



Local Government in Poland

Responses to Urban-Rural Challenges

edited by

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1. The System of Local Government in Poland

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Types of Local Governments

Poland is a unitary state without any autonomous entities. As a consequence, a uniform system of territorial self-government exists throughout Poland. The traditions of territorial self-government date back to 1918 when, after 123 years of political oblivion, the Polish state was established. After World War II, Poland was an undemocratic and centralized state which led to, among other things, the liquidation of territorial self-government. The reconstruction of territorial self-government began in Poland with the political transformation after 1989. The first stage was the restoration of territorial self-government in communes (*gmina*) in 1990, then in 1999 the self-government in counties (*powiat*) and in voivodeships (*województwo*) was introduced.

The current Constitution of the Republic of Poland of 1997 introduces two types of territorial self-government, namely *local* self-government and *regional* self-government (Article 164). Currently in Poland (since 1999), territorial self-government is three-tier and it is structured as follows:

- self-government in communes as the basic level of local self-government;
- self-government in counties the second level of local self-government;
- self-government in voivodeships as regional self-government.

In addition, large municipalities (over 100,000 residents) may be granted the status and tasks of a counties (city with *powiat* rights/cities with *powiat* status).

Therefore, there are four levels of political representation in Poland: the state and three levels of territorial self-government.

At present (2020), there are 2,477 communes (*gmina*), including 1,555 rural *gminas*, 621 urban-rural *gminas* and 302 urban *gminas*. The population of *gminas* ranges from 1.7 million (the Capital City of Warsaw) to 1,300, and the average population of a Polish *gmina* amounts to 15,000. It means that in the comparison to other European countries, Poland's *gminas* are relatively large. If we take into account only urban *gminas*, the average population is 61,000, whereas in rural *gminas* the average population amounts to approximately 7,000. At the beginning of the political transformation in Poland in 1990, there were 2,383 *gminas*. It means that modifications introduced in the division into *gminas* have been rather minor.

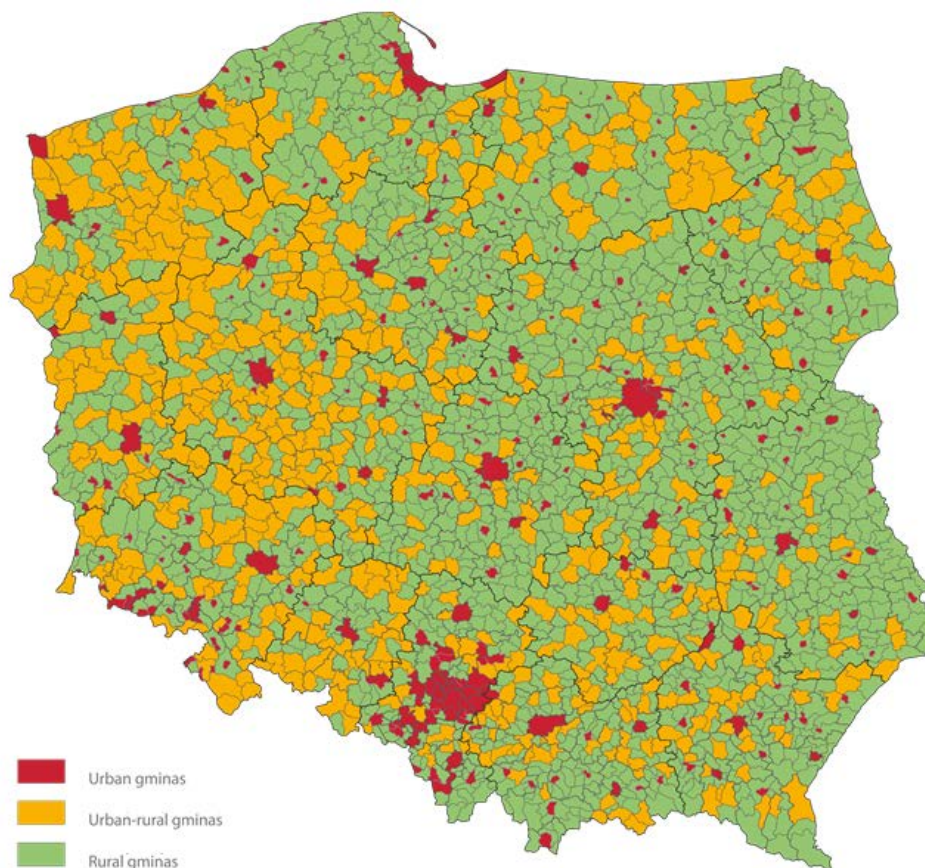


Figure 1: Spatial delimitation of *gminas* in Poland¹

The second tier of the local government, i.e. the level of counties (*powiat*), was established in Poland in 1999. At present, there are 314 *powiats* and 66 cities with *powiat* status. The population of *powiats* range from 21,500 to 373,500. The average population of a Polish *powiat* amounts to 82,000, whereas cities with *powiat* status have on average 191,000 inhabitants. When the territorial reform was being prepared in 1999, it was the establishment of *powiats* (as intermediate units between *gmina* and voivodeship) which gave rise to the greatest controversies. Dissenting voices against the introduction of an additional level of territorial structure (and, in consequence, a local government unit) were not rare. Even now the issue of *powiats* is under public debate, mainly due to the problem of the financing of *powiat* local government as well as functional weakness of smaller *powiats* (Polish *powiats* are small units in comparison to their counterparts in other European countries). The formation of seven new *powiats* in 2002 was the last major modification in the map of *powiats*.

¹ 'Types of *gminas* and urban and rural areas' (*Statistics Poland*, 2020) <<https://stat.gov.pl/en/regional-statistics/classification-of-territorial-units/administrative-division-of-poland/types-of-gminas-and-urban-and-rural-areas/>> accessed 2 November 2019.



The third level of territorial structure applies to voivodeships (*województwo*). The voivodeships correspond to the NUTS-2 regions (according to the European Nomenclature of Territorial Units for Statistics),² which are the basis for regional operational programs co-financed by the European Union. The year 1999 marked a crucial point in shaping the territory and political system of voivodeships. After lengthy preparations accompanied by political disputes, it was decided to form 16 voivodeships. It meant a departure from territorial fragmentation on a regional level (in the years 1975-1999 there were as many as 49 voivodeships in Poland). As a result of an enlarged territory, voivodeships as regions gained the right to self-government—thus, another stage of decentralization of Poland was reached. So far, the number of voivodeships has not been changed.³

Legal Status of Local Governments

The inclusion of the principle of subsidiarity⁴ in the preamble to the Constitution of the Republic of Poland of 1997 and the principle of decentralization⁵ in the first chapter of the Constitution is of key importance for the legal status of self-government in Poland. Article 16 provides legal guarantees for local authorities: '(i) The inhabitants of the units of basic territorial division shall form a self-governing community in accordance with law. (ii) Local government shall participate in the exercise of public power. The substantial part of public duties which local government is empowered to discharge by statute shall be done in its own name and under its own responsibility.'

A comprehensive regulation concerning territorial self-government is contained in Chapter VII ('Local government') of the Constitution of the Republic of Poland of 1997.

Territorial self-government is based on democratic legitimacy. At each level, residents elect a representative body (the number of councilors currently ranges from 15 to 51, with the exception of Warsaw with 60 councilors). In addition, the head of the executive body (mayor) has been elected directly by the residents at the *gmina* level since 2002. Moreover, the Constitution of Poland guarantees residents of *gminas*, *powiats* and voivodeships the right to directly settle matters through the institution of a local referendum. A referendum on self-taxation of residents for public purposes is a special type of the local referendum. However, such a referendum can only be held at the *gmina* level.

² Eurostat, 'Background' <<https://ec.europa.eu/eurostat/web/nuts/background>> accessed 2 November 2019.

³ Mirska Andželika, 'State policy on the formation and modernisation of Polish territorial structure' in Europäisches Zentrum für Föderalismus-Forschung Tübingen EZFF (ed), *Jahrbuch des Föderalismus 2018: Föderalismus, Subsidiarität und Regionen in Europa* (Nomos 2018).

⁴ 'Hereby establish this Constitution of the Republic of Poland as the basic law for the State, based on respect for freedom and justice, cooperation between the public powers, social dialogue as well as on the principle of subsidiarity in the strengthening the powers of citizens and their communities'.

⁵ Article 15: 'The territorial system of the Republic of Poland shall ensure the decentralization of public power'.



Local government shall perform public tasks not reserved by the Constitution or statutes to the organs of other public authorities (Article 163 of the Constitution of the Republic of Poland of 1997). *Gmina* self-government, which has been granted the presumption of competence in matters of territorial self-government, is of fundamental importance. Article 164 establishes the following: '(i) The commune (*gmina*) shall be the basic unit of local government. (ii) Other units of regional and/or local government shall be specified by statute. (iii) The commune shall perform all tasks of local government not reserved to other units of local government.'

Territorial self-government units are subject to the Constitution of the Republic of Poland and the Acts of the Polish State. Three system acts are of fundamental importance:

- the Act of 8 March 1990 on *Gmina* Self-Government,
- the Act of 5 June 1998 on *Powiat* Self-Government,
- the Act of 5 June 1998 on Voivodeship Self-Government.

The only criterion of supervision over the activity of self-government is the criterion of legality, supervision is exercised by government administration authorities (the Prime Minister, voivodes⁶ and regarding financial matters - regional audit chambers). However, any disputes between the government administration and territorial self-government shall be settled by an administrative court. There are no authoritative interrelations between the tiers of territorial self-government – only voluntary cooperation is possible.

The Constitution divides public tasks performed by self-government into own tasks (financed from the budget of a self-government unit) and commissioned tasks (financed from the state budget).

Gmina self-government performs a wide range of public tasks which include, among others, issues related to local technical infrastructure, social infrastructure, education, health and order protection and safety. In accordance with the principle of subsidiarity, the *powiat* self-government 'assists' *gmina* in performing local tasks that exceed the capacity of a *gmina* ('supra-communal' local tasks). While the self-government of *gmina* and *powiat* implements a number of public services for local communities on an ongoing basis, the main role of voivodeship self-government is to facilitate economic development of regions. Among other things, the task of the voivodeship self-government is to manage EU structural funds.

⁶ The voivodes (16) shall be the representative of the Council of Ministers in voivodeships. They are appointed by the Prime Minister. *Voivodeships* are the highest-level administrative subdivision of Poland.



(A) Symmetry of the Local Government System

There are three types of *gminas*:

- urban *gminas* (their boundaries correspond with the boundaries of the city forming the municipality);
- urban-rural *gminas*, which include both cities within administrative boundaries and areas outside city boundaries;
- rural *gminas* without cities within their territory.

Cities in Poland are towns and cities with city rights (granted by the central government). However, it is a formal classification based solely on an administrative criterion. The Act on *Gmina* Self-Government does not differentiate the tasks of according to this classification – all *gminas* have the same scope of activity. The exceptions are large urban *gminas* which also have the status of *powiat* (city with *powiat* rights). They carry out the tasks of both *gmina* and *powiat*. Currently, there are 66 of them and the general criterion for their establishment is a population over 100,000. However, some local government politicians claim that this threshold should be reduced to 50,000⁷.

On the other hand, the need is recognized to merge the cities with the *powiat* rights and *powiats* whose authorities are seated in the said cities due to significant disproportions in the institutional potential of *powiats*. Government analyses indicated a significantly higher potential of cities with *powiat* rights and a particularly low potential of *powiats* without large urban centers. The data show that *powiats* without large cities have significantly scarcer resources allocated to the fulfilment of public tasks of *powiats*⁸.

Public tasks may be performed by individual self-government units independently or by way of cooperation with other self-government units (inter-municipal cooperatives). Self-governments of a given level may cooperate with each other (cooperation between *gminas*, between *powiats*, between voivodeships). Moreover, cooperation between the levels is also possible: since 2016, unions of *powiats* and *gminas* may be established. The form of the *powiat-gmina* union is intended for the implementation of tasks that exceed the competence of one tier of self-government. The aim was to enhance the independence and operational flexibility of territorial self-government units. It can also be interpreted as an attempt to address the problems occurring mainly in metropolitan areas.

The legal form of the union of *gminas* (union of *powiats*, union of *gmina* and *powiat*) requires the establishment of a new legal person to perform part of the tasks of the self-government. Unions of *gminas* are a very popular form of performing self-government tasks (currently there

⁷ 'Interpelacja nr 5867 do Ministra Spraw Wewnętrznych i Administracji' (*Sejm Rzeczypospolitej Polskiej*) <<http://orka2.sejm.gov.pl/IZ5.nsf/main/2AE373E5>> accessed 1 July 2019.

⁸ 'Zasadniczy, trójstopniowy podział terytorialny państwa' (*Ministerstwo Spraw Wewnętrznych i Administracji*, 31 May 2001) <<https://archiwum.mswia.gov.pl/pl/aktualnosci/1644,dok.html>> accessed 1 July 2019.



are 313 of them in Poland and they include from 2 to 49 *gminas*). There are 7 *powiat* unions and 8 *powiat-gmina* unions. Their tasks involve mainly the organization of common local public transport. The same applies to education as only a uniform system of education from primary schools (which is the responsibility of *gminas*) to secondary schools (which are subject to *powiats*) can resolve demographic problems or fulfil the expectations of the local labor market.

The performed public tasks may also be modified through ‘delegating’ public tasks by a territorial self-government unit to another territorial self-government unit. This is done by way of a voluntary agreement.

‘Commissioning’ tasks to the self-government by the government administration is a different matter – if they are commissioned by virtue of the law, they are imposed on the self-government ‘from the top’ (together, of course, with financial resources from the Polish state budget). Polish self-governments indicate that those funds are often insufficient.

Political and Social Context in Poland

Compared to other countries, the national political parties are in Poland not very strongly represented at the local government level.⁹ To gain a stronger voice, self-governments attempted to create a nationwide political movement of mayors of large cities. For example, in 2011 Union of Mayors – Citizens to the Senate¹⁰ (*Unia Prezydentów – Obywatele do Senatu*) was established and it put forward its candidates in the elections to the upper house of the Polish Parliament – Senate (majority voting system applies). The Local Government Movement ‘Non-Partisans’ (*Ruch Samorządowy ‘Bezpartyjni’*) was also established, consisting of mayors and councilors. The purpose of the movement is to be an alternative to political parties in local government elections (primarily at the level of the voivodeship self-government).

However, if we analyze the results of local government elections, the influence of national political parties clearly diminishes, the lower the level of government. Starting from the highest level, i.e. the 16 voivodeship self-governments, it is basically political parties that dominate the elections to the voivodeship assemblies. In the local government elections of 2018, candidates of national parties received a total of 89.4 per cent of votes. The Local Government Movement ‘Non-Partisans’ gained 5.28 per cent of the country's vote. Regional groupings received marginal support, except for three voivodeships. In the Opolskie Voivodeship, ‘The German Minority Electoral Committee’ traditionally receives strong support (in 2018 – 14.64 per cent). In two other voivodships, regional movements concentrated around local politicians obtained:

⁹ Bukowski Michał, Jarosław Flis, Agnieszka Hess and Agnieszka Szymańska, *Rządzący i opozycja, partie sejmowe i lokalne w małopolskich wyborach samorządowych 2014* (Attyka 2016) 24.

¹⁰ The Senate is the upper house of the Polish Parliament, the lower house is the Sejm. The Senate and the Sejm exercises legislative power in Poland. The Members of both houses are elected by direct election. The Senate consists of 100 senators, the Senate - 460 deputies.



8.29 per cent of votes (the Lower Silesian Voivodeship: Electoral Committee of Voters ‘With Dutkiewicz for Lower Silesia’¹¹) and 5.26 per cent of votes (the Świętokrzyskie Voivodeship: Electoral Committee of Voters ‘Wenta¹²’s Świętokrzyskie Project’.

At the *powiat* level, the presence of parties in the elections is weaker, in the 2018 elections the national parties won about 62 per cent of votes. At the level of *gminas*, the parties have obviously the smallest influence – local election initiatives prevail. In *gminas* with up to 20,000 inhabitants (single-mandate constituencies) national parties won about 27 per cent of votes. In *gminas* with over 20 000 inhabitants the figure was approx. 50 per cent.¹³ In rural *gminas*, traditionally, the peasants’ party – the Polish People’s Party (*Polskie Stronnictwo Ludowe*) – has played an important role. In the last elections, the importance of the Law and Justice Party (*Prawo i Sprawiedliwość*) has increased, reflecting the situation at the national government level.

The number and share of rural population in the total population of the country is declining. At the end of 2017, the rural population accounted for 39.9 per cent (in 1950 over 63 per cent)¹⁴. The *gminas*’ population forecasts of the Polish Central Statistical Office (GUS) for 2017-2030 indicate, above all, a strong development of major urban agglomerations with adjacent areas. They will continue to attract people from more peripheral areas. At the same time, a continuation of the suburbanization process should be expected, which will lead to a significant increase in population in the *gminas* adjacent to big cities.¹⁵ These changes are caused by lower prices of flats or house building costs and reflect the growing economic status which enables inhabitants to move to an area more beneficial in terms of being a ‘greener environment’.¹⁶ In 2018, 55 cities with *powiat* rights (there are 66 cities of this type in total) recorded a decrease in population compared to the previous year. These included cities that aspire to play the role of a metropolis (Poznań, Łódź, Bydgoszcz). Warsaw, the capital city of Poland recorded an

¹¹ Rafał Dudkiewicz was from 2002 to 2018 the Mayor of Wrocław, the capital city of the Lower Silesian Voivodeship.

¹² Bogdan Wenta having run from his own committee and was *elected* as Mayor of Kielce, the capital of the Świętokrzyskie Voivodeship. For years related with handball, first as a player of the Polish national team and Germany. 2004 - 2012 was the coach of the Polish national handball team. One of the best handball player in history of Polish handball.

¹³ National Electoral Commission, ‘The Results of Local Elections 2018’ (*Local Government Elections 2018*, 30 June 2018) <<https://wybory2018.pkw.gov.pl/pl/dane-w-arkuszach>> accessed 14 December 2019.

¹⁴ Stańczak Joanna and Znajewska Agnieszka, ‘Population in Poland: Size and Structure by Territorial Division as of June 30, 2017’ (Central Statistical Office, 2017) <https://stat.gov.pl/files/gfx/portalinformacyjny/pl/defaultaktualnosci/5468/6/22/1/ludnosc._stan_i_struktura_w_przekroju_terytoryalnym._stan_w_dniu_30.06.2017.pdf> accessed 1 December 2019.

¹⁵ ‘Prognoza ludności gmin na lata 2017-2030’ (*Statistics Poland*, 31 August 2017) <<https://stat.gov.pl/obszary-tematyczne/ludnosc/prognoza-ludnosci/prognoza-ludnosci-gmin-na-lata-2017-2030-opracowanie-eksperymentalne,10,1.html>> accessed 1 December 2019.

¹⁶ Małgorzata Waligórska, Zofia Kostrzewa, Maciej Potyra and Longina Rutkowska, ‘Population Projection 2014-2050’ (Central Statistical Office 2014) <<https://stat.gov.pl/obszary-tematyczne/ludnosc/prognoza-ludnosci/prognoza-ludnosci-na-lata-2014-2050-opracowana-2014-r-,1,5.html>> accessed 1 December 2019.



increase. The number of *gminas* with less than 5,000 inhabitants is steadily growing. There are already approx. 800 of them.

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Local Responsibilities and Public Services



2.1. Local Responsibilities and Public Services in Poland: An Introduction

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The Polish local self-government provides mainly a wide range of public services. Decentralization was a fundamental element of the Polish transformation and is a fundamental principle of the Polish political system. The self-government is responsible for satisfying the needs of the residents on an ongoing basis, including taking care of safety and public order. These tasks are allocated in accordance with the principle of subsidiarity. For example, as regards road maintenance: certain roads are the responsibility of the *gmina*, others of the *powiat*, then there are regional roads and finally roads for which the Polish State assumes responsibility. The same applies to tasks related to education, health care and social care. Moreover, it is very common to delegate state tasks to be performed by self-governments (so that they are performed as close to the citizens as possible).

In the years 1990-1999, there was a simple scheme of performing public tasks in Poland: responsibility was taken over either by the *gmina* self-government or by the Polish state (bodies and offices of delegated government administration). However, during political transformation further decentralization was given priority, so works on support for *gminas* in performing local tasks were in progress. In 1999, the *powiat* self-government was established (which includes several *gminas* in its territory). The *powiat*, as a larger self-government unit, took over the local tasks of a higher level (e.g. the *gmina* is responsible for primary schools, while the *powiat* is responsible for secondary schools). The number of *gminas* in one *powiat* ranges from 3 to 19.¹⁷

The exceptions are large urban *gminas* which due to their population and financial potential are able to handle higher-level tasks. They were granted the status of cities with *powiat* rights (one urban *gmina* (one city) corresponds to one *powiat*).

Therefore, *gmina* and *powiat* complement each other in order to provide services to the residents on an ongoing basis. However, the voivodeship self-government, established in 1999, is to play the role of a regional self-government, which has assumed some of the responsibility for the economic development of the regions from the state.

From the legal point of view, self-government units are to perform public tasks on their own behalf and on their own responsibility. Importantly, the law does not distinguish categories of tasks for urban or rural *gminas*. Self-governments may carry out these tasks independently,

¹⁷ Rady Ministrów, 'Obwieszczenie Prezesa Rady Ministrów z dnia 23 sierpnia 2017 r. w sprawie wykazu gmin i powiatów wchodzących w skład województw' (*ISAP M.P. 2017 poz. 853*, 7 September 2017) <<http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WMP20170000853>> accessed 1 July 2019.



entrusting tasks to other self-governments, cooperating with other self-governments. They can also privatize tasks or use the instrument of a public-private partnership.

As far as cooperation in performing tasks is concerned, there are 313 inter-communal unions in Poland. Common waste management is very popular – there are 70 such communal unions. The largest union consists of 27 *gminas*. In total, 683 *gminas* are members of a union whose objective is the common waste management, which accounts for 27.5 per cent of *gminas* in Poland¹⁸.

Another practice is to delegate local government tasks to other entities. The differences in operating strategies between urban and rural *gminas* can also be observed in this area.

A *gmina* self-government may assign the management of a small school (up to 70 students) under an agreement to a legal entity that is not a self-government unit (e.g. an association, a foundation) or to a natural person. This solution protects small rural communities against the liquidation of schools.

Tasks may be also carried out under a public-private partnership (e.g. running a sewage treatment plant (Konstancin-Jeziorna, Osina), building a local road (Łazy), building a school and a sports hall (Piastów)).

In Poland, PPPs are established very carefully. In the history of Poland, 135 such partnerships have been recorded to date. The majority of the partnerships involve *gminas* which entered into 84 such agreements in total (urban *gminas* 39, rural *gminas* 25, urban and rural *gminas* 20). However, due to the fact that some *gminas* entered into more than one partnership, only 57 *gminas* in Poland have experience with such a form of public service provision. It accounts for 2.3 per cent of all *gminas*¹⁹.

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<<https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>>

¹⁸ Ministry of Internal Affairs and Administration, 'Zarejestruj, zmień statut lub wyrejestruj związek międzygminny, związek powiatów, związek powiatowo-gminny' (*Serwis Rzeczypospolitej Polskiej*, 2 July 2019)
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¹⁹ 'Bazy projektów PPP' (*Platforma Partnerstwa Publiczno-Prywatnego*, 7 August 2019)
<http://www.ppp.gov.pl/baza/Strony/baza_projektow_ppp.aspx> accessed 4 July 2019.



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2.2. The Provision of Local Public Transport

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Relevance of the Practice

The task related to the provision of local public transport is a particularly important, highly debated issue in Poland. The main responsibility in this respect lies with the *gmina*, but also with the *powiat* and the voivodeship (in the scope of supracommunal connections). Before 1989, a state-owned enterprise PKS (Motor Transport Company) conducted business in Poland. It was a monopolist on the market but maintained a very dense network of local connections of high frequency. Residents were used to the availability of public transport (aside from its quality). Due to the political transformation, PKS lost its monopoly and the responsibility for transport in Poland was fragmented. Different self-governments deal with this task with varying degrees of success. It should be borne in mind that efficient public transport ensures access to other public services (access to education, health care, culture), especially for children and the elderly. It also has an impact on the quality of the environment (pollution, traffic jams in cities).

Description of the Practice

Urban and rural *gminas* face other problems and challenges regarding the provision of local and regional transport.

Rural *gminas* are confronted with the problem of insufficient transport connections. The drastic reduction in public transport led to the implementation of management according to the NPM (New Public Management) model, i.e. privatization of public transport enterprises. Private entrepreneurs were eliminating unprofitable connections in rural areas. As a result, a phenomenon of transport exclusion of residents has occurred (and thus limited access to work, education, health care, culture, etc.). Residents of rural areas try to cope with this situation by purchasing cars (import of used, cheap cars). In some *gminas* there are more than 3,000 cars per 3,500 residents. This in turn poses the problem of air pollution and the utilization of old cars.

The NIK (Supreme Audit Office) report of 18 April 2016 shows that self-governments are not able to handle the statutory task of ensuring public transport.²⁰

²⁰ Department of Infrastructure, 'Funkcjonowanie regionalnego pasażerskiego transportu drogowego' (*Najwyższa Izba Kontroli*, 25 May 2016) <<https://www.nik.gov.pl/plik/id,10841,vp,13179.pdf>> accessed 10 July 2019.



The scale of the problem with local transport is different in urban areas, agglomerations and metropolitan areas. The problem here is how to organize a common transport network across administrative boundaries.

Assessment of the Practice

The scale of the problem with local transport is different in urban areas, agglomerations and metropolitan areas. The problem here is how to organize a common transport network across administrative boundaries.

This problem can be solved by the cooperation of self-governments. Since 2016, the unions of *gmina-powiat* may be established. Eight such unions have been formed, seven of which concern the common organization of public transport.

However, only 18 inter-communal unions out of 313 have public transport within the scope of their activity, of which 8 unions were established for one purpose only, i.e. public transport (the others are multi-purpose, e.g. environmental protection, sewerage, tourism, etc.)²¹.

Therefore, the task of *gmina* self-government, which is to provide public transport, has various effects in the course of the operation of urban and rural self-governments. Rural self-governments encounter the problem of transport exclusion of residents (elimination of connections, lack of transport in general – lack of financial resources). Urban self-governments face the challenge of agglomeration and metropolitanization processes – the expectations of residents regarding common transport and fares valid beyond the administrative boundaries of *gminas* and *powiats*. When considering this task from a broader perspective, it may be treated as an activity intended to improve the mobility of residents. The domain of urban self-governments is innovative activities, such as the city bicycle system or the rental of city electric cars.

Performing this task affects the financial situation of self-governments (report section 3), may lead to structural changes through the formation of unions of self-governments to provide common transport services or to the cooperation with private entities under PPPs (report section 4). In view of the crisis in that area, the Polish Central Government has recently been very active and announced a program of financial support for self-governments. To the disappointment of the *gminas*, the voivodeship self-government (report section 5) will be the administrator of the funds. In this respect, the self-government may appeal directly to the

²¹ 'Zarejestruj, zmień statut lub wyrejestruj związek międzygminny, związek powiatów, związek powiatowo-gminny' (Ministry of the Interior and Administration, 2 July 2019) <<https://www.gov.pl/web/mswia/zarejestruj-zmien-statut-lub-wyrejestruj-zwiazek-miedzygminny-zwiazek-powiatow-zwiazek-powiatowo-gminny>> accessed 10 July 2019.



residents, e.g. local referendums in Kraków and Wrocław on the construction of the underground railway (report section 6).

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2.3. Provision of Internet Infrastructure by Local Government: A Step Towards Smart Villages

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Relevance of the Practice

The new information technology has and will have a crucial impact on the quality of life in the urban and rural area.

In Poland in 2019 83 per cent households have Internet access at home. It was 90 per cent in large cities, 85.6 per cent in medium-sized cities and 84.6 per cent in rural areas. Poland attains an average result comparing to the other European Union countries. The highest rate of Internet access is in the Netherlands – 98 per cent of households has an access to the Internet. The lowest one occurs in Bulgaria which is 72 per cent. The average one in EU was 89 per cent.²²

There is no problem of lack of the Internet access in the common public perception in Poland. For this reason, the information provided by the Office of Electronic Communications of Poland is surprising. Almost 3.6 thousand inhabited places in Poland did not have access to the network in 2018. It also proves that the situation has worsened compared to 2017. Then, only 2.8 thousand places were 'white blanks' on the map of the Internet access.²³ The following reasons of the phenomenon can be indicated. Firstly, mobile operators sometimes switch off and move the transmitters' masts. Secondly, bankruptcies occur among telecommunications companies. Thirdly, it may be the issue of inaccurate (imprecise) data submitted by operators to the Office of Electronic Communications. In the Office Electronic Communications Report dated 2020, the method of identifying a locality without Internet access has been changed. It is established that the previous reports comprised of uninhabited localities still included in the 'System for IDs and names of places'.²⁴ The data verification proved 8 localities (with 15 inhabited houses) without Internet access in Poland.²⁵

²² Information society in Poland, 'Results of statistical surveys in the years 2015–2019' (*Statistics Poland*, 16 December 2019) <<https://stat.gov.pl/en/topics/science-and-technology/information-society/>> accessed 1 July 2020, 152.

²³ Urszula Zielińska, *Stan infrastruktury w Polsce w 2018 roku: przybyło białych plam na mapie internetu* <<https://cyfrowa.rp.pl/telekomunikacja/40911-stan-infrastruktury-w-polsce-w-2018-roku-przybylo-bialych-plam-na-mapie-internetu> 9 lipca 2019> accessed 1 July 2020.

²⁴ The system is managed by the Central Statistical Office of Poland.

²⁵ Office of Electronic Communications, 'Report on the Telecommunications Market in Poland in 2019' (2020) 80 <https://www.uke.gov.pl/download/gfx/uke/pl/defaultaktualnosci/36/345/9/raport_o_stanie_rynku_telekomunikacyjnego_w_polsce_w_2019_r_4.09.pdf> accessed 1 October 2020.



However, there is still a problem with the network access in Poland as a large part of households is deprived of the Internet connections to meet today's expectations (so-called NGA, with a minimum speed of 30 Mb/s). In 2019, households (inhabited by people aged 16 – 74) with access to broadband fixed-line Internet (e.g. DSL) represented:

- in cities with more than 100,000 residents: 69.7 per cent;
- in cities below 100,000 residents: 61.4 per cent;
- in the villages: 55.7 per cent;
- in the villages (households created exclusively by farmers): 50.5 per cent.²⁶

This issue became even more apparent with the prospect of the pandemic Covid-19.

The main barriers to the development of digitization in the coming years include: low profitability and high costs of connecting the Internet network to places away from urban centers (the more peripheral the area, the worse the situation is), an ageing society, and thus, limited competences of this group with the Internet use, little awareness of the advantages of digital solutions.

Description of the Practice

Providing internet services is the domain of private enterprises. However, the public administration is responsible for building the information society in Poland. These tasks are divided between the central administration, regional government and local government. The EU funds are a major source of financing for the expansion of Internet networks in Poland. There are EUR 2,255.6 million in the Operational Program 'Digital Poland' 2014 – 2020.²⁷

The basic tasks of the regional government in terms of building the information society include:

- the development and implementation of a regional program of building the information society and its coordination with the strategic documents of the national and European level;
- the development and implementation of regional projects in terms of building IT networks;
- the coordination and support in the accomplishment of regional and sub-regional activities for the benefit of IT networks;

²⁶ 'The Use of Information and Communication Technologies in Public Administration Units, Enterprises and Households in 2019' (*Statistics Poland*, 1 June 2020) <<https://stat.gov.pl/obszary-tematyczne/nauka-i-technika-spolnoczenstwo-informacyjne/spoleczenstwo-informacyjne/wykorzystanie-technologii-informacyjno-komunikacyjnych-w-jednostkach-administracji-publicznej-przedsiębiorstwach-i-gospodarstwach-domowych-w-2019-roku,3,18.html>> accessed 15 October 2020.

²⁷ The Ministry of Development Funds and Regional Policy <<https://www.polskacyfrowa.gov.pl>> accessed 20 July 2020.



- the activities coordination in terms of launching public e-services;
- the support of economic potential of the region by ensuring the elimination of 'white blanks' in access to broadband Internet services;
- the activity coordination in terms of digital inclusion of residents;
- the activities support for the e-government establishment in the voivoidship.

Local government activities focus on:

- launching local information society services in terms of e-health, e-education, e-culture and e-administration;
- measures aimed at reducing the scale of the digital divide;
- supporting the investment competitiveness of the local market, e.g. by providing economic entities with access to the Internet and e-services.

The Act of 7 May 2010 on Supporting the Development of Telecommunications Networks and Services authorized the local government to perform a new task in the field of telecommunications. Therefore, the construction of telecommunications infrastructure has become the commune's own task - similarly, the construction of, for example, the sewage system, local roads or a gas network. Local governments can apply for EU funding from the Polish state budget, and create public-private partnerships.

The purpose of the act was to facilitate investments in modern telecommunications infrastructure and to provide access to broadband Internet to all citizens, regardless of the place of living - in the city or in the village. The activities of the local government should focus on implementing investments in the areas where the phenomenon of digital divide has been researched and commercial operators do not conduct and do not intend to conduct investments independently. The effective preventing of communes from independently running or participating in income-related projects will be the consequence of this approach.

Thus, local development strategies aimed at overcoming the digital divide between rural and urban areas and exploiting the rural development potential through connectivity and digitization are crucial.

Assessment of the Practice

A further outflow of people from peripheral areas, mainly rural, including both areas dominated by agriculture and small urban centers will be seen in Poland by 2030. Therefore, the pressure to support restructuring processes in rural areas will increase. One of the key factors determining current development is access to high-speed internet for residents (access to education, health care, culture, banking, etc.), entrepreneurs and public administration.

The private telecommunications operators cannot be forced by the law to build networks in unprofitable places. Therefore, the Act of 7 May 2010 on Supporting the Development of



Telecommunications Networks and Services by Parliament made the local government responsible for counteracting the digital divide in its area. Through financial incentives (funds from the state budget, funds from the European Union), the central government intends to motivate the local government to act in this area.

The decision concerning the form of creating the broadband Internet networks can be made by local governments. The form may concern a budgetary establishment, public-private partnership or commissioning this task to a private company. It should be emphasized that this is a voluntary government task. The implementation of this task will be decided by a local government depending on social needs and its capabilities (similarly, in the case of, for example, the construction of a gas network). Moreover, the local government has to prove that its activity in this regard will not distort competition on the local telecommunications market.

For this reason, EU funds provide a number of financial support programs as well as support programs from the Polish Government to motivate communes to perform this activity. The financial offer is referred especially to rural areas.

The most beneficial variants of investment and ICT network operation for the local government depend on the local government place and role on the telecommunications services market. The different situation is in large cities where local operators also build their networks and provide Internet access, cable TV services, etc. apart from the infrastructure of nationwide operators. The market is often monopolized by a single infrastructure owner and service provider in smaller towns.

The process of public consultation is crucial.²⁸ It allows to indicate areas in which the implementation of local government investments is justified, and to define Internet services concerning residents' interest.

Financing the construction of the Internet network by local governments may come from

- subventions or a targeted grant from the state budget;
- an EU fund;
- revenues from conducting telecommunications activities;

²⁸ In this case, consultation is optional. The Act of 8 March 1990 on *gmina* Self-Government distinguishes obligatory (e.g. on changing the commune boundaries) and optional consultations 'in other important issues of *gmina*'. The rules and procedure for conducting consultations with citizens are defined by each *gmina* in its territory (it is a resolution of the commune council). For example, such consultations were conducted in the rural *Gmina* of Kochanowice (7,000 residents), in the rural *Gmina* of Mstów (10,000 residents), and the rural *Gmina* of Zabór (4,000 residents). See the respective websites of the municipalities of Kochanowice, <<http://kochanowice.pl/konsultacje-spoeczne-w-sprawie-budowy-sieci-swiatlowodowej-w-gminie-kochanowice/>>, Mstów, <<http://www.mstow.pl/art/911,inwestycje-konsultacje-spoeczne-w-sprawie-budowy-sieci-swiatlowodowej-w-gminie-mstow-02-02-2010>> and Zabór, <http://gminazabor.pl/PL/1000/343/KONSULTACJE_W_SPRAWIE_SIECI_SWIATLOWODOWEJ/k/> accessed 15 October 2020.



- own resources of local government units.

A resolution of the local government authority is necessary to start telecommunications activities and an Internet network construction. In addition, the information about the commencement of telecommunications activities must be announced on the website of the Bulletin of Public Information and submitted to the President of the Office of Electronic Communications²⁹ of Poland. The information must contain a description of the project and a justification necessary for the local government to prove that this activity does not distort competition on the local telecommunications market. The local government is also required to demonstrate the compatibility with other telecommunications networks established by public entities or financed from public funds.³⁰

Currently, (as of June 2020), 454 local government units performing such activities are registered in the 'Register of Local Government Units performing activities in the field of telecommunications' kept by the Office of Electronic Communications.³¹ These are small rural communes and as well as the government of the Mazowieckie Voivodeship constructing an Internet network in rural areas.³²

The Wi-Fi network is an alternative to broadband Internet. For instance, the WiFi4EU Initiative supports free wireless internet access in public spaces such as parks, squares, public buildings, libraries, health centers and museums in communes. Communes can apply for vouchers worth 15,000 euro within the WiFi4EU initiative. These vouchers are used to cover the costs of installing Wi-Fi hotspots in communes' public places not offering this type of free public access to the Internet yet.³³

Providing Internet access and countervailing digital exclusion is particularly important for the implementation of the smart village concept in Poland.

²⁹ The Office of Electronic Communications was established on 14 January 2006. The President of the Office of Electronic Communications is a central regulatory authority responsible for telecommunications and postal activities and frequency resources management. It's also a supervisory authority responsible for controlling compliance of products emitting or vulnerable to emission of electromagnetic field, including radio equipment placed on the market in Poland.

³⁰ The Act of 7 May 2010 on Supporting the Development of Telecommunications Networks and Services.

³¹ Ewelina Fornalczyk, 'Rejestr Jednostek Samorządu Terytorialnego wykonujących działalność w zakresie telekomunikacji' (*Urząd Komunikacji Elektronicznej*, 30 December 2019) <<https://bip.uke.gov.pl/rjst>> accessed 14 July 2020.

³² Joanna Czechowicz-Bieniek, 'Informacja prasowa - Zakończyła się budowa sieci szerokopasmowego internetu na Mazowszu – największy projekt informatyczny w Europie' (*Samorząd Województwa Mazowieckiego*, 23 December 2015) <<https://www.mazovia.pl/dla-mediow/informacje-prasowe/art,3577,zakonczyła-sie-budowa-sieci-szerokopasmowego-internetu-na-mazowszu-największy-projekt-informatyczny-w-europie.html>> accessed 15 July 2020.

³³ 'WiFi4EU - Free Wi-Fi for Europeans' (*European Commission*, last update 29 July 2020) <<https://ec.europa.eu/digital-single-market/en/wifi4eu-pytania-i-odpowiedzi>> accessed 15 July 2020.



The concept of smart village is a response to the idea of a smart city. The aim is to countervail the divisions between villages and cities and to raise the standard of living of rural residents. However, the point is not to make the village resemble a city, but to have equal development opportunities. Likewise, this concept is also defined by the European Commission. Therefore, digital technologies and innovations can support the quality of life and a higher standard of public services for citizens, enable better use of resources, improve agricultural production, and reduce the burden of work. Finally, more environmentally friendly solutions can be created. Consequently, depopulation in rural areas is possible to be countervailed.³⁴ Certainly, the concept of 'smart' is much extensive referring to digital technologies and involves a range of social, economic and environmental innovation issues. However, it is difficult to implement the assumptions of this concept without access to the Internet.

In Poland, the discussion on smart village is just initiated. Nevertheless, the first support programs and competitions financed from EU funds³⁵ are already underway.³⁶ This discussion contributes to rural development activities and the promotion of the concept of sustainable development.³⁷ Thus, as well as cities can be 'smart' now, rural areas intended to become attractive for residents and entrepreneurs. Therefore, the digital exclusion of rural areas is one of the barriers to be overcome. In this respect, local governments can take action and join the process of building an information society in rural areas.

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³⁴ 'Badania Naukowe i wiedza' (*European Network for Rural Development*, 8 June 2020)

<https://enrd.ec.europa.eu/smart-and-competitive-rural-areas/smart-villages/smart-villages-portal/eu-networks-organisations-research_pl> accessed 15 July 2020.

³⁵ Funding by European Agricultural Fund for Rural Development: Europe investing in rural areas, which does not support the construction of internet infrastructure.

³⁶ For example: Ostoja Natury in the 'Smart Rural 21' project, see 'Ostoja Natury with Subsidies under the Rural Development Program' (*Ostoja Natury*) <<https://ostojanatury.pl/nawosci/ostoja-natury-with-subsidies-under-the-rural-development-program/>> and 'Ostoja Natury in the "Smart Rural 21" project' (*Ostoja Natury*) <<https://ostojanatury.pl/nawosci/ostoja-natury-in-the-smart-rural-21-project/>> accessed 15 October 2020.

³⁷ Smart Wieś, <<http://www.smartwies.pl/>> accessed 15 July 2020.



Wasilewski A, Floriańczyk Z and Wigier M, 'Governance of Internet development in rural areas in the context of territorial competitiveness: the case of Poland' in Paweł Chmieliński and Agnieszka Baer-Nawrocka (eds), *Knowledge as a factor of rural development. Rural areas and development* – (10th vol, European Rural Development Network 2013)

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2.4. Lack of Effective Housing Management in Communes and Attempts to Recover from the Crisis

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Relevance of the Practice

Satisfying the housing needs of households, especially those with low income, is the local government own task. People who cannot afford to buy their own dwelling or rent it on a free-market (commercial) basis may apply for housing from the commune's resources (council flat). However, the current audits of the Supreme Audit Office regarding the housing economy of communes in Poland have demonstrated that communes are not able to properly implement this task.³⁸ Partly, it is caused by the following objective factors: the lack of vacant council flats and the lack of funds for the new flats built by communes. According to the Supreme Audit Office, the existing possibility of co-financing communal housing investments with funds from the state budget does not solve the financial problems of communes related to the new flats acquisition and the use of existing housing stock.

The effects of the economic system change in Poland after 1989 should be mentioned. The priority was to build a market economy and swift privatization of flats that were public property before 1989. Parallel to the privatizations, over the years, there were new instruments to support new proprietary housing, mainly in the form of subsidies to individual mortgage loans. The activities undertaken by the Polish government to develop rental housing were marginal.

It is generally believed that the lack of housing is also a serious problem for Polish people. Serious territorial differences, namely poor housing conditions or the lack of housing were twice as likely to assess as one of the problems of Polish families by residents of large cities and metropolises than by residents of small towns and villages.³⁹ The need of housing policies diversity conducted at the local authorities' level in Poland is justified by these studies. Simultaneously, the weakness of the central authorities' actions is shown regarding implemented housing programs geographically uniform. The housing policy in Poland should be diversified primarily in terms of the impact area – with a division into medium and large cities and metropolises on the one hand, and small towns and villages on the other hand. It

³⁸ Najwyższej Izby Kontroli, 'Informacja o wynikach kontroli. Wykonywanie przez gminy zadań z zakresu gospodarki mieszkaniowej' (*Departament Administracji Publicznej* 2018) <<https://www.nik.gov.pl/plik/id,20338,vp,22961.pdf>> accessed 10 July 2020, 5.

³⁹ IBRiS, 'Problemy mieszkaniowe Polek i Polaków oraz ocena istniejących rozwiązań' (*Habitat for Humanity Poland* 2018) <http://habitat.pl/wp-content/uploads/2018/04/HabitatPoland_badanie-opinii-publ_mieszkalnictwo2018.pdf> accessed 15 October 2020.



seems necessary to set priorities for the housing policy depending on the specificity of the influence area.⁴⁰

General Profile of the Housing Situation in Poland

The ownership structure of housing is a characteristic feature of Poland (and other Central and Eastern European countries): only 20 per cent of flats involve flats for rent and 80 per cent concern private property.⁴¹

	Housing ownership in %			
	Individuals	Housing cooperatives ⁴²	Communal flats Company accommodation	Others
Poland overall	84.24	8.55	6.09	1.12
Cities	75.36	14.10	8.82	1.72
Villages	96.35	0.99	2.36	0.3

Table 1: Proprietary Structure of Dwellings in 2016 r.⁴³

Over 14.62 million apartments concern the housing stock in Poland in 2018. It means that Poland accounts about 386 dwellings per 1000 inhabitants. The only weaker result among UE countries was recorded in Slovakia (369 dwellings). In comparison to Germany, the ratio amounted to 509 dwellings per 1000 inhabitants, 459 in Hungary and 455 in Czech Republic.⁴⁴

The housing deficit that amounts to 2.1 million properties in Poland is going to increase to 2.7 million by 2030. This is the result of the HRE Think Tank report entitled 'How many dwellings are missing in Poland?' published at the end of 2018.⁴⁵ The huge problem is the availability of housing for people with too low incomes to buy or rent an apartment on market terms, and,

⁴⁰ Piotr Lis, 'Polityka mieszkaniowa dla Polski Dlaczego potrzeba więcej mieszkań na wynajem i czy powinno je budować państwo?' (Stefan Batory Foundation) <https://www.batory.org.pl/upload/files/Programy%20operacyjne/Forum%20Idei/Interaktywny_Polityka%20mieszkaniowa.pdf> accessed 15 October 2020.

⁴¹ 'Housing Statistics' (Eurostat, 7 July 2020) <https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Housing_statistics/pl> accessed 10 July 2020.

⁴² From 1945 to 1990, housing policy was provided in Poland in the context of a socialist economic policy (with a preference for state and cooperative property). With the crisis of the socialist economy the housing policy in Poland had to be new defined. A transformation was made from direct state intervention in housing policy to the market economy. In that context, housing co-operatives were seen with suspicion, being identified with the old socialistic system. Housing cooperatives were seen as not being viable in the new market system. Overall, the share of cooperatives in the housing stock in Poland fell sharply.

⁴³ Krystyna Hanusi and Urszula Łangowska-Szcześniak, 'Housing Status of Rural Areas' Households in Poland in the Light of Household Budget Survey of 2016' (Studia Obszarów Wiejskich 2018) 52 <<https://doi.org/10.7163/SOW.52.3>, http://www.rcin.org.pl/igipz/Content/76836/WA51_98790_r2018-t52_SOW-Hanusik.pdf> accessed 8 October 2020.

⁴⁴ 'REPORT Housing condition in Poland' (Ministry of Development 2020) <<https://www.gov.pl/web/rozwoj/raport-o-stanie-mieszkalnictwa>> accessed 10 July 2020, 12.

⁴⁵ 'Ile mieszkań brakuje w Polsce? Raport' (Heritage Real Estate 2018) <<https://heritagere.pl/wp-content/uploads/2018/12/HRE-TT-RAPORT-ILE-MIESZKA%C5%83-BRAKUJE.pdf>> accessed 10 July 2020.



likewise, too high to be able to apply for a social or council flat. For instance, after comparison of the average net wage in the corporate sector and the average rent, it proves the cost of renting a commercial market in metropolises consumes the following part of the salary: Warsaw – 38 per cent, Crakow – 38 per cent, Lodz – 31 per cent, Wroclaw – 42 per cent, Poznan – 31 per cent, Gdansk – 36 per cent.⁴⁶

Description of the Practice

Communes' Measures in Satisfying Housing Needs

63,424 households waited for a council flat from the commune in 2018, including 79.2 per cent in cities, 20.8 per cent in urban areas.⁴⁷ 9,542 council flats were built throughout Poland in the years 2013-2017, i.e. about 1,900 annually (there are 2,477 communes in Poland). Each commune is obliged to adopt a document entitled 'Rules for renting flats', applied in its territory. A person waiting for a flat has the right not to accept a flat offered by the commune and wait for another offer.

Mainly flats built by developers for sale or rent (44.7 per cent) and for private use by individual investors (43.6 per cent) were commissioned in 2013-2017. Individual housing for sale or rent (7.5 per cent), cooperative apartment (1.8 per cent), council flats (1.2 per cent), social housing for rent (0.9 per cent) and company apartment (0.3 per cent)⁴⁸ are the other forms of housing.

The highest percentage (97.8 per cent) in the new dwellings completed in 2019 has represented commercial (developer) construction and investments implemented by individuals. Accommodations intended for people with lower incomes including council flats, flats within social construction associations⁴⁹ and company apartments accounted for only 2.2 per cent of the number of newly built flats (i.e. about 4.6 thousand) in 2019. Developers are responsible for almost 80 per cent of new housing construction in cities. Private construction dominates in rural areas (about 80 per cent). If developers decide to build flats in a rural area, it is mainly near the city borders (for city dwellers).⁵⁰

⁴⁶ *ibid.*

⁴⁷ Agnieszka Matulska-Bachura and others, 'Housing economy and municipal infrastructure in 2018' (Statistics Poland 2019) 32

<<https://stat.gov.pl/obszary-tematyczne/infrastruktura-komunalna-nieruchomosci/nieruchomosci-budynki-infrastruktura-komunalna/gospodarka-mieszkaniowa-i-infrastruktura-komunalna-w-2018-r-,13,13.html>> accessed 10 July 2020.

⁴⁸ Krzysztof Markowski and others, 'Housing economy in the years 2013–2017' (Statistics Poland 2018) <<https://stat.gov.pl/obszary-tematyczne/infrastruktura-komunalna-nieruchomosci/nieruchomosci-budynki-infrastruktura-komunalna/gospodarka-mieszkaniowa-w-latach-2013-2017,11,1.html>> accessed 10 July 2020, 9.

⁴⁹ Polish: *Towarzystwa budownictwa społecznego* (TBS).

⁵⁰ 'REPORT Housing condition in Poland', above, 14.



Not only do communes not build council flats but they also privatize those in their possession. As a result of the council flats' sale, the stock of them decreased by around 9,1 per cent in 2015-2018⁵¹ (sales to the tenants or return of flats to former owners or their heirs)⁵². Privatization decisions are parts of the communal independent housing policy.

An additional cost and inconvenience for communes are council flats as tenants do not even pay the minimum rent. The housing crisis is primarily affecting cities. The level of satisfying the housing needs (as well as the technical condition of buildings) in rural areas is higher than in cities.⁵³ Furthermore, the lack of funds for repairs is another difficulty. As a result, many council flats are uninhabited due to poor technical condition.

Financing of council construction may come:

- from own resources (the level of expense on housing management amounted to 3.3 per cent of communes' budgets on average);
- from the central government financial help, but the legislator imposed a specific way of using government money and managing the housing that are built as a result of these investments. In the eyes of law, the commune is obliged to keep the rent at a very low level, and to make the premises available only to people in need, i.e. those with low income or in a very difficult life situation. Although government subsidy ranges from 20 per cent to even 60 per cent, only a few local governments access it. According to the Ministry of Investments and Development, thanks to the state aid, 3,289 apartments have been built in 161 towns (some of them as a result of renovation) since 2016;
- the loans, bonds or various models of public-private partnership.

Assessment of the Practice

The tendency to reduce the share of council construction in the overall stock structure (the number of flats) has been monitored for several years.

The new financial support programs are offered by central government considering the disastrous housing situation in Poland in order to support communes in the construction of apartments for rent. The state aid was offered to communes due to their small financial resources. Communes are supposed to be motivated through these funds to better perform their tasks in regard to the local housing policy. The 'Housing Plus' program was one of the offers that assumed the construction of affordable apartments for rent on market terms. The

⁵¹ Najwyższej Izby Kontroli, 'Informacja o wynikach kontroli', above, 5.

⁵² The flats nationalization took place in Poland after World War II, and after 1989 the former flats owners could and can regain them.

⁵³ Herbst Irena, 'W poszukiwaniu rozsądnej polityki mieszkaniowej' <<https://wiedzadlapolityki.files.wordpress.com/2016/03/w-poszukiwaniu-rozsc485dnej-polityki-mieszkaniowej.pdf>>.



program operated in 2017-2019 and was established by a resolution of the Council of Ministers of September 27, 2016 as an element of the 'National Housing Program'. In response to an interpellation of Krzysztof Brejza, MP of the Sejm of the Republic of Poland, the Ministry of Development announced that a total of 867 apartments were commissioned by the end of 2019, and there are also about 1.9 thousand apartments under construction.⁵⁴

Currently, works on new forms of financial support are underway at the Ministry of Development. Including the Government Housing Development Fund worth PLN 1.5 billion is to be established to support the construction of apartments in communes that suffered financially from the Covid-19 result.⁵⁵

Moreover, a single example of municipal districts build flats for rent, pleased to welcome an opportunity for development and preventing depopulation. The higher rent in comparison to council flats is going to allow financing the investment. Examples of good practice are cities such as: Żory (60 thousand residents), Kępice (3,646 residents), Jarocin (26,353 residents). The primary purposes of the Municipality of Żory are to create a stock of rental housing for families and people with the very low incomes entitling them to receive housing from the municipality so far, and are unable or unwilling to buy a flat with a bank loan. The projected average rent is approximately PLN 15.50⁵⁶ / m² including the cost of building and financing the investment. An additional monthly maintenance fee of PLN 4.30⁵⁷ for each square meter of the apartment needs to be paid by residents to cover heating costs (about PLN 1.80), maintenance of common parts of the building, administration, snow removal, lighting and staircases heating, elevators maintenance, greenery and playgrounds maintenance.⁵⁸

According to experts, municipal districts are going to become convinced that the construction of housing is the key for halting depopulation and degradation processes of cities as it may lead to economic development and an increase in tax revenues.⁵⁹

⁵⁴ Tweet by Krzysztof Brejza (*Twitter*, 6 January 2020)

<https://twitter.com/KrzysztofBrejza/status/1214207397700538369?ref_src=twsrc%5Etfw%7Ctwcamp%5Etwetembed%7Ctwterm%5E1214207397700538369%7Ctwgr%5E&ref_url=https%3A%2F%2Fwww.money.pl%2Fgospodarka%2Fna-razie-tylko-mieszkanie-minus-trzy-lata-i-nie-ma-nawet-900-lokali-6464835126683777a.html> accessed 10 July 2020.

⁵⁵ Serwis Rzeczypospolitej Polskiej, <<https://www.gov.pl/web/rozwoj/wiecej-tanich-mieszkan-na-wynajem--rada-ministrow-przyjela-projektustawy-dot-spoecznej-czesci-pakietu-mieszkaniowego-z-poprawkami>> accessed 29 July 2020.

⁵⁶ Approximately 3,45 Euro.

⁵⁷ Approximately 1 Euro.

⁵⁸ 'Nowe mieszkania czynszowe w Żorach' (*Mieszkanie*, undated) <<http://www.mieszkanie.ztkzory.pl>> accessed 10 July 2020.

⁵⁹ Mariusz Gołaszewski, 'Why is it profitable for communes to build apartments for rent?' (Aesco Group 2018) <<https://aesco.com.pl/dlaczego-gminom-oplaca-sie-budowac-mieszkania-na-wynajem>> accessed 10 July 2020.



It's only natural that people who cannot afford to live in the centers to settle in peripheral blocks of flats or in suburban communes. However, they work in the city all the time. Since cities have limited possibilities in this regard, they cannot force a private developer to build expensive flats in the center as well as the cheaper ones in suburbs. Nevertheless, a housing policy may be pursued more actively by communes and new opportunities may be searched to solve housing problems in their area. It relates primarily to municipalities.

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Local Financial Arrangements



3.1. Local Financial Arrangements in Poland: An Introduction

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Legal Basis

The issue of financing the activities of local government in Poland was addressed in Article 167 of the Polish Constitution: 'Units of local government shall be assured public funds adequate for the performance of the duties assigned to them. Alterations to the scope of duties and authorities of units of local government shall be made in conjunction with appropriate alterations to their share of public revenues. The revenues of units of local government shall consist of their own revenues as well as general subvention and specific (targeted) grants from the State Budget of Poland. The sources of revenues for units of local government shall be specified by act.'

Since the reactivation of local government in 1990, the fourth act in this respect has been in force. Currently, it is the Act of 13 November 2003 on the Revenues of Local Government Units. It introduces a separate system of financing of *gminy* [communes, municipalities] (including cities with *powiat* rights), *powiaty* [counties], voivodships and regulates the mechanism for the elimination of income disparities between local government units.

General Structure of Public Finances

In Poland, the ratio of revenues and expenditures of local governments (*gmina*, *powiat* and voivodeship self-governments) to GDP is fairly high. In 2018, the revenue of all local government units calculated according to the methodology adopted by the European Union amounted to PLN 251.8 billion, which corresponded to 11.9 per cent of GDP (in 2008 – 13.9 per cent, in 2015 – 12.7 per cent, in 2016 – 11.5 per cent, in 2017 – 11.6 per cent)⁶⁰. This clear downward trend in the years 2008-2017 was primarily attributable to the effects of the global economic crisis. The Polish local government sub-sector is also characterized by an

⁶⁰ All statistical data prepared by the author on the basis of official documents of state authorities: Annual 'State Budget Execution Analysis' prepared by the Supreme Audit Office, <<https://www.nik.gov.pl/kontrola/analiza-budzetu-panstwa>>; Annual reports of the Statistics Poland (the Central Statistical Office), 'Financial Economy of Local Government Units', <<https://stat.gov.pl/en/topics/national-accounts/general-government-statistics/financial-economy-of-local-government-units-2018,2,15.html>>; Annual reports of the Ministry of Finance, <<https://www.gov.pl/web/finanse/sprawozdania-roczne>> and Annual reports of Regional Accounting Chambers, <https://www.rio.gov.pl/modules.php?op=modload&name=HTML&file=index&page=publ_sprawozdania> accessed 1 December 2019.



expenditure-to-GDP ratio higher than the EU average. Again, there is a downward trend in the value of the ratio (from 14.1 per cent in 2009 to 12.7 per cent in 2015).⁶¹

In comparison to other EU countries, in Poland the ratio of local government units' revenues to GDP is higher than the EU average. Out of the 21 EU unitary states with a significant range of local government activities⁶², Poland ranks sixth in terms of local government's revenues in relation to GDP. However, this does not mean that public finances in Poland have been decentralized. Despite relatively high income of the local government, it is still mostly derived from the transfer of funds from the Polish state budget.⁶³

The financial situation of local government units varies depending on the type of local government (*gmina*, *powiat* or voivodship). Cities with *powiat* rights take a special position. In addition, we observe spatial diversity in the prosperity of *gminas* attributed to local conditions (e.g. the location of industrial plants which pay part of CIT to *gminas*' budgets). The financial situation of the local government in Poland is also significantly influenced by access to financial resources from the European Union. At present, the financial condition of local governments is strongly affected by the state policy in terms of determining tasks and public finances. Moreover, changes in the financial situation of local governments in metropolitan areas (regions) may be observed.

Revenue Structure of Local Government

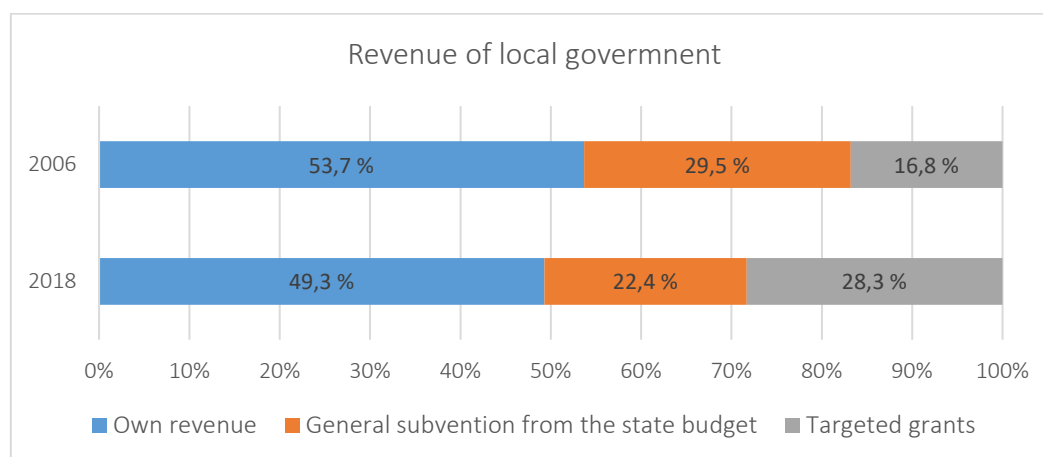


Figure 2: Structure of local government revenue (*gmina*, *powiat* and voivodship) in 2006 and 2018.

⁶¹ Poniatowicz Marzanna, 'Stabilność finansowa jednostek samorządu terytorialnego w aspekcie nowej perspektywy finansowej Unii Europejskiej i zmian w systemie dochodów samorządowych' (2016) 125 *Ekonomiczne Problemy Usług* 7 <<https://wnus.edu.pl/epu/file/article/view/2740.pdf>> accessed 1 December 2019.

⁶² Excluding Cyprus, Malta and Luxembourg, where the scope of local government activity is fairly limited.

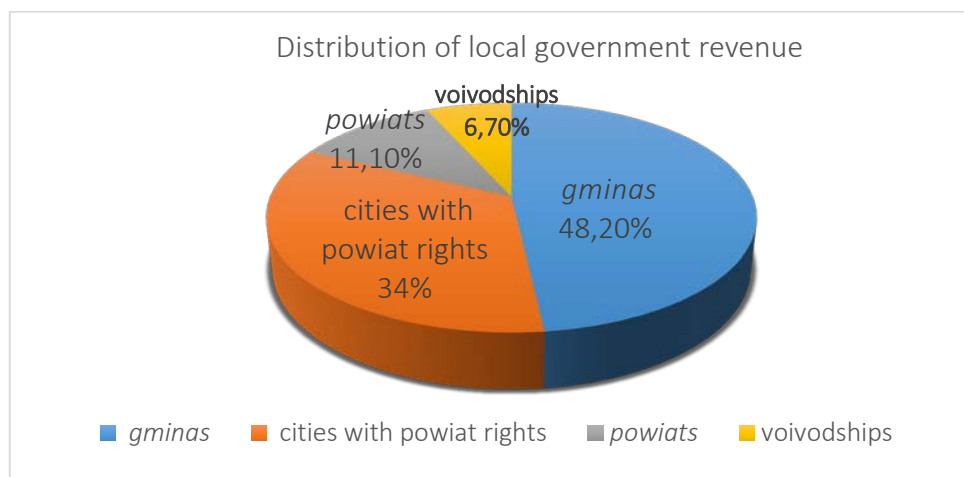
⁶³ College of the Supreme Audit Office, 'Analysis of State Budget Execution and Monetary Policy Objectives in 2015' (Supreme Audit Office 2016) 260 <<https://www.nik.gov.pl/plik/id,11415,vp,13764.pdf>> accessed 1 December 2019.



The largest category in the structure of revenue of local governments in Poland is own revenues which in 2018 constituted 49.3 per cent of total revenues. The remaining funds are transferred from the state budget: the share of general subvention in the revenue of the local government amounted to 22.4 per cent, while targeted grants – 28.3 per cent.⁶⁴

In the structure of own revenue of local government units, in 2018, the largest share was represented by income from the share in personal income tax (PIT) revenues – 41.0 per cent, property tax – 18.2 per cent, from the share in corporate income tax (CIT) revenues – 7.8 per cent.

Local government units in Poland are, next to enterprises, the most important category of beneficiaries of funds from the European Union. In 2007-2013, approximately 25 per cent of all funds from the EU budget allocated to Poland were used by local governments.⁶⁵ In 2018, EU funds constituted 6.7 per cent of total revenue of local government (they are classified as subsidies). In relation to the total revenue of particular types of local government units, income from the EU constituted: in *gminas* – 5.1 per cent, in cities with *powiat* rights – 5.0 per cent, in *powiats* – 6.4 per cent, in voivodships – 26.9 per cent. It should be emphasized that the absorption capacity of local government remains in close correlation with the financial standing and state of local finances.



⁶⁴ Mirosław Błażej and others, 'Financial Economy of Local Government Units 2018' (Statistics Poland 2019) 33 <<https://stat.gov.pl/obszary-tematyczne/rachunki-narodowe/statystyka-sektora-instytucji-rzadowych-i-samorzadowych/gospodarka-finansowa-jednostek-samorzadu-terytorialnego-2018,5,15.html>> accessed 1 December 2019.

⁶⁵ Patrycja Chrzanowska, 'Wykorzystanie funduszy europejskich przez samorzady terytorialne w kontekście rozwoju ekonomiczno-gospodarczego gminy [Use of European Funds by Local Authorities in Economic Development Context]' (2015) 106 Zeszyty Naukowe Uniwersytetu Przyrodniczo-Humanistycznego w Siedlcach 23 <https://repozytorium.uph.edu.pl/bitstream/handle/11331/535/Chrzanowska.P_Wykorzystanie_funduszy_europejskich_przez_samorzady_terytorialne.pdf?sequence=1> accessed 15 October 2020.



Figure 3: Distribution of local government revenue among *gminas*, cities with *powiat* rights, *powiats* and voivodeships.

In the structure of revenue of all three tiers of local government (*gminas*, *powiats* and voivodeships), the highest income is allocated to the first tier of local government, i.e. *gminas* and cities with *powiat* rights – 82.2 per cent in total⁶⁶.

Gminas and cities with *powiat* rights are and will continue to be the key to achieving such objectives as equalizing the standard of living in different regions of Poland and creating conditions for local development. For this reason, the next part of the study will examine the basic level of local government in Poland, i.e. the financial situation of *gminas* (including cities with *powiat* rights).

Structure of *Gminas'* Revenue

The changes in the state of the *gmina's* finances indicate that the revenue of *gminas* is increasing annually, in 2018 it reached the level of PLN 121.4 billion. Compared to 2002, when the total revenue of *gminas* amounted to PLN 37.3 billion, this means an increase of 225 per cent over 16 years.

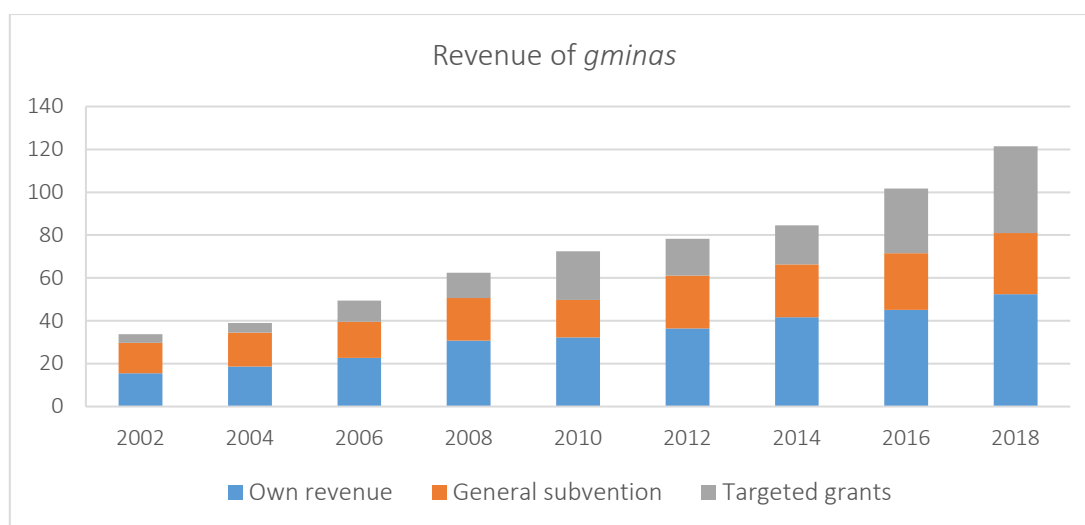


Figure 4: Revenue of *gminas* 2002-2018.

The 2018 revenue structure of all *gminas* and cities with *powiat* rights was as follows: own revenues 43.2 per cent, general subvention 23.4 per cent, targeted grants for commissioned tasks – 33.4 per cent.

⁶⁶ Ministry of Finance, 'Report on the Execution of the State Budget for the Period from 1 January to 31 December 2018. Information on the Execution of Budgets of Local Government Units' (Council of Ministers 2019) 11 <<https://www.gov.pl/web/finanse/zestawienia-zbiorcze>> accessed 2 November 2019.



If we divide *gminas* into rural *gminas*, urban and rural *gminas*, urban *gminas* and separately cities with *powiat* rights, the following picture emerges.



Figure 5: Structure of revenue of *gminas* (rural, urban-rural and urban) in 2007 and 2016.

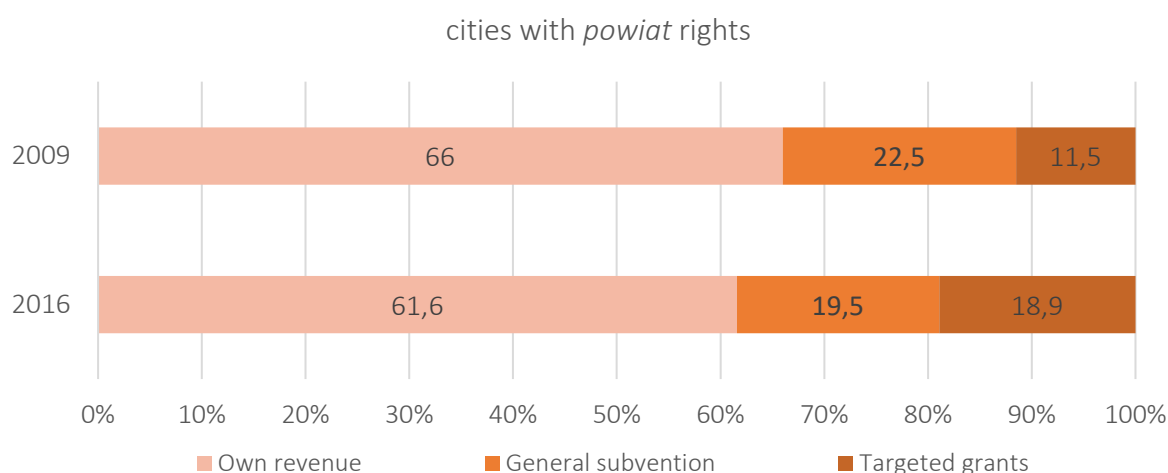


Figure 6: Structure of revenue of cities with *powiat* rights in 2007 and 2016.

The general trend concerning the sources of financing of *gminas* suggests an increase in financial transfers from the state budget. In particular, the amount of targeted grants related to the social policy of the state has increased (e.g. the government program ‘Family 500 plus’, introduced on 1 April 2016, which involves financial benefits for families with children). In 2018, the grant for the ‘Family 500 plus’ program accounted for 13.8 per cent of the *gminas*’ revenue (targeted grants in total constituted 24 per cent of the *gminas*’ revenue).

The second noticeable tendency is greater dependence of rural *gminas* on financial transfers from the state budget. It pertains to general subvention intended to support *gminas* with low own revenue. Its purpose is to eliminate disproportions in the distribution of own revenue of the local government.

Categories of *Gminas*’ own Revenue

Gminas’ own revenue includes: local taxes (mainly: agricultural tax, forestry tax, tax on real estate, tax on means of transport). *Gminas* enjoy financial autonomy in this respect – they can set tax rates on their territory (within the limits set by law). Additionally, a part of the income from PIT⁶⁷ and CIT⁶⁸ is transferred to the *gmina*’s budget. PIT and tax on real estate are of fundamental importance in financing the *gmina*’s budget. The basis for taxation of real estate in Poland is its area and not its value. This has been a matter of dispute – the proposal to introduce a real estate cadaster and a cadastral tax has long been under discussion.

⁶⁷ Revenue from PIT contributes towards the budgets of *gminas* (39.34%), *powiat* budgets (10.25%), voivodship budgets (1.60%) and the state budget (49.81%).

⁶⁸ Revenue from CIT contributes towards the budgets of *gminas* (6.71%), *powiat* budgets (1.4%), voivodship budgets (14.75%) and state budget (77.14%).

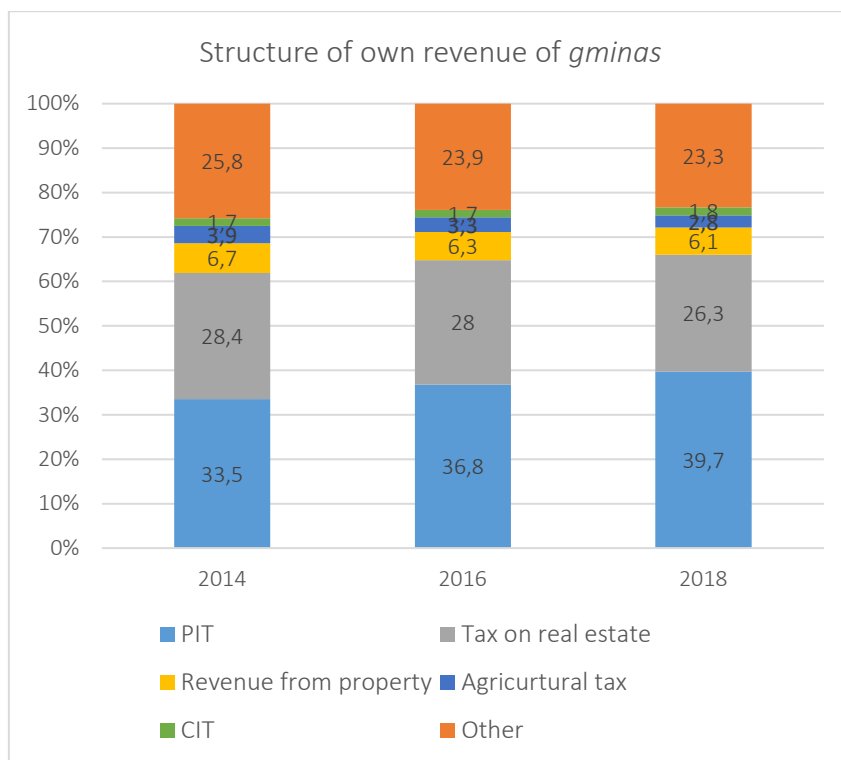


Figure 7: Structure of own revenue of *gminas*.

The main problem in the area of *gmina's* revenue from PIT is the introduction of a number of tax reliefs in recent years which cause a decrease in the *gmina's* income from this source. These are decisions taken by the government and the parliament – without the participation of *gminas*. This causes great dissatisfaction and protests of local governments.

General Subvention for *Gminas*

A general subvention is a form of non-refundable financing of the local government budgets by the state budget. These are funds transferred to equalize the level of own revenue of local governments. The subvention is an instrument for eliminating income disparities between local governments. The funds from the subvention may be disbursed by the local authorities at their own discretion.

The general subvention for *gminas* consists of three parts: education, compensatory and offsetting part. In 2019, the educational part (for running schools) accounted for 77.2 per cent of the total subvention. One of the factors used for the determination of the compensatory part (apart from the amount of tax revenue per capita) is the population density in a *gmina* which is lower than the Polish average. It is an aid for rural *gminas* – sparsely populated.

The funds which are transferred to poorer *gminas* in the form of a general subvention are derived from the state budget but also from payments made by wealthy *gminas* with high income from local taxes. Such a system of redistribution of *gminas'* revenue has been objected



by wealthy *gminas* for a long time. In 2011, a citizen bill ('citizens' legislative initiative')⁶⁹ was prepared the aim of which was to reduce the amount of payments made by wealthy *gminas* to the general subvention. The bill was not seconded in parliament. In 2018, 88 *gminas* made payments to the state budget for the benefit of poorer ones (in Poland there are 2477 *gminas* in total). This means that 3.5 per cent of *gminas* in Poland participate in the system of co-financing poorer *gminas*.⁷⁰

The subvention is certainly a more predictable source of finance than other types of own revenue which are tax-related and thus largely determined by the dynamics of economic growth. During the economic slowdown, the general subvention is therefore intended to stabilize the income situation of the local government. However, its critics claim that the general subvention decreases the motivation of the *gmina's* self-government to rationalize expenditures.

Targeted Grants for *Gminas*

Targeted grants are granted *gminas* from the state budget for the execution of additional tasks (unused grants must be returned to the budget). Local government units do not have any actual influence on the grant amount. For several years, local governments have been suggesting that targeted grants are insufficient to fulfil the commissioned tasks. As a result, in order to ensure the performance of these tasks, local governments finance them from their own resources.

In recent years, the local governments of large cities have decided to file claims in civil courts against the Polish State Treasury for payment of the missing funds for the performance of commissioned tasks (the funds are primarily needed for the tasks related to keeping population registers, issuing identity cards, adjudicating in registration cases and keeping vital records). These are long and costly proceedings, however, more and more large cities are deciding to go to court. The precursor of such an action was Cracow⁷¹ which after 5 years obtained a court judgement ordering the Polish State Treasury to return the funds that Cracow allocated for co-financing of commissioned tasks.⁷² The increasing number of court cases may possibly result in a change in the methods of determining the costs of tasks commissioned by the Polish Government and Parliament.

⁶⁹ The right to submit a bill is granted in Poland to a group of at least 100 000 citizens having the right to vote in elections to the Sejm (Art 118(2) of the Polish Constitution 1997).

⁷⁰ A similar mechanism of revenues redistribution applies at the level of *powiats* and voivodeships.

⁷¹ Cracow (Kraków) - the second largest city in Poland.

⁷² Weber Maria, 'Miasta w sądzie walczą o pieniądze z rządem [Cities fight in court with the government for money]' (*Rzeczpospolita*, 22 October 2019) <<https://regiony.rp.pl/prawo/22244-zadania-trafiaja-do-sadu> > accessed 1 December 2019.



Expenses of *Gminas*

In recent years, there has been a significant increase in local government expenditure, both in the group of current and capital expenditure.⁷³ On the one hand, it results from an increase in the scope of tasks and the realization of local government investments, however, on the other hand, it is an effect of a significant increase in the costs of performing public tasks.

The most important items of the *gminas'* expenditure include 'education and upbringing' and 'family' – in total they constitute over half of the *gminas'* budget expenditure (51.4 per cent). The budget of *gminas* also disburses funds for agriculture and hunting – 2.7 per cent. Compared to 2017, expenditure on agriculture and hunting increased by 48.8 per cent. It resulted from, inter alia, the implementation of the sub-measure 'Support for investments in agricultural holdings' under the Rural Development Program for 2014-2020 financed from the EU.

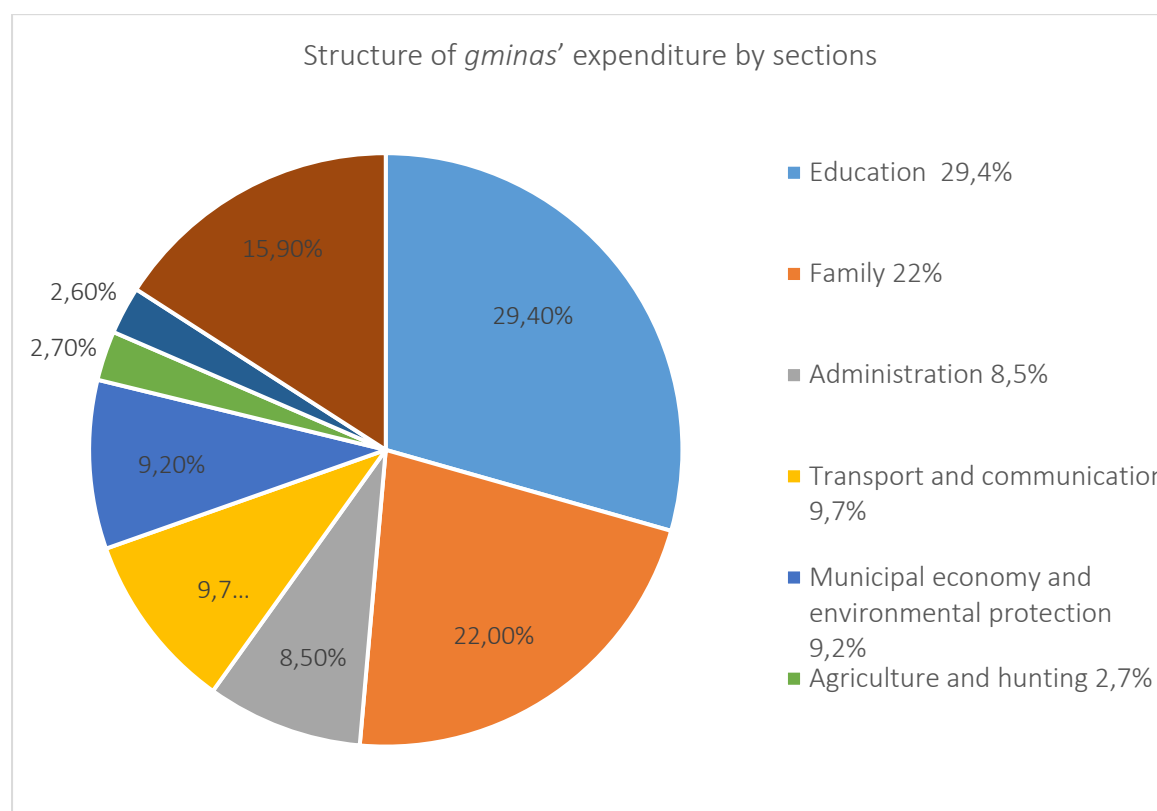


Figure 8: *Gminas'* expenditure.

⁷³ In the structure of *gminas'* expenditures in 2018, current expenditures constituted 79.4% whereas capital expenditures 20.6%. If we consider rural *gminas* separately, current expenditure amounts to 78.3% and capital expenditure to 21.7%.



Salaries for employees, including teachers (approx. 34 per cent of *gmina's* expenditure) constitute a relatively considerable part of expenditures. Considering that between 2015 and 2018 salaries in the local government increased by 15.8 per cent, this places a heavy burden on the local government budget. This is a particularly difficult problem for small rural *gminas* which experience financial difficulties and propose that the financing of teachers' salaries should be assumed by the Polish state.

Capital Expenditures of *Gminas*

The main determinant of the state of local government finances, related to its role in the development policy, is the investments made. The increase in PIT revenues contributed to the achievement of an operating surplus⁷⁴ in 2018 in the local government budgets which was entirely allocated to development – i.e. investments. It was also possible thanks to subsidies of 21.5 billion from the European Union and incurring new liabilities (mainly loans) for a total amount of approx. PLN 16.2 billion. Even more investments were planned for 2019.

Investment priorities have evolved over the years. In the 1990s particular importance was attached to the provision of telecommunications infrastructure and development of gas network. Then there was the period of water supply and sewage investments. For some time, transport investments, including road and purchase of rolling stock have been high in the hierarchy of needs. However for over a decade, more and more local governments have been focusing on cultural, sporting and recreational activities.⁷⁵

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Galiński P, 'Determinants of Debt Limits in Local Governments: Case of Poland' (2013) 213 *Procedia - Social and Behavioral Sciences* 376

⁷⁴ The operating surplus is the positive difference between current revenue and current expenditure. Accordingly, the negative result between current revenue and current expenditure represents an operating deficit.

⁷⁵ Swianiewicz Paweł and Łukomska Julita, 'Liderzy inwestycji. Ranking wydatków inwestycyjnych samorządów 2015-2017' (*Wspólnota*, 20 January 2020) <https://www.wspolnota.org.pl/fileadmin/user_upload/Andrzej/11_2017/Nr_19_Ranking_-_Wydatki_inwestycyjne_2015-2017.pdf> accessed 2 November 2019.



3.2. Investment Expenditure of Local Governments: The Role of European Funds in the Financial Strategies of Rural *gminas*

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Relevance of the Practice

The consequence of Poland's accession to the EU was, among others, the access of local governments to new financial resources. Polish local governments take this opportunity on a mass scale – there are many good practices in this area. Undoubtedly, the European Union funding contributes significantly to the development and modernization of local government.

The rural settlement fragmentation is a significant problem of many communes in Poland. The fact that localities with up to 200 residents constitute almost 50 per cent of all these units is evidenced by the scale of this phenomenon. The most fragmented rural settlement network can be found in north-eastern and central Poland. This conditioning is a factor limiting the possibility of implementing many linear investment projects. Therefore, there is a limited possibility of applying for EU funding by units located in typical rural areas despite the existing investment needs, both for financial reasons (low own capability, high investment implementation costs) and technical reasons (investment in large sections without buildings)⁷⁶.

The problem of reducing the differences in development and living standards between microregions also concerns the development disproportions equalization in urban and rural areas in Poland. One of the ways to increase the development opportunities of communes in rural areas is to improve their competitiveness. EU funds are the most important financial instruments of the EU regional policy influencing the increase in the communes' competitiveness.

Additional external financial means may have significant multiplier effects in communes located in rural areas in case of affecting the multifunctional development of such areas. These funds should be invested primarily in the widely understood infrastructure, i.e. public facilities enabling economic and social development and environmental protection.

Poorly developed technical, social and environmental infrastructure is one of the most serious barriers to the communes' competitiveness growth in rural areas. The weak infrastructure level

⁷⁶ Jacek Sierak, 'Alokacja funduszy unijnych a wydatki inwestycyjne gmin' (2018) 93 *Optimum. Economic Studies* 195, 206
<https://repozytorium.uwb.edu.pl/jspui/bitstream/11320/7372/1/Optimum_3_2018_J_Sierak_Alokacja_funduszy_unijnych.pdf> accessed 2 November 2019.



leads to worse living standards and these areas are not made an interesting place to live and invest. Infrastructure is the fundament of any business. The appropriate infrastructure level in the area is a necessary condition for economic activation. Therefore, improving the communes' competitiveness in rural areas requires greater saturation with the infrastructure of rural areas. On the one hand, the grounds for investor interest are created whereas the residents' life quality is increased in a given area⁷⁷. Rural areas with a weak infrastructure level are mostly depopulated areas. Infrastructure-neglected communes are characterized by the highest percentage of people employed in agriculture, and the lowest in non-agricultural sectors of the economy.

According to the research, infrastructure investments are also highly anticipated by local communities.

Due to EU funds, the local government units are able to implement investments significantly exceeded their financial capabilities, limited by the level of their own income, especially with regards to rural communes.⁷⁸

Description of the Practice

The Polish local government is facing growing expectations of the residents, who are demanding faster construction and modernization of local infrastructure and improved quality of local public services. Therefore, the main problem for the local government is to raise funds for investments and local development.

At the end of 2019, all *gminas* in Poland implemented EU projects (under the 2014-2020 Financial Perspective). In respect of absolute values, Warsaw is unrivalled. The value of project co-financing agreements in the capital city approached PLN 20 billion (approx. EUR 5 billion). The list of *gminas* where investments have the highest value per capita is topped by rural *gminas*.

The projects structure detailed analysis presents the significant difference considering the activities co-financed from EU funds in communes representing different types. Rural and urban-rural area communes' activities are targeted at the social infrastructure modernization (mainly culture centers), and then at the technical infrastructure development and modernization. However, the technical infrastructure was primarily developed and

⁷⁷ Anna Katola, 'Wpływ wykorzystania funduszy unijnych na wzrost konkurencyjności gmin' (2006) 25 *Studia i Prace Wydziału Nauk Ekonomicznych i Zarządzania* 161 <https://wneiz.pl/nauka_wneiz/sip/sip25-2012/SiP-25-161.pdf>.

⁷⁸ Maciej Stawicki, 'The Use of European Funds by Communes in 2004–2009' (2011) 14 *EJPAU*, 91; Małgorzata Dudzińska and Barbara Prus, 'Level of Socio-Economic Conditions of Municipalities and Effectiveness and Quantity of Procurement of Support with EU Funds for Projects Infrastructure Investment. Case Studies' (2017) 1 *Infrastruktura i Ekologia Terenów Wiejskich* 155 <http://www.infraeco.pl/pl/art/a_18193.htm?plik=2051>.



modernized by the urban communes as well as the scholarship programs organization for pupils and students.

The investments in cultural facilities such as the community centers renovation, the cultural centers equipment, etc. are the most common activities undertaken in rural areas. Projects depending on the construction or modernization of water and sewage networks, and roads were considered in what follows. The sports facilities development (mainly sports fields, gyms) and recreational facilities (e.g. playgrounds), as well as the public spaces and facilities renovation played a crucial role.

Assessment of the Practice

The investment potential of *gminas* consists of three elements:

- own potential (operating surplus);
- external support (subsidies, especially from EU funds);
- credit financing, depending on creditworthiness.

It follows from the above that EU funds may be used by *gminas* which have their own financial reserves. In addition, there are legal provisions in force that prohibit *gminas* from over-indebtedness. Without an increase in their income, they will not be able to benefit from subsidies from EU funds and this will reduce investments. The key question is what strategies are adopted by local governments based on their financial situation and what factors determine the selected investments. Do rural self-governments implement programs dedicated to them, e.g. Rural Development Program 2014-2020 financed by the EU?

According to the research, investments provided by rural communes' local governments financed with EU funds made no significant difference in creating conditions for stimulating the local economy in rural areas.

It emerges that the European funds were mainly used to improve the residents' quality of life by implementing municipal investments in education, culture, leisure or environmental protection areas (infrastructure expenditure aimed at improving the rural quality of life). Furthermore, to a small extent the investments were allocated to create better conditions for rural economic activity.

The increasing number of residents by several per cent was also observed in rural areas using on the widest-ranging scale from European funds. Due to EU funds, it was certainly crucial to improve technical and social infrastructure in rural areas.⁷⁹

⁷⁹ Agnieszka Cyburt, 'The Activity of Local Governments in the Absorption of EU Funds as a Factor in the Development of Rural Communes' (2014) 13 *Oeconomia* 31; Magdalena Wojarska and Renata Marks-Bielska, 'Fundusze Unii Europejskiej jako źródło finansowania rozwoju lokalnego gmin województwa warmińsko-



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mazurskiego' (2015) 76 *Optimum. Economic Studies* 103; Adam Czudec, 'Fundusze europejskie a rozwój gospodarczy w skali lokalne' (2017) 49 *Nierówności Społeczne a Wzrost Gospodarczy* 35.



3.3. Integrated Territorial Investment (ITI)

Andżelika Mirska, *University of Warsaw*

Relevance of the Practice

Poland faces a serious problem which is enormous cost of uncontrolled urbanization of suburban areas (effects of a bad law on spatial planning and development), which makes it necessary to invest in spatial development, infrastructure and public transport. These investments should often be carried out by neighboring local governments. Often there are insufficient financial resources and no willingness to cooperate between local governments.

The latest instrument to help solve this problem is Integrated Territorial Investment (ITI). ITIs appeared for the first time in draft EU regulations on European funds for the years 2014-2020. In order to increase the involvement of cities in the implementation of cohesion policy, the European Commission has committed the Member States of the European Union to devote a minimum of 5 per cent of the resources allocated to them under the European Regional Development Fund (ERDF) to measures to address the economic, environmental, climate, demographic and social challenges faced by urban areas. ITI allows cities and areas functionally connected with them (across city administrative borders) to implement joint ventures combining activities financed by the European Regional Development Fund and the European Social Fund.

The key objectives of ITI include:

- promoting a partnership model of cooperation between different administrative units in urban functional areas;
- increasing the effectiveness of the interventions undertaken through the implementation of integrated projects addressing in a comprehensive manner the needs and problems of cities and their functionally related areas.⁸⁰

Description of the Practice

ITIs are the result of a new approach to development planning which involves departure from perceiving the areas only in terms of administrative borders that separate them.

⁸⁰ 'Zintegrowane Inwestycje Terytorialne' (*Portal Funduszy Europejskich*, 11 May 2016) <<https://www.funduszeuropejskie.gov.pl/strony/o-funduszach/zasady-dzialania-funduszy/zintegrowane-inwestycje-terytorialne/>> accessed 14 November 2019.



Pursuant to Poland's agreement with the EU, the ITI is implemented obligatorily in the 16 largest cities (voivodeships' capitals and their functional areas). Optionally, they may be implemented in other regional/sub-regional cities and their functional areas. In total, ITIs are implemented in Poland in 24 functional areas of cities.

The ITI primarily supports projects in the field of:

- sustainable development, efficient transport connecting the city and its functional area;
- restoring the socio-economic functions of degraded areas of an urban functional area;
- improvement of the natural environment in the functional area of the city;
- support energy efficiency and promote low-carbon strategies;
- stimulating the development of symbolic functions building the international character and supra-regional rank of the urban functional area and improving access and quality of public services in the whole functional area;
- extending research, enhancing technological development and innovation.

Assessment of the Practice

The implementation of the ITI is a new undertaking of Polish local government. This is certainly an answer to the problems arising from the bottom-up metropolitan processes. The main challenge is to encourage local governments to cooperate in order to jointly perform public tasks. Financial incentives are intended to encourage partnership and cooperation. The creation of areas where ITIs are implemented has been preceded by lively social discussions and research by professionals. Institutionalization and defining the rules of cooperation and co-financing was a great challenge for local governments. Joint projects and investments are currently under way. This provides new and extensive research material. It will certainly be a determinant of further actions of local governments in metropolitan areas. The practice of local governments will show which actions have contributed to the improvement of the situation of cities and their functional areas.

The first studies indicate that ITIs are a modern and properly utilized instrument facilitating cooperation between local governments, co-financed by the European Union. Effects of ITIs implementation may be observed in the metropolitan area of the Capital City of Warsaw which includes Warsaw and 39 functionally connected *gminas*.

The 'Warsaw Functional Area for ITI' consists of one city with county rights (the Capital City of Warsaw), 14 urban communes, 12 urban-rural communes and 13 rural communes. Administratively, these communes belong to 10 counties. It concentrates over half of the voivodeship's residents (50.5 per cent) despite the fact that this area covers a relatively small part of the Mazowieckie voivodeship (8.3 per cent). Due to the specificity of the area, especially the number and size of settlement centers, the urbanization rate for the 'Warsaw Functional



Area for ITI' (87.5 per cent) is significantly higher than the value for the Mazowieckie Voivodeship (64.2 per cent), as well as the entire territory of Poland (60, 6 per cent). Moreover, the 'Warsaw Functional Area for ITI' is the most densely populated area of the voivodeship (912 people / km²). This value is over six times higher than in the entire Mazowieckie Voivodeship case (149 people / km²).

Contracts were signed for 115 projects for the grant amount of PLN 606.5 million. What is more, they will be implemented individually by communes in partnership with communes around Warsaw, in partnership with Warsaw, as well as by non-governmental organizations operating in the metropolitan area and private entrepreneurs. Everything is connected with the partnership resulting from the 40 communes' agreement signed in February 2014 and the joint ITI investment strategy.

The projects concern both the problems of rural areas (e.g. educational programs for rural schools in the commune to provide equal educational opportunities for children) and the metropolitan problems (the provision of childcare facilities for children in nurseries in one of the districts of Warsaw with the highest birth rate⁸¹). There are also projects implemented jointly by several municipalities, such as the construction of bicycle paths connecting 6 communes. Projects with impact on all local governments i.e. in the field of e-services are also distinguished. For instance, the project entitled 'Construction and implementation of an integrated support system for care services in the Warsaw Functional Area (E-Care)'.⁸²

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⁸¹ Statistics of Warsaw, 'Population Figure Monitoring 2015' (*Urząd Statystyczny w Warszawie*, 2015) <<https://warszawa.stat.gov.pl/monitoring-stanu-ludnosci/>> .

⁸² 'ZIT metropolii warszawskiej' (*Metropolia Warszawska*) <<https://omw.um.warszawa.pl/zintegrowane-inwestycje-terytorialne/zit-metropolii-warszawskiej-cele-i-korzysci/>>.



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3.4. The Importance of the ‘Village Fund’ for the Mobilization of Rural Residents to Civic Participation

Andżelika Mirska, *University of Warsaw*

Relevance of the Practice

The practice of participatory budget initiated in Porto Alegre is widely known in the world. The democratic discussion and decision-making process was developed primarily in municipalities. In Poland, the participatory budget occurs in cities.⁸³ Yet, there is also a similar instrument in rural areas.

The fundamental difference is that the participatory budget for rural areas was introduced by virtue of the Act of 21 February 2014 on the ‘Village fund’, which regulates its functioning in a uniform manner throughout Poland.

The differences between the participatory budgeting procedure and the ‘Village fund’:

First, the participatory budget was created as an informal bottom-up initiative of city residents. Local governments of particular cities decided to conduct it in order to present themselves as friendly to residents and open to their needs. There was no top-down regulation in the form of a central parliamentary act. Each city decided on its own about introducing a participatory budget and the procedure form.

There was a difference with ‘Village fund’ as it was established by a central parliamentary act, which introduced the same procedure for all local governments in Poland. However, the decision concerning the village council fund establishment in a given commune is voluntary - it is passed by the commune council.

Second, the participatory budget in cities is financed only from the local government's own funds. The different situation occurs in the case of the ‘Village fund’. The part of the financial resources comes from the communes’ budgets, while some funds are transferred from the central (state) budget.

Contrary to the idea that the participatory budget is not regulated from the top-down by a law, the central parliament passed an act in 2018 stating that the creation of a participatory budget is obligatory in cities with county rights. The act also regulates the participatory budget procedure and the minimum amount of funds allocated from the city budget to the participatory budget.

⁸³ See report section 6.4. on the Participatory Fund in Cities.



The 'Village fund' means the financial resources which can be separated from the budget of the rural communes and the urban-rural communes and guaranteed for the *sołectwo*⁸⁴ (an auxiliary unit of a rural or urban-rural *gmina*) in order to carry out projects falling within the category of the *gmina's* own tasks, aimed at improving living conditions of residents of rural areas. From the point of view of rural residents, it is an instrument of budgetary participation, i.e. co-decision on expenditures of determined parts of public resources included in the municipality budget and aimed at supporting grassroots initiatives of rural residents.

'The Village fund' may be interpreted as:

- a democratic discussion and decision-making process by rural community;
- an element of financial management of rural and urban–rural *gminas*;
- an instrument of direct task accomplishment by rural residents.

Gminas that separate financial resources from their budget in order to establish the 'Village fund' receive a financial bonus from the Polish government budget which amounts to 20 per cent, 30 per cent or 40 per cent of the expenditure made by *sołectwos*. The bonus amount depends on the wealth of *gmina*. *Gminas* with the *lowest income* receive the *highest subsidies*.

Description of the Practice

The 'Village fund' implemented according to the act requires compliance with procedures and time limits. However, the entire process is not complicated.

The establishment of the fund is the right of the *gmina* council, the resolution on granting the consent to separate the fund applies to the subsequent budgetary years, however, the resolution on not granting the consent to separate it applies only to the budgetary year following the year in which the resolution was adopted.

Therefore, the first step is the 'Village fund' establishment decided by the *gmina* council in a particular rural or urban-rural *gmina*. The amount of the resources assigned to the given *sołectwo* is calculated on the basis of a formula determined in the act where the wealth of the municipality and the number of the village residents are the primary variables.

The second step is the decision of the *sołectwo* to benefit from the financial resources of the 'Village fund'. The condition for granting the resources from the fund in the given budgetary year is that a request is submitted by the given *sołectwo* to the executive body (to the mayor).

⁸⁴ A *sołectwo* is an auxiliary unit of the *gmina* that does not have the status of local government unit and legal personality. The *sołectwo* has its own elected bodies: village meeting, village leader, village council. The *sołectwo* are established, transformed and liquidated independently by the *gmina*. The *sołectwo* operate in the area of rural *gminas* and rural-urban *gminas*. By contrast, in the area of cities, auxiliary units are usually entitled 'districts' (*dzielnica*).



For this purpose, the residents of the *sołectwo* must convene a village meeting at which such a request is adopted, including the description of an objective on which the financial resources from the municipality budget are to be spent (construction of a playground, repairs, construction of pavements, equipping of a voluntary fire brigade etc). As a general rule, the village meeting is convened by the village leader (*sołtys*) on his/her own initiative, and also on at the request of a certain numbers of residents entitled to attend the meeting (usually about 10 per cent).⁸⁵

The request can be made on the initiative of the village leader, village council or at least 15 adult *sołectwo* residents. Then the request is put to the vote of the village meeting. Voting procedures are determined by the statutes of each *sołectwo*.

The *gmina* council while adopting the municipality budget may refuse the *sołectwo* request when it considers that the tasks which the *sołectwo* is planning to implement do not meet the conditions determined in the act.

The following conditions should be met:

- the arrangements fall within the scope of the *gmina*'s own tasks;
- the arrangements comply with the *gmina*'s development strategy;
- the arrangements contribute to the improvement of residents living conditions.

If the following conditions are met the *gmina* council shall adopt the resolution on the inclusion of the financial arrangements from the 'Village fund' resources contribute to the *gmina*'s budget.

The tasks from the 'Village fund' resources are implemented as described in the request. The 'Village fund' is a part of the *gmina*'s budget for which implementation the mayor is responsible.

The role of village leader (*sołtys*) and residents is not limited to adopting and submitting requests. It involves:

- controlling the implementation term and the arrangements quality;
- participation in the arrangements implementation if it was decided during the village meeting. It may be their work or contribution in-kind.

Residents have the right to ask the mayor about the implementation term. This is guaranteed by the Polish Constitution, in Article 61. The mayor must respond within 14 days.

⁸⁵ These issues are regulated in the *sołectwo* statute. The statute of the *sołectwo* is adopted by the *gmina* council. Each *gmina* defines the text of the statute for all *sołectwos* that have been established on its territory. Therefore, the content of the statutes of various *sołectwos* may differ from each other.



Assessment of the Practice

The aim of the Act on the Village Fund was to ensure opportunities for the village residents to decide independently and jointly their environment and life quality.

The *sołectwo* may spend – in accordance with their needs – the financial resources but the residents must show initiative and cooperate with each other. The decision is made by the village meeting. It must be held democratically and lawfully. Such a possibility mobilizes leaders or groups of residents who not only initiate concrete actions but persuade others to implement them as well.

The data show large dynamics in the use of this instrument of public participation. In 2009 the number of *gminas* in which the Village fund was separated amounted to 1178, then, it increased steadily to reach the number of 1596 municipalities in 2018 where the authorities allow the village residents to take over a part of responsibility for the village development. The number of municipalities where the Village fund was established amounted in per cent: in 2009-2013 – 55 per cent, in 2015 – 65 per cent, in 2016 – 68 per cent, in 2017 - 71,3 per cent. In 2018 the number of *gminas* in Poland is 2478, the number of municipalities with (rural and urban-rural) *sołectwo* is 2174, and the number of *sołectwo* - 40 725. The amount of the return of a part of expenditures executed within the framework of the Village fund from the state budget increased steadily, in 2011 the return amounted to approx. PLN⁸⁶ 44 million, but in 2018 - PLN 124 million.

It was 10 years ago that this participation instrument of village residents was launched. This may enable the assessment of ‘Village fund’ function and the collection of a catalogue of good practices as well as the indication of possible weaknesses which should be eliminated. Certainly, the ‘Village fund’ will be continued by rural and urban-rural *gminas*, also because of the financial bonus from the government budget. The second factor will certainly be the desire to maintain the image of a ‘residents-friendly commune’, i.e. one that leaves part of the decisions directly to residents.

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⁸⁶ 1 PLN (Polish zloty) is 0.23 Euro.



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Structure of Local Government



4.1. The Structure of Local Government in Poland: An Introduction

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The number of local government units in Poland is relatively stable. As far as the number of *gminas* [communes, municipalities] is concerned, there were 2,383 at the time of the restoration of local government in 1990. Currently, there are 2,477 of them. This means an increase in the number of *gminas* by 3.9 per cent. Between 1990 and 2018, the number of *gminas* with less than 2,000 inhabitants increased from 15 to 40, while the number of *gminas* with less than 5,000 inhabitants increased from 654 to 794⁸⁷. The number of cities with *powiat* rights remains unchanged and currently stands at 66.

The number of *powiats* [counties], that were established in 1999 was 308, currently there are 314. The structure of voivodeships (16 units) did not change.

However, this does not mean that the problem of the territorial structure in Poland does not provoke disputes and political discussion. On the one hand, local communities are active and take initiatives to establish separate smaller territorial units. On the other hand, the central government, which has authority to introduce changes in the territorial structure of the country, proposes solutions aimed at consolidating small *gminas* and *powiats*. Moreover, a discussion is taking place among experts about dysfunctions in the territorial division and the desirable changes. The discussion about metropolitanization processes is especially important. It entails the determination of the development strategy for Poland (polarization-diffusion model versus sustainable development model)⁸⁸.

Thus, territorial units in Poland have not been consolidated, which has been a dominant trend in the last few decades in European countries (e.g. Germany, Sweden, Switzerland, Denmark, the Netherlands).

The numerous causes for the process opposite to consolidation, i.e. fragmentation of the *gmina* structure in Poland, include inter alia:

- the establishment of new *gminas* was a manifestation of grassroots social movements in the process of democratization and restoration of self-government after 1990. Local government in localities was often considered an important value;

⁸⁷ Katarzyna Ciesielska, Ewa Kacperczyk, Krystyna Korczak-Żydaczewska and Mirosława Zagrodzka, 'Demographic Yearbook of Poland' (Statistics Poland 2019) <<https://stat.gov.pl/obszary-tematyczne/ludnosc/ludnosc/powierzchnia-i-ludnosc-w-przekroju-terytorialnym-w-2019-roku,7,16.html>> accessed 22 November 2019.

⁸⁸ Andżelika Mirska, 'Probleme der Metropolisierung in Polen in Hinblick auf die territoriale Struktur des Landes' in Europäisches Zentrum für Föderalismus-Forschung Tübingen EZFF (ed), *Jahrbuch des Föderalismus 2013: Föderalismus, Subsidiarität und Regionen in Europa* (Nomos 2013).



- the lack of statutory provisions on the criteria for the establishment of new *gminas* resulted in spontaneous and uncontrolled division.

It was only in 2015 that a legal provision was introduced to counteract the fragmentation of the territorial structure in Poland. The criterion of *gmina* revenue and population size was adopted.

The above provision prohibits the establishment of *gminas* in which:

- the revenue would be lower than the lowest tax revenues per capita provided for individual *gminas* in the Act of 13 November 2003 on Revenue of Local Government Units;
- the population of the newly established *gmina* would be lower than that in the *gmina* with the smallest population in Poland.⁸⁹

On the other hand, incentives for voluntary mergers of *gminas* and *powiats* are offered. They include financial incentives which were first introduced in Poland in 2003. *Gmina* or *powiat* established as a result of voluntary consolidation is provided with additional funds from the state budget for 5 years (increased share in PIT revenues for a new *gmina* or *powiat*).⁹⁰ Even so, there had not been a single consolidation of territorial units in Poland until 2015.⁹¹ For this reason, the financial incentive was increased in 2015. The first voluntary merger took place in 2015. Two territorial units were consolidated: the city with *powiat* rights (Zielona Góra) was merged with the surrounding rural *gmina* (under the same name: Zielona Góra). The initiative was undertaken by the city which conducted an intensive promotional campaign for the merger. The authorities of the rural *gmina* were rather reluctant and sceptical. Eventually, in a local referendum, which took place only in the rural *gmina*, 53.4 per cent of the inhabitants voted in favor of the merger. Accordingly, the Polish government decided to merge the two *gminas*. As a result, Zielona Góra (city with *powiat* rights) increased its area from 58.34 sq m to 278.79 sq m, becoming the sixth largest city in Poland. The population has increased by about 20,000 and is now 140,000 inhabitants.

The financial incentives are crucial in joining local government units on the example of Zielona Góra issue. What is more, residents of the village were allowed by the authorities of Zielona Góra to decide (during the village meetings) about the allocation of additional funds from the state budget on the investments. As announced by the Mayor of Zielona Góra, the money was divided among the village councils in proportion to the number of individual villages' residents. The infrastructure investment extending and the areas increase intended for investment were the most expected benefits during the information campaign for the connection of the City of

⁸⁹ Art 4(d) of the Act of 8 March 1990 on *Gmina* Self-Government.

⁹⁰ Art 41 of the Act of 13 November 2003 on the Revenues of Local Government Units.

⁹¹ The response of the Ministry of Administration and Digitization to parliamentary question no 24063 on the consequences of administrative reform, <<http://www.sejm.gov.pl/sejm7.nsf/InterpelacjaTresc.xsp?key=0F92DD9D> > accessed 22 November 2019.



Zielona Góra and the rural Commune of Zielona Góra. Conversely, the local taxes raise and the cost of living increases for rural areas residents could be the main threats to the rural communities.⁹²

All adjustments to the territorial structure of *gminas*, *powiats* and voivodships are made by the central government in Poland. It is mandatory for the government to consult the local authorities affected by these changes. Both representative bodies and residents are consulted (a local referendum may be carried out). However, the outcome of the consultations is not binding on the government. The residents also have the right to take the initiative to establish, merge, divide and liquidate a *gmina* and establish the borders of the territorial unit. It is implemented in the form of a local referendum.

As regard the aforementioned issue of consolidation of territorial units, the above example of Zielona Góra draws attention to a wider problem of territorial structure in Poland, namely the so-called ‘bagel’-*gminas* [*gminy obwarzankowe*] (Figure below). This means that in the vicinity of a rural *gmina* there is a separate city (urban *gmina* or city with *powiat* rights) – often with the same name. As there is no administrative center in a rural *gmina*, the authorities and administration of that rural *gmina* are based in a neighboring city (which is a separate *gmina* with its own authorities and administration). It is often the case that the rural and municipal authorities are based in the same building.

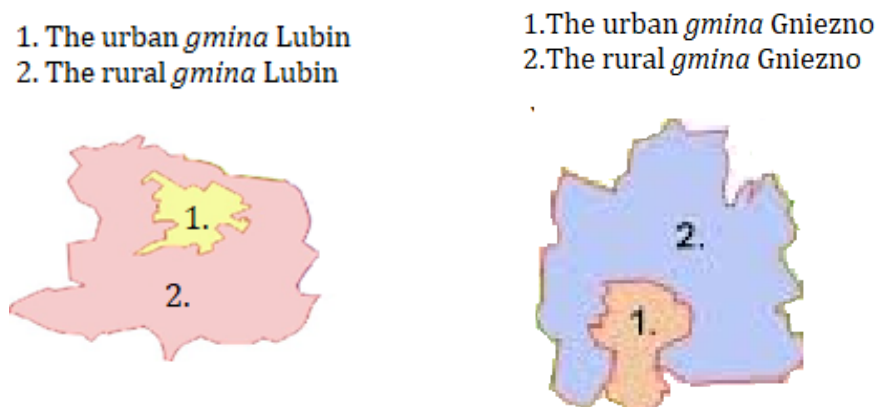


Figure 9: Examples of the shape of ‘bagel’-*gminas*.⁹³

In Poland there are 144 urban *gminas* (and 14 cities with *powiat* rights) surrounded by rural *gminas* – ‘bagels’. According to some experts, a systemic solution is needed – i.e. a merger of

⁹² Piotr Dubicki and Piotr Kułyk, ‘Proces integracji miasta z gminą wiejską. Przykład Zielonej Góry. The Process of Urban-Rural Integration. Using the Example of Zielona góra’ (2018) 32 *Studia Miejskie* 113
<http://www.studiamiejskie.uni.opole.pl/wp-content/uploads/2019/05/S_Miejskie_32_2018-Dubicki.pdf>.

⁹³ Source: own elaboration based on Association of Volunteer Firefighting Brigades, ‘Lista stron OSP’ (*Związek Ochotniczych Straży Pożarnych RP*, 2008)
<https://www.osp.org.pl/hosting/katalog.php?id_w=16&id_p=309&id_g=2281> accessed 2 November 2019.



all ‘bagel’-*gminas* with cities. The authorities of individual cities and the Association of Polish Cities (*Związek Miast Polskich*) also propose such a solution.⁹⁴ They claim that the inhabitants move from the city to the suburbs, i.e. to the area of the rural *gmina* (where they also pay PIT which contributes towards the budget of the rural *gmina*), and work in the city and use the local infrastructure (the free-rider problem). It is also argued that cities need land for urban investments. However, the ‘bagel’-*gminas* are reluctant to hold negotiations about consolidation with the city and are concerned about a loss of identity, independence and, of course, financial independence. It is argued that the indebted cities want to repair their finances through a merger with a rural *gminas* (bonus from the central budget). The 2013 report of the Minister of Administration and Digitization states that the government does not plan systemic solutions and top-down liquidation of all the ‘bagel’ *gminas* but only expects voluntary mergers.⁹⁵

In recent years, the conflict between urban and rural *gminas* in Poland has been aggravating. Cities are attempting to take over some of the rural areas (officially: adjustment of borders between territorial units). The parties to the conflict are represented by local government organizations: the Association of Rural Communes (*Związek Gmin Wiejskich*) and Association of Polish Cities. Both parties present conflicting demands and they seek to win over the Polish government. Rural *gminas* demand a guarantee of inviolability of their borders,⁹⁶ while cities postulate that the government should issue permits to increase their area at the expense of neighboring *gminas*, as they need land for investments.⁹⁷ In each case, the government decides on the adjustment of the borders between the territorial units – considering the requests of the cities to take over a part of the area of the neighboring *gmina*.

Since the territorial reform of 1999, metropolitan areas have not been regulated. The government proposed various top-down solutions – however, none of them eventually was adopted. The dispute concerned, among other things, the question of which cities in Poland

⁹⁴ Tomasz Żółciak, ‘Cicha wojna na linii gminy - miasta o zmiany granic [Silent War Between Rural Gminas and Cities for Changes of Borders]’ (*GazetaPrawna.pl*, 31 January 2018) <<https://serwisy.gazetaprawna.pl/samorząd/artykuly/1101214,wojna-na-linii-gminy-miasta-o-zmiany-granic.html>> accessed 22 November 2019.

⁹⁵ Ministry of Administration and Digitization, ‘Assessment of the Situation of Local Governments’ (2013) <<http://eregion.wzp.pl/sites/default/files/ocena-sytuacji-samorządow-lokalnych.pdf> > accessed 1 December 2019.

⁹⁶ Position of the 32nd General Assembly of the Association of Rural Communes of the Republic of Poland of 19 June 2018 on amendments to the law on the division and change of *gminas*’ borders, <http://www.zgwrp.pl/attachments/article/1352/XXXIIIZO_stanowisko_granice.pdf> accessed 1 December 2019. Katarzyna Kubicka-Żac, ‘Gminy wiejskie chcą lepszej ochrony swych granic [Rural Gminas Demand Better Protection of their Borders]’ (*Prawo.pl*, 27 April 2019) <<https://www.prawo.pl/samorząd/gminy-wiejskie-chca-lepszej-ochrony-swych-granic,402541.html>> accessed 1 December 2019.

⁹⁷ Aneta Kaczmarek, ‘Zmiany granic gmin. „Zbyt łatwo silniejszy zabiera ziemię słabszemu” [Changes in the gminas’ Borders. “Too Easily the Stronger Takes the Land from the Weaker”]’ (*Portal Samorządowy*, 7 November 2019) <<https://www.portalsamorządowy.pl/prawo-i-finanse/zmiany-granic-gmin-zbyt-latwo-silniejszy-zabiera-ziemie-slabszemu,134527.html>> accessed 30 November 2019.



can be considered as ‘metropolises’. Government documents from 2011 referred to 10 metropolitan areas, identified on the basis of a number of criteria, including the population over 30 000.⁹⁸ However, no new territorial units have been created. The progress was made in 2017, when the first metropolitan territorial unit in Poland was established. Under an act, the Upper Silesian and Zagłębie Metropolis [*Górnośląsko-Zagłębiowska Metropolia*], i.e. the metropolitan union for the metropolitan area of the Upper Silesian conurbation, was established. To date, no other metropolitan union has been established by a top-down decision.

For years, however, very large cities with their surrounding *gminas* and *powiats* have been establishing grassroots associations and arrangements to jointly carry out tasks in functional areas (e.g. a joint metropolitan ticket for public transport).

Examples of voluntary cooperation in the functional areas of the largest cities in Poland include:

- Gdańsk-Gdynia-Sopot Metropolitan Area⁹⁹ (2011), an association of 57 local governments, an area of 5.500 sq km with 1.5 million inhabitants;
- Metropolis of Poznań¹⁰⁰ (2007), an association of 23 local governments, 3,000 sq km, 1 million inhabitants.

However, this was not a common practice in large Polish cities. One method of encouraging or even forcing cooperation between large cities and their functional areas involved a financial incentive from the European Regional Development Fund and the European Social Fund. It involves an instrument implemented in Poland to support cities, namely the Integrated Territorial Investment (ITI). Large cities and surrounding *gminas*, in order to cooperate under the ITI model, establish a partnership (e.g. an association or an inter-*gmina* union) or enter into an agreement and prepare a joint ITI strategy. It should include objectives and projects to be implemented.

Thus, the largest cities were ‘forced’ to cooperate in exchange for additional funding. This resulted in the cooperation between local governments, e.g.

- Cracow Metropolis¹⁰¹ (2014), 15 local governments, 1.2 million inhabitants, 1,275 sq m;
- Warsaw Functional Area¹⁰² (2014), Warsaw and 39 *gminas* surrounding Warsaw, 2.7 million inhabitants, area of 2,932 sq km.

⁹⁸ Ministry of Regional Development, ‘Concept of the Country’s Spatial Development 2030’ (2011) 167 <http://www.wzs.wzp.pl/sites/default/files/files/19683/89272000_1412985316_Koncepcja_Przestrzennego_Zagospodarowania_Kraju_2030.pdf> accessed 30 November 2019.

⁹⁹ Website of the Gdańsk-Gdynia-Sopot Metropolitan Area, <<http://en.metropoliagdansk.pl/>>.

¹⁰⁰ Website of the Metropolis of Poznań <<http://metropoliapoznan.pl/strona,27,dzialalnosc.html>>.

¹⁰¹ Website of the Cracow Metropolis <<http://metropoliakrakowska.pl/>>.

¹⁰² Website of the Warsaw Functional Area <<https://omw.um.warszawa.pl/>>.



Moreover, the EU funds allow the implementation of cross-border cooperation programs. These programs are open to participation, alongside other entities, of cross-border local governments from Poland and neighboring countries. Programs carried out currently (2014-2020): 'Poland-Slovakia', 'Poland-Czech Republic', 'Poland-Saxony', 'Poland-Brandenburg', 'Poland-Mecklenburg-Western Pomerania-Brandenburg', 'Poland-Lithuania', 'Poland-Belarus-Ukraine', 'Poland-Russia', 'South Baltic' (Denmark, Lithuania, Germany, Poland and Sweden), 'Baltic Sea Region' (Denmark, Sweden, Finland, Lithuania, Latvia, Estonia, selected regions of North-East Germany, non-EU countries): Norway, Belarus, Russia).¹⁰³

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¹⁰³ Ministry of Development Funds and Regional Policy, 'Programy Europejskiej Współpracy Terytorialnej i Europejskiego Instrumentu Sąsiedztwa' (undated) <<http://www.ewt.gov.pl/strony/o-programach/przeczytaj-o-programach/>> accessed 1 December 2019.



4.2. What does Metropolitan Cooperation in the Functional Area of the Capital Warsaw Involve?

Andżelika Mirska, *University of Warsaw*

Relevance of the Practice

Warsaw is the largest city in Poland, its capital city, and is centrally located. Until 2002, the city area was divided into 11 independent *gminas* which formed the obligatory municipal union of Warsaw. Since 2002, these *gminas* have been transformed into 18 districts (auxiliary units) and Warsaw has become a uniform *gmina* with 1.7 million inhabitants. A functional area of Warsaw was naturally created, which, depending on the concept, includes from 39 to 72 *gminas*. However, despite the pressing needs of local governments' cooperation, for a long time Warsaw's cooperation with neighboring local governments has not improved at all (despite various projects and declarations of cooperation). The launch of Integrated Territorial Investment (ITI) from the EU was decisive and forced such cooperation in Poland.

The previous lack of voluntary cooperation among communes was caused by several reasons. Financial issues (no additional financial incentives) as well as mutual prejudices and the concern about dominating small communes by Warsaw played a significant role. Moreover, there was no cooperation habit. Mayors of communes around Warsaw assess Warsaw as a partner acting from the strength position, uncomprehending the small communes' problems and generally not interested in voluntary cooperation with them.

The lack of cooperation between municipalities around Warsaw is claimed to be also due to selfishness and caring only for their own interests. 'There are many local governments that only invest in themselves as a part of the competitiveness. They want to demonstrate their communes as the leaders. They do not want to cooperate with other communes so that a neighboring commune accidentally would either not benefit from this cooperation or not take over the competitiveness on its own side. This is the jaundice.' – Opinion of one of the mayors of the communes near Warsaw. Therefore, mutual self-perception as competitors is the problem. The lack of trust and the lack of social capital are also factors that influence the relations between local governments. The opinion among mayors concerning local governments in the area around Warsaw that are diverse and have little common interest is another characteristic feature. The division into east and west, into rural and other communes, into communes located very close to Warsaw and those located further away, and into economic specializations: logistics, judiciary, tourism and others are identified.¹⁰⁴ According to P Swianiewicz, the similarity of partners contributes to the cooperation. However, large

¹⁰⁴ The local leaders' attitude considering the cooperation in the Warsaw Metropolitan Area.



differences usually cause friction between small suburban communes and a much larger central city. Thus, local governments compete against each other for residents, tourists, investors and public funds. Consequently, the problem of establishing common interest in terms of the cooperation undertaken is a fundamental issue.

The new instrument of the European Union, i.e. Integrated Territorial Investment (ITI), is a response to the development needs of metropolitan areas, including metropolitan Warsaw in view of the above barriers to voluntary cooperation of local governments (bottom-up) and the lack of legal regulations which regulates the commune governments cooperation within urban agglomerations (top down).

The significant role of external financing for building cooperation relations between local governments is indicated.

Description of the Practice

The 'Warsaw Functional Area for ITI' was established in 2014. It encompasses Warsaw and 39 *gminas* surrounding Warsaw, 2.7 million inhabitants, area of 2,932 sq km. The partners had to enter into the 'Agreement of the *Gminas* of Warsaw Functional Area on cooperation in the implementation of the ITI in the EU 2014-2020 financial perspective'¹⁰⁵ and agree on a joint 'Strategy' document.¹⁰⁶

This strategy focuses on three objectives to be achieved through specific lines of action:

Objective 1: Improved accessibility of public services.

Line of action:

- 1.1. Information services.
- 1.2. Education services.
- 1.3. Services to increase inhabitants' activity.

Objective 2: Development of business networks.

Line of action:

- 2.1. Promotion of economy.
- 2.2. Investment areas.
- 2.3. Human capital.

¹⁰⁵ (version 7, 12 September 2019) <http://omw.um.warszawa.pl/wp-content/uploads/2018/10/Strategia-ZIT-WOF-VII_2018_09_06.pdf> accessed 2 November 2019.

¹⁰⁶ <<http://omw.um.warszawa.pl/wp-content/uploads/2014/07/Strategia-ZIT-WOF.pdf>> accessed 2 November 2019.



Objective 3: Improvement of space quality.

Line of action:

3.1. Transport links;

3.2. Natural and cultural environment.

The organizational structure of the 'Warsaw Functional Area for the implementation of ITI' includes: (i) Steering Committee, (ii) Consultative Forum, (iii) Secretarial Office.

The 'Warsaw Functional Area for ITI' consists of one city with county rights (the Capital City of Warsaw), 14 urban communes, 12 urban-rural communes and 13 rural communes. Administratively, these communes belong to 10 counties. It concentrates over half of the voivodeship's residents (50.5 per cent) despite the fact that this area covers a relatively small part of the Mazowieckie voivodeship (8.3 per cent). Due to the specificity of the area, especially the number and size of settlement centers, the urbanization rate for the 'Warsaw Functional Area for ITI' (87.5 per cent) is significantly higher than the value for the Mazowieckie Voivodeship (64.2 per cent), as well as the entire territory of Poland (60, 6 per cent). Moreover, the 'Warsaw Functional Area for ITI' is the most densely populated area of the voivodeship (912 people / km²). This value is over six times higher than in the entire Mazowieckie Voivodeship case (149 people / km²).

Contracts were signed for 115 projects for the grant amount of PLN 606.5 million. What is more, they will be implemented individually by communes in partnership with communes around Warsaw, in partnership with Warsaw, as well as by non-governmental organizations operating in the metropolitan area and private entrepreneurs. Everything is connected with the partnership resulting from the 40 communes' agreement signed in February 2014 and the joint ITI investment strategy. The projects concern both the problems of rural areas (e.g. educational programs for rural schools in the commune to provide equal educational opportunities for children) and the metropolitan problems (the provision of childcare facilities for children in nurseries in one of the districts of Warsaw with the highest birth rate¹⁰⁷). There are also projects implemented jointly by several municipalities, such as the construction of bicycle paths connecting 6 communes. Projects with impact on all local governments i.e. in the field of e-services are also distinguished. For instance, the project entitled 'Construction and implementation of an integrated support system for care services in the Warsaw Functional Area (E-Care)'.¹⁰⁸

¹⁰⁷ 'Population Figure Monitoring 2015' (*Statistical Office in Warsaw, 2015*)

<<https://warszawa.stat.gov.pl/monitoring-stanu-ludnosci/>>.

¹⁰⁸ 'Projects under Integrated Territorial Investments of Greater Warsaw' (*Metropolia Warszawska*)

<<http://omw.um.warszawa.pl/en/zintegrowane-inwestycje-terytorialne/zit-metropolii-warszawskiej-cele-i-korzysci/zit-metropolii-warszawskiej-planowane-dzialania/>>.



Assessment of the Practice

The cooperation of local governments in the functional area of Warsaw is an urgent necessity. The ITI was a catalyst for such cooperation. As it has not been in place for long, it is still difficult to assess the effects. The actions and mechanisms of cooperation should be examined. However, the initiation of such cooperation is certainly a success. Preparations for the next period of EU funding for ITIs (2021-2027) are currently ongoing.

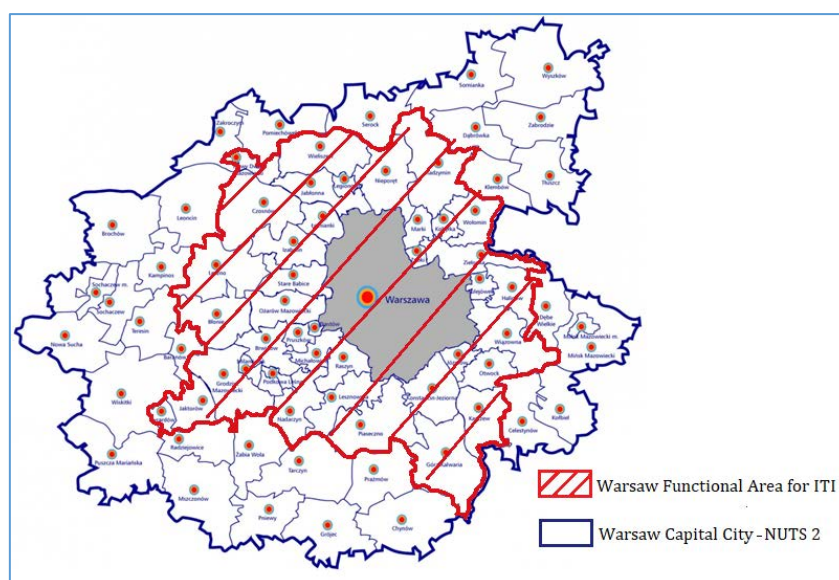


Figure 10: The Borders of the 'Warsaw Functional Area for ITI' and of the 'Warsaw Capital City'-NUTS 2.¹⁰⁹

Apart from the establishment of the ITI program, the second factor that influenced the discussion on the Warsaw metropolitan area was the division of the Mazowieckie Voivodeship into 2 statistical units at NUTS2 level (from 1 January 2018). 'Warsaw Capital City' NUTS was identified, which included Warsaw and 70 surrounding *gminas*. A milestone for further joint metropolitan activities will be the 'Strategic Action Plan for the Warsaw Metropolis – Strategic Guide 2.0' developed by local governments, indicating the development needs of the metropolis in the coming years.¹¹⁰

¹⁰⁹ Source: own elaboration based on Tomasz Demianczuk, 'Warszawa i 39 gmin wspólnie ruszają po dotacje w ramach ZIT' (*City of Warsaw*, 9 March 2016) <<http://www.um.warszawa.pl/aktualnosci/warszawa-i-39-gmin-wspolnie-ruszaj-po-dotacje-w-ramach-zit-konferencja-prasowa>>.

¹¹⁰ Przemysław Chwyszczuk, 'Strategic Action Plan for Greater Warsaw – Strategic Guide 2.0' (*Metropolia Warszawska*, 26 September 2018) <<http://omw.um.warszawa.pl/plan-dzialan-strategicznnych-dla-metropolii-warszawskiej-przewodnik-strategiczny-2-0/>> accessed 1 December 2019.



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4.3. First Territorial Unit of Metropolitan Nature in Poland: The Metropolitan Union ‘Upper Silesian-Zagłębie Metropolis’

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Relevance of the Practice

After many unsuccessful attempts to solve the problem of governance in metropolitan areas in Poland in a top-down manner, the establishment of a new territorial unit of metropolitan nature in 2018 was certainly an important event in Poland. Of course, this is only the first step in a territorial reform. However, the success (or failure) of the ‘Upper Silesian-Zagłębie Metropolis’ will determine the objectives for further reforms in this area.

Description of the Practice

The first metropolitan union in Poland established pursuant to an act of parliament was created on 1 January 2018 within a territory of one voivodeship – the Śląskie voivodeship which is the most highly urbanized and most populated in Poland. Moreover, it is a polycentric type of metropolitan area, i.e. an urban settlement system consisting of many highly urbanized territorial areas.¹¹¹

Firstly, the development of metallurgy and mining, mainly of hard coal was the factor that has resulted in the emergence of a polycentric structure (conurbation) in Upper Silesia from the 19th century. The region is established by a dozen or so highly urbanized cities with a comparable population and economic potential. The special features of Upper Silesia are: a very high population density and build-up intensity, an extensive road infrastructure network and public transport connections, large daily migration between the agglomeration cities. The natural environment degradation related to the industry development and the mineral deposits exploitation as well as the post-industrial areas revitalization is a significant challenge

The metropolitan union ‘Upper Silesian-Zagłębie Metropolis’ comprised 41 territorial units: 13 cities with *powiat* status and 28 *gminas*. (The entire Śląskie voivodeship consists of 19 cities with *powiat* status, 17 *powiats* and 167 *gminas*). The area of the union is 2.553 sq km which

¹¹¹ Andżelika Mirska, ‘State Policy on the Formation and Modernisation of Polish Territorial Structure’ in Europäisches Zentrum für Föderalismus-Forschung Tübingen EZFF (ed), *Jahrbuch des Föderalismus 2018: Föderalismus, Subsidiarität und Regionen in Europa* (Nomos 2018).



constitutes approximately 20 per cent of the area of the Śląskie voivodeship. The union is inhabited by over 2.3 million residents, i.e. the half of population of the whole Śląskie voivodeship. The heavy concentration of people within the union is also reflected by the population density in the amount of 893 persons per sq km (For the Śląsk voivodeship it is 370 persons per sq km, national average for Poland -123 per sq km).¹¹² The degree of urbanization is very high and amounts to 94 per cent (the average for the Śląsk voivodeship is 78 per cent, for Poland – 60 per cent in 2016).¹¹³

The concept of formation of a metropolitan union in Poland is based on cooperation between local government units, state authorities and – most importantly – inhabitants. The process of formation of Metropolitan Union ‘Upper Silesian and Zagłębie Metropolis’ included three stages:

First, adoption of the Act of 9 March 2017 on the Metropolitan Union in the Śląskie Voivodeship which set forth the procedure for the establishment of a metropolitan union.

Second, preparation of a motion for the establishment of the metropolitan union by *gminas* involved. Formally, the motion was submitted by the city council of Katowice, the largest city in that region (300 thousand inhabitants).

Third, the issuance of the regulation by the Polish government on the establishment of the metropolitan union.¹¹⁴ The regulation became effective as of 1 July 2017. The issuance of the regulation involved obtaining an opinion from:

- councils of *gminas* which were to be included in the metropolitan union after having consulted inhabitants;
- *sejmik* [regional assembly] of the Śląskie voivodeship (it is a legislative body of the local government of the Śląskie voivodeship);
- Silesian voivode (a representative of the Polish government in the Śląskie voivodeship).

One of the obligatory elements of the procedure for the establishment of the metropolitan union regulated by the Act of 9 March 2017 on the Metropolitan Union in the Śląskie Voivodeship was the application of a participatory democracy instrument. In all *gminas* included in the motion it was required to hold consultations with inhabitants about the inclusion of a given *gmina* in the metropolitan union to be formed within the Śląskie voivodeship. They were held from 11 April to 11 May 2017 – for the period of minimum 2

¹¹² Tadeusz Markowski and Tadeusz Marszał, *Metropolie, obszary metropolitalne, metropolizacja. Problemy i pojęcia podstawowe* (Polish Academy of Sciences 2006) 15.

¹¹³ ‘Metropolis Today’ (*Górnośląsko-Zagłębiowska Metropolia*, 2019) <<https://metropoliagzm.pl/en/metropolia-dzis/>> accessed 1 December 2019.

¹¹⁴ Regulation of the Council of Ministers of 26 June 2017 on the establishment within the Śląskie voivodeship of the metropolitan union under the name ‘Upper Silesian and Zagłębie Metropolis’. Regulation of the Council of Ministers of June 26, 2017 on the establishment of a metropolitan union in the Śląskie Voivodeship under the name of Górnośląsko-Zagłębiowska Metropolia (Dz.U. 2017 poz. 1290).



weeks in each of the *gminas*. Opinions could be submitted through various means: by post, e-mail, dedicated boxes in *gmina's* offices, cultural centers, libraries etc. and, in some *gminas*, through electronic means via websites or through pollsters. In total, 12.5 thousand inhabitants participated in the consultations. 90 per cent of them was in favor of the formation of the metropolitan union, 5 per cent was against, and 5 per cent cast invalid votes.¹¹⁵

Consultations with residents were only advisory and non-binding (not a form of local referendum). However, they were evidently considered by the individual communes' councils voted for joining the Metropolitan Union 'Upper Silesian and Zagłębie Metropolis'. Separate consultations with residents were organized by each of the communes in their areas. Nevertheless, the question raised was similar in all communes: 'Are you in favor of your commune joining the Metropolitan Union "Upper Silesian and Zagłębie Metropolis"?'¹¹⁶

As regards the opinions of councils of *gminas* included in the metropolitan union, all 41 councils opted for the formation of a new territorial unit. It should be stressed, however, that in accordance with the act, at least 70 per cent of *gminas* must be in favor for the regulation on the establishment of the metropolitan union to be adopted.¹¹⁷

The Metropolitan Union 'Upper Silesian and Zagłębie Metropolis' owns its systemic and legal position to the act and regulation, namely a decision made by the central Polish authorities (the Parliament of Poland and the Council of Ministers). This new unit in the territorial structure of Poland gained a legal status similar to that of local government units. The Act of 9 March 2017 on the Metropolitan Union in the Śląskie Voivodeship stated that 'the metropolitan union shall perform public tasks on its own behalf and responsibility, have legal personality and the independence of the metropolitan union is legally protected'. (This legal principle has been applied to local government units: *gminas*, *powiats* and voivodeships). Additionally, the act set out the scope of operation and tasks, authorities (bodies) of the metropolitan union, the procedure for their appointment and scope of competences.¹¹⁸ The determination of financial independence principle and guaranteed sources of financing the activities of the union was also of major significance.

The metropolitan union constitutes a new organizational and legal form in the Polish political and government system, combining the elements of the classic, voluntary unions between *gminas* and local government units. It cannot, however, be qualified as a local government

¹¹⁵ Motion to establish the metropolitan union, accepted through the resolution of the City Council of Katowice of 29 May 2017, 19. Content of the motion: <<https://bip.katowice.eu/Lists/Dokumenty/Attachments/102396/DS-909-17.pdf>> accessed 1 April 2018.

¹¹⁶ 'Wyniki konsultacji społecznych w Katowicach' (*Metropolia GZM*, 30 May 2017) <<http://gzmetropolia.pl/katowice/20170530-wyniki-konsultacji-spoecznych/>>.

¹¹⁷ Art 7(4) of the Act of 9 March 2017 on the Metropolitan Union in the Śląskie Voivodeship.

¹¹⁸ Act of 9 March 2017 on the Metropolitan Union in the Śląskie Voivodeship.



unit, as it fails to meet the obligation imposed by the Constitution of the Republic of Poland according to which a decision-making body must be appointed at a general election.¹¹⁹

The decision-making body (the Metropolis Assembly) is the regulatory and inspecting authority of the Metropolitan Union 'Upper Silesian and Zagłębie Metropolis'. It consists of delegates from the communes forming a part of the union which is one from each commune. Voits, mayors or presidents of cities (i.e. commune executive authorities) are these delegates or persons authorized by them. The assembly election method established in the act was criticized by scientists.¹²⁰ The charge was the lack of democratic procedures.

The management board is the executive authority of the Metropolitan Union 'Upper Silesian and Zagłębie Metropolis', and consists of 5 members, including the chairman. The management board is elected by the meeting of the union in a secret ballot. Firstly, the board chairman is elected and then the remaining members of the board at the chairman request.

The metropolitan union assembly resolutions are passed in a special way, i.e. by a double majority of votes (the majority of communes included in the union and such a number of communes that their residents constitute the majority of the population living in the metropolitan area).

The legal personality was granted by the Metropolitan Union 'Upper Silesian and Zagłębie Metropolis'. However, the residents were not made the union's authority operator. Residents do not have the right to elect the union authorities or the right to a referendum on union's matters.

Conversely, the metropolitan union has the remaining three features of local government, i.e.:

- the subject - established in order to perform public tasks - like local government units;
- the tasks - the act uses the term 'own tasks' of the union – like local government units;
- review over the activity - the union was subject to review - like local government units.

Only communes can be members of a metropolitan union.

The solutions provided for in the act are aimed at the formation of institutionalized 'metropolitan governance system' with the elements of a 'metropolitan government' indicated by the fact of public taxes constituting the source of income and statutory competences of the metropolitan union.

Not only the establishment of the metropolitan union but also the modification of its boundaries remains at the discretion of the central government. The modification is carried out through the same procedure which is applied for the formation of the union, however, the

¹¹⁹ Andżelika Mirska, 'State Policy on the Formation and Modernisation of Polish Territorial Structure'.

¹²⁰ Sławomir Bukowski, 'Ustawa metropolitalna kosztem demokracji?' (*Współnota*, 12 January 2016) <<https://wspolnota.org.pl/news/ustawa-metropolitalna-kosztem-demokracji>>.



modification may only involve the expansion of the union area by inclusion of additional *gminas*. Therefore, it is not possible to leave the metropolitan union.

The Metropolitan Union performs public services that include shaping of the spatial order, social and economic development, public transport, metropolitan passenger mobility, co-operation on delineating national and regional roads within the metropolitan limits, and promoting of the metropolis externally. Setting up an umbrella metropolitan union allows to coordinate planning and implementation of these services better and at a lower cost in sum. This also benefits its citizens, who – apart from comfortability of these solutions, also save money on coherent ticket systems for example, but also who can identify more with a broader metropolitan entity.¹²¹

Assessment of the Practice

The first year of the existence of the Upper Silesian-Zagłębie Metropolis showed that it is fairly difficult to reconcile the interests of the many entities that form the metropolitan union. The source of financing for the 'Upper Silesian-Zagłębie Metropolis' are, inter alia, payments made by the communes. It is a very difficult and arduous negotiation process to establish the mechanism for calculating the contribution. The major problem constitutes constant reconciliation of the amount of the contribution paid by the communes to the joint budget. It should be emphasized that the communes making up the 'Upper Silesian-Zagłębie Metropolis' had never cooperated with each other (except for the strict center of the union). For example, one commune planned the construction of a housing estate, and neighboring commune planned the construction of a landfill next to it. Thus, the activities of the 'Upper Silesian-Zagłębie Metropolis' constitute an attempt to coordinate the activities of the member communes.¹²² Although the union performs its tasks (e.g. creates new public transport lines), the conflict between the Law and Justice party and the Civic Platform party, which has been brought from the central politics level, has a great influence on its activity. It hinders the decision-making process, however the parties are aware of the need to cooperate for the benefit of the inhabitants. Apart from that, there is a historical conflict between two geographical regions ('Silesia' and 'Zagłębie') which now form part of a single territorial unit.

A bottom-up cooperation of local government units functioned as a metropolitan union in the Upper Silesian-Zagłębie 'Metropolis' area before its establishment in 2018 (pursuant to the act of the Polish Parliament and the Council of Ministers Regulation). A voluntary bottom-up intercommunal union called 'Upper Silesian Metropolitan Union' was established in 2007. It was created by 12 cities with county rights, and then 2 more cities with county rights joined to

¹²¹'Metropolis Today' (*Górnośląsko-Zagłębiowska Metropolia*, 2019) <<https://metropoliagzm.pl/en/metropoliadzis/>> accessed 2 December 2019.

¹²² See the report from the LoGov Country Workshop, Structure of Local Government, 24 May 2021.



it. The activities of the Upper Silesian Metropolitan Union laid the foundations for the top-down creation of Upper Silesian-Zagłębie Metropolis'.

Pursuant to the Act, the Upper Silesian-Zagłębie Metropolis' must be characterized by the following features:

- the strong functional interactions existence;
- the urbanization processes advancement;
- a coherent area in spatial terms;
- the number with at least 2 million residents.

It is necessary to participate in the association of smaller towns and even neighboring rural communes considering the fact that the Upper Silesian Metropolitan Union area from 2007-2017 does not have a total number of two million residents.

Therefore, the borders of the Metropolis GZM established in 2017 covered 41 communes, including 13 cities with county rights and 13 urban communes, 13 rural communes and 2 urban-rural communes.

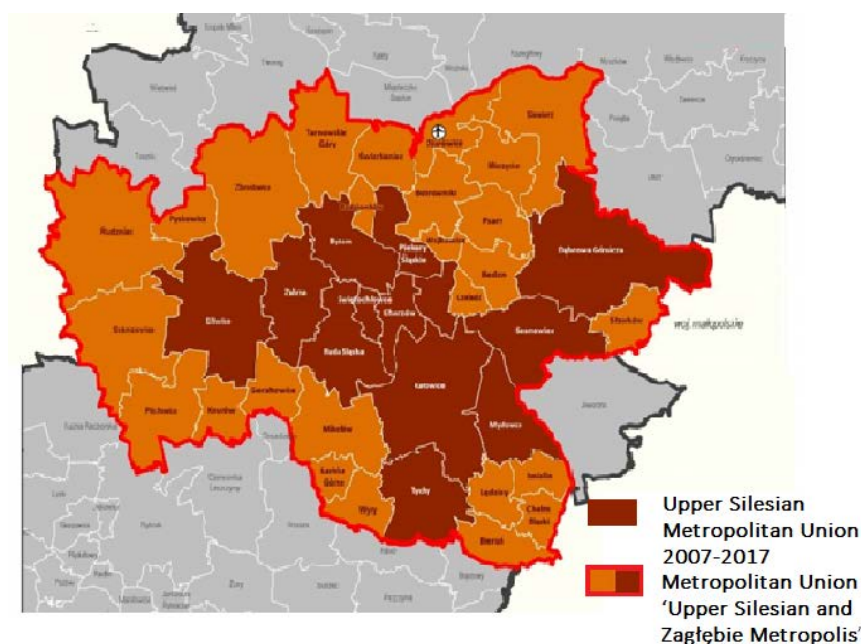


Figure 11: The Borders of the Upper Silesian Metropolitan Union (a bottom up initiative) and of Metropolitan Union 'Upper Silesian and Zagłębie Metropolis' (the top down intervention).¹²³

The Upper Silesian-Zagłębie 'Metropolis' consists of two integrated spatial and functional forms, such as the core and the surroundings, i.e. the outer zone. The core creates a complex

¹²³ PZS, 'Piekary Śląskie: konsultacje społeczne ws. Metropolii Silesia' (*Piekary Śląskie*, 13 April 2017) <piekaryslaskie.naszemiasto.pl>.



group of cities. It is a multi-center system called a polycentric system upgraded from an earlier development of the conurbation type. It consists of the largest 13 cities with county rights in terms of the population number and the hierarchy of municipal functions.



Figure 12: The Borders of the Śląskie voivodeship and the 'Upper Silesian-Zagłębie Metropolis'.

The core is surrounded by municipalities that form a ring within the reach of the main metropolitan center. This area is spatially dense, created by communes with different administrative status. It is so-called the outer zone of the core or the metropolitan area. It consists of communes directly adjacent to the metropolitan union core or the ones located further away.

Suburbanization is a form of urbanization processes towards metropolitanization. On the one hand, the cities spreading indicate an improvement in the life quality considering the cities congestion and pollution growth. On the other hand, it is the result of the land rent increase in the largest centers core zone. It causes a partial blurring of the settlement structure traditional division into town and village, deepening the spatial boundaries disappearance between individual communes and intensifying the residential areas development.

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Kaczmarek T, 'Administrative Division of Poland - 25 Years of Experience During the Systemic Transformation' (2016) 35 EchoGéo <<http://journals.openedition.org/echogeo/14514>>

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Świaniewicz P, 'Territorial Fragmentation is a Problem, Is Amalgamation a Solution? East European Perspective' (2010) 36 Local Government Studies 183



4.4. The Association ‘Gdansk-Gdynia-Sopot Metropolitan Area’ as an Example of Urban–Rural Cooperation

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Relevance of the Practice

The management problem of metropolitan areas is one of the most crucial challenges for Polish local governments and for the Polish State in the 21st century. The solution to this problem may involve: (i) grassroots cooperation initiatives between local government units, or (ii) top-down solutions, i.e. legal regulations prepared by the central government and parliament.

The *Tricity* is a special area in northern Poland, situated directly on the Baltic Sea, and consisting of three neighboring cities Gdansk, Gdynia and Sopot as separate urban communes (*gminy*) with county (*powiats*) status. They constitute the metropolitan area core.

The functioning of the two economically strong cities (Gdansk and Gdynia) in close proximity results from historical conditions. From the 11th century, Gdansk has evolved into the commercial and port center in this area. Gdynia’s development began only in the 1920s. It was caused by the establishment of the Free City of Danzing (*Wolne Miasto Gdańsk*) and Poland’s difficult access to the Baltic Sea. The Polish Government decided to build a port in Gdynia, leading to the dynamic city development. Sopot is situated between them, playing primarily a part of a tourist center.

	Total population					
	1939	1946	1990	2000	2010	2020
Gdansk	ca. 250 000	117 894	465 143	462 995	460 509	471 525
Gdynia	ca. 120 000	77 829	251 498	253 387	249 461	245 867
Sopot	31 000	26 917	48 203	42 348	38 858	35 562

Table 2: The population development in the Tricity

Metropolization processes occur naturally in this area. The Tricity is a type of polycentric urban agglomeration.¹²⁴ A problem for the coherent area management is the growing functional

¹²⁴ Currently, the notions of agglomeration is not present in the Polish legal system. An agglomeration - densely built-up area of mutually related settlement units developed by concentration processes. The term ‘conurbation’ may also be used in this context: the conurbation—a territorial coalescence of two or more sizable cities whose peripheral zones have grown together, see ‘Conurbation’ (*Britannica*, undated) <<https://www.britannica.com/topic/conurbation>> accessed 21 September 2021.



associations between Gdynia, Gdansk and Sopot, and their surroundings including neighboring cities, communes (*gminas*) and counties (*powiats*). Since the restoration of local government in Poland in 1990, local politicians have been aware of the need for cooperation between communes (*gminas*). Since 1999, counties (*powiats*) have been functioning in this area (second level of local government). Moreover, the voivodeship self-government has been operating in this area since 1999 (the third level of self-government, which is responsible, inter alia, for regional rail transport).

Since 1990s, the grassroots initiatives occurred, regarding cooperation between local governments. Gdansk was the initiator of cooperation between local governments, and Gdynia presented its own ideas. The Association Gdansk Metropolitan Area was the most significant,¹²⁵ established in 2011 at the Mayor of Gdansk initiative, consisting of 41 local governments, and the Association Metropolitan Forum of the Local Government Units Heads (NORDA) established by the Mayor of Gdynia, composed of 20 representatives of local governments.¹²⁶

The cooperation between Gdansk and Gdynia seemed to be impossible. However, an agreement was reached in 2015 and the Gdansk Metropolitan Area association was transformed into the Association Gdansk-Gdynia-Sopot Metropolitan Area. The Association henceforth consociates local governments of the entire metropolis and is an institution that officially represents them considering the Government and the European Commission. The association enables joint implementation of decisions, such as investment planning, providing bus and rail connections, and promoting communes (*gminas*) and counties (*powiats*) as one organ.

Certainly, the establishment of one common organization was accelerated by the fact that since February 2014, the office of the Association Gdansk Metropolitan Area has acted as the headquarters of the Association of 'Integrated Territorial Investments (ITI)'¹²⁷ which is a new instrument for metropolitan cooperation financed by EU funds. Currently, the Gdansk-Gdynia-Sopot Metropolitan Area serves in that capacity.¹²⁸

Description of the Practice

The Association Gdansk-Gdynia-Sopot Metropolitan Area is a voluntary association of 59 local government units with over 1.6 million inhabitants.

¹²⁵ See the website of the Gdansk-Gdynia-Sopot Metropolitan Area, <<https://www.metropoliagdansk.pl/>>.

¹²⁶ See the website of NORDA, <www.nordaforum.pl/>.

¹²⁷ For more information, see report section 3.3. on Integrated Territorial Investment.

¹²⁸ 'ZIT w województwie pomorskim' (*Obszar Metropolitalny Gdańsk Gdynia Sopot*, 2020)

<<https://www.metropoliagdansk.pl/zit/zit-w-województwie-pomorskim/>> accessed 10 January 2021.



The area of the Association Gdansk-Gdynia-Sopot Metropolitan Area includes:

- 3 cities with county (*powiats*) status (Gdansk, Gdynia, Sopot);
- 11 municipalities (urban communes);
- 13 urban-rural communes (*gminas*);
- 24 rural communes (*gminas*);
- 8 counties (*powiats*).



- The border of the Pomeranian Voivodeship
- The border of the *Gdansk-Gdynia-Sopot Metropolitan Area*
- The *Tricity Gdansk-Gdynia-Sopot* (the metropolitan core)
- The border of the 16 Voivodeships
- The border of counties (*powiats*)
- The border of communes (*gminas*)

Figure 13: The border of the Association Gdańk-Gdynia-Sopot Metropolitan Area against the background of the Pomeranian Voivodeship and of Poland¹²⁹

The Gdansk-Gdynia-Sopot Metropolitan Area consists of 51 communes (*gminas*). Communes (*gminas*) are the first, primary level of local government in Poland. Additionally, counties (*powiats*), the second level of local government in Poland, are members of the Association.

¹²⁹ Own elaboration, with the map taken from Aotearoa
<<https://pl.wikipedia.org/wiki/Wikipedysta:Aotearoa/mapy>>.



Under the subsidiarity principle, they help communes (*gminas*) perform local tasks of ‘supragmina’ character. Counties (*powiats*) cover several communes (*gminas*).

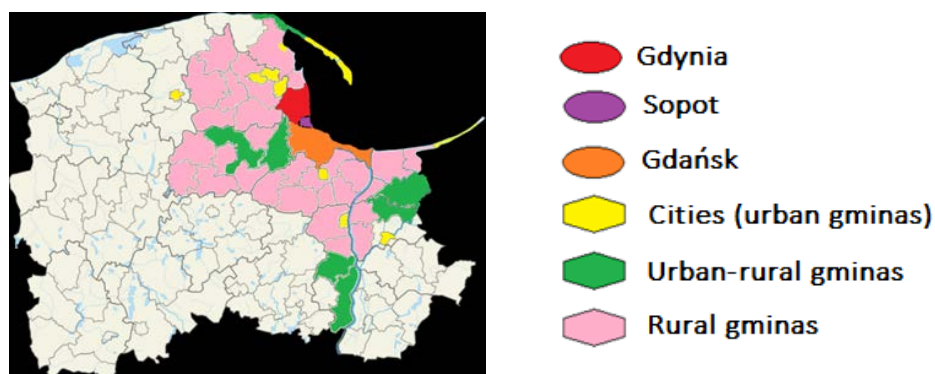


Figure 14: Communes (*gminas*) included in the Association Gdansk-Gdynia-Sopot Metropolitan Area in the territory of the Pomeranian Voivodeship¹³⁰

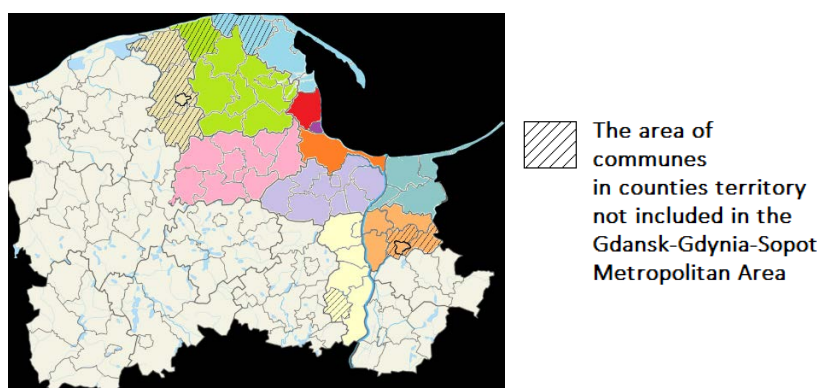


Figure 15: Eight counties (*powiats*) included in the Gdansk-Gdynia-Sopot Metropolitan Area in the territory of the Pomeranian Voivodeship¹³¹

The Gdansk-Gdynia-Sopot Metropolitan Area comprises 8 counties (*powiats*). However, not all communes (*gminas*) from these counties (*powiats*) joined the Association. The commune does not have to take any action in order not to become a member of the association. The activity

¹³⁰ Own elaboration, with the map taken from Aotearoa
https://upload.wikimedia.org/wikipedia/commons/thumb/9/99/Pomorskie_mapa_administracyjna.png/238px-Pomorskie_mapa_administracyjna.png.

¹³¹ Own elaboration, with the map taken from Aotearoa
https://upload.wikimedia.org/wikipedia/commons/thumb/9/99/Pomorskie_mapa_administracyjna.png/238px-Pomorskie_mapa_administracyjna.png.



is needed if the commune wants to join the association. Then, the decision to join the association is made by the representative authority, who adopts a resolution.¹³²

The map above presents communes (*gminas*) on a territory of five counties (*powiats*), not acceding to the Association. These include the peripheral communes (*gminas*), remote from the metropolitan area. Thus, the boundaries of the Gdansk-Gdynia-Sopot Metropolitan Area are different depending on whether we are considering communes (*gminas*) or counties (*powiats*). Furthermore, it should be noted that Gdańsk, Gdynia and Sopot are classified as the cities status with county (*powiat*) rights.

The Association's statute provides for so-called 'supporting members' of the Association. Any natural or legal person declaring financial, material or substantive assistance in achieving the objectives of the association may become a supporting member. Supporting members have neither passive nor active voting rights in the association.¹³³ Currently, these include the University of Gdansk and the various economic operators, such as Gdansk Lech Walesa Airport, the Gdansk Heat Generators (*Gdańskie Przedsiębiorstwo Energetyki Ciepłej Sp. z o.o.*).

The association has legal personality and operates through the following bodies:

- the General Assembly;
- the Council;
- the Board;
- the Audit Committee.

The general assembly is the highest authority in the Gdansk-Gdynia-Sopot Metropolitan Area and is attended by all local government units affiliated to the association. The local government units' mayors are the representatives from each local government. The meetings are held at least once a year. One very important point is that the votes of the participants of the general assembly are equal. Each has a single vote whether they are a city with close to half a million inhabitants like Gdansk or if they are a small rural municipality with tree thousand residents. The most important competences of the general assembly include adopting the Association's activity program, adopting and introducing changes to the statute, the association council election and granting discharge for its activities.

The council is the authority that sets out and verifies strategic development directions of the Gdansk-Gdynia-Sopot Metropolitan Area. It is democratically elected by the general assembly. The council consists of a minimum of 6 and a maximum of 12 members. The term of office is equal to the term of office of local government units' authorities. The association council

¹³² Art 12 of the Statute of The Gdańsk-Gdynia-Sopot Metropolitan Area Association, passed on 13 April 2015, amended on February 2020, <[https://www.metropoliagdansk.pl/upload/files/Statut\(2\).pdf](https://www.metropoliagdansk.pl/upload/files/Statut(2).pdf)> accessed 10 January 2021.

¹³³ Art 13 of the Statute of The Gdańsk-Gdynia-Sopot Metropolitan Area Association, passed on 13 April 2015, amended on February 2020 <[https://www.metropoliagdansk.pl/upload/files/Statut\(2\).pdf](https://www.metropoliagdansk.pl/upload/files/Statut(2).pdf)> accessed 10 January 2021.



competences include electing members of the management board, approving draft resolutions of the general assembly submitted by the management board, including the draft budget.

The association is led by the association board (1-3 people) which is selected by the council. The board is the executive authority and represents the association and is accountable for its work to the council. The board functions are performed professionally and its members are compensated for their tasks.

The audit committee is the control and internal supervision authority. The audit committee consists of 3 to 5 people elected by the general meeting.¹³⁴

Assessment of the Practice

The Gdansk-Gdynia-Sopot Metropolitan Area is a voluntary association of local governments, whose activities are financed primarily from membership fees. The history of the Association's formation presents the difficulty in creating grassroots cooperation initiatives. The issue of financing is always a problem. The communes (*gminas*) are concerned about abandoning performing tasks for their inhabitants in order to pay the membership fee. It may be negatively assessed by the inhabitants. However, by joining the Association, it is possible to build, for instance, a communication infrastructure connecting the commune (*gminas*) with the center of the metropolitan area. Under the conditions existing in Poland, funds from the European Union (EU) are undoubtedly an incentive to create such associations. Additionally, it concerns the Gdansk-Gdynia-Sopot Metropolitan Area. The office of the association has acted as the headquarters of the Association of Integrated Territorial Investments (ITI). As part of ITI cooperation, 167 projects are implemented with a total value of PLN 1.97 billion, of which PLN 1.07 billion come from EU funds.¹³⁵ The main financing source of Integrated Territorial Investments in Poland is 16 'Regional Operational Programs'. They were negotiated between 16 voivodship self-governments (regional level in Poland) and the European Commission.

What is more, other opportunities are sought by the association to increase the financing sources of its activities. The intention of local governments is the top-down establishment of a new territorial unit of a metropolitan feature. In this case, the Metropolitan Union Upper Silesian and Zagłębie Metropolis is an example, established in 2017 by act of the Polish Parliament and a regulation of the central government.¹³⁶ If such a territorial unit was created,

¹³⁴ Chapter VI of the Statute of The Gdańsk-Gdynia-Sopot Metropolitan Area Association, passed on 13 April 2015, amended on February 2020 <[https://www.metropoliagdansk.pl/upload/files/Statut\(2\).pdf](https://www.metropoliagdansk.pl/upload/files/Statut(2).pdf)> accessed 10 January 2021.

¹³⁵ '7 lat owocnej współpracy w ramach Zintegrowanych Inwestycji Terytorialnych' (*Obszar Metropolitalny Gdańsk Gdynia Sopot*, 12 February 2021) <<https://www.metropoliagdansk.pl/metropolitalne-wiadomosci/7-lat-owocnej-wspolpracy-w-ramach-zintegrowanych-inwestycji-terytorialnych/>> accessed 11 January 2021.

¹³⁶ For more information, see report section 4.3. on the Functioning of the Metropolitan Union 'Upper Silesian-Zagłębie Metropolis'.



it would receive additional funds from the Polish State budget. A draft law on the Metropolitan Union Gdansk-Gdynia-Sopot creation was prepared by the Gdansk-Gdynia-Sopot Metropolitan Area in 2020. This draft was submitted to the Senate of the Republic of Poland, the second chamber of the Polish Parliament. On this basis, the Senate prepared a draft law, which has been submitted to the *Sejm*, the first chamber of the Polish Parliament.¹³⁷

Regardless of expectations for the top-down establishment of the Metropolitan Union Gdansk-Gdynia-Sopot Metropolitan Area, the association undertakes intensive activities for the metropolitan area development. A number of documents have been prepared, including the 'Strategy of the Gdańsk-Gdynia-Sopot Metropolitan Area until 2030'. Network management is the primary strategy assumption. It includes the cooperation of local governments with the social sector, business, central government, scientific and research institutions. The position of small rural governments is particularly emphasized in order to gain better access to the resources of the metropolis by belonging to the Association. The innovation and position reinforcement in the European and global metropolitan system is also the objective of an action.¹³⁸

References to Scientific and Non-Scientific Publications

— 'Strategy of the Gdańsk-Gdynia-Sopot Metropolitan Area until 2030' (Gdansk-Gdynia-Sopot Metropolitan Area Association 2015)

<https://www.metropoliagdansk.pl/upload/files/Strategia_OM%20G-G-S%20do%20roku%202030.pdf>

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¹³⁷ *Sejm*, 'Senacki projekt ustawy o związku metropolitalnym w województwie pomorskim' (*Sejm*, 1 March 2021) <<https://www.sejm.gov.pl/sejm9.nsf/PrzebiegProc.xsp?id=0C36111687C506F9C12585F400379047>> accessed 1 March 2021.

¹³⁸ 'Strategy of the Gdańsk-Gdynia-Sopot Metropolitan Area until 2030' (Gdansk-Gdynia-Sopot Metropolitan Area Association 2015) <https://www.metropoliagdansk.pl/upload/files/Strategia_OM%20G-G-S%20do%20roku%202030.pdf> accessed 2 January 2021.



Intergovernmental Relations of Local Governments



5.1. Intergovernmental Relations of Local Governments in Poland: An Introduction

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The model of a unitary state, adopted by Poland, assumes that the legislature is undivided – it is wielded only by the Polish Parliament (two chambers: Sejm and Senate). The principle of administrative decentralization means a division of the executive. It is wielded by the authorities of the Polish state (the President of the Republic of Poland and the government - The Council of Ministers of the Republic of Poland with the central government that is centralized and subject to the governance of the government). The local government has functioned within the executive since 1990. It has fulfilled a part of the tasks of the executive, but it is not subject hierarchically to the government. The local government (in Poland: territorial self-government) is independent in its activities undertaken for the good of its members (residents). However, its activities cannot violate the law (the Constitution of the Republic of Poland, acts, regulation, the EU law). Legal supervision is a mechanism which is triggered when the law is violated by local government (there is no difference with regard to urban and rural municipalities). Supervision is exercised only by the authorities of the Polish state. The local government may challenge that supervision through a complaint lodged to an administrative court. Ultimately, therefore, the court settles the dispute between the state and local government (Article 166 of the Constitution of the Republic of Poland of 1997: ‘The administrative courts shall settle jurisdictional disputes between units of local government and units of government administration’).

However, there are no governance dependencies or supervision relations between three levels of territorial self-government (*gminy, powiats, voivodeship*). Therefore, the relations between local governments are always voluntary and mutually agreed (only exceptions include situation relating to public security as well as unusual and emergency situations – which are precisely determined in the act).

The state-local government relations are manifold. On the one hand, the local government is subject to the state's regulations and supervision. The scope of tasks and financial resources are regulated by the act – the local government must submit to them. On the other hand, the Preamble of the Constitution of the Republic of Poland includes the principle of cooperation between the public authorities, therefore, between the government and local government as well – for the common good. The principle of cooperation between the authorities, referred to in the Preamble, corresponds with the multi-level governance structure, well established in the modern science of public governance.

In the democratic state there are various mechanisms in place to enable the participation in the law-making process. With regard to the local government, the Joint Commission of the



Government and Territorial Self-Government (*Komisja Wspólna Rządu i Samorządu Terytorialnego*) has functioned in Poland since 1993. It is ‘the forum for the elaboration of a joint position of the central government and local government’. The local governments are formed by the representatives of all-Poland organizations of local government units, both representing the interests of urban and rural municipalities, including metropolises.

The Polish law guarantees the *gminas*, *powiats* and voivodeship the right to establish associations. Their objective should be to support the idea of local government and to defend their common interests. These associations can be established by the units of one local government level, but they can also include the units of different levels. The Association of Polish Local Governments (*gminas*, *powiats*, voivodeships) is such an association established in 2017. The association refers to the Christian values what is novel among the all-Poland associations which do not declare a worldview orientation in their statutes.

The primary role is played by 6 all-Poland local government organizations: the Union of Polish Metropolises (*Unia Metropolii Polskich*); the Union of Small Polish Towns (*Unia Miasteczek Polskich*); the Association of Polish Cities (*Związek Miast Polskich*); the Association of Rural Communes of the Republic of Poland (*Związek Gmin Wiejskich Rzeczypospolitej Polskiej*); the Association of Polish Powiats (*Związek Powiatów Polskich*); the Association of Voivodeships of the Republic of Poland (*Związek Województw Rzeczypospolitej Polskiej*).

There is a range of examples of associations of a regional or even local nature (e.g. the Association of Communes and Powiats of Małopolska (*Stowarzyszenie Gmin i Powiatów Małopolski*), the Association of Communes and Powiats of Central Pomerania (*Stowarzyszenie Gmin i Powiatów Pomorza Środkowego*). There are also associations which determined their scope of interest, e.g.: the Masovian Association of Communes for the Development of Information Society (*Mazowieckie Stowarzyszenie Gmin na Rzecz Rozwoju Społeczeństwa Informacyjnego*), the Association of Health Resort Communes of the Republic of Poland (*Stowarzyszenie Gmin Uzdrawiskowych RP*).

All associations are subject to the registration in the court (the entry to the National Court Register) and legal supervision by the state.

References to Scientific and Non-Scientific Publications

Website of the Association of Polish Cities, <<http://www.miasta.pl/en>>

Website of the Association of Voivodeships the Republic of Poland, <<https://zwrp.pl/en/>>

Website of the Joint Commission of Government and Territorial Self Government, <<http://kwrist.mswia.gov.pl>>

Website of the Union of Polish Metropolises, <<https://www.metropolie.pl/en/>>



5.2. Institutionalizing Intergovernmental Relations in Poland: The Joint Commission of the Government and Territorial Self-Government

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Relevance of the Practice

The Joint Commission of Government and Territorial Self Government is an instrument for cooperation of two separate kinds of public authorities within the framework of the executive. The Joint Commission of Government and Territorial Self Government was established by the Polish Government in 1993, inter alia, as a result of the ratification of the European Charter of Local Self-Government by Poland. The Charter refers, inter alia, to the local government's guarantees of the right to influence the government's policy in the matters relating to the local government. Since 1993 to 2005 the legal status of the commission was regulated by three subsequent government's regulations. Now, the Act of 6 May 2005 on the Joint Commission of Government and Territorial Self Government and on representatives of the Republic of Poland in the European Union Committee of the Regions is in force. The statutory form of the regulation obviously means the improvement and stabilization of the commission's position in the institutional system of Poland.

The commission is an instrument for dialogue between the central government and the representatives of the bottom-up organized local government environment as well as an expression of cohabitation between the government expressing the state's interests and local government – politically diversified, expressing the regional and local interests.

Description of the Practice

The commission includes 12 representatives of the central government and local government. The central government is represented by the minister in charge of general government and 11 members appointed by the Prime Minister. The local government is represented by two representatives of each of six all-Poland local government organizations determined in the government's regulation of 2008. These are the Union of Polish Metropolises (established in 1990); the Union of Small Polish Towns (established in 2008); the Association of Rural Communes of the Republic of Poland (established in 1993); the Association of Polish Cities (established in 1991); the Association of Polish *Powiats* (established in 1999); the Association of Voivodeships the Republic of Poland (established in 2002). They have a legal form of an



association or a foundation. These organizations aspire also to represent their interests at a transnational level. It should be underlined that the establishment of these organizations was a bottom-up process and independent of central authority (during works on the Act on the Local Government in 1990 it was intended to appoint the obligatory local government representation, i.e. 'the National Association of Municipalities'. It did not happen as a result of an objection of the 'Solidarity' environment and members of local government). The local and regional self-government organizations are an expression of bottom-up initiatives and not an obligation imposed by an act.

Both the composition and the internal organization of the commission indicate that the separate interests of urban and rural communes are taken into consideration. The Team for Rural Areas, Villages and Agriculture and the Team for Functional Metropolitan and Urban Areas are among 12 problem teams established in the commission. The teams' works are additionally supported by experts.

The commission's task is to consider 'problems related to the function of territorial self-government and the state's policy towards the self-government as well as the matters related to the self-government being within the scope of the activities of the European Union and international organizations to which the Republic of Poland belongs (Article 2 of the Act of the Joint Commission of Government and Territorial Self Government).

Assessment of the Practice

The Joint Commission of Government and Territorial Self-Government is a permanent element of the institutional system of Poland. It has the right, guaranteed by law, to participate in consultations of acts concerning the local government matters. The commission also prepares scientific expert's opinions and is an important forum for discussion on the local government's rights. The meetings of working commissions are held regularly. The primary role is played by the representatives of given local government organizations which separately represent the interests of local governments of cities of the metropolis, cities, urban areas, *powiats*, voivodships. Their activity and involvement determine which problems will be raised in the discussion with the government. The Union of Polish Metropolises is particularly active; it brings together 12 large cities the presidents of which aspire to conduct the independent policy in opposition to the current government. The Association of Rural Municipalities plays also a very important role. Some antagonism between the concepts of regional policy in Poland can be observed on this plane (the concept of polarizing diffusion development supports the network of metropolises versus the concept of sustainable development supporting the rural areas).



Following the timetable for the works of the commission and its problem teams it can be concluded that the commission is very active.¹³⁹ A detailed analysis of the meetings' subjects and interviews with the commission's members would allow for the assessment as far as the commission is able to fulfil its mission and a forum to agree positions between the government and local government as well as between the urban areas and rural areas.

References to Scientific and Non-Scientific Publications

Website of the Association of Polish Cities, <<http://www.miasta.pl/en>>

Website of the Association of Voivodeships the Republic of Poland, <<https://zwrp.pl/en/>>

Website of the Joint Commission of Government and Territorial Self Government, <<http://kwrist.mswia.gov.pl>>

Website of the Union of Polish Metropolises, <<https://www.metropolie.pl/en/>>

¹³⁹ 'Porządek obrad' (*Komisja Wspólna Rządu i Samorządu Terytorialnego*) <<http://kwrist.mswia.gov.pl/kw/posiedzenia-komisji/porzadek-obrad>>.



5.3. County-Commune Unions as a New Form of Intergovernmental Relations in Poland: The Beskidian County and Commune Union

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Relevance of the Practice

Local government units may cooperate with each other in the public tasks realization. The right to voluntary cooperation is guaranteed by the Polish Constitution (Article 172) and the European Charter of Local Self-Government (Article 10). Three legal forms may be adopted in cooperation: (i) unions (ii) agreements (iii) associations.

- The union of local government units implies that local governments implement a new separate legal unit with legal personality to delegate their task(s) to the unit for performance. Thus, the tasks delegated to the union, throughout its existence, cease to be the tasks of local government units forming the union.
- The agreement of local government units implies that no new legal entity is created, merely one local government unit delegates its tasks to another one.
- The associations – their objective is different. The point is not about the local governments tasks performing but rather about ‘supporting and promoting the idea of local government and common interests of local government units’¹⁴⁰. Regarding associations, a new legal entity is referred to, similar to a union, adopting its statute and operating through its legal organs (authorities).

Ever since the commune (*gmina*) government was reinstated in 1990, unions, agreements and associations have been able to be established by communes among themselves (intermunicipal cooperation). Also counties (*powiats*) could cooperate with each other in these three legal forms since their establishment in 1999.

Intergovernmental cooperation (between communes and counties) was possible in the form of agreements and associations. Unions could merely be established at one level, either solely between communes (*gminas*) or between counties (*powiats*).

Revolutionary change occurred in 2016. It is henceforth possible to create intergovernmental unions, namely between counties (*powiats*) and communes (*gminas*). The establishment of more sustainable and transparent form of local tasks performing was the main purpose. The

¹⁴⁰ Art 84(1) of the Act of 8 March 1990 on *Gmina* Self-Government.



union may serve primarily the joint performance of tasks concerning public local transport, education or road management.

The decision about the union establishment is made by the representative authority of local government units (the commune council and the county council). Furthermore, the statute is also adopted by local government units. The union operates through its own authorities, including the union's assembly (as a regulatory and controlling authority) and the union board (as the executive authority). All unions must be listed in the central 'union register' kept by the minister responsible for public administration¹⁴¹ (currently: Ministry of the Interior and Administration of Poland).¹⁴²

Currently (February 2021), 13 county and commune unions (*związek powiatowo-gminny*) are registered. The organization of local public transport is the most common objective of union establishment (9 unions). Moreover, other tasks include tourism promotion and development, and environmental protection. The number of local government units establishing a county and commune union varies from 2 to 15.

Description of the Practice

The example of intergovernmental union is the Beskidian¹⁴³ County and Commune Union (*Beskidzki Związek Powiatowo-Gminny*) established in 2017. The union was established to perform tasks concerning the local public transport sector. The union consists of 10 local governments units from two levels, including the Bielski County (*Powiat Bielski*) and 9 communes (*gminas*) located in the county territory.¹⁴⁴

The Bielski County (*Powiat Bielski*) is the example of the 'bagel-county'.¹⁴⁵ Accordingly, its territory consists of communes surrounding a separate city with county (*powiat*) rights (Bielsko-Biała). The population of the city with county (*powiat*) rights Bielsko-Biała is 170,303. The Bielski County population is 159,241.

¹⁴¹ Karolina Ołtarzewska, 'Zarejestruj, zmień statut lub wyrejestruj związek międzygminny, związek powiatów, związek powiatowo-gminny' (*Ministry of the Interior and Administration*, 2 July 2019) <<https://www.gov.pl/web/mswia/zarejestruj-zmien-statut-lub-wyrejestruj-zwiazek-miedzygminny-zwiazek-powiatow-zwiazek-powiatowo-gminny>> accessed 15 January 2021.

¹⁴² See the website of the Ministry of the Interior and Administration, <<https://www.gov.pl/web/mswia-en>>.

¹⁴³ Beskids is the name of the geographical region of southern Poland, the mountain ranges in the Carpathians, where the local government units of the union are located.

¹⁴⁴ 'BZPG – Informacje ogólne' (*Beskidzki Związek Powiatowo Gminny*) <<https://www.bzpg.pl/index.php/o-bzpg/>> accessed 15 January 2021.

¹⁴⁵ For more information on 'bagel' – territorial units in Poland, see report section 4.1. on the Structure of Local Government in Poland.

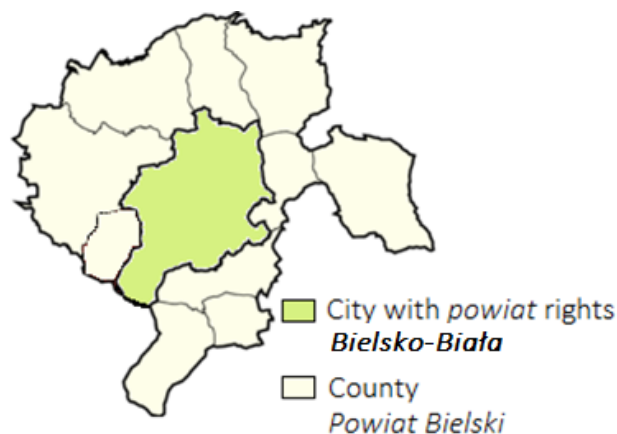


Figure 16: The border of the ‘bagel’-county (Powiat Bielski)¹⁴⁶

The city with county (*powiat*) rights (Bielsko Biała) is not included in the Beskidian County and Commune Union. However, there are apparent functional links between the Bielski County (*Powiat Bielski*) and the City of Bielsko-Biała. An essential place is occupied by the city, constituting the center of work, education, health protection and culture for the inhabitants of the neighboring communes (*gminy*) belonging to the Bielski County (*Powiat Bielski*). Additionally, links are strengthened by the fact that the City of Bielsko-Biała is the seat of the Bielski County (*Powiat Bielski*) authorities. The City of Bielsko Biała provides and finances own public transport within its territory so the city has shown no interest in participating in the Beskidian County and Communes Union.

One commune of the Bielski County (*Powiat Bielski*) has not been included in the Beskidian County and Commune Union. It is an urban-rural commune with the City of Czechowice-Dziedzice inhabited by 35,631 people. The city provides own-account public transport.

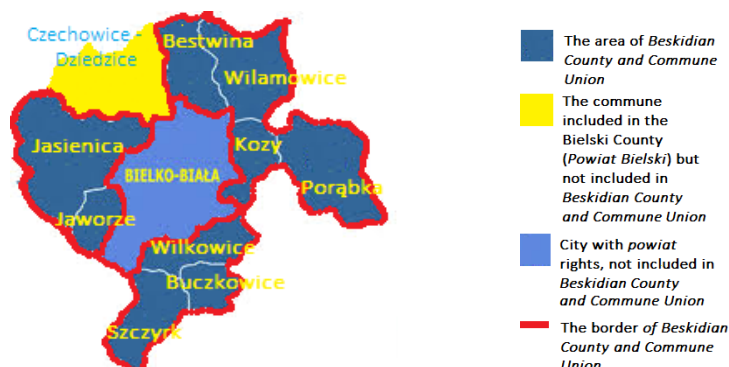


Figure 17: The area of the Beskidian County and Commune Union¹⁴⁷

¹⁴⁶ Own elaboration, with the map taken from D T G <[https://pl.m.wikipedia.org/wiki/Plik:Powiat_bielski_\(%C5%9B%C4%85ski\)_-_Mapa.png](https://pl.m.wikipedia.org/wiki/Plik:Powiat_bielski_(%C5%9B%C4%85ski)_-_Mapa.png)>.

¹⁴⁷ Own elaboration, with the map taken from Starostwo Powiatowe <<http://www.gminy.pl/powiaty/271.html>>.



No	Commune name	Commune type	Population	Area	Population density (inhabitants/sq. km)
1	Bestwina	Rural	11,441	37.92 km ²	301.7
2	Buczkowice	Rural	11,126	19.33 km ²	571.7
3	Jasienica	Rural	23,471	91.714 km ²	256.0
4	Jaworze	Rural	7299	21.13 km ²	342.4
5	Kozy	Rural	13,024	26.9 km ²	484.2
6	Porąbka	Rural	15,420	64.59 km ²	239.3
7	Wilkowice	rural	13,327	33.9 km ²	87.4
8	Wilamowice	urban-rural	17,017	56.72 km ²	296.8
9	Szczyrk	urban (city)	5734	39.07 km ²	146.76

Table 3: Communes included in the Beskidian County and Commune Union

No	County name	Population	Area	Population density (inhabitants/sq. km)
1	Bielski County (<i>Powiat Bielski</i>): 10 communes (<i>gminas</i>)	165,960	458.64 km ²	361.9

Table 4: The county included in the Beskidian County and Commune Union

The Beskidian County and Commune Union operates on the basis of its statute, adopted by the local government units forming the union. Tasks, authorities, assets and sources of financing are regulated by the statute concerning the union.¹⁴⁸

The union performing its tasks operates through the following bodies:

- the Assembly;
- the Management Board;
- the Audit Committee.

The assembly consists of two representatives from each local government units forming the union. Additionally, a member and a chairman of the assembly is the head of the Department of Communication and Transport in the County Office (*Starostwo Powiatowe*) with the total number of 23 members.

The Management Board of the union (an executive body) consists of 11 members comprising of an executive authority (mayor) from each commune. The representative of the Bielski County (*Powiat Bielski*) is the County Governor (*starosta*) as the executive body chairman in

¹⁴⁸ Statute of the Beskidian County and Commune Union - consolidated text of 30 October 2018, <<https://bzpg.bip.gov.pl/statut-zwiazku/tekst-jednolity/statut-beskidzkiego-zwiazku-powiatowo-gminnego.html>> accessed 15 January 2021.



the county (*powiat*). The director of the union's office is also a member of the management board.

Primarily, the union meets the requirements related to the rural communes. The new legal form assures communes equal participation, interest representation and transparency in the task performance of providing public transport to inhabitants. Before the union establishment, the aforementioned task was performed by the Bielski County (*Powiat Bielski*), and the communes concluded an agreement with the county delegating the task to the county. According to the Head of the Jaworze commune, of which the commune is a member of Beskidian County and Communes Unions, 'until the Beskidian County and Communes Union was established, the Bielski County was responsible for local public transport, and it was financed by communes (under an agreement). Nowadays, we are entering a new reality. The communes of Beskidian County and Communes Union are becoming a full-fledged entity co-deciding on the tasks implementation in the field of public transport, and the Beskidian County and Communes Union is becoming the organizer of public transport in our area. Thus, communes, and not only county, acquire the right to control the way this task is performed, which has not been the case so far.'¹⁴⁹

Currently, transports are organized on the territory of all communes belonging to the Bielski County (*Powiat Bielski*) and on the area of 4 communes that are not involved to the union on the basis of concluded agreements. All vehicles are insured with free Wi-Fi Internet access. From 1 January 2018, people over the age of 70 may travel free of charge by public transport organized by the union.

The union also obtains external funds originating in the European Union and the Polish Government. Therefore, modern ecological vehicles powered by compressed natural gas (CNG) can be purchased. In return, 17 diesel buses will be scrapped, which will positively affect the environment, thus contributing to the low-emission promotion.¹⁵⁰

Assessment of the Practice

The intergovernmental form of cooperation becomes increasingly significant. For instance, another similar union is in the process of being created in the area of Wielkopolska Voivoidship. 23 local government units will be included with the number of 5 counties (*powiats*) and 18 communes (*gminas*). However, there will be a significant difference from the example discussed above. Namely, the new union will also include a centrally located city with county

¹⁴⁹ Statement of the Mayor of the Jaworze commune, Radosław Ostalkiewicz, of 24 April 2018, <<https://ostalkiewicz.com/2018/04/24/nowy-pks/>> accessed 20.09.2021

¹⁵⁰ 'Report on the State of the Bielsko County for 2019' (Bielsko County 2019) <https://www.powiat.bielsko.pl/bielsko_powiat_2019/web/uploads/temp/strony/strona_326/text/Raport%20o%20stanie%20Powiatu%20Bielskiego%20%20za%202019.pdf> accessed 15 January 2021.



(powiat) rights, i.e. the City of Poznań, which is the fifth largest city in Poland with 533,830 inhabitants.

In 2019, the Mayor of Poznań informed neighboring local governments about the bad financial results of the local transport Motor Transport Company (*Przedsiębiorstwo Komunikacji Samochodowej, PKS*). Shutdown was considered in this case as the City of Poznań could not afford to finance bus transport for the neighboring communes and counties not contributing to the costs at all. An agreement was reached and a new county and commune union called Wielkopolski Regional Transport (*Wielkopolski Transport Regionalny*) will be established by April 2021 and be operational in July 2021. Transport costs will be covered by all participants in proportion to the frequency and the length of bus travel in each of the communes and counties.



Figure 18: The border of the planned county-commune union Wielkopolski Regional Transport against the background of the Wielkopolska Voivodeship¹⁵¹

References to Scientific and Non-Scientific Publications

Ziemski K and Misiejko A, 'Organizacja publicznego transportu zbiorowego przez jednostki samorządu terytorialnego ze szczególnym uwzględnieniem prawnych aspektów współdziałania' (University of Adam Mickiewicz 2016)
<https://repozytorium.amu.edu.pl/bitstream/10593/21982/1/Ziemski%2C%20Misiejko_organizacja%20publicznego%20transportu%20_internet.pdf>

¹⁵¹ Own elaboration, with the map taken from Okonek Gminny Internet Porta | <www.okonek.pl/asp/pl_start.asp?typ=14&menu=70&strona=1&sub=58>.



5.4. The Interface between Subnational and National Levels of Government: The Role of National Local Self-government Organizations

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Relevance of the Practice

The specificity of a unitary state does not require the creation of coordination mechanisms between national and subnational government levels as is the case in federal states. However, there remains the issue of regulating relations between the central government and local self-government and relations between various levels of local self-government.

According to formal rules, local self-government is not a participant in the process of adopting national laws and has no legislative initiative. The only legally guaranteed form of local self-government participation in the process of shaping the state policy are consultations on the bills adopted from the legislative initiative of the central government. This formalized and institutionalized consultation mechanism is applied through Joint Commission of the Government and Territorial Self-Government, which constitutes a body composed of representatives of the central government and local self-government.¹⁵² According to the relevant legal act,¹⁵³ the joint commission is a forum for developing a common position of the central government and local self-government. In addition to this formal mechanism, local governments also hold informal contacts and lobbying activities which attempt to influence the actions of the central government and parliament in order to obtain solutions which are favorable to local self-government. In a democratic state, the right to express protest, dissatisfaction and criticism of the government's actions is also obvious. Such activities, however, exceed the possibilities of individual local self-government units. For this reason, local self-government organizations play a key role in this regard (Article 172(1) of the Constitution of the Republic of Poland guarantees the right of association to local self-government units). Apart from local or regional organizations, also nationwide local self-government organizations operate in Poland. The legal position of six such organizations has been strengthened by the fact that they are members of the Joint Commission of the

¹⁵² For more information about the joint commission, see report section 5.1 on Institutionalizing Intergovernmental Relations in Poland.

¹⁵³ Art 2 of the Act no 90 of 6 May 2005 on the Joint Commission of Government and Territorial Self-Government and on the Representatives of the Republic of Poland in the Committee of the Regions of the European Union.



Government and Territorial Self-Government, and such a composition of the joint commission was decided by the central government.¹⁵⁴

Due to the fact that there are three levels of local self-government in Poland, and additionally there exists a strong differentiation among the communes themselves (cities, urban-rural communes, rural communes), it was therefore of key importance to indicate the members of the joint commission. Consequently, the commission members include currently representatives of six nationwide organizations: the Union of Polish Metropolises, the Association of Polish Cities, the Association of Small Polish Towns, the Association of Rural Communes of the Republic of Poland, the Association of Polish Powiats and the Association of Voivodships of the Republic of Poland.

As the names of these organizations show, they represent, first of all, individual levels of local self-government (communes, *powiats* and voivodships). Secondly, it can be seen that at the communes' level, we deal with various categories of communes (very large metropolitan cities, cities, small towns, rural communes) whose interests are represented by separate self-government organizations.

Therefore, local self-government functions within the legal framework specified by the central authorities and is the recipient of the government's development plans or financial support programs. General concepts of development have also changed in Poland, from polarization and diffusion concepts to concepts of sustainable development.¹⁵⁵ Thus, these 'rules of the game' formulated at the central level have fundamental impact on the functioning of local self-government, often having different effects for various categories of local self-government units (general division into the interests of rural communes, urban communes and metropolises). Three nationwide local self-government organizations were selected for the analysis, which are representing different categories of Polish communes and through which the different interests of metropolitan, urban and rural local self-governments are manifested. These are the Union of Polish Metropolises, the Association of Polish Cities and the Association of Rural Communes of the Republic of Poland.

¹⁵⁴ Ordinance of the Council of Ministers no 15 of 29 January 2008 on the Determination of Nationwide Organizations of Local Self-Government Units which are Entitled to Appoint Representatives to Joint Commission of the Government and Territorial Self-Government.

¹⁵⁵ Mirska Andżelika, 'State Policy on the Formation and Modernisation of Polish Territorial Structure' in Europäisches Zentrum für Föderalismus-Forschung Tübingen EZFF (ed), *Jahrbuch des Föderalismus 2018: Föderalismus, Subsidiarität und Regionen in Europa* (Nomos 2018).



Description of the Practice

The Union of Polish Metropolises¹⁵⁶ (*Unia Metropolii Polskich* - UMP) has the legal form of a foundation which was established in 1990, i.e. at the beginning of the systemic transformation in Poland and the reactivation of local self-government at the level of communes (1990). The founders of UMP were the seven largest Polish cities: Gdańsk, Katowice, Lublin, Łódź, Szczecin, Warsaw and Wrocław. Currently, the 12 largest cities in Poland belong to the organization.¹⁵⁷

The Association of Polish Cities¹⁵⁸ (*Związek Miast Polskich* - ZMP) is a local self-government organization which follows the pre-war traditions (years 1917-1939). The reactivation of ZMP also took place at the beginning of the systemic transformation, in 1991. Currently, 353 cities belong to the ZMP.¹⁵⁹ There are 954 cities¹⁶⁰ in Poland, 302 of which have the status of a separate urban commune.¹⁶¹ There are also urban-rural communes, which can choose membership not in the Association of Polish Cities, but in another organization, which is the Association of Small Polish Towns (it associates about 130 small towns).¹⁶² Urban-rural communes may also decide to become members of the Union of Rural Communes of the Republic of Poland.

The Association of Rural Communes of the Republic of Poland (*Związek Gmin Wiejskich Rzeczypospolitej Polskiej* - ZGW RP) is also an organization with a long historical tradition, which was reactivated in 1992. It is the largest local self-government organization in Poland, currently associating 637 communes (553 of which constitute rural communes and 84 urban-rural communes).¹⁶³ This means that 36.3 per cent of rural communes and 13.5 per cent of urban-rural communes in Poland are concentrated in this association.

¹⁵⁶ For more detail, see the respective websites, <<https://metropolie.pl>>; <<https://www.facebook.com/UniaMetropoliiPolskich/>>.

¹⁵⁷ Warsaw - 1.8 million inhabitants; Kraków – 779,000; Wrocław – 693,000; Łódź – 680,000; Poznań - 535,000; Gdańsk – 471,000; Szczecin – 402,000; Bydgoszcz – 348,000; Lublin - 340,000; Białystok - 298,000; Katowice – 293,000; Rzeszów – 196,000. Statistics Poland, 'Statistical Yearbook of the Republic of Poland' (2020) <<https://stat.gov.pl/en/topics/statistical-yearbooks/>> accessed 10 July 2021.

¹⁵⁸ For more detail, see the respective websites, <<https://www.miasta.pl/en>>; <<https://www.facebook.com/ZwiazekMiastPolskich/>>.

¹⁵⁹ For more detail, see the respective website, <<https://www.miasta.pl/miasta>> accessed 10 July 2021.

¹⁶⁰ The granting a locality the status of a town/city, that is changing the type of denotation, e.g. 'village' into 'town' is processed by way of regulation of the Council of Ministers. Art of the Act of 8 March 1990 on *Gmina* Self-Government.

¹⁶¹ Statistics Poland, 'Area and Population in the Territorial Profile 2021' (2021) 11 <<https://stat.gov.pl/obszary-tematyczne/ludnosc/ludnosc/powierzchnia-i-ludnosc-w-przekroju-terytorialnym-w-2021-roku,7,18.html>> accessed 10 July 2021.

¹⁶² For more detail, see the respective website, <<http://miasteczka.online/ump/>>.

¹⁶³ For more detail, see the respective website, <<http://www.zgwrp.pl/lista-gmin-czlonkowskich>> accessed 10 July 2021.



When analyzing the activities of these self-government organizations (analysis of documents, official websites, media activity), it can be concluded that each of them indicates as one of its goals legislative lobbying, i.e. the impact on the content of laws enacted in Poland.

This aspect of activity is most clearly expressed by the Association of Polish Cities. In the charter of the association of 19 January 1991, it was specified that its tasks include:

- representing cities in all common matters on the national and international forum;
- initiating and issuing opinions on draft legal acts concerning local self-governments;
- conducting program, information, consulting and training activities aimed at joint problem solving in the field of individual areas of local municipal self-government activity.¹⁶⁴

It was stated on the association's website that the Association of Polish Cities fights for the interests of Polish cities. It represents the interests of local municipal self-governments and conducts legislative lobbying on their behalf. It is a nationwide organization which integrates member cities around common goals. It is actively involved in activities supporting local self-government and decentralization and strives for a better development of Polish cities.¹⁶⁵ 'ZMP initiates joint actions against legal solutions unfavorable for cities and prepares its own draft amendments to legal acts.'¹⁶⁶

The next local self-government organization, the Union of Polish Metropolises, in its statute of 3 June 2019 lists, among others, the following goals of its activity:

- joint solving of specific problems of big cities;
- cooperation with state authorities as well as national, foreign and international organizations to increase the role of metropolises within the state and in European integration.

UMP wants to achieve these goals by financing, inter alia, preparation of 'all legislative projects, taking into account the special role and scale of problems of metropolis in the state' as well as the preparation of 'seminars, discussions and panels with participation of politicians and experts, dedicated to urban and metropolitan issues'.¹⁶⁷

Similar goals were included in the charter of the Association of Rural Communes of the Republic of Poland – ZGW RP in its version of 18 April 2016. They include: 'defending common interests of rural communes, representing the interests of rural and urban-rural communes,

¹⁶⁴ Statute of the Association of Polish Cities of 19 January 1991, <https://www.miasta.pl/uploads/document/content_file/754/STATUT-2019.pdf> accessed 10 July 2021.

¹⁶⁵ 'About us' (*Association of Polish Cities*, undated) <<https://www.miasta.pl/zysk-dla-miast/>> accessed 10 July 2021.

¹⁶⁶ 'Why is it worth joining ZMP?' (*Association of Polish Cities*, undated) <<https://www.miasta.pl/strony/dlaczego-warto-dolaczyc-do-zmp>> accessed 10 July 2021.

¹⁶⁷ Statute of UMP, consolidated text of 3 June 2019 <<https://metropolie.pl/o-nas/statut>> accessed 10 July 2021.



representing collective interests of its members before public authorities'.¹⁶⁸ The statute of the Association of Rural Communes of the Republic of Poland further states that 'the Association achieves its goals by: representing rural communes on the national and international forum, expressing positions on issues related to the government, economy and organization of communes, initiating and giving opinions on draft legal acts concerning local self-government'. The website of the association states, inter alia, that 'the activities of ZGW RP concern both negotiations with the government, consultations in the parliament, exchange of experiences between members as well as activities aimed at the economic and cultural development of rural communes. Thanks to the association's involvement and lobbying many solutions proposed by the government or parliament, which were unfavorable from the point of view of rural self-governments, were protested and thus effectively blocked'.¹⁶⁹

When analyzing the activities of the above three organizations (forms of activities: speeches, positions, protests, opinions, requests, appeals, etc.) on the basis of their websites and media messages, it should be stated that they are active organizations, responding on an ongoing basis to projects and activities of central authorities. Referring to statistical data, for example, the Association of Polish Cities was the organization which most frequently participated as a guest in the meetings of the Polish Parliament committees (possibility of speaking, giving opinions on amendments to bills). On the basis of the ranking on the 'Open Lobbying' website,¹⁷⁰ ZMP was recognized as one of the main lobbyists in the parliament. Other organizations recognized as leading lobbyists in the Polish Parliament included the National Council of Agricultural Chambers and the Confederation of Polish Employers 'Lewiatan'.¹⁷¹

Analyzing the activities of these organizations in the longer term, it can be concluded that in the earlier period, the defense of the particular interests of specific types of communes dominated. An example of such actions was the dispute between the Association of Rural Communes of the Republic of Poland and the Association of Polish Cities. The dispute concerned the problem of expanding city boundaries at the expense of neighboring rural communes (or their parts). The procedure of such expansion involves public consultations, but the final decision is made by the central government.¹⁷² The Association of Rural Communes of the Republic of Poland consistently protested against such a strategy of urban development,

¹⁶⁸ Art 7 of the Charter of the Association of Rural Communes of the Republic of Poland in its version of 18 April 2016 <http://www.zgwrp.pl/attachments/article/1470/broszura_ZO_statut_regulamin_ordynacja.pdf> accessed 5 October 2021.

¹⁶⁹ 'The Mission of the Association' (*Association of Rural Communes of the Republic of Poland*, undated) <<http://www.zgwrp.pl/misja-zwiazku>> accessed 5 October 2021.

¹⁷⁰ 'About us' (*Jawny Lobbying*, 2019) <<https://jawnylobbying.pl/about-us/>> accessed 10 July 2021.

¹⁷¹ 'Diagrams' (*Jawny Lobbying*, 2019) <<https://jawnylobbying.pl/wykresy/>>; Michał Wroński, 'Związek Miast Polskich i Związek Powiatów Polskich w Top 6 lobbystów w Sejmie' (*Portal Samorządowy*, 23 December 2019) <<https://www.portalsamorzadowy.pl/komunikacja-spoeczna/zwiazek-miast-polskich-i-zwiazek-powiatow-polskich-w-top-6-lobbystow-w-sejmie,141951.html>> accessed 10 July 2021.

¹⁷² Art 4(a) and 5(a) of the Act of 8 March 1990 on *Gmina* Self-Government.



taking place by incorporating some rural communes (or their parts) within the city limits. On the other hand, the Association of Polish Cities supported this is method of developing cities.¹⁷³

Assessment of the Practice

In recent months, we have been observing joint and intensified activity of these organizations in relation to the action plans of the central government. The current situation results from the effects of the Covid-19 pandemic and the actions of the central government, which, according to local self-government units, led to the impairment of local self-government in Poland through recentralization tendencies.

An example of such joint activity constitutes, for example, the 'Common Position of Polish National Local Self-Government Organizations on the Financing of Education of 17 June 2020', which is an appeal to the central authorities for higher financing of education: 'For many years, local self-governments have been struggling with the problem of insufficient financing of educational tasks from the state budget'.¹⁷⁴

Another problem in which local self-government organizations have become strongly involved is the socio-economic program prepared by the central government to counteract the effects of the Covid-19 pandemic. The Union of Polish Metropolises is particularly active here. It has shown in its analyses that the changes proposed by the government will have a very negative impact, first of all on the budgets of the largest cities in Poland.¹⁷⁵ A similar position is represented by the Association of Polish Cities, indicating that the implementation of this plan will result in financial problems for Polish cities.¹⁷⁶

According to experts' assessments,¹⁷⁷ the role of local self-government organizations will increase, especially in the situation of the crisis caused by the Covid-19 pandemic. The more self-government is exposed to the processes of recentralization, the more active local self-government organizations are and will be. These organizations constitute an important mechanism of dialogue between the government and local self-government as well as the

¹⁷³ For more information, see report section 6.1 on Decisions on Expanding the City Territory at the Expense of the Rural Area.

¹⁷⁴ 'Position of Nationwide Local Government Organizations on Financing Education' (2020) <https://www.miasta.pl/uploads/attachment/file/3557/Stanowisko_o_wiata_17_czerwca_220.pdf> accessed 30 July 2021.

¹⁷⁵ Michał Cyrankiewicz-Gortyński, 'Za Polski ład zapłacą miasta i gminy' (*Union of Polish Metropolises*, 29 July 2021) <<https://metropolie.pl/artykul/za-polski-lad-zaplaca-miasta-i-gminy>> accessed 30 July 2021.

¹⁷⁶ Zygmunt Frankiewicz, 'Najnowsze stanowisko ZMP w sprawie „Polskiego Ładu”' (*Association of Polish Cities*, 15 September 2021) <<https://www.miasta.pl/aktualnosci/najnowsze-stanowisko-zmp-w-sprawie-polskiego-ladu>> accessed 15 September 2021.

¹⁷⁷ Experts responded to the problem during the Workshop on 01/07/2021. This subject was also addressed in the interview with a representative of the Union of Polish Metropolises on 28.07.2021 (the record of the statements in the interview is attached to the research).



mechanism through which the public is informed about the situation of local self-government in Poland.

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People's Participation in Local Decision-Making



6.1. People's Participation in Local Decision-Making in Poland: An Introduction

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The process of local community empowerment which started in Poland after 1989 was an important element of political transformation. The priority was to return to guarantee the residents the right to participate in exercising the public authority and in deciding on own matters. The adopted model of local government is based on representative democracy. The Polish citizens and EU citizens residing in Poland from the age of 18 years are guaranteed the active voting right. Similarly, it applies to the passive voting right. The election for the mayor in the community is the exception: the passive voting right is only granted to Polish citizens from the age of 25 years old.

Since the beginning of local government an instrument of direct democracy – a local referendum was also introduced. The decisions are binding when certain requirements are met. The local referendum can be conducted at any level of local government, i.e. in the *gmina*, *powiat* and voivodeship. All own tasks of local government, except the matters explicitly excluded by law (a negative catalogue), are the subject of the referendum. A special referendum is the referendum on self-taxation of residents of the *gmina* for public purposes (this is an exception to the general rule that the taxes can be imposed on the citizens only by the Polish Parliament). Furthermore, the residents have the right to recall in the referendum these local government bodies which were elected by them by direct universal suffrage. According to the constitutional principle in Poland all representative bodies are elected by direct universal suffrage. Since 2002 the executive body in the *gmina* is also elected by direct universal suffrage. The executive bodies in the *powiat* and voivodeship are elected and recalled by the representative bodies.

A local referendum is held at the initiative of the representative body or at the request of inhabitants. The initiative to hold a referendum at the request of the local government unit residents may be applied by:

- the minimum 5 citizens (referendum in the *gmina*), minimum 15 citizens (referendum in the *powiat* and voivodeship);
- a political party local branch operating in a given local government unit (*gmina*, *powiat*, voivodeship);
- a social organization with legal personality and operating in a given local government unit (*gmina*, *powiat*, voivodeship).

The period of collecting signatures lasts 60 days. In order to hold a local referendum to be valid, it must be signed by:



- 10 per cent of the *gmina* or powiat residents eligible to vote;
- 5 per cent of voivodship residents eligible to vote.

The criterion for the validity of a referendum in Poland is a voter turnout. It was set at 30 per cent. The result of a referendum is conclusive if more than half of the valid votes were cast in favor of one of the solutions in a matter put to a referendum (on self-taxation of inhabitants for public purposes – the majority of 2/3 of valid votes).

The 30 per cent turnout threshold has been modified since 2005 in the case of a referendum on the dismissal of a directly¹⁷⁸ elected local authority. Currently, the minimum turnout is 3/5 of the participants in the election of the body¹⁷⁹ to be dismissed.

In general, approx. 10 per cent of referendums are successful, the main problem is reaching the required turnout. Average turnout is 17 per cent. Most frequently referendums are held in *gminas*, very rarely in *powiats*, and incidentally in voivodeships. In *gminas*, referendums on the dismissal of the mayor are held most often. The referenda on the recalling of the executive bodies in the large cities elicit the particular interest of the public (negative result: Warsaw 2013, Bytom 2017; positive result: Olsztyn 2008, Elbląg 2013).

Body	Three terms of office 2002-2014		Term of office 2014-2018	
	Number of referendums	Valid referendums	Number of referendums	Valid referendums
The <i>gmina</i> council	67	10	14	1
The mayor	246	32	44	4
The <i>powiat</i> council	8	0	0	0
The voivodeship assembly (council)	1	0	0	0

Table 1: Local referendums on the dismissal of bodies.¹⁸⁰

The table shows that since 2002 (when the direct election of the mayor was introduced) a total of 380 referendums have been held only 9 per cent of which were valid. Referendums on the dismissal of the mayor are most common and they account for 76 per cent of all referendums on the dismissal of local government bodies.

If we consider the structure of *gminas* in which referendums on the dismissal of the *gmina's* council and/or the mayor were held in the years 2014-2018, the majority of them were either rural *gminas* (26) or urban and rural *gminas* (12), small towns (6), large cities with *powiat* rights (2).

¹⁷⁸ In *gminas*, inhabitants directly elect both bodies (the *gmina* council and the mayor), in the *powiats* and in the voivodeships, only the representative body (the *powiat* council and the voivodeship assembly).

¹⁷⁹ Act of 15 September 2000 on Local Referendum.

¹⁸⁰ Own work based on 'Referenda odwoławcze w kadencji 2014 – 2018' (*Referendum lokalne*) <<http://referendumlokalne.pl/referenda-w-kadencji-2014-2018>> accessed 1 December 2019 and Paweł Cieśliński, 'Referendum lokalne w Polsce – ale jakie?' (2016) 3 *Civitas et Lex* 28, 33.



Substantive referendums are carried out much less frequently. The report of the Chancellery of the President of the Republic of Poland of 6 September 2013 on local referendums indicates that in the period 2010-2013 there were 111 referendums on the dismissal of local authorities and only 22 substantive referendums.¹⁸¹

In 2011, a provision was introduced to the Act on *Gmina* Self-Government on the possibility of holding a local referendum at the request of inhabitants on the change in the establishment, merger, division and liquidation of a *gmina* and the establishment of the *gmina's* borders.

The institution of 'citizens' resolution-making initiative' (*obywatelska inicjatywa uchwałodawcza*) was provided for in the rules on law making by the local government at all three levels of local government. The draft resolution presented by the residents becomes the subject of the agenda of the legislative body of local government unit at the next session after the presentation of the draft resolution, however, not later than after expiry of 3 months from the date of the presentation of the draft resolution.

Besides the direct exercise of local government authority (local government elections and local referenda) there is a series of opportunities for the residents to participate in the decision-making processes. The instruments of participation were institutionalized in Poland gradually. Since the beginning the acts on local government guaranteed the residents the right to be consulted – the consultation can be carried out in all matters important for the residents. The public consultation allows the members of local government community to participate in the conduct of public matters. The acts make it obligatory to conduct the consultation, inter alia, with regard to: (i) change to the boundaries, merger, division, liquidation of local government units, (ii) establishment of auxiliary units in municipalities (districts, civil parishes).

The consultation may also take the form of permanent consultation bodies. The Act of 8 March 1990 on *Gmina* Self-Government provides for two such bodies: youth council (since 2011) and council of seniors (since 2013).

Poland also belongs to the states which promote new forms of participation, such as a participatory budget. The first participatory budget came into operation in Sopot in 2011, then, fairly quickly, such initiatives were undertaken by larger or very large cities. Till 2018 the local government authorities based on the general provisions of local government acts on the consultation. In 2018 the acts on *Gmina* Self-Government, on *Powiat* Self-Government and on Voivodeship Self-Government were extended by the regulations on the 'citizens' budget' (*budżet obywatelski*) as a special form of the consultation. It is surprising that the act made it obligatory to establish a participatory budget in the cities with *powiat* rights. Therefore, it is a characteristic element of the system of large cities.

¹⁸¹ 'Referenda Lokalne' (Chancellery of the President of the Republic of Poland 2013) <https://www.prezydent.pl/gfx/prezydent/userfiles2/files/2013_pliki_rozne/raport_referenda/referenda_lokalne_raport_kprp_20130925_131447.pdf> accessed 10 December 2019.



In Poland there is also an instrument of budgetary participation dedicated only to the rural communes – ‘The Village fund’ (*fundusz sołecki*). Since its inception in 2009 it is anchored in the act, now, it is the Act of 2011 on the Village Fund.

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6.2. Decisions on Expanding the City Territory at the Expanse of the Rural Area: Consultations with Residents or a Local Referendum?

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Relevance of the Practice

Communes (*gminas*) are called ‘little homelands’ or ‘schools of democracy’. The Polish Constitution states that the residents of communes may make decisions considering their community in a local referendum.¹⁸² Polish law also provides for an obligation to consult residents.¹⁸³ In addition, various forms of citizens co-decision have proliferated recently, e.g. participatory budgets under the participatory administration model.

The question arises whether the change of the commune (*gmina*) borders belongs to such decisions in which the residents should be authorized to make them. The issue of changing the borders of communes, such as merging, dividing and liquidating communes, has become a very controversial and emotional topic in recent years.

No comprehensive, top-down territorial reform concerning communes, e.g. merging communes to obtain territorially larger units, has been carried out since 1989/1990, since the beginning of the systemic transformation and the restoration of local government in communes. However, the adjustments of communes’ borders are made every year. The incorporation of some areas of rural communes such as individual villages (*sołectwos*)¹⁸⁴ into the neighboring large cities is the specific type of adjustments. Obtaining land for cities development and investments is the aim of such a procedure. It leads to a conflict of interests emerging between rural communes (*rural gminas*) and cities (*urban gminas*).

Rural communes (*rural gminas*) refer to the principle of communes’ identity and territorial stability of communes. The Association of Rural Communes,¹⁸⁵ a national organization representing the rural communes’ interests, has repeatedly expressed its disapproval and an urgent objection to the expansion of urban areas at the expense of rural communes. The

¹⁸² Art 170 of the Constitution of the Republic of Poland of 1997 and the Act of 15 September 2000 on the local referendum (Dz.U. 2019 poz. 741).

¹⁸³ Art 4(a), 5(a) of the Act of 8 March 1990 on *Gmina* Self-Government, Art 3(a), 3(d) of the Act of 5 June 1998 on *Powiat* Self-Government, Art 10(a) of the Act of 5 June 1998 on Voivodeship Self-Government.

¹⁸⁴ A *sołectwo* (*sołectwo*) is an auxiliary unit of the commune (*gmina*) that does not have the status of local government unit and legal personality. The *sołectwo* are established, transformed and liquidated independently by the commune. The *sołectwo* operate in the area of rural communes and rural-urban communes.

¹⁸⁵ For the website of the Association of Rural Communes, see <<http://www.zgwrp.pl/>>.



Association of Rural Communes indicates the issue of spatial urban sprawl that causes cities to strive for capturing territories surrounded by communes. It is supposed to be a panacea for the problems of urban depopulation.¹⁸⁶

Rural communes support the decision that residents should always decide about border changes and their opinion should be binding as opposed to consultations which are not binding. Rural local governments do not agree to deprive them of a part of their territory for economic reasons in order to increase the area and the urban's wealth.¹⁸⁷

On the other hand, cities indicate the necessity to expand their area and incorporate suburbs to the cities, as suburban residents work and study in the city, use the urban infrastructure and pay taxes to the commune's budget of the place of residence.

Description of the Practice

The decision to change the borders of individual communes in Poland is made by the central government (Council of Ministers). The Act of 8 March 1990 on *Gmina* Self-Government in Article 4 provides that 'establishing and changing the communes (*gminas*) borders are made in a way that ensures the commune's territory as consistent as possible with regard to the settlement and spatial layout, taking into account social, economic and cultural bonds, and ensuring the ability to perform public tasks'.

The act also states that in the process of border changing, it is *necessary* to consult the residents of both municipalities, and a local referendum may also be held. Such a referendum can only be initiated by residents. Importantly, consultations may be conducted in a part of the commune's territory, e.g. in one village (*solectwo*). The referendum is held in the entire commune.

Moreover, the European Charter of Local Self-Government states that 'changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute'.¹⁸⁸

In the study regarding changes in the communes' borders in Poland, it was calculated that, for instance, in the years 2009-2018 the Polish Government issued a total of 183 decisions to change the borders of local government units, of which 137 concerned the incorporation of

¹⁸⁶ Position of the XVII Congress of Polish Rural Communes of October 20, 2017 on changes to the law regarding the division and changes of the communes borders, <<http://www.zgwrp.pl/attachments/article/1227/ws.%20ochrony%20granic%20gmin.pdf>> accessed 15 March 2021.

¹⁸⁷ Position of the XXXII General Assembly of the Association of Rural Communes of the Polish Republic of June 19, 2018 on changes to the law regarding the division and changes to the borders of communes, <http://www.zgwrp.pl/attachments/article/1354/XXXIIIZO_stanowisko_granice.pdf> accessed 15 March 2021.

¹⁸⁸ Article 5 of the European Charter of Local Self-Government, ratified by Poland in full in 1993.



the commune territory or its parts, most frequently a village (*solectwo*) into the neighboring city.¹⁸⁹

The intensive efforts of the City of Rzeszow to expand its territory are a special case. Rzeszow, a city (urban commune) with county (*powiat*) rights, is the capital and central city of one of the 16 voivodeships. It is located in south-eastern Poland. In 1990, the population of residents was 153,000, in 2005 it was 158,000, and in 2020 it was 197,000. It is currently the 17th largest city concerning population in Poland.

Since 2005, the authorities of the City of Rzeszow have been taking very intensive actions to enlarge the city area. An application is submitted every year to the Council of Ministers (central government) to include neighboring communes or their parts (of villages/*solectwos*). For example, in the 2016 request, there were as many as 12 villages (*solectwos*) that Rzeszow wanted to incorporate. In 2011-2016, the government did not agree to any of Rzeszow's requests. Rzeszow has tried repeatedly to incorporate some villages. Such an example is the Matysowka *solectwo* incorporated into Rzeszow in 2019. Rzeszow unsuccessfully applied for the incorporation of this *solectwo* in 2005, 2007, 2011, and 2017.

Table 5: Stages of the incorporation of some areas of rural communes (*solectwos*/villages) into the City of Rzeszow.

	Name of <i>solectwo</i> /village	Consultation results with residents	Area
2006	Slocina (<i>Słocina</i>) - <i>solectwo</i> in the rural Commune of Krasne	80.4% of the residents of <i>solectwo</i> Slocina <i>against</i> the incorporation into Rzeszow ¹⁹⁰	9.16 km ²
2006	Zaleze (<i>Załęże</i>) - <i>solectwo</i> in the rural Commune of Krasne	78% of the residents of <i>solectwo</i> Zaleze <i>against</i> the incorporation into Rzeszow ¹⁹¹	5.20 km ²
2007	A part of Przybyszowka (<i>Przybyszówka</i>) - <i>solectwo</i> in the rural Commune of Swilcza (<i>Świlcza</i>)	2004: 81.4% of the residents of <i>solectwo</i> Przybyszowka <i>against</i> the incorporation into Rzeszow ¹⁹²	9.25 km ²

¹⁸⁹ Dagmara Kociuba, 'Zmiany granic administracyjnych miast w Polsce – efekty przestrzenne i społeczno-ekonomiczne [Changes in the Administrative Boundaries of Cities in Poland – Spatial and Socio-Economic Effects]' (2019) 33 *Studia Miejskie* 99 <<https://doi.org/10.25167>>.

¹⁹⁰ Aleksandra Biłska-Bałchank, 'Kształtowanie granic jednostek zasadniczego podziału terytorialnego państwa na przykładzie miasta Rzeszowa [Shaping the Boundaries of Units of the Basic Territorial Division of the Country on the Example of the City of Rzeszów]' (Student scientific conference no 3, University of Warsaw) <<http://m.wspia.eu/dzialalnosc-naukowa/konferencje-naukowe/studenckie-konferencje-naukowe/5460,studencka-konferencja-naukowa-nr-3.html>> accessed 15 March 2021.

¹⁹¹ *ibid.*

¹⁹² Quarterly Journal of Commune of Swilcza, *Trzcionka* (no 32, 2004/2005 winter edition) <https://www.swilcza.com.pl/images/trzcionka/Trzcionka_032.pdf> accessed 15 March 2021; Notice by Head of the Swilcza commune from the 8 November 2004 on the official results of consultations on the change of the boundaries of the Swilcza Commune, conducted on 7 November 2004 <http://www.swilcza.i-gmina.pl/files/3255_Obwieszczenia_-_konsultacje.pdf> accessed 15 March 2021.



		2005: 75.92% of the residents of <i>sołectwo</i> Przybyszowka <i>against</i> the incorporation into Rzeszów ¹⁹³	
2008	The remaining part of Przybyszowka - <i>sołectwo</i> in the rural Commune of Swilcza	Approx. 80% of the residents of Przybyszowka <i>in favor</i> of the incorporation into Rzeszów ¹⁹⁴	7 km ²
		No data available on the website of Swilcza commune	
2008	Zwieczyca (<i>Zwiężczyca</i>) - <i>sołectwo</i> in the urban-rural Commune of Boguchwała (<i>Boguchwała</i>)	2004: 91.49% of the residents of the entire commune <i>against</i> the incorporation into Rzeszów ¹⁹⁵	7.2 km ²
2009	A part of the village Biała (<i>Biała</i>) from the urban-rural Commune of Tyczyn	59.8% of the residents of the entire commune <i>against</i> the incorporation into Rzeszów	6.1 km ²
		61% of the residents of Biała <i>in favor</i> of the incorporation into Rzeszów ¹⁹⁶	
2010	A part of Miłocin (<i>Miłocin</i>) from the urban-rural Commune of Glogow Malopolski (<i>Głogów Małopolski</i>)	No data	1.24 km ²
2010	Budziwoj (<i>Budziwój</i>) from the urban-rural Commune of Tyczyn)	55% of the residents of the entire commune <i>against</i> the incorporation into Rzeszów.	17.5 km ²
		58% of the residents of the village of Budziwoj <i>in favor</i> of the incorporation into Rzeszów ¹⁹⁷	
2017	Bzianka (<i>sołectwo</i> in the rural Commune of Swilcza)	65.29% of the <i>sołectwo</i> of Bzianka <i>in favor</i> of the incorporation into Rzeszów.	4.04 km ²

¹⁹³ Notice by Head of the Swilcza commune of 2 February 2005 on the official results of consultations on the change of the boundaries of the Swilcza Commune held from 20 to 31 January 2005 <www.swilcza.i-gmina.pl/files/3602_Obwieszczenia_-_konsultacje2.pdf> accessed 15 March 2021.

¹⁹⁴ 'Zmiana granica – zmiana zdania?' (*Super Nowości*, 18 May 2017) <<http://supernowosci24.pl/zmiana-granica-zmiana-zdania/>> accessed 15 March 2021.

¹⁹⁵ Protocol no XXIII/2004 of the Boguchwała Commune Council held on November 4, 2004 <<https://www.bip.boguchwala.pl/183,24706,187/187/art1543.html>> accessed 15 March 2021.

¹⁹⁶ 'Biała i Budziwój chcą do Rzeszowa' (*nowiny 24*, 31 January 2008) <<https://nowiny24.pl/tyczyn-biala-i-budziwoj-chca-do-rzeszowa/ar/5997873>> accessed 15 March 2021.

¹⁹⁷ <<https://bip.tyczyn.pl/?c=mdTresc-cmPokazTresc-11-420>> accessed 15 March 2021.



		(498 people were entitled to vote. 244 people participated in the consultation) ¹⁹⁸	
2019	Matysowka (<i>Matysówka</i>), a part of the urban-rural Commune of Tyczyn	52.57% of the residents of the entire commune <i>against</i> the incorporation into Rzeszow.	5.3 km ²
		63% of the residents of Matysowka <i>in favor</i> of the incorporation into Rzeszow ¹⁹⁹	
2019	The second part of Milocin - from the urban-rural Commune of Glogow Malopolski	68.62% of the residents of the entire commune <i>against</i> the incorporation into Rzeszow The residents of the <i>solectwo</i> of Milocin: voting at a village meeting, 62 out of 80 voting were in favor of the incorporation into Rzeszow ²⁰⁰	0.9 km ²
2021	Podgwizdow Nowy (<i>Pogwizdów Nowy</i>) - Glogow Malopolski	2018: 68.62% of the residents of the entire commune <i>against</i> the incorporation into Rzeszow ²⁰¹ . 2019: 92.84% of the entire commune <i>against</i> the incorporation into Rzeszow. 82.2% of the residents of the <i>solectwo in favor</i> of the incorporation (402 people) ²⁰²	2.4 km ²

The incorporation of the neighboring areas in 2005–2021 resulted in an increase in the Rzeszów city's area by 75.27 km² (from 53.7 km² to 128.97 km²) and the population by 35,000 (from 158,000 to 197,000).

¹⁹⁸ 'Results of the Consultations in the Commune of Tyczyn of 1 February 2009' (*Urząd Miejski w Tyczynie*, 4 February 2009) <<https://rzeszow.wyborcza.pl/rzeszow/1,34962,19861425,powiekszenie-rzeszowa-niedziela-w-bziancie-z-tadeuszem-ferencem.html>> accessed 15 March 2021.

¹⁹⁹ Justification to the Regulation of the Council of Ministers of 25 July 2018 on establishing the borders of some communes and cities and granting the city status to some localities. Opinion of the Podkarpackie Voivode of 27/04/2018 regarding the application for a change in the territorial division regarding the incorporation of some communes to Rzeszów City: Tyczyn, Boguchwała, Głogów Małopolski and Trzebownisko <<https://bip.rzeszow.uw.gov.pl/wp-content/uploads/2018/04/solectwa.pdf>> accessed 20 March 2021.

²⁰⁰ *ibid.*

²⁰¹ *ibid.*

²⁰² Ordinance of the Council of Ministers of 31 July 2020 RM-110-109-20 in the case of establishing the borders of some municipalities of cities, granting some localities the status of a city, changing the name of the municipality and the seat of the municipal authorities <<http://urbnews.pl/wp-content/uploads/2020/12/dokument457287.pdf>> accessed 20 March 2021.



Rzeszów is still leading up to strengthen its position as a metropolitan center in south-eastern Poland. The goal is intended to be achieved by successive incorporation of other communes neighboring with Rzeszów and increasing its territory and population.



Figure 19: Territorial development of the City of Rzeszów²⁰³

The City of Rzeszów is planning further requests for the incorporation of further villages (*solectwos*): a part of the area of the *solectwo* of Raclawowka (*Raclawówka*) from the Boguchwala (*Boguchwała*) commune, the area of the *solectwo* of Zaczernie and Nowa Wies (*Nowa Wieś*) and a part of the area of the *solectwo* of Jasionka from the Trzebownisko commune and the incorporation with the entire Commune of Swilcza (*Świlcza*). In the consultations, the residents of all these areas were against incorporating them into the city.²⁰⁴ There is an international airport (14 km from the center of Rzeszow) and the Podkarpackie Science and Technology Park Aeropolis in the area of the *solectwo* of Jasionka. In consultations

²⁰³ 'How our City Grew' (*City of Rzeszow*, undated) <<https://www.erzeszow.pl/692-rozszerzenie-granic-rzeszowa/13520-jak-roslo-nasze-miasto.html>> accessed 16 March 2021.

²⁰⁴ 'Zmiana granica – zmiana zdania?' (*Super Nowości*, 18 May 2017) <<http://supernowosci24.pl/zmiana-granica-zmiana-zdania/>> accessed 15 March 2021.



in 2015, 96.41 per cent of the residents of Jesionka were against the incorporation into Rzeszow.

After analyzing the data on the incorporation into Rzeszow of some villages (*solectwos*) in 2005-2021, it can be noticed that:

- in most cases, residents of rural communes were against losing a part of the territory to the City of Rzeszow;
- consultations are non-binding and according to the examples, the borders of rural communes have often changed against the will of the residents.

However, there is a question considering whether the decision should be made by the residents of the entire rural commune or only the residents of a particular area (of a *solectwo*/village). For example, consultations conducted in the Tyczyn commune in 2016 showed the problem. Tyczyn commune is an urban-rural commune, consisting of the town of Tyczyn and four *solectwos*. The consultations were conducted in the entire commune: in total 57.3 per cent of the residents were against the fact that one *solectwo* (Matysowka) should be taken from the Tyczyn commune and incorporated into Rzeszow. However, in the area of this *solectwo*, 66.6 per cent of the residents were in favor of being incorporated into Rzeszow.²⁰⁵

A similar situation was in the Glogow Malopolski commune in 2019. The consultations concerned the loss of the village of Pogwizdow Nowy (*Pogwizdów Nowy*) to Rzeszow. 93 per cent of the residents of the entire commune were against the separation of this village from the commune. Nevertheless, the residents of this village conducted their separate consultations and claimed that 489 residents took part in them which amount to 39 per cent of the village residents. 402 people, representing 82.2 per cent of voters, supported the incorporation of the village into Rzeszow²⁰⁶.

Provided that consultations are non-binding and may be conducted in a part of the commune area, e.g. in one village (*solectwo*), a local referendum may be conducted only in the area of the entire commune.

The case of the Krasne commune:

- first, there were consultations;
- then, a local referendum was held in 2016 in the entire commune. High attendance: 56 per cent.²⁰⁷

²⁰⁵ 'Wyniki konsultacji przyłączenia Matysówki do Rzeszowa' (*Gmina Matysówka*, 22 February 2016) <<http://www.matysowka.pl/ogloszenia/wyniki-konsultacji>> accessed 15 March 2021.

²⁰⁶ <<https://bip.rzeszow.uw.gov.pl/wp-content/uploads/2020/04/opinia.pdf>> accessed 15 March 2021.

²⁰⁷ Protocol of establishing the result of the local referendum on the voluntary merger of the Krasne commune with the City of Rzeszów and the incorporation of the Malawa commune into Rzeszów of 23 October 2016. <<https://www.gminakrasne.pl/biuletyn-informacji-publicznej/wybory/referendum-gminne-2016/>> accessed 16 March 2021.



The first question concerned the incorporation of the entire Krasne commune into Rzeszów: approximately 62 per cent of the commune's residents were against the incorporation. The second question was about the incorporation of one part of the Krasne commune (Malawa *solectwo*). However, the residents of the entire commune voted. 1,771 people voted for the incorporation of Malawa into Rzeszów, and 2,810 people against it.²⁰⁸ Malawa was the only *solectwo* where the majority of residents voted to incorporate into Rzeszów. 515 people were in favor of incorporating into Rzeszów, and 494 people against it.²⁰⁹

Considering consultations with the residents of the City of Rzeszów, they are held very often and therefore little interest is aroused: about 1.36 per cent – 5 per cent of the residents participate in the vote. Nevertheless, about 90 per cent of voters support the expansion of the city borders.²¹⁰ Moreover, there are also critical voices claiming that the city is investing mainly in newly acquired areas, building a school, and not in the city center.²¹¹

Assessment of the Practice

Changing the borders of communes is associated with many problems. Rzeszów is not the only example. Other cities are also making efforts to increase their territory at the expense of neighboring communes. In terms of the compulsory consultation with residents, the following problem areas should be identified:

- how to solve the issue of consultations with residents, how and where to conduct them diligently;
- whether a referendum should be obligatory instead of non-binding consultations. Currently, the referendum is not obligatory. Nevertheless, at the residents request, it may be mandatory. The referendum is conducted according to the general procedure under the Act of 15 September 2000 on the local referendum;
- the problem of financing consultations and referendums. Residents do not want to submit a request for a referendum because they have to participate in the costs of holding a referendum;

²⁰⁸ The inhabitants of the Krasne commune do not want to go to Rzeszów. Full results of the referendum on the 'Rzeszów News - Information portal', <<https://rzeszow-news.pl/mieszkanicy-gminy-krasne-nie-chca-do-rzeszowa-wyniki-referendum/>> accessed 16 March 2021.

²⁰⁹ Joanna Pasterczyk, 'Gmina Krasne przeciwko połączeniu Malawy z Rzeszowem. Radni zagłosowali na nadzwyczajnej sesji, mieszkańcy są oburzeni' (*Wyborcza.pl*, 8 February 2019) <<https://rzeszow.wyborcza.pl/rzeszow/7,34962,24440970,gmina-krasne-przeciwko-polaczeniu-malawy-z-rzeszowem-radni.html>> accessed 16 March 2021.

²¹⁰ 'Public Consultations on the Change of the Borders of the City of Rzeszów' (*Bulletin of Public Information of Rzeszów*, undated) <<https://bip.erzeszow.pl/107-wyszukiwarka/2182-wyniki-wyszukiwania.html?srch-term=wyniki+konsultacji&srch-muid=w+ca%C5%82ym+serwisie>> accessed 16 March 2021.

²¹¹ For further information, see <<https://bip.rzeszow.uw.gov.pl/wp-content/uploads/2018/04/solectwa.pdf>> accessed 16 March 2021.



- changing borders is a way to enlarge cities that want to build their central position in the region. This is how cities can build their positions as metropolis in the region. This is a problem of managing metropolitan regions. There is a question considering the necessity of another top-down way to build metropolitan territorial units.²¹² However, the most common model in Poland is based on voluntary cooperation between local government units in the functional areas of cities (including metropolitan areas);
- rural communes and urban-rural communes complain that they are losing attractive areas, as well as budget revenues. Residents of rural communes are afraid of higher taxes in the city;
- whether the inhabitants of rural communes should be asked for their opinion at all, because it inhibits the development of cities.

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Bilska-Bałchank A, 'Kształtowanie granic jednostek zasadniczego podziału terytorialnego państwa na przykładzie miasta Rzeszowa [Shaping the Boundaries of Units of the Basic Territorial Division of the Country on the Example of the City of Rzeszów]' (Student scientific conference no 3, University of Warsaw) <<http://m.wspia.eu/dzialalnosc-naukowa/konferencje-naukowe/studenckie-konferencje-naukowe/5460,studentcka-konferencja-naukowa-nr-3.html>>

²¹² See report section 4 on local government structure and the example of establishing the Upper Silesian and Zagłębie Metropolis [Górnośląsko-Zagłębiowska Metropolia] as the first territorial unit of a metropolitan quality in Poland, report section 4.3.



6.3. Youth Commune Council in Poland

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Relevance of the Practice

In 2018 the European Union adopted the European Union Youth Strategy 2019-2027.²¹³ Supporting the participation of young people in civic and democratic life is one of the main strategy objectives. Building on the Strategy, eleven European Youth Goals have been formulated to address the issue of youth participation in public life. Goal 6 'Moving rural youth forward' indicates that it should be ensured that young people in rural areas are actively participating in decision-making processes. Goal 9 'Space and Participation for all' refers to ensure young people can adequately influence all areas of society and all parts of the decision-making processes, from agenda setting to implementation, monitoring and evaluation through youth-friendly and accessible mechanisms and structures, ensuring that policies respond to the needs of young people.²¹⁴

In Poland, the participation of young people in political processes at the local level takes place, for instance, through youth councils established in communes (*gminas*). The involvement in traditional forms of participation (i.e. in local elections and referenda) is possible from the age of 18. So far, there is no attainable discussion in Poland about lowering the age of people involved in traditional participation (in many countries the age of active electoral participation has been lowered to 16, e.g. in Germany, Austria).

The first youth council was established in Poland in 1990, in the City of Częstochowa (the number of inhabitants of Częstochowa is 257,000). It was an initiative of the Mayor of Częstochowa, who was inspired by the example of youth councils in France. In general, the first youth councils were established in large cities. The local law was the legal basis.

As the good governance-model in the public administration was popularized in Poland and the importance of public consultations in local government had grown, the position of youth councils was strengthened. Since 2001, youth councils have obtained a uniform legal basis as they were incorporated into the Act of March 8, 1990 on the *Gmina* Self-Government.²¹⁵ However, the commune is not obliged to establish a youth council.

²¹³ Resolution of the Council of the European Union and the Representatives of the Governments of the Member States Meeting within the Council on a Framework for European Cooperation in the Youth Field, 'The European Union Youth Strategy 2019-2027' (2018/C 456/01).

²¹⁴ More information on the European Youth Goals is available at <<https://youth-goals.eu/yg6>> and <https://europa.eu/youth/strategy/european-youth-goals_en>.

²¹⁵ Amendment to the Act of April 11, 2001.



Youth councils are bodies of consultative nature. Incidentally, it should be mentioned that in 2013, regulations concerning the appointment of senior councils in communes were added to the Act of March 8, 1990 on the *Gmina* Self-Government. Article 5(c) of the Act of March 8, 1990 on the *Gmina* Self-Government provides that '[t]he commune promotes intergenerational solidarity and creates conditions for stimulating civic activity of older people in the local community. The commune council, on its own initiative or at the request of the concerned groups, may establish a commune senior council. The commune senior council is of consultative, advisory and initiative nature.' Thus, senior councils were granted broader powers than youth councils. Therefore, there is ongoing work on expanding the competences of youth councils (more information below).

Description of the Practice

In 2017, there were 378 youth councils in communes (*gminas*) in Poland (2,478 was the total number of communes in 2017). According to estimates from 2020, there are about 500 youth councils.²¹⁶

Most youth councils were established in urban communes. In 2017, a youth council functioned in 32 per cent of cities in Poland. The smaller the town is, the smaller the probability for a youth council to be established. Small rural communes have fewer resources and there are no post-primary schools where members of youth councils are recruited from. Only about 8 per cent of rural communes have established a youth council. There is simply a lack of young people in rural communes who would like to get involved in the activities of youth councils.

Table 6: Number of youth councils in Poland in 2017

Type of commune	Number of communes ²¹⁷	Number of communes where a youth council has been established ²¹⁸	Percentage
Urban communes (cities)	302	117	32%

²¹⁶ Mateusz Morawiecki, 'Justification for the Draft act on the Amendment of the Act on the Gmina Self-Government, the Act on the County (*powiat*) Self-Government and the Act on the Voivodship Self-Government' (print no 1014, 9th March 2021)

<<https://orka.sejm.gov.pl/Druki9ka.nsf/0/FE48CF5A81CD652EC125869A003CB322/%24File/1014.pdf>> accessed 1 May 2021.

²¹⁷ Joanna Stańczak and Agnieszka Znajewska, 'Population. Size and Structure and Vital Statistics in Poland by Territorial Division in 2017' (Statistics Poland 2018) <<https://stat.gov.pl/obszary-tematyczne/ludnosc/ludnosc/ludnosc-stan-i-struktura-oraz-ruch-naturalny-w-przekroju-terytorialnym-w-2017-r-stan-w-dniu-31-xii,6,23.html>> accessed 1 May 2021.

²¹⁸ Piotr Wasilewski and others, 'Analysis of Youth Councils in Poland' (The Council of Children and Youth of the Republic of Poland at the Ministry of National Education 2018)

<<https://wschowa.info/storehouse/2018/07/Publikacja-O-m%c5%82odzie%c5%bcowych-radach-.pdf>> accessed 1 May 2021.



Urban-rural communes	621	146	23.5%
Rural communes	1555	124	8%
Total	2478	378	15.3%

The number of the youth councils' members varies from 5 to 60 (it is related to the population size). It is usually 15 youth council members (this is also the number of commune council members in communes with less than 20,000 inhabitants). It is often also 21 youth council members, which is the number in communes with up to 50,000 inhabitants. The average age of the youth council members is 17.4.²¹⁹

The procedure for selecting members of youth councils is not specified in any central act. Each commune, i.e. its representative authority which decides to establish a youth council in its area, adopts the statute of the youth council. Thus, these regulations differ from one commune to another. Predominantly, the status stipulates that the members of the youth councils are elected in elections that are organized in individual schools in the commune. The elections are ordered by the mayor of the commune. Students nominate candidates. The statutes also specify the age of the candidates (e.g. 13-18 years,²²⁰ 10-20 years,²²¹ 12-19 years²²²). The term of a youth council is usually 2 years, but there are also examples that it was set for 3 years.²²³

The small number of communes with youth councils, especially in a rural setting, remains a concern. It may be an indicator that we are dealing with a progressive aging of the population in rural areas. On the other hand, if a youth council was possible in a rural commune (even small in number), it would become an impulse to activate the local community. However, one of the most positive examples is a youth council which was established not even in the entire rural commune but in a smaller unit - in the *solectwo*²²⁴. The conditions of the Dankowice *solectwo* were not conducive to the development of youth activity. The lack of public transport and the school shutdown caused problems in building a culture of involvement in public issues. However, on the initiative of the leader of the *solectwo*, a youth council was established. Despite limited financial resources, young people led to the implementation of several

²¹⁹ *ibid* 16.

²²⁰ The Youth Council Statute of Wolomin Town, <https://wolomin.org/wpcontent/uploads/2018/09/statut_mlodziowowa_rada_miasta_.pdf> accessed 20 September 2021.

²²¹ The Youth Council Statute of Chmielnik Commune, <https://www.chmielnik.com/asp/pl_start.asp?typ=14&menu=353&strona=1&sub=315&subsub=323> accessed 1 May 2021.

²²² The Youth Council Statute of Kolbaskowo Commune, <<https://www.kolbaskowo.pl/index.php/gmina/60-mlodziowowa-rada-gminy/informacje-o-zasadach-funkcjonowania-i-celach-dzialania/785-statut-modzieowej-rady-gminy>> accessed 1 May 2021.

²²³ The Youth Council Statute of Boleslawiec Commune, <https://edzienniki.duw.pl/WDU_D/2020/3414/akt.pdf> accessed 1 May 2021.

²²⁴ A *solectwo* is an auxiliary unit of the rural *gmina* that does not have the status of local government unit and legal personality.



important projects, such as construction of a playground, renovation of the field and construction of a beach volleyball field²²⁵.

Assessment of the Practice

Youth groups have indicated for a long time that it is necessary to strengthen the legal position of youth councils. Before June 2021,²²⁶ Article 5(b) of the Act of 8 March 1990 on Gmina Self-Government only provided that:

- the commune council may have consented to the youth commune council establishment at the request of the concerned groups;
- the youth council was of consultative nature;
- the commune council, while appointing the youth commune council, gave it a statute specifying the procedure for electing its members and the rules of operation.

Youth organizations indicated that competences should have been extended and the issues of financing youth councils should have been regulated. From 9 March 2021, the process of preparing and adopting an amendment to this act continued in order to regulate the legal position of youth councils in Poland in more detail – uniformly for all local government units in Poland. This was a response not only to the appeals of the youth community in Poland, but also the pursuit of the goals of the European Union Youth Strategy in 2019-2027.

On 15 June 2021, the Act of 20 April 2021 amending the Act on Gmina Self-Government, the Act on Powiat Self-Government, on Voivodeship Self-Government and the Act on Public Benefit and Volunteer Work came into force. The act strengthened the legal position of youth councils in Poland and provided additional powers for them:

- the issuing of opinions on draft resolutions concerning youth;
- participation in the development of commune's strategic documents for youth;
- monitoring the implementation of the commune's strategic documents for youth;
- Initiating activities for the benefit of young people, particularly in the field of civic education, on the terms specified by the commune council.

It is very essential to regulate financial matters: Namely, the new law provides that 'a member of the youth council who takes part in meetings of the youth council or in an organized event

²²⁵ Przemysław Chrzanowski, 'Młodzieżowa Rada Sołecka! I wszystko jasne!' (*witryna wiejska*, 8 February 2019) <<https://witrynawiejska.org.pl/strona-glowna/projekty/item/50376-mlodziejowa-rada-solecka-i-wszystko-jasne>> accessed 1 May 2021.

²²⁶ On 15 June, a new act came into force, amending the existing provisions on youth councils: The Act of 20 April 2021 amending the Act on Gmina Self-Government, the Act on Powiat Self-Government, on Voivodeship Self-Government and the Act on Public Benefit and Volunteer Work (Dz.U. 2021 poz. 1038), <<https://www.sejm.gov.pl/Sejm9.nsf/PrzebiegProc.xsp?nr=1014>>.



at which he or she represents the commune youth council, and in the case of a minor member of the commune youth council, also his or her parent, travel costs within the country are reimbursed'.²²⁷ It is a particularly vital regulation for rural communes, as it was a barrier for young people from rural areas. It will enable members of the youth councils greater mobility and easier access to a variety of events organized away from home.

Moreover, the new law stipulates that 'the administrative and office services of the commune youth council are provided by the commune office. The costs of servicing the commune youth council are covered by the commune office'.²²⁸

Strengthening the position of youth councils is especially important for youth from rural areas, often not having equal opportunities for development compared to youth from cities. Through youth councils, it is possible to obtain a higher level of knowledge and social skills, increasing the useful soft skills of young people, their activity and involvement in public affairs.

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Maciaszek P, 'Partycypacja społeczna młodzieży na przykładzie młodzieżowych rad gmin – II' [Social Participation of the Youth in Reference to Youth City Councils – Part II] (2016) 5 *Rocznik Samorządowy* 171

Wasilewski P and others, 'Analysis of Youth Councils in Poland' (The Council of Children and Youth of the Republic of Poland at the Ministry of National Education 2018)

<<https://wschowa.info/storehouse/2018/07/Publikacja-O-m%c5%82odzie%c5%bcowych-radach-.pdf>>

²²⁷ Article 11 of this Act.

²²⁸ Article 15 of this Act.



6.4. Participatory Fund in Cities

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Relevance of the Practice

Urban Activisms

Contemporary social urban life has many dimensions. The space of urban activities is wide. There are forms of activity that have become a permanent part of urban life. They are, to some extent, structured, or sometimes institutionalized. Striving to create structures is a form of defense against ephemerality. A large part of urban activism is short-lived, active and temporary. Its activities focus on various topics. Activisms that aim at improving the quality of life get wider social resonance. Residents mobilize activity in order to articulate their interests related to the place of residence. The subjectivity of citizens in the local community is necessary. For a lasting revival of social life, it is important to institutionalize initiatives and activisms and to include them, somehow, in public management. It is important that social mobilization is articulated in the public-social dialogue. In the search for an ideal model of relations between the public authority and the inhabitants, forms of participatory democracy take their place. Its essence is the participation of residents in the city management. The co-deciding and co-management of the city is supposed to build a relationship between residents and local authorities, but also to foster the building of social capital and be a path to the subjectivity of citizens. In municipal self-governments, such forms of participatory democracy as e.g. public consultations (in situations of a severe conflict) or local initiatives (when introducing new legislative solutions) work well. In Poland, urban participation is different from rural participation. Urban participation in terms of organizational and legal forms is much less stable. Therefore, civic activity in cities is more ephemeral. Rural participation is based on tradition more than urban participation. For rural participation, the pillars are such organizations as, for example, Rural Women Circles (with over 150 years of tradition), Volunteer Fire Brigades (also operating for over 150 years). These organizations have well-developed and well-established structures, and they are well-embedded in the society. Volunteer Fire Brigades have more than 15,000 organizational units. Rural Women Circles have more than 10,000 organizational units. These are organizations with hundreds of thousands of members.²²⁹ Both Rural Women Circles and Volunteer Fire Brigades have a well-regulated legal basis. Volunteer Fire Brigades operate on the basis of *Prawo o stowarzyszeniach* (the Law on Associations) of 1989.²³⁰ The functioning of Rural Women Circles was regulated by a new law

²²⁹ Current reliable data on the numbers of members is not available.

²³⁰ The Law of 7 April 1989, *Prawo o stowarzyszeniach* (the Law on Associations), uniform text: Journal of Laws 2019, item 713.



in 2018²³¹. These organizations have a stable material basis for their activities. In Poland, a relatively new tool of participatory democracy in local government is the participatory budget.

Participatory democracy looks attractive in theoretical reflection. As the empirical research shows, 'in social practice, participation is often illusory, and the opinions of citizens are only to legitimize the decisions that have already been made'.²³² The conclusions of the empirical research boil down to the statement that 'the local government faces an important task consisting, on the one hand, in stimulating the social activity of residents, and, on the other hand, in further improvement and development of various forms of participatory democracy'.²³³

Description of the Practice

The development of civic activity entails an evolution in the conceptual grid. In Poland, the well-established term social worker begins to be replaced in urban areas by the one of urban activist. The term participatory budget is relatively new and it can be said to be still taking its shape. The term participatory budget is used interchangeably with the one of civic budget. There is an ongoing discussion on the semantic scope of the category of participatory budget. In practice, the term civic budget is more recognizable and more frequently used in social life. And in the scientific reflection, the category of participatory budget gains greater recognition. Since January 2018, the civic budget has been a statutory category. In legal and official transactions, the dominant concept is civic budget. In the light of the definition by *Leksykon budżetowy* (Budget lexicon), the civic budget is 'an informal term describing a part of the local government budget (most often the city budget), within which the predetermined amount of expenditure is allocated to investment initiatives and projects directly submitted by the local society (individually or by organizations)'.²³⁴ At the same time, it is emphasized that the idea of a civic budget is a component of the vision of civil society and is part of public governance, where public control and co-management are an important aspect. Sopot, where such a budget was created in 2011, is considered to be the precursor of the participatory budget in Poland. Since 2013, this way of spending public money in local governments has been gaining more and more supporters.

Legal Basis of Participatory / Civic Budget

²³¹ The Act of 9 November 2018 on rural women circles, Journal of Laws 2018, item 2212.

²³² Jarosław Załęski, 'Demokracja partycypacyjna (na przykładzie Gdańska)' [Participatory Democracy (on the Example of Gdańsk)] (2018) 19 *Miscellanea Anthropologica et Sociologica* 178, 178.

²³³ *ibid* 191.

²³⁴ Bureau of Research, 'Leksykon budżetowy' [Budget Lexicon] (*Sejm*, undated) <<https://www.sejm.gov.pl/Sejm8.nsf/BASLeksykon.xsp>> accessed 1 June 2021.



31 January 2018 is an important time cut-off for participatory budgeting in Poland. Prior to that date, there was no direct statutory legal basis to define and regulate this type of budget. As a result of the lack of generally applicable regulations, cities determined the goals, conditions and the amount of funds allocated to projects implemented within the participatory budget on their own. Civic budgets operated mostly on the basis of the resolutions of the city councils adopted on the basis of the provisions on public consultations (the Local Government Act, Article 5(a)(1) and (2)). The draft resolutions specifying the principles and procedure for conducting public consultations with regard to these budgets were submitted for adoption by mayors and presidents of cities. Less frequently, civic budgets were created based on the mayor's or president's orders (based on the provisions concerning the preparation and execution of the city budget by the mayor). Generally speaking, civic budgets were most often created on the initiative of the mayors of cities themselves. It is interesting what mayors and presidents of cities were guided by in initiating civic budgets in this initial period. So far, these motives have not been subject to any in-depth research. It can be assumed that it was about winning voters. Sometimes councilors were active in this area. The exceptions included situations where the structures of the social sector, such as the Commune Council for Public Benefit Activities, initiated the creation of a civic budget.

Since 11 January 2018, the civic budget has been regulated by an act.²³⁵ This act uses the term civic budget. In the light of the act, the civic budget is 'a special form of public consultation. Every year, within the scope of the civic budget, residents decide by direct vote on a part of the commune's budget expenditure. The tasks selected as part of the civic budget are included in the commune's budget resolution. The commune's council, in the course of the works on the draft budget resolution, may not remove or significantly change the tasks selected within the civic budget'.²³⁶ The legislator entrusted the commune's council with the establishment of the requirements to be met by the draft civic budget. The commune council determines the following by way of a resolution:

- the formal requirements for submitted projects (in terms of content, you can submit any projects);
- the number of signatures of residents supporting the project, where the limit is indicated (the number of inhabitants may not exceed 0.1 per cent of the inhabitants of the area covered by the civic budget pool where the project is submitted);
- the rules for the evaluation of submitted projects (it is obligatory to take into account the criteria of legal compliance, technical feasibility and formal requirements);
- the procedure for appealing against a decision not to allow a bill to be voted on;

the rules of voting, determining the results and making them public (however, in voting, it is mandatory by law to ensure equality and directness).

²³⁵ The Act of 11 January 2018 Amending Certain Acts in order to Increase the Participation of Citizens in the Process of Selecting, Functioning and Controlling Certain Public Bodies.

²³⁶ Article 1 clause 1.point b3, b4 of the Act of 11 January 2018 Amending Certain Acts in order to Increase the Participation of Citizens in the Process of Selecting, Functioning and Controlling Certain Public Bodies.



Equality of voting means that everyone entitled to vote has the same number of votes (for example, a voter can cast only one vote for the submitted projects; or, for example, there are 10 projects and each voter has 5 votes that they can cast for any selected projects). Directness is understood traditionally, that is, for example, a parent cannot vote instead of their underage children.

The municipal council determines in a resolution who has the right to vote to select participatory budget projects. Until now, the resolutions assumed that only residents of a local government unit who were at least 13, 16 or 18 years old, had at least limited legal capacity or were registered or entered in the permanent register of voters, can vote. It is assumed that all residents should have the right to participate in the vote, regardless of their age, provided that the voter has an understanding of his actions and is fully aware of them. This had been a practice before the entry into force of the Act of 2018. However, municipal councils enjoy a lot of discretion. Therefore, in the initial period of the operation of the Act of 2018, enhanced supervision over the activities of the local government unit in the implementation of participatory budgets is needed. This supervision is the competence of the regional audit chambers. Before the entry into force of the Act of 2018, the supervision in the field of participatory budgets had been the competence of the voivode.

In the light of the act, in 'communes that are cities with *powiat* rights, establishing a civic budget is obligatory'.²³⁷ Moreover, an indicator of the minimum financial resources that should be allocated for this purpose has been defined. The amount of the civic budget must be 'at least 0.5 per cent of the commune's expenditure included in the last submitted budget implementation report'.²³⁸ The new statutory solution shows that the state is a supporter of the institution of deliberative democracy. The legislator clearly provides instruments to popularize the participatory budget. The amendment to the Local Government Act, which introduced the civic budget, entered into force on 31 January 2018. In this way, the participatory budget became stabilized.

Participatory Budget as an Innovative Form of Democracy in Local Government

The participatory budget is an institution of democracy that has been developing quite dynamically in Poland for over a decade. It allows for partial socialization of the budget policy of local government units. On the one hand, it provides the opportunity to build the social capital in local governments and shows the role of residents in the local development. On the other hand, it is a form of education of citizens and an important tool of deliberative democracy aimed at improving the quality and comfort of life in the city. A participatory budget can be created not only in cities, but also in other communes. However, so far in practice it has functioned in communes with the status of cities or communes and cities. This is due to the

²³⁷ Art 1(1)(b5) of the Act of 11 January 2018 Amending Certain Acts in order to Increase the Participation of Citizens in the Process of Selecting, Functioning and Controlling Certain Public Bodies.

²³⁸ *ibid.*



fact that in Poland there is a large fragmentation of local government units at the primary level. This is reflected in their finances. Rural municipalities, which are usually smaller entities, have poorer annual budgets. For these municipalities, any depletion of the annual budget is difficult.

The participatory budget has a specific procedure (taking into account the provisions of the Act of 2018 (Article 1(1)(7)) and formed as a result of the practice) which includes the following stages:

- determination of the procedure and rules for conducting the public consultation on the participatory budget;
- promotion of the participatory budget;
- submission and acceptance of applications with citizens' projects (submitted by citizens individually or by non-profit entities);
- initial assessment and verification of submitted projects;
- rejection of applications that do not meet the specified requirements;
- appeals against the decisions rejecting the non-compliant applications;
- voting on the selection of citizens' projects;
- implementation of civic projects selected in a vote;
- evaluation of a participatory budget.

Participatory budgets in Polish cities are assessed both by the state and the social factor. I understand the concept of the social factor as all citizens participating in public life both individually (for example, by participating in local elections) and in organized forms (for example, in associations, foundations, housing communities, or housing cooperatives). The social factor also includes the local press or groups created in social media (such as, for example, the Facebook group *Przyjaciele Dolinki* (Friends of the Valley)).²³⁹ The social factor evaluates participatory budgets in the form of voting for specific projects, in the process of evaluating citizens' budgets, and in discussions in the media. Evaluation is carried out by local governments, usually in the electronic form through electronic tools created for this purpose on websites (for example, in Gdańsk there was an evaluation survey shared at the city's website; in Koszalin, an online evaluation survey and focus survey were used).²⁴⁰ A good opportunity to articulate the assessments of civic budgets are local elections, election campaigns before local elections, and meetings of local government officials with residents. In this respect, in Poland, this practice is just being formed, with the society learning how to use participatory budgets. The state factor is understood as the Office of the President of the Republic of Poland, the Prime Minister, the Council of Ministers, ministers of individual ministries, central state offices, courts, and state control institutions (the Supreme Audit Office). This does not mean that all these entities are interested in assessing participatory

²³⁹ <<https://www.facebook.com/PrzyjacieleDolinki/>> accessed 1 June 2021.

²⁴⁰ Supreme Audit Office, 'Funkcjonowanie budżetów partycypacyjnych (obywatelskich). Informacja o wynikach kontroli' [Operation of Participatory (Civic) Budgets. Information on the Audit Results] (reg no 20/2019/P/18/064/LGD, NIK 2019) 58.



budgets. So far, the Minister of the Interior and Administration has taken a position on the results of the state control of civic budgets.²⁴¹ In this short period of existence of participatory budgets in Poland, their functioning was assessed by the state factor once (in 2019). Audits of participatory budgets were carried out on the basis of the Act on the Supreme Audit Office (Article 2(2)) in terms of legality, economy and reliability (Article 5(2)).²⁴² They were analyzed by the Supreme Audit Office, or NIK.²⁴³ NIK examined whether the projects were implemented 'correctly and effectively' within the civic budget in the period 2016-2018. The survey was conducted in 262 municipal offices (cities). It is a certain test on the basis of which one can conclude about the development of the civic budget on a national scale. In particular, it was important:

- whether the resolutions of the commune council and orders of the head of the commune (mayor, city president) regarding the functioning of the civic budget were correct;
- whether the selection of the civic projects was carried out in accordance with the communes' internal law;
- whether the implementation of tasks was correct and consistent with the assumptions.

The subject of NIK's analysis was the variety of legal solutions in communes (cities). It assessed the regulations concerning the civic budget in the years 2016-2018, i.e. in the period when some relevant experience had already been acquired and, at the same time, when there were no specific legal bases in this matter. NIK concluded that 'the regulations concerning the civic budgets that were in force in cities, were not correct, as they were issued in breach of Article 5a paragraph 1 and 2 of the Local Government Act'. The violations of the act occurred in all resolutions of city councils or ordinances of mayors and city presidents. They involved:

- restricting residents' right to participate in public consultations (the act does not define the group of people entitled to participate in this procedure);
- imposing the obligation to provide the PESEL (Universal Electronic System for Registration of the Population) number during consultations;
- expanding the group of entities authorized to submit applications, e.g. by including communities, housing cooperatives and non-governmental organizations;
- defining the rules and procedure for conducting consultations in the ordinances of mayors and presidents, instead of the resolutions of municipal councils (this is the exclusive competence of municipal councils).

While NIK's assessment of the functioning of the civic fund was unsatisfactory in legal terms, in general it is considered that 'the results achieved by the cities in implementing the projects

²⁴¹ The Minister's position on the information on the audit results, in Supreme Audit Office, 'Funkcjonowanie budżetów partycypacyjnych (obywatelskich)', above, 102-105.

²⁴² The Act of 23 December on the Supreme Audit Office, Journal of Laws 2019, item 489.

²⁴³ Supreme Audit Office, 'Funkcjonowanie budżetów partycypacyjnych (obywatelskich)', above.



under civic budgets in the years 2016-2018 prove the effectiveness of this form of cooperation between residents and the authorities of local government units, even though their implementation was not always correct'.²⁴⁴ According to the assessment by the state, about 85 per cent of the projects funded out of the civic budget are implemented correctly and in accordance with the assumptions. The projects were implemented by municipal offices or local government organizational units as well as external entities such as foundations and associations. These entities were awarded grants for the implementation of tasks. The civic budget covers the cost of the construction of facilities that meet the needs of residents, mainly in the field of road, recreational and sports infrastructure. A large part of them are projects in the field of municipal economy and environmental protection, culture and national heritage protection as well as education and upbringing. Typical investments within the civic budget include the construction and renovation of roads, pavements, parking lots, lighting of municipal facilities, installation of video monitoring systems, construction of sports, recreation and relaxation facilities (such as playgrounds, outdoor gyms, parks, sports fields), construction of the cycling infrastructure (e.g. bicycle paths, parking lots). Frequently, residents also choose projects that are aimed at improving the aesthetics and making the urban space more attractive. A novelty are investments such as the installation of air sensors. NIK's report emphasizes civic budgets' benefits in the social dimension as well. It says that 'the existence of civic budgets allows city dwellers to directly participate in the decision-making process regarding the use of part of the budget funds of the local government units. Thanks to this social participation in the exercise of power by the municipal authorities, the civil society and the trust of the commune's residents in the local government and its representatives, are strengthened.'

The operation of participatory budgets is, in practice, most accurately assessed by the residents themselves. In the broad sense, participatory budgets are assessed during elections of the local government bodies. The assessment is also made in a narrower sense, somehow ad hoc, and it directly concerns specific investments within the participatory budget. The projects are evaluated by the relevant units of local government bodies (in approximately 80 per cent of the cities that were audited by NIK). The evaluations are carried out with the use of tools such as evaluation questionnaires available at cities' websites or focus research. The evaluation primarily analyzed the established procedures and the operation of civic budgets. The evaluation results were 'taken into account' when creating regulations for subsequent editions of the civic budget. In the practice so far, the evaluation of civic budgets carried out by local governments themselves can only be recognized as an auxiliary tool for assessing the satisfaction of residents with the operation of this new form of participatory democracy. There are social levels in the functioning of civic budgets that completely escape this method of research and evaluation. So far, no assessment has been developed that would include aspects such as the quality, efficiency and sustainability of the investment. The maintenance of the infrastructure created out of the participatory fund is not subject to project evaluation. It is

²⁴⁴ Supreme Audit Office, 'Funkcjonowanie budżetów partycypacyjnych (obywatelskich)', above, 9.



assumed that these facilities are maintained by a given local government unit. Due to the fact that participatory fund investments are a new phenomenon in Poland, so far many practical aspects of their functioning have not been defined.

The civic budget finances investments that cause great conflicts between residents and the local government. A well-known Polish example of a civic budget investment that has been controversial is the project implemented in the Służewiecka Valley (in the Warsaw district of Mokotów). Despite being a local investment, thanks to the media it is well-known throughout the country and is becoming a flagship example of a bad participatory budget project. It may even be assumed – if the situation develops as dynamically and argumentatively as it has so far – that it will seriously contribute to the weakening (or perhaps even discrediting) of this new institution of participatory democracy, which is the civic budget. The project implemented in the Służewiecka Valley seems to be quite correct from the point of view of the procedures carried out. It does not raise any objections in the local government units responsible for the implementation of civic projects. However, residents do not want this investment. They clearly articulate their position towards the authorities of the City of Warsaw and the Mokotów district. It is a well-organized community that communicates excellently both in social media and in direct relations. Judging by the course of the case so far, it can be claimed that the subjectivity of the residents has been completely disregarded. It is interesting how the conflict between the residents and the local government originated and why the residents do not want this investment. The project in the Służewiecka Valley was voted for by all Warsaw residents, not only those of the Mokotów area, in which the Służewiecka Valley is located. This city-wide project received 10,751 votes and was qualified for implementation. The residents of the *Służew nad Dolinką* Housing Cooperative do not want this investment because it destroys a beautiful park with well-preserved nature (beautiful trees, natural small lakes). The Mokotów area council recognized their arguments. However, the City of Warsaw does not want to abandon the implementation of this investment. It claims that the project was selected in accordance with the applicable procedures and must be implemented. It refers to a legal opinion in the light of which the failure to carry out this investment will result in the Regional Chamber of Accounts not accepting the budget of the City of Warsaw. Based on the example of this investment in the Służewiecka Valley, it can be seen that in practice the participatory fund is a difficult form of democracy. There have already been articles in the press depreciating the participatory fund.²⁴⁵

²⁴⁵ The residents protest against the construction of a playground in the Służewiecka Valley. The civic budgeting has become pathology, the *Gazeta Wyborcza* newspaper of 5 May 2021.



Assessment of the Practice

Prospects for the Development of the Civic Budget in Poland

Will the participatory budget enrich and improve the functioning of local government, will it, in the long run, become an important tool for creating social bonds and the subjectivity of residents; or will it be a short-lived experiment?

Sceptics and open opponents of the participatory budget claim that this is an ephemeral experiment. They emphasize that in Poland, local governments need other instruments that will increase the effectiveness of local government governance and improve the quality of life of inhabitants. It is emphasized that the new direction of changes in local government should be the creation of strong local government units capable of providing high-quality services for residents, and not the atomization of its financial resources.

Participatory budgeting does not arouse such interest among municipal activists anymore. It is said to have lost its freshness effect. The enthusiasm of city dwellers is also moderate, as it has not had time to take root for good yet. It seems that the need to promote the civic budget has been underestimated so far. It seems advisable to popularize participatory budgeting in educational institutions. Establishing school budgets could, in practice, shape the civic attitudes in young people and teach them how to function in the local community.

The state factor provided an important support tool for the popularization and development of the civic budget. The new statutory solution from 2018 introduced the obligation to create a civic budget in communes that are cities with county rights and the minimum amount of funds for this purpose was indicated. Although the statutory provisions concerning the civic budget in corpore are assessed as moderately successful, this amendment to the Local Government Act stabilizes this institution of participatory democracy. However, in the long run, the legal bases of the citizens' budget should be much more balanced. Legal solutions must be adapted to the capabilities of local governments (including small municipalities) and, on the other hand, protect the interests of local communities against abuse. The experience of using the participatory fund in the years to come will result in many new cases requiring legal regulation.

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