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## **Buenos Aires City as an example of a derived autonomy**

**Keywords:** autonomy, Buenos Aires, Argentina, amendment, capital, province

**Słowa kluczowe:** autonomia, Buenos Aires, Argentyna, reforma konstytucyjna, stolica, prowincja

### **Summary**

A several years ago the Argentinean legal doctrine has developed a characteristic concepts to defer the autonomies of its provinces with the status of Buenos Aires City. It is considered that provinces have an originative autonomy, while Buenos Aires City a derived autonomy. The difference is related to the origin of both autonomies. It also entail the power limits of both autonomous authorities. The borders of the power of the provinces are wider than of the capital city, however its autonomy is also wide enough, more than in any other capital in Latin America. As a result of 1994 amendment of Argentinean Constitution, Buenos Aires City has obtained autonomy and a unique status among Argentinean administrative entities.

### **Streszczenie**

## **Miasto Buenos Aires jako przykład autonomii wtórnej**

Kilkanaście lat temu w argentyńskiej doktrynie prawnej pojawiło się rozróżnienie typów autonomii charakterystycznych dla tamtejszego ustroju państwowego. Wyróżniono autonomię pierwotną prowincji oraz autonomię wtórną nadaną Miastu Buenos Aires. Rozróżnienie wynika z genezy, a także z zakresu władzy wyznaczonego dla obu typów autonomii. Grani-

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ce władzy prowincji są zakreślone szerzej niż dla miasta stołecznego, jednakże i Miasto Buenos Aires posiada szeroki zakres autonomii, większy niż jakakolwiek inna stolica Ameryki Łacińskiej. Na skutek reformy konstytucyjnej z 1994 r., Miasto Buenos Aires otrzymało szeroką autonomię i unikatowy status spośród argentyńskich jednostek administracyjnych.

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## I.

In the Argentinean legal doctrine there appears a concept of originative autonomy, which is characteristic for the provinces which integrate the Argentinean Federation, as well as a concept of derived autonomy, which is a result of the art. 129 of Argentinean Constitution legal norm, setting the Buenos Aires City as an autonomous city.

The regime of Buenos Aires City raises permanent controversy among both lawyers and politicians. A city which has always stood out in the region, both when it comes to population potential, as well as economic and political life, today is not only the capital of a federal state, but also an autonomous unit within the state. The regime of the city had showed attributes of autonomy since the Constitution in 1853 was established or even earlier. However, until the 1994 amendment to the Constitution was approved, the autonomy of Buenos Aires has not been standardized *de jure*. This way the existing status was sanctioned, but the political and legal disputes concerning the identity of the political system of the city were not solved. The constitutional reform itself was a result of the Olivos Pact, signed by the then governing liberal President Carlos Menem, who wished to be re-elected, and former President Raúl Alfonsín, leader of the largest opposition party center-left UCR<sup>2</sup>. History came full circle, as the autonomy of the capital city has become a political compromise between the opposing political forces of the Peronists and the Socialists, as previously in the 19<sup>th</sup> century a political arrangement between the Unitarianists and the Federalists became the recognition of Buenos Aires City as capital of Argentina.

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<sup>2</sup> J. Saborido, L. de Privitellio, *Breve historia de la Argentina*, Madrid 2006, p. 488.

## II.

The territorial autonomy regime does not have a specific pattern, because it was not formed on a basis of a previously created theoretical model. Therefore, autonomy is a variable and dynamic concept, which continues to develop in legal and political theory. As rightly pointed out by Jan Iwanek, the existing constitutional solutions and legal practice allow to describe the characteristics of contemporary autonomies<sup>3</sup>. This distinctive model of autonomy could be called originative autonomy, i.e. one for which relevant legislation was developed and adapted, as opposed to derived autonomy imposed by previously established laws.

Autonomous regions in Europe derive their origins primarily from historical traditions. Centuries have shaped societies not strong enough to resist usually more powerful neighbors, but sufficiently different to retain their own language or dialect, culture and customs. In medieval and early modern era, these differences were sometimes highlighted by privileges granted by the rulers of the stronger side. Autonomies of European territories were also often a consequence of geographical location, and once again there is a need for a stronger neighbor for security reasons, but with aspirations of self-government on their own land. Therefore, today the consolidation of the idea of territorial autonomy is dictated by the needs of cultivation of distinct cultural values developed in a specific area, while the main elements of the autonomous space are mentioned<sup>4</sup>: The territory set by political and administrative boundaries; The population, mostly those who are residing in the territory for several generations; The institution of public life that integrates the population inhabiting in the autonomous territory (religious, cultural, educational, health, sports, etc.); The main entities of economic life, which enable the people living and social maintenance, as a place of work; Strengthening the heritage of the past, as a result of cultural and civilizational activity.

In this way, Europe, which has a diversified substructure of civilizations and culture, does not possess any “artificial” derived autonomies nowadays,

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<sup>3</sup> J. Iwanek, *Pojęcie autonomii terytorialnej we współczesnej przestrzeni demokratycznej*, [In:] *Autonomia terytorialna w perspektywie europejskiej*, t. I: *Teoria – Historia*, eds. M. Domała, J. Iwanek, Toruń 2014, p. 10.

<sup>4</sup> A. Chodubski, *Istota i uwarunkowania kształtowania współczesnej europejskiej autonomii terytorialnej*, [In:] *Autonomia terytorialna w perspektywie*, op.cit., p. 34.

arising solely from political considerations, with no tradition dating back at least several centuries and no differences in culture and language in relation with the sovereign. There are a few examples of autonomies currently existing in Europe: the so-called historical countries in United Kingdom, autonomous regions in Italy, Autonomous Communities, which are covering the entire territory of the Kingdom of Spain, Mount Athos in Greece, Aland Islands in Finland or the islands of Azores and Madera in Portugal. All of the abovementioned territories have autonomous historical traditions, and some of them are distinguished by a specific geographical location (islands). It can therefore be assumed that the European autonomies have a originative character.

However in Europe there is no practice of establishing autonomous cities, although in the past autonomous cities with limited sovereignty were created (sometimes with their closest surroundings), such as: Gdańsk (twice), Cracow, Klaipeda, Trieste, West Berlin. Nevertheless their genesis was only political (without any permanent cultural or civilizational distinctions), and derived usually as a compromise settlement of international conflicts, and their nature was temporary. Nowadays the only example of autonomous cities existing in Europe (politically) are Spanish enclaves on African coast (geographically) – Ceuta and Melilla.

The problem of autonomy is shaped in a different manner in the Americas, where apart from distant from the mainland, with a distinct civilization and culture, Chilean islands: Easter Island and Juan Fernández Archipelago, there are no autonomous territories with similar characteristic to European ones. This takes place mainly due to historical reasons and distinctive colonial past on both continents. The provinces of Argentina can also be considered as an exception to this rule, as they possess an autonomous character (including the authorization to act as independent entities in international law), but not expressly articulated in the Argentinean Constitution. The Argentinean legal doctrine grants the provinces an originative autonomy status, because the Constitution merely sanctioned the pre-existing legal personality of the provinces. This is because the Argentinian provinces hold all the power not delegated exclusively to the federal authorities<sup>5</sup>. Therefore the provinces determined the shape of the state regime and the

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<sup>5</sup> Art. 121, *Constitución de la Nación Argentina*.

competence of the federal government, and not vice versa, hence their originative nature of autonomy.

Other major nations in the Americas (United States, Mexico, Brazil, Venezuela), despite the fact that they are federations, and their states have broad authority in the implementation of internal policies<sup>6</sup>, have their political nature clearly different from European autonomies. The federal districts of Mexico<sup>7</sup> or Washington are not fully autonomous, as at the moment they do not have the characteristics of a city autonomy, being only separated capitals of federal states, United States of Mexico and United States of America, respectively. At the same time the two federal districts of the largest countries in South America have been provided with the powers that grant them the characteristics of autonomies. The autonomy of Brasilia was related to the movement of the capital of Brazil from Rio de Janeiro: the movement required the alignment of the new city laws with the laws of Brazilian states, in order to strengthen the position of the capital in a federal state, which meant giving it an originative autonomy. Inasmuch the matter of granting autonomy to Buenos Aires City was a laborious and lengthy process, which caused political unrest since the beginning of the independent Argentinean statehood.

Traditionally, the territorial administration is used to be formed by the following authorities: federal, which covers the entire country, provincial, which is limited by borders of each province, and municipal, covering with its range territorial administrative units belonging to the province<sup>8</sup>. The Argentinean legal doctrine discusses the idea whether municipalities have only an autar-

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<sup>6</sup> Work is also underway on the creation of regional autonomies in Peru, and the region of the Atlantic Coast (*Costa Atlántica*) in Nicaragua also was given the right to autonomy.

<sup>7</sup> In January 2016, the Mexican Parliament decided to initiate the procedure to reform the status of the city to introduce autonomy. Until the adoption of a constitution for Mexico City, which will determine the shape of the autonomous government, territorial organization and the authorities, existing legal regulations are applied, according to which Mexico City as the Federal District is the seat of government of the United States of Mexico and seat of government for the city of Mexico. For more information about the existing regime of Mexico City and the debate related to the reform of the Federal District, see: J. Hurtado González, A. Arellano Ríos, *La Ciudad de México y el Distrito Federal: Un análisis político-constitucional*, "Estudios Constitucionales" 2009, Año 7, No. 2, pp. 207–239.

<sup>8</sup> In the Province of Buenos Aires these are called *partidos*, in the rest of the country – *municipios*.

tic character, i.e. they are attached to self-administration, or autonomic character, which entitles them to establish legal norms for themselves, under the authority transmitted by a higher order<sup>9</sup>. It seems that the dispute is purely technical and nomenclatural, because in many cases both terms – autarky and autonomy are used interchangeably and are not mutually exclusive (municipalities also constitute legal acts, which themselves are subject to). However, there are voices that situate municipalities as autarkic organisms, below the level of autonomy, in the hierarchy of administrative units<sup>10</sup>. Hence, it became necessary for raising the importance of Buenos Aires City from other municipalities, to define it as an autonomous city. In this way another grade appeared in Argentinean territorial hierarchy and now four levels of territorial authority can be distinguished: federal, provincial, municipal and the Autonomous City of Buenos Aires (Ciudad Autónoma de Buenos Aires)<sup>11</sup>.

### III.

To understand the importance of the decision of granting autonomy to Buenos Aires City, an outline of the history of administrative and constitutional regime of the capital of Argentina must be presented. Only knowledge of the origins of the case allows for the gravity of the situation to be visible.

In the colonial era Buenos Aires became the largest city and also the most important port of the Spanish east coast of South America. However until 1776 it was located on the edge of a vast Viceroyalty of Peru, with the capital in Lima. It was the reforms of Charles III that finally led to the isolation of the southern part of Peru and a creation of a new Viceroyalty of La Plata, with Buenos Aires as a capital. The city quickly gained importance, becom-

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<sup>9</sup> A. Gordillo, *Tratado de derecho administrativo y obras selectas: parte general*, Buenos Aires 2013, pp. XIV-12–13.

<sup>10</sup> A.B. Bianchi, *El enigma jurídico de la Ciudad Autónoma de Buenos Aires*, “Revista Argentina de Régimen de la Administración Pública” 1997, No. 222, p. 5. It seems that the only difference, to distinguish autarkic organism from autonomies, it is the power of legal norms, which they constitute. Autonomies have the ability of establishing higher order legal norms then in the case of autarkic units.

<sup>11</sup> A.M. Hernández, *Federalismo, autonomía municipal y ciudad de Buenos Aires en la reforma constitucional de 1994*, Buenos Aires 1997, p. 196.

ing the seat of an intendancy – an administrative unit, introduced in Spain and its colonies during the Bourbon Reforms<sup>12</sup>. As a result of the Enlightenment ideas, the Napoleonic Wars and the local aspirations of the Creoles striving for political independence, the society of the Viceroyalty of La Plata decided to break away from the European metropolis (1810) and to create an independent state (1816), originally called United Provinces of La Plata and later Argentina.

From the very beginning two concepts of government for the newly established state collided among politicians from the La Plata. There was little doubt as to the republican character of the new state. However part of the decision-makers were in favor of a strong centralized power, which center would be – of course – Buenos Aires, while their opponents have seen the future of the state as a union of autonomous provinces, loosely connected, leaving to the federal authorities only the issues of international affairs and perhaps military. Soon the first became to be known as Unitarianists, while the others gain the title of Federalists. The proponents of decentralization of power were mainly recruited from the provincial elites, which have become a part of the new state, while the major bastion of the Unitarianists was the rapidly growing metropolis on the Atlantic coast. As a result of civil wars, which lasted more than three decades, finally a partial compromise on the future shape of the political regime of Argentina was achieved. The state had to be a federation, but with wide-ranging powers of the federal authorities, which resided in the capital.

In 1853 a federalist Constitution of the Argentine Confederation (*Constitución de la Confederación Argentina*) was introduced, which having been several times reformed is in force to this day. Until then, the Buenos Aires City remained under the direct administration of the homonym Province. The art. 3 of the Constitution proclaimed that the seat of the authorities in charge of the Federal Government will be in Buenos Aires City, which was determined at the same time the capital of the Confederation by a special law<sup>13</sup>. During the 1850s decade the rivalry between the Unitarianists associated with Buenos Aires Province and the Federalists from other provinces gained momentum

<sup>12</sup> J. Saborido, L. de Privitellio, *op.cit.*, pp. 11–12.

<sup>13</sup> Art. 3, *Constitución de la Confederación Argentina*, [In:] A. Sampay, *Las constituciones de la Argentina (1810/1972)*, Buenos Aires 1975, p. 358.

again, which had its impact on the issue of the capital<sup>14</sup>. As a result of a short secession of Buenos Aires City, the capital of the state was moved temporarily to the city of Paraná in the Entre Ríos Province. The reason for this fact was that so far the city was under the authority and jurisdiction of Buenos Aires Province, which drew tangible benefits from it, primarily economic. The city authorities, as well as the other provinces sought at all costs to remove the city, that was to be the seat of the federal government, from the influence of Buenos Aires Province, which had developed above the rest in every political and economic aspect. Therefore only a few years after the introduction of the Constitution, the regulation of the state capital has been reformed. In 1860<sup>15</sup> it was given the wording in force to this day: “The authorities in charge of the Federal Government shall reside in the city to be declared Capital of the Republic by a special law of Congress, once settled the cession of the territory to be federalized by one or more provincial legislatures.”<sup>16</sup> This way, a possibility of transferring the capital to another place in the country has been opened, in case Buenos Aires Province did not want to cede (federalize) the territory of Buenos Aires City. By modifying the article referring to the capital, a real opportunity to become a permanent transfer of the federal capital to another city appeared. Then it was suggested that it could be the city of Rosario, located in Santa Fe Province – bastion of the Federalists.

Buenos Aires Province did not want to give up the jurisdiction over its largest city so easily, especially that an era of Argentinean Presidents tending toward the Unitarianists has begun. Due to the Constitution regulation, the Congress had the ability to transfer the capital outside Buenos Aires City at any time. On the other hand, the city authorities have sought to become independent from the Buenos Aires Province. Issues that remained debatable were primarily those of customs, supremacy over the port and the presence of the federal government within the city<sup>17</sup>. This way, Buenos Aires City became a natural ally of the other provinces in the struggle against

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<sup>14</sup> J. Lynch, R. Cortés Conde, E. Gallo, D. Rock, J.C. Torre, L. De Riz, *Historia de la Argentina*, Barcelona 2001, pp. 40–41.

<sup>15</sup> For more about the constitutional reform of 1860, see: A. Sampay, op.cit., pp. 381–426.

<sup>16</sup> Art. 3, *Constitución de la Nación Argentina*.

<sup>17</sup> For more about the reasons of the Revolution of 1880, see: H. Sábato, *Buenos Aires en armas. La revolución de 1880*, Buenos Aires 2008.



the hegemony of Buenos Aires Province. The situation remained suspended until 1880, when under the 1029 Act the official status of state capital was finally given to Buenos Aires City<sup>18</sup>. Until then, the city was only the seat of the federal authorities. Under the new regulation the Buenos Aires City was removed from the jurisdiction of Buenos Aires Province (a new provincial capital was moved to the newly created city of La Plata, approx. 60 km south of the existing) and it became the capital of the federation (*Federal Capital*) with a special regime. Since then, until 1994, Buenos Aires City as the capital of Argentina has remained under the direct jurisdiction of the federal government.

In 1972 a decree in a form of an Organic Law on the municipality of Buenos Aires City came into force, establishing the institutional organization of the capital as a state public legal entity (*persona jurídica pública estatal*) and regulated the powers of its government and the city administration<sup>19</sup>.

Echoes of the federalization of the territory of Buenos Aires City remained alive even decades after the event. For more than a century, competences of the federal institutions had sometimes duplicated the responsibilities of the provincial institutions. The disputes concerning the limitation of power relevant the authorities still returned. The matter was finally organized in 1986. Buenos Aires Province established a law under which it obliged the federal authorities to return the territory, which was federalized in 1880 or create from it a new separate province<sup>20</sup>. Supporters of the capital transfer primarily raised the argument of cutting off the federal authorities from the influence of the most important financial lobby, which was to have decisive impact on state policy. The following year, the National Congress acceded to the law issued by the Buenos Aires Province, and established 23512 Act, which assumed that Buenos Aires City will remain the capital of the state, until the creation of a new province within the limits of the then Federal Capital<sup>21</sup>. Finally, there has been no transfer of capital beyond the borders of Buenos Aires

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<sup>18</sup> Art. 1, *Ley No. 1.029*. (Registro Nacional de 1880, p. 301) For commentary, see: A.E. Sampay, *op.cit.*, pp. 430–431.

<sup>19</sup> *Ley Orgánica No. 19.987* (Boletín Oficial del 06 de diciembre de 1972, No. 22560, p. 2).

<sup>20</sup> L.H. Limanski, *Las consecuencias jurídicas do no ser una provincia*, “Lecciones y Ensayos” 2014, No. 92, pp. 19–20.

<sup>21</sup> Art. 6, *Ley No. 23.512* (Boletín Oficial del 12 de junio de 1987, No. 26157).

City, despite the fact that the choice of location – the city of Viedma and its surroundings, on the border of Buenos Aires Province and Río Negro Province – was previously made. The capital case still remained, however, not resolved until 1994.

#### IV.

In the last constitutional amendment art. 129 was added, which finally settled the structure of the capital, giving it almost analogous powers to ones held by Argentine provinces. Under this law, Buenos Aires became an autonomous city and has changed its official name. Since that moment the Autonomous City of Buenos Aires (*Ciudad Autónoma de Buenos Aires*) appeared in place of the Federal Capital (*Capital Federal*).

The Constitution gives the city an autonomous system of government, with its own legislative and jurisdiction power. The Chief of Government (*Jefe de Gobierno*) is elected directly by the citizens of Buenos Aires City. The National Congress was empowered to entitle the citizens of the city, through their elected representatives, to set up the organizational status of their institutions. Art. 129 also indicated that a separate law will protect the interests of the state, at a time when Buenos Aires City is the capital of Argentina<sup>22</sup>. As it turned out, this record had been very important in another stage of the struggle for power over the capital.

This way, an entity absent so far in the Argentinean legal system was established. The legal doctrine called the new regime as “an autonomous city”, “a city-state” adding sometimes “at a provincial level”, “an autarkic entity”, “a semiprovince”, “a city with a unique legal status”, “an autonomous district in an intermediate situation between a municipality and a province”, “an entity *sui generis*”, “a public legal person with a necessity of existence”, “a federalized municipality”, “a constitutionally federalized city”<sup>23</sup>. All of these seem to be at least partly correct, although most of the new legal character of Bue-

<sup>22</sup> Art. 129, *Constitución de la Nación Argentina*.

<sup>23</sup> M.G. Abalos, *Buenos Aires luego de la reforma: ¿Nuevo sujeto del Federalismo?*, [In:] *Instituciones de la Ciudad Autónoma de Buenos Aires*, eds. G.J. Bidart Campos, A. Gil Domínguez, Buenos Aires 2008, p. 8.

nos Aires City reflects the statement that it has a status equivalent to a province<sup>24</sup>, not being one of them at the same time.

As a result of the constitutional reform, Buenos Aires City received a number of powers, exclusive for the provinces so far. By virtue of the powers conferred by the amendment to the Constitution of 1994, Buenos Aires City has been enabled to enact their own constitution, to be like the provincial ones. This way the first time in the history the city received its own constitution, which was enacted in 1996.

The Constitution of Buenos Aires City has designated institutions of legislative, executive and judicial authority. The executive power are wielded by the Chief of Government (*Jefe de Gobierno*), appointed by means of free elections. His term of office is four years. Broad scope of powers of the Chief of Government are designated in art. 104 of the Constitution of Buenos Aires City<sup>25</sup>. Ten ministers depend on him, standing at the head of the most important fields: estate; justice and security; health; education; urban development and transportation; culture; human development and habitat; environment and public space; modernization, innovation and technology; government. The Chief of Government replaced the Major (*Intendente*), who exercised the executive power and was nominated directly by the President of the State since 1880. This way the executive power in Buenos Aires City passed from the jurisdiction of the federal authorities into direct possession of the citizens, who elect their Chief of Government in direct elections.

The legislative power is exercised by the Buenos Aires City Legislature (*Legislatura de la Ciudad Autónoma de Buenos Aires*). A unicameral assembly brings together 60 deputies elected for four years in direct elections. The head of the Legislature consists of a President (*Presidencia*) and three Vice-Presidents (*Vicepresidencia*). The President's office is always held by the Deputy Chief of Government of Buenos Aires City. His main task is to supervise the debates. He possesses the right to vote only in cases of a tie. The Legislature performs its works by Commissions (*Comisiones*) and Special Councils (*Juntas Especiales*). Its main task is to "make laws, resolutions and declarations

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<sup>24</sup> R.G. Ferreyra, *Autonomía y sistema de gobierno. Sobre la necesidad, oportunidad y conveniencia de un nuevo momento constituyente en la Ciudad*, La Ley 2006-F, 1093, p. 2.

<sup>25</sup> Art. 104, *Constitución de la Ciudad Autónoma de Buenos Aires*.

to give effect to the exercise of the rights, duties and guarantees established in the National Constitution<sup>26</sup>

Buenos Aires City judiciary power is performed by the High Court of Justice (*Tribunal Superior de Justicia*), the Judicial Council (*Consejo de la Magistratura*), and other courts established by law and the Public Ministry<sup>27</sup>. There are several forms of jurisdiction in the territory of the city: federal courts with jurisdiction for federal matters; national courts with jurisdiction in affairs of various ordinary matters (civil, criminal, commercial and labor); and, finally, the city courts mentioned above.

The city carries out its public functions in a decentralized way. Since 2007 the city has been divided into 15 Communes (*Comunas*), which perform administrative functions. They replaced the previously active Centers of Communal Management and Participation (*Centros de Gestión y Participación Comunal*). The Communes are responsible for planning, execution and control. Their function is to perform certain activities of public administration (not exclusive for the City Government), social services, cultural events and social training<sup>28</sup>.

Why such a separate province has not been created from the former Federal Capital? As it was mentioned before, there are some differences between the rights which the provinces possess, and those that have been granted to the Autonomous City of Buenos Aires. First of all, the autonomy of the city is designated by the National Congress, while the limits of the autonomy of the provinces have been directly sanctioned in the National Constitution. The autonomy of the city is determined primarily by the 24.588 Act, commonly called the Cafiero Act, named after its creator – then Senator of Buenos Aires Province. It guarantees the national interest in Buenos Aires City. By the virtue of the Cafiero Act the city police sovereignty was left to the Ministry of Internal Affairs. Thus, in contrast to Buenos Aires City, the provinces have their own police. Moreover, the city has a small range of the judiciary in the criminal field – only in cases of offenses, while crimes remain under the jurisdiction of federal authorities. Those authorities also have control over the seaport of Buenos Aires – the largest and

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<sup>26</sup> Art. 80, *ibidem*.

<sup>27</sup> Art. 107, *ibidem*.

<sup>28</sup> Art. 127–131, *ibidem*.

most important in Argentina, as well as the transport and some public services, which take place in the capital; finally they also control the Register of Real Estate<sup>29</sup>. From the very beginning The Cafiero Act, which limits the autonomy of the capital, raised controversy among politicians, lawyers, as well as regular citizens of the city. It seems to be another installment of the rivalry between the Buenos Aires Province, Buenos Aires City and federal authorities. Art. 8 of Cafiero Act, which referred to the scope of exercise of judicial power by the City courts, was considered unconstitutional in June 2016 by the Argentinean Constitutional Court<sup>30</sup>, which proves clearly the controversy of the Act. Due to the above reasons, the Argentinean legal doctrine adopted the theory that the autonomy of Buenos Aires City is derived, while the provincial autonomy is originative<sup>31</sup>. In this way Buenos Aires City has a limited autonomy in relation to the provincial autonomy. The autonomy of the capital is determined by the art. 129 of the National Constitution and there is where are designated its borders.

## V.

This year marks the bicentenary of the independence of Argentina. For two centuries, at the edge of the world a valiant and brave nation was being formed. However this nation often could not come to terms when it came to internal policies. This became the cause of many disasters in the form of civil wars, coups, dictatorships, economic crises. The unique status of Buenos Aires City, the capital, the largest and most important city, is finally the result of a political compromise, sought for two hundred years, with echoes of the Unitarianists vs. Federalists struggle still alive. From a legal point of view, Buenos Aires City became the only federal city in gained autonomy, which no other city in Argentina has. A thesis can be put forward, that this is an intermediate state between the large originative autonomy, which is held by the provinces, and

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<sup>29</sup> Ley 24.588 (Boletín Oficial del 30 de noviembre de 1995, No. 28282, p. 1).

<sup>30</sup> “Diario Judicial” del 28 de junio de 2016 <http://www.diariojudicial.com/nota/75503> (24.10.2016).

<sup>31</sup> G. Badeni G., *Reforma constitucional e instituciones politicas*, Buenos Aires 1994, pp. 449–450.

the power, which is in disposition of ordinaries autarkic municipalities<sup>32</sup>. This way, Buenos Aires City has its own specific institutional arrangements, modelled on the provincial regimes, becoming a city legally emancipated to a level unmatched by any other territorial unit which is not a province, i. e. other municipalities. It is rightly referred to as a derived autonomy, granted by the National Constitution (its 1994 reform). This means that the capital has the decisive power of all legal prerogatives that are not directly reserved for federal authorities and classified as a national interest. Those extensive powers, which the Argentinean capital is enjoying today, are the result of a still growing political culture in a modern state of law and are a good omen for the future political development towards a democratic state of law.

## Literature

- Abalos M.G., *Buenos Aires luego de la reforma: ¿Nuevo sujeto del Federalismo?*, [In:] *Instituciones de la Ciudad Autónoma de Buenos Aires*, eds. Bidart Campos G.J., Gil Domínguez A., Buenos Aires 2008.
- Badeni G., *Reforma constitucional e instituciones políticas*, Buenos Aires 1994.
- Bianchi A.B., *El enigma jurídico de la Ciudad Autónoma de Buenos Aires*, "Revista Argentina de Régimen de la Administración Pública" 1997, No. 222.
- Chodubski A., *Istota i uwarunkowania kształtowania współczesnej europejskiej autonomii terytorialnej*, [In:] *Autonomía terytorialna w perspektywie europejskiej, t. I: Teoría – Historia*, red. M. Domagała, J. Iwanek, Toruń 2014.
- Ferreya R.G., *Autonomía y sistema de gobierno. Sobre la necesidad, oportunidad y conveniencia de un nuevo momento constituyente en la Ciudad*, La Ley 2006-F, 1093.
- Gordillo A., *Tratado de derecho administrativo y obras selectas: parte general*, Buenos Aires 2013.
- Hernández A.M., *Federalismo, autonomía municipal y ciudad de Buenos Aires en la reforma constitucional de 1994*, Buenos Aires 1997.
- Hurtado González J., Arellano Ríos A., *La Ciudad de México y el Distrito Federal: Un análisis político-constitucional*, "Estudios Constitucionales" 2009, Año 7, No. 2.
- Iwanek J., *Pojęcie autonomii terytorialnej we współczesnej przestrzeni demokratycznej*, [In:] *Autonomía terytorialna w perspektywie europejskiej, t. I: Teoría – Historia*, red. M. Domagała, J. Iwanek, Toruń 2014.

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<sup>32</sup> A.B. Bianchi, op.cit., pp. 5–7.

Limanski L.H., *Las consecuencias jurídicas de no ser una provincia*, “Lecciones y Ensayos” 2014, No. 92.

Lynch J., Cortés Conde R., Gallo E., Rock D., Torre J.C., De Riz L., *Historia de la Argentina*, Barcelona 2001.

Sábato H., *Buenos Aires en armas. La revolución de 1880*, Buenos Aires 2008.

Saborido J, Privitellio L. de, *Breve historia de la Argentina*, Madrid 2006.

Sampay A., *Las constituciones de la Argentina (1810/1972)*, Buenos Aires 1975.

