland Protocol.[33] In accordance with the Protocol, the Åland Islands have been granted privileges and derogations in respect of certain provisions of EU law concerning the purchase of land and the establishment of businesses by persons without the right of domicile, participation in local elections, harmonisation of turnover taxes and excise duties.[34] The autonomous status of the Åland Islands was confirmed in Article 120 of the Constitution

[29] Decision about the Åland Islands of the Council of the League of Nations – "The Åland decision", Minutes of the Fourteenth Meeting of the Council, 24 June 1921, https://kulturstiftelsen.ax/app/uploads/2020/07/english-3-3-1.pdf (access: 10.12.2022), pp. 4–5.

[30] Åland Agreement in the Council of the League of Nations, 27 June 1921, https://kulturstiftelsen.ax/app/uploads/2020/07/english-3-3-1.pdf (access: 10.12.2022), pp. 6–7. Cf. F. Seyersted, *The Åland Autonomy and International Law*, "Nordisk Tidsskrift for International" 1982, vol. 51(1–2), pp. 24–26.

[31] Convention relating to the Non-Fortification and Neutralisation of the Aaland Islands, Geneva, 20 October 1921, https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=2526&context=ils (access: 10.12.2022). For more detail on the demilitarisation and neutralisation of the Åland Islands, see M.J. Filipek, *Międzynarodowoprawny status archipelagu Wysp Alandzkich. Kwestia demilitaryzacji i neutralizacji Alandów*, "Kwartalnik Kolegium Ekonomiczno-Społecznego" 2011, no. 1, pp. 137–160.

[32] Treaty of Peace between the Republic of Finland and the Union of Soviet Socialist Republics, 12 March 1940, https://www.winterwar.com/War%27sEnd/moscow_peace_treaty.htm (access: 10.12.2022).

[33] Act concerning the conditions of accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded, Protocol No. 2 – on the Åland Islands, Corfu, 24 June 1994 (OJ C 241/352, 29.8.1994).

[34] J. Jańczak, *Na granicy Unii Europejskiej – pozycja europejskich terytoriów autonomicznych w dobie globalizacji i integracji. Przypadek Wysp Alandzkich*, "Środkowoeuropejskie Studia Polityczne" 2007, no. 2, pp. 81–88; S. Silverström, *The Competence of Autonomous Entities in the International Arena – with Special References to the Aland Islands in the European Union*, "International Journal on Minority and Group Rights" 2008, vol. 15(2–3).

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of Finland of 11 June 1999.[35] Detailed regulations on this status are contained in the Act on the Government of Åland Islands – the Statute of the Åland Islands of 16 August 1991, which entered into force on 1 January 1993.[36] To emphasize the stability of the legal basis of the existence and functioning of the autonomy, it may be amended, pursuant to Article 69 of the Statute, by a consensual decision of the Parliament of the Åland Islands, taken by a two-thirds majority, and of the Finnish authorities, according to the procedure provided for amending the Constitution of Finland.

The Parliament of the Åland Islands (*Alands Lagting*) is composed of 30 members elected in a direct, equal, universal election by secret ballot. A right to vote and to stand as a candidate is vested in those having the right of domicile. The term of office of MPs is four years. The sessions of the Parliament are opened and closed by the President of Finland or, on his behalf, the Governor of the Åland Islands. The Parliament performs legislative functions in matters falling within the competence of the Åland Islands. A very comprehensive list of these powers listed as 28 points, is included in Article 18 of the Statute. It covers matters relating to: organisation, selection and operation of the authorities and offices in the Islands, salaries and pensions, symbols of the Islands, municipal boundaries and municipal elections, taxation, public order and security, town planning and construction, transfer of real estate for public use, leasing and renting, environmental protection, recreation and water rights, protection of monuments, cultural and historical heritage, health and medical care, social welfare, licenses for the sale of alcohol, education, apprenticeships, sport, youth work, museums, archives and libraries, water and forest management, hunting and fisheries, production levels in agricultural, forestry and fish farms, exploration and exploitation of minerals, mail, radio and cable television, roads, canals, road traffic, rail traffic and navigation, economic activities with exemptions defined in the Statute, promotion and employment, statistics on the Islands, certain criminal matters, as well as imposition and enforcement of fines. This list has been supplemented by an additional point, according to which the Parliament is also competent for other matters indicated in the Statute of the Islands. The legislative activities of the Parliament of the Åland Islands are subject to the supervision by the President of Finland, who may revoke an act adopted by the Parliament if it exceeded its powers or if the act poses a threat to national security. Before taking such a decision, the President must take note of the opinion of the Minister for Justice of Finland and the Delegation of the Åland Islands. The

[35] Constitution of Finland, 11 June 1999, http://biblioteka.sejm.gov.pl/wp-content/uploads/2015/05/Finlandia_ang060314.pdf (access: 10.12.2022).

[36] Act on Autonomy of Åland, 16 August 1991, https://peacemaker.un.org/sites/peacemaker.un.org/files/FI%20SE_930101_Act%20on%20the%20Autonomy%20of%20Aland.pdf (access: 10.12.2022).

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constitutionality of acts adopted by the *Lagting* is to be examined by the Supreme Court. The Parliament of the Islands may draft bills which the Finnish Government is obliged to bring to the *Eduskunta* for deliberation. The Parliament of the Åland Islands is also involved in the ratification procedure for agreements covering the matters falling within the competence of the Islands.

It should be stressed that the autonomous status of the Åland Islands, confirmed by Finland and the European Union, and the maintenance the state of demilitarisation and neutralisation, give the archipelago a favourable economic and political situation and ensures security at national and international levels.[37]

COMPOSITION AND COMPETENCES OF PORTUGUESE AUTONOMOUS TERRITORIES

The Portuguese autonomous territories are Madeira and the Azores. The Madeira archipelago is located in the Atlantic Ocean off the northern coast of Africa. The archipelago has been subject to many vicissitudes, for example forming part of the territory of Spain or being under British administration, and since 1 July 1976, it has been an autonomous territory of Portugal. The Azores are an archipelago of nine volcanic islands located in the central part of the Atlantic Ocean. Until the beginning of the 15th century, when Portuguese colonization took place, the islands were uninhabited. In 1976, they gained partial autonomy, expanded in 1980.[38]

The legal situation of these archipelagos is governed by the Constitution of the Portuguese Republic of 2 April 1976, in its Title VII "Autonomous Regions".[39] Of crucial importance is Article 225 of the Constitution, according to which the political and administrative system of the Azores and Madeira is based on their geographical, economic, social, and cultural characteristics and on the historical autonomist aspirations of the population. The aim of autonomy is to ensure the democratic participation of citizens, economic and social development and the pursuing and defending regional interests, as well as strengthening national unity and bonds of solidarity between all Portuguese. It was also emphasized that autonomy did not violate the principle of the indivisibility of state sovereignty and is implemented within the framework of the Constitution. The powers of the autonomous regions are listed in detail in Article 227 of the Constitution. It includes, e.g., powers to adopt legislative acts in matters set out in the political and administrative statutes

[37] J. Jańczak, *op. cit.*, p. 88.

[38] M. Ackrén, P.M. Olausson, *Condition(s) for Island Autonomy*, "International Journal on Minority and Group Rights" 2008, vol. 15(2–3), pp. 238–239.

[39] Constitution of Portuguese Republic, 2 April 1976, http://biblioteka.sejm.gov.pl/wp-content/uploads/2016/03/Portugalia_ang_010116.pdf (access: 10.12.2022).

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of the autonomous territories, to issue secondary provisions in order to implement regional legislation and acts adopted by sovereign authorities, to exercise the right of legislative initiative, to participate in the negotiation of international agreements. These provisions are referred to in Article 232 of the Constitution on the competences of the Legislative Assembly of the autonomous territory, distinguishing between its exclusive competences, presenting proposals for regional referenda and drafting and adopting regulations. Detailed rules for legislative assemblies are contained in the political and administrative statutes of Madeira of 21 August 1999[40] and of the Azores of 30 December 2008.[41] Members of both assemblies are elected for four-year terms in general, direct elections by secret ballot, according to the principle of proportional representation. The Assembly of Madeira is composed of 47 members and the Assembly of the Azores is composed of 57 members. The assemblies have legislative and scrutiny powers. The list of matters falling within their legislative competence is very extensive and covers matters relating to all areas of economy, transport, tax system, culture, health and social security, work, education, tourism, and public order.

MOUNT ATHOS AS AN AUTONOMOUS TERRITORY OF A RELIGIOUS NATURE

A special status among the European autonomous territories has the monastic community of Athos, officially referred to as *Agion Oros* (Holy Mountain). It is located on the eastern tip of the Chalcidice Peninsula and is the least accessible territory for tourists in Europe, completely unavailable to women.[42] In the history of this territory, there are biblical threads and the official seals contain the image of Our Lady, who covers the entire peninsula with her coat. In the 7th century, Emperor Poganatos handed Athos over to monks who built monasteries there in the subsequent centuries. The current status of Mount Athos is defined in Article 105 of the Greek Constitution of 9 June 1975[43] and in the Constitutional Charter of the Holy Mountain of Athos of 10 May 1924, confirmed in 1926 by a Greek legislative

[40] Estatuto Político-Administrativo da Região Autónoma da Madeira, 21 de agosto 1999, Lei n.º 130/99, Diário da República n.º 195/1999, Série I-A, https://dre.pt/dre/legislacao-consolidada/lei/1999-34496275 (access: 10.12.2022).

[41] Political and Administrative Statute of the Autonomous Region of the Azores, 12 January 2009, Law 2/2009, https://www.alra.pt/documentos/estatuto_ing.pdf (access: 10.12.2022).

[42] The still valid prohibition of entry to Mount Athos for women and female animals was formulated in the edict issued in 1060 by the Byzantine emperor. See P. Łukasik, *Ustrój Świętej Góry Athos w świetle regulacji europejskich*, "Disputatio" 2009, vol. 8, p. 202.

[43] Constitution of Greece, 9 June 1975, http://biblioteka.sejm.gov.pl/wp-content/uploads/2015/10/Grecja_ ang_010711.pdf (access: 10.12.2022).

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decree.[44] According to the Constitution, Mount Athos, according to its ancient privileged status, is an autonomous part of the Greek state, keeping its sovereignty. In spiritual terms, it falls under the direct jurisdiction of the Ecumenical Patriarchate.

The legislative body of Mount Athos is the Holy Community (Holy Assembly; in Greek: *Iera Koinotis*). It is seated in Karies. The Holy Community consists of 20 representatives of the Athos monasteries (one from each monastery), elected for a one-year term, with the option of re-election. The Holy Community holds ordinary meetings three times a week, and extraordinary sessions may be convened as necessary. The sessions are chaired by a representative of the Great Lavra, the monastery that holds the highest position in the hierarchy of Athos monasteries. The Community meeting may also be attended by a representative of the Greek government – a governor in the rank of prefect, at the invitation of its members, with a consultative vote. Decisions are taken by an absolute majority and all members of the Community should be informed in advance of the subject matter of the meeting. The Holy Community is not a superior body to the individual monasteries, but coordinates their activities and approves regulations concerning their internal order. It also resolves disputes between them and intervenes if there is a financial risk to any monastery. The legislative authority of the Holy Community concerns matters covered by the provisions of the Statute Charter. The responsibilities of the governor and the state administration include the maintenance of public order and security.[45]

The accession treaty signed by Greece when joining the EU guarantees the autonomy of Mount Athos with its centuries-old special legal status, allowing exceptions to European law.[46] This applies, i.a., to the ban on women entering Mount Athos, despite existing EU anti-discrimination laws. The territory is also excluded from the EU VAT area.[47]

CONCLUSIONS

The analysis of the functions exercised by the parliamentary bodies of autonomous territories leads to the conclusion that these bodies have been granted extensive legislative and controlling powers. Legal acts adopted by the parliaments

[44] Constitutional Charter of the Holy Mountain of Athos, 10 May 1924, ratified by Legislative Decree of Hellenic Republic, 10 September 1926, https://www.mountathos.org/en-us/Athonite-Meadow/Historical-and-Legal-Documents/Mount-Athos-Institutional-Chart.aspx (access: 10.12.2022).

[45] M. Olszówka, *Współczesne stosunki państwo–Kościół w Republice Greckiej*, "Rocznik Teologiczny" 2009, vol. 51(1–2), pp. 164–165.

[46] Act concerning the conditions of accession of the Hellenic Republic and the adjustment to the Treaties, Final Act, Joint declaration concerning Mount Athos, Athens, 28 May 1979 (OJ L 291/186, 19.11.1979).

[47] P. Łukasik, *op. cit.*, pp. 205–208.

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cover many social and economic issues of importance for the inhabitants of these territories. The status of autonomous territories was shaped mainly on the basis of national laws, but some of its elements resulted also from documents of international law. It is worth emphasizing that the legal acts precisely defined matters within responsibility of the parliamentary bodies and executive authorities of the autonomous territories, and listed those that remained the domain of state authorities. An important issue under consideration regarding the autonomous territories in states in which their legal situation differs from the status of the rest of the state territory is their future, as autonomy is perceived as a dynamic and changeable system, subject to various internal and international conditions. The process of expanding the autonomy of these territories, often related to gaining additional powers by their parliamentary bodies, does not necessarily mean that they will strive towards independence, as there are factors that weaken the intention to choose such a path and delay making respective decisions.[48] Of great importance are especially the economic ties of the territories with the states of which they are part, as well as the considerations of international security. The economic cooperation, sometimes combined with significant support by these states in certain areas and their defence guarantees, certainly reduce the independence aspirations of the autonomous territories.[49] It can also be noted that the insular location of most European autonomous territories is a factor that allows their inhabitants to keep a certain distance from problems of the population of the main part of the state, and also allows the cultivation of historically developed cultural and social differences. Significant changes in the legal situation of autonomous territories also affect their external relations. They involve negotiating and concluding international agreements with international organizations. Particularly important are their relations with the European Union, maintained both by territories excluded from the application of EU law and those covered by its scope. It should be noted that in the latter case, it was possible for the autonomous territories to retain the existing differences and obtain certain derogations with regard to the provisions of EU law. It should also be emphasized that the Danish and Finnish autonomous territories became members of the Nordic Council with two representatives for each territory and they keep diplomatic relations with other states. The international cooperation carried out in various fields under acts adopted by the parliamentary bodies of autonomous territories is an important element of the activity of the legislative authorities of these territories, and for their inhabitants, it constitutes a confirmation of the right to undertake independent actions by them. It also seems that in view of globalization processes and the limited possibilities for small states to play a significant role in the modern

[48] K. Göcke, *The 2002 Referendum on Greenland's Autonomy and What It Means for Greenland's Future*, "Zeitschrift für ausländisches öffentliches Recht und Völkerrecht" 2009, vol. 69(1), pp. 117–120.

[49] B. Broms, *op. cit.*, pp. 15–16; D. Rozmus, *op. cit.*, p. 241.

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world, it may be more advantageous for autonomous territories to gain broader legislative powers and greater independence of the executive, while remaining within the boundaries of the existing states, rather than achieving a sovereign state status.

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ABSTRAKT

W artykule przedstawiono kompetencje organów parlamentarnych terytoriów autonomicznych w państwach europejskich, w których terytoria te mają odmienny status od zasadniczej części terytorium państwowego. Korzystając z metody prawno-dogmatycznej i prawno-porównawczej, analizie poddano uregulowania prawne dotyczące organów parlamentarnych Grenlandii, Wysp Owczych, Wysp Alandzkich, Madery, Azorów i Góry Athos. Celem analizy było udowodnienie tezy, że uprawnienia organów parlamentarnych tych terytoriów umożliwiają im decydowanie o sprawach ważnych

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dla mieszkańców terytoriów oraz nawiązywanie i utrzymywanie stosunków międzynarodowych z innymi państwami i organizacjami międzynarodowymi. Szeroki, nadal zwiększany, zakres przyznanej tym terytoriom autonomii oraz dobre relacje między terytoriami i państwami ich usytuowania przyczyniają się do demokratyzacji struktur krajowych i wpływają na osłabienie dążeń władz i ludności terytoriów autonomicznych do uzyskania przez nie samodzielnego bytu państwowego. Należy jednak podkreślić, że procesy zachodzące we współczesnej społeczności międzynarodowej mają dynamiczny charakter i mogą powodować potrzebę wprowadzania dalszych zmian w sytuacji prawnej europejskich terytoriów autonomicznych.

Słowa kluczowe: terytoria autonomiczne; organy parlamentarne; kompetencje prawodawcze; państwa europejskie; stosunki międzynarodowe; Unia Europejska

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