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Research Paper 6/2013

The System of the Local Self-Governments in Poland

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1. Return to tradition. Decentralization reforms in Poland after 1989

The long lasting tradition of local self-governance in Poland has been broken by the Communists after The Second World War. The Polish People's Republic has incorporated the Soviet system of administration, incl. soviet councils and its executives in all level of territorial divisions. After the reform of 1975 Poland has been divided into 49 medium-sized regions (*województwa*) and 3157 basic units (communes and cities). The system was highly centralized with the domination of vertical, ministerial structures over territorial (horizontal). The rule of unitary character of the state power has replaced the traditional Montesquie's division of powers. The state apparatus was focused on giving orders and control the implementation. All important decisions have been consulted with the ruling, also hyper centralized, communist party. The party approved all lists of candidates to local elections making them a farce. The bodies of the higher tiers supervised those on a lower level and the local apparatus, being part of a unite system, was subordinated more to branch ministries than to local soviets. Local budgets were treated as a part of central government finance and the state budget was forming very strict frames for local budgets.

The collapse of the Communism in Poland (1989) transformed a power to representatives of democratic movement lead by the Solidarity. The Polish society was ready and expected radical changes of system towards democracy and market economy. The new leaders met these expectations and the first years witnessed the rapid reforms. Reforms created foundations for the rule of law system, political liberties, protection of individual rights and free market economy in Poland. The pro-reform movement has also toughed the system of state administration. One of the first reform in this area was decentralization.

The first decentralization reform of 1990 echoed the narrow expert discussions within Solidarity movement in 80ties and linked it with the strong political wills to weaken the role of post-communist central administration and its structures and to free the civic initiatives, democratic behaviours and responsibility ("finally we are in our own home"). The reintroduction of local governments in Poland was not preceded by deep analysis, pilot programs, strategies etc. It was an expert's vision supported by politicians and followed the proved, Polish pre-war local governmental system. This reform was prepared and implemented very fast. The Tadeusz Mazowiecki's non-communist government started work in September 1989 - in March 1990 there was an amendment to the Constitution, followed by the Territorial Self-Governmental Act, Local Elections Act and other legal acts (over 100 laws/bills has been amended within first months). In May 1990 they were first fully free municipal elections. The preparation and implementation of the reform has been coordinated by the Office of the Government Plenipotentiary for Territorial Self-Government Reform.

The first, 1990-reform didn't change the territorial organization of the country, but gave the local-governmental power to communities (*gmina*) – basic territorial units with average number of inhabitants ca. 7000 people. The purpose of establishing *gminas* was not only to divide the administrative territory of the country, but also to develop local communities capable of resolving their local problems. The communities possessed own tasks, property and financial resources (ca 15% of the total GDP), free elections system and legal protection



against central administration. The state control over performance of the communities' own tasks has been limited to legality only. The new local governments showed their effectiveness and in short time they formed a real political power lobbying further decentralization.

The second serious step towards decentralization has been made after post-Solidarity parties returned to power in autumn 1997 (cabinet of the Prime Minister Jerzy Buzek). This reform was better prepared, after few years of studies, strategies, exchange of foreign and internal experiences (pilot projects, study visits, consultations etc.). When political will appeared, the reformers exactly knew what to do, but the time factor also played the important role. In 1998 the reformers had only half a year to introduce the reform and therefore there was no time for checking all solutions, the political risk has been taken. Prof. Michal Kulesza, who in December 1997 became the Plenipotentiary of the Government for the Reform of the State System, claims it was the only realistic approach:¹

“(...) The favourable moment during which the central bureaucracy (who is usually defending its position) is weak enough to allow any substantial changes, is usually very short. Question of time is crucial. If the reformers are not ready to present their concepts and its particulars exactly when it is needed and possible (from the viewpoint of the political situation), then a proper time is probably over... young democracies do not like big structural reforms, which hit economic and political interests of many parties and groupings by destroying their positions and mechanisms present in the functioning of the state, economy and politics... In 1998 the reformers had only six months to implement the reform... The main factor to guarantee the success was to maintain the high pace of work... my aim was to implement the reform even when quality would suffer... In my opinion we managed to achieve even 80 per cent of the target, which is a lot. As for the rest, it must be done by local governments in their constant struggle with state centralism (...).”

The 1998 reform finally changed the territorial organization of the country – reintroduced the medium level – districts² (*powiats*) and consolidated regions (*województwo*) (49 small regions has been replaced by 16 stronger one). New territorial units received their own scope of local-governmental power and financial resources.

In 2002 it has been introduced changes of local elections – incl. direct election of mayors. In 2003 and 2007 the system of local finances has been seriously reformed.

¹ Quotation of Michal Kulesza 2002, pp. 204-205, after Pawel Swaniewicz.

² The previously existing districts (*poviats*) has been dissolved in 1975.



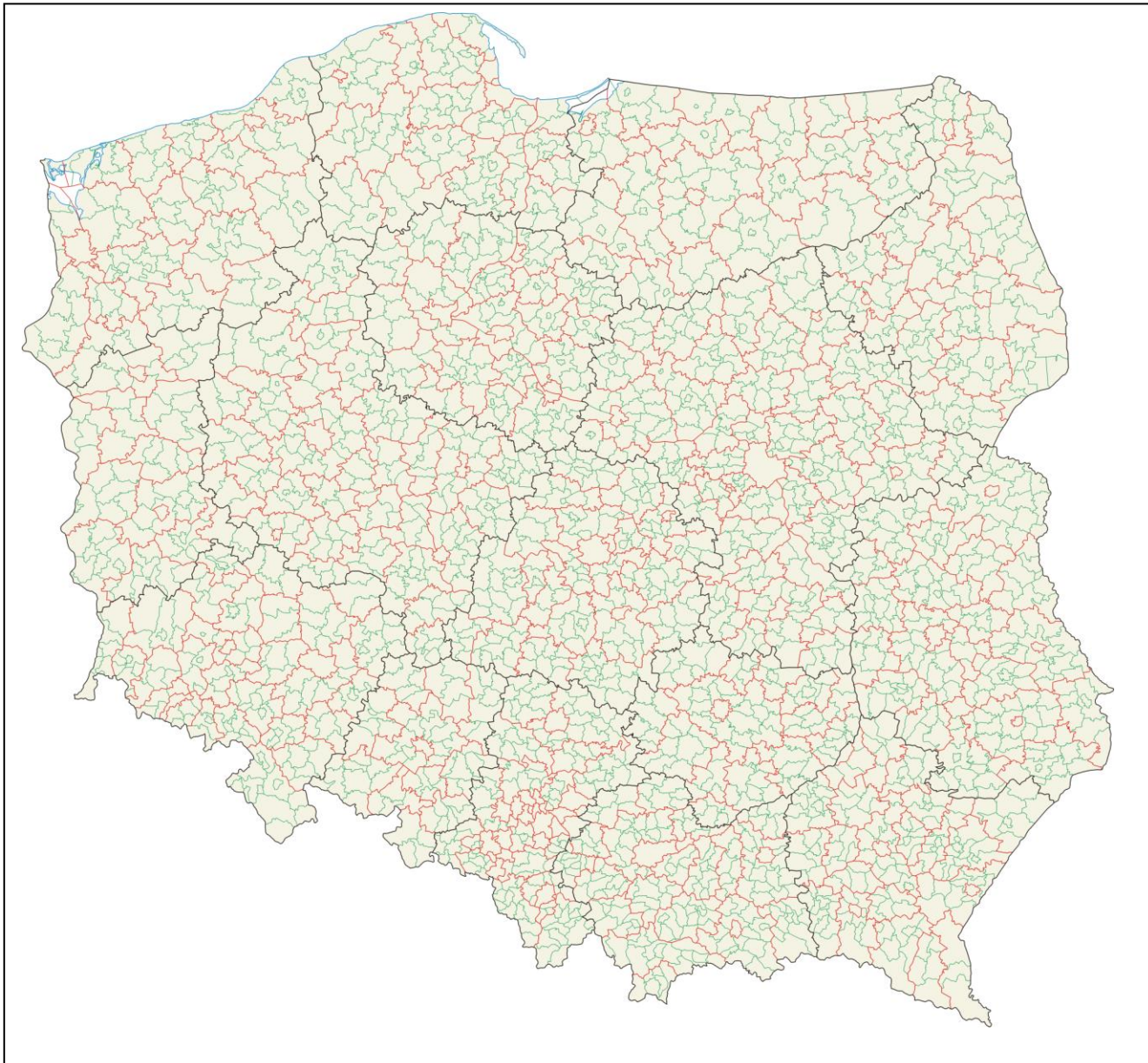
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2. Territorial division and organization of local governments





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Since 1999 there are three-tiers the local governments in Poland:

- **communities** (*gmina*) – 2 479³ (including 306 urban communities, 597 mixed urban-village, 1576 village communities)⁴
- **districts** (*powiat*) – 380 (incl. 66 urban ones)
- **regions** (*województwo*) – 16

This three level system is mainly related with the district's area (over 312 600 km²) and population (over 38 million inhabitants). The average community has over 15 300 inhabitants.

Table 1: The administrative division between state and local governmental administration in Poland

Central level	STATE ADMINISTRATION	LOCAL GOVERNMENT ADMINISTRATION
	CABINET OF MINISTRIES	
Special districts level	↓	
Regional level (Województwo / Voivodship)	INTEGRATED ADMINISTRATION headed by Voivod -Wojewoda as a representative of state ↓ Voivodship civil services, guards and inspections ↓	Voivodship local governmental administration headed by the Marshall of the Voivodship (Marszałek Województwa)
District level (powiat / povi	Poviat integrated administration (civil services, guards and inspections)	Poviat local governmental administration headed by the Starosta (who also supervise poviat integrated administration)
		Community administration headed by voit (wójt) - in rural communities), mayor (burmistrz) in urban or rural-urban communities, president (in big urban communities)

³ Numbers of units as for February 2013.

⁴ In fact there is no formal division of communities into rural and urban, but such informal division is used for statistical purposes, names of institutions etc.



Table 2: Powers of local governmental authorities in Poland

	GMINA (Community)	POWIAT (District)	WOJEWÓDZTWO (Local-governmental region)
Executive	Head of the community <ul style="list-style-type: none"> wójt (voit) in rural communities, burmistrz (mayor) in urban or rural-urban communities, prezydent (president) (in big urban communities) <p>Since 2002 is elected in direct elections for 4 years term.</p>	District Board (Zarząd Powiatu) – 3-5 members elected by the Council and headed by Starosta. NOTE: in case of 66 urban districts – the role of powiat authorities is played by the City Council and the president of the city.	Regional Board (Zarząd Województwa) – 3-5 members elected by the Sejmik and headed by Marszałek (Marshall).
Council	Community Council (Rada Gminy) Number of councillors: <ul style="list-style-type: none"> 15 (communities below 20 000 inhabitants) 23 (below 100 000 inhabitants) 25 (below 200 000 inhabitants + 3/new 100 000 but no more than 45 councillors (except Warsaw-60 councillors) <p>Elected in direct elections for 4-years term.</p>	District Council (Rada Powiatu) Number of councillors: <ul style="list-style-type: none"> – 15 (in districts below 40 000) + 2/20 000 inhabitants but no more than 29 	Regional Parliament (Sejmik) 30 members (in regions below 2 million) + 3/500 000 inhabitants
Referendum	<ul style="list-style-type: none"> - To preliminary depose the body (council or head). - To introduce special taxation for local citizens. - Other issues under the local government's own competencies. <p>Initiative: by the council or by 10% of voters.</p> <p>To be binding it requires: min. 30% of frequency and over 50% of support.</p>		

Auxiliary units:

A gmina (community) may create auxiliary units, which play a subordinate administrative role. In rural areas such unit is called **sołectwo** (in village); in towns they may be **dzielnica** (city quarter) or **osiedle** (city's settlement). The community council determines the borders and statutes of such units as well their competences. Auxiliary units do not have legal personality in their own right. The highest role plays the general assembly of citizens living within this unit (like village) and the unit is represented by the council and executive elected on the assembly (in case of sołectwo – the head is called **sołtys**). The number of auxiliary units in one commune varies from a couple up to fifty. Since 2009 the auxiliary units have



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their own budgets as part of the community's (gmina's) budgets - That part of the commune budget is called **Solecki Fund**. The exact sum of money that inhabitants of solectwo decide on is calculated on the basis of formula enclosed in the Solecki Fund Law. There are some restrictions on what money may be spend on, but generally speaking everything that commune is eligible to spend money on, may be financed from Solecki Fund. Solecki Fund may be understood as a form of participatory budget.



3. Competencies of self government in Poland

a) General rules

The Polish political system is based on subsidiary principle. The Act on Local Self-Government of 8 March 1990 states that the jurisdiction of the local council shall extend to all matters falling within the terms of reference of the municipality unless of stipulated otherwise by separate legislation. The competencies of different tiers (gmina, powiat, województwo) cannot abuse independence of others, tiers are not subordinated to each other. Public tasks can be accomplished through cooperation between local authorities. Municipalities, intercommunal unions and associations of local government units may assist each other or other local authorities including financial assistance. Obligatory tasks may be assigned only by parliamentary acts. The state administration may transfer some of its authority and responsibility by specific legislation or mutual agreement and must finance such activities in full. Local governments are granted the right of own property, have legal personality and may promulgate local law in selected areas.

b) Own tasks

Communities (gminy) are responsible for all public matters of local importance which are not defined for the benefit of others - if the law provides otherwise, the settlement of these matters belongs to the municipality. Gminas' own tasks focus on meeting the collective needs of communities for public services. Own tasks include in particular the following matters:

- 1) spatial management, property management, environmental protection and nature conservation and water management,
- 2) municipal roads, streets, bridges, squares and traffic management
- 3) water supply, sewerage, disposal and municipal wastewater treatment, maintenance of cleanliness and order and sanitation, municipal landfill management, the supply of electricity, heat and gas,
- 4) the local public transport
- 5) health care (mainly – ambulatory treatment)
- 6) social assistance, including the social assistance centers and nursing homes,
- 7) The municipal housing (incl. granting building permits)
- 8) public education (primary school and preschool),
- 9) culture, including communal libraries and other culture dissemination facilities
- 10) physical culture and tourism, including recreational areas and sports facilities,
- 11) markets and market halls,
- 12) communal green space and trees,
- 13) municipal cemeteries,
- 14) public order and safety (incl. municipal police), fire and flood protection,
- 15) maintenance of communal public facilities and buildings,
- 16) family policy, including pregnant women protection (social, medical and legal),
- 17) support and promotion of the idea of local self-governance,
- 18) promotion of the community,



- 19) cooperation with NGOs,
- 20) cooperation with local and regional communities of other countries.

Districts (powiaty). The powiat self-government is responsible for local issues which cannot be ascribed to gminas. Powiat is large enough to maintain efficiently many of everyday institutions of public life (secondary schools, general hospitals, powiat police and fire stations, sanitary inspectorates and tax offices etc.). Own tasks of districts include in particular the following matters:

- 1) public education (secondary education i.e. post-elementary schools, vocational and special schools),
- 2) the promotion and protection of health (incl. management of district hospitals, supervision and organization of sanitary services etc.),
- 3) social assistance (incl. e.g. care for homeless people, running orphanages etc.),
- 4) pro-family policy,
- 5) support for people with disabilities,
- 6) public transport and public roads (on district importance),
- 7) culture and cultural heritage protection,
- 8) physical culture and tourism,
- 9) geodesy, cartography and cadastre,
- 10) real estate management,
- 11) architectural and building administration,
- 12) water management,
- 13) environmental protection and nature conservation,
- 14) agriculture, forestry and inland fisheries,
- 15) public order and security of citizens,
- 16) flood protection, fire prevention and other extraordinary threats to life and human health and the environment,
- 17) counteracting unemployment and activation of local labour market,
- 18) consumer protection,
- 19) to maintain district administrative and public utility buildings,
- 20) defense (civil defense),
- 21) promotion of the district,
- 22) cooperation with NGOs,
- 23) perform the tasks of district services, inspections and guards.

Self-governmental voivodships (regions, województwa) are responsible for all issues of regional importance as determined by law. Voivodeship is responsible for the regional development policy programs, whose primary purpose is to ensure that the country human and material capital is put to best use. The tasks of voivodeship self-government are concentrated in three major areas: economic development, some regional public services and international cooperation. Own tasks of voivodships include in particular the following matters:

- 1) public education, including higher education,
- 2) the promotion and protection of health (incl. maintenance of regional hospitals),
- 3) culture (incl. regional cultural facilities),
- 4) social welfare,
- 5) family policy,
- 6) the modernization of rural areas,



- 7) spatial planning,
- 8) environmental protection,
- 9) water management, including flood protection,
- 10) public transport and public roads,
- 11) physical culture and tourism,
- 12) protect the rights of consumers,
- 13) defense,
- 14) public safety,
- 15) prevention of unemployment and activation of the local labor market.

c) Delegated/assigned tasks

Delegated tasks there are tasks State assign to local self-government of practical reasons, generally:

- a) **by law (obligatory)** – (details below),
- b) **by agreements (on an optional base).**

There are tasks the state administration units may delegate to the self-government on mutual agreement. Similarly, the local self-government unit may perform tasks related to the mandate of other local self-governments (municipality can perform tasks of district, self-governmental voivodship or other municipalities on the basis of agreements concluded with those entities).

“The customer” (state etc.) is obliged to transfer funds in the amount necessary to perform the delegated tasks, but the detailed rules and deadlines for the transfer of such funds shall be determined by the law imposing an obligation on the unit or perform tasks assigned by the agreements. It is also important and the fact that the 'customer' is charged to the legal consequences of failure of meeting deadlines of transfer of funds in the form of interest available to the local self-governmental unit in the amount determined for tax arrears. Property disputes are considered by courts.

Tasks delegated to the community (gmina) by law include, for example:

- tasks related to civil status (such as civil registration status, issuing a decision on the first and last names);
- tasks in the field of civil registration (including registration events);
- tasks of national defense (including keeping a register of pre-recruits, conduct defense exercises and trainings, planning and preparation of medical cover for defense needs, keeping control of subordinate units in this area, etc.);
- tasks of the civil defense (including the preparation and updating of civil defense plans, the plan for protection of monuments, evacuation plans, the creation of civil defense formations and supply them with equipment, technical means, uniforms, conducting exercises, training of civil defense formations and population of common self-defense, etc.);
- receiving applications and distribution of identity cards;
- assistance for veterans and other entitled persons who are in the difficult material conditions;
- selection of lay judges for district courts;
- keeping records of economic activities;



- to authorize the sale of alcoholic beverages;
- to provide services for people with mental disorders;
- to conduct proceedings in matters of public assemblies;
- the tasks assigned to the municipality for the organization and conduct of agricultural censuses;
- the licensing of road transport by taxi, the issuance of permits to transport people (collectively) within the municipality;
- to prepare and update the voter registers, administration and execution of tasks related to the organization and conduct of elections or referendums;
- and others.

Tasks delegated to the district (powiat) by law include, for example:

- the State Treasury property management, compensation for property taken for public roads and railways;
- regulation of the legal status of real estates;
- the collection, handling, updating and sharing of district and district's geodetic and cartographic repertoires;
- tasks of environmental protection and agriculture (including the conduct of the land merging procedures and land exchange, reclamation and protection of agricultural land, issuing a decision declaring the forest to be protective or depriving it of this character, issuing a decision on conversion of forest to agricultural land, approval of projects of geological operation, decisions within water law);
- tasks of national defense;
- tasks of civil defense;
- tasks assigned to the field of economy and transport (including keeping a register of enterprises conducting drivers training centres, keeping a register of entrepreneurs engaged in vehicle inspection station and the implementation of supervision of vehicle inspection stations, issuing licenses for road transport operations, etc.);
- the others.

Tasks delegated to the self-governmental region (województwo samorządowe) by law include, for example:

- selected Tasks of national defense (of regional importance);
- selected social issues (incl. support for associations of veterans);
- tasks of geodetic and cartographic issues (incl. monitoring of changes in land use and their grading);
- issuance of permits for wholesale trade in alcoholic beverages containing up to 18% alcohol;
- selected tasks of transport issues (control of medical examinations, issuance of license for driving examiners and supervision of state examinations);
- keeping records of agricultural producer groups and the controls of these groups;
- selected tasks within the water law (including the exercise of ownership rights in relation to public waters owned by the State Treasury, keeping records of water, water management facilities and reclaimed land);
- a number of tasks in the field of environmental protection (including for the generation and storage of hazardous substances etc.);



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- selected tasks related to tourism (such as keeping a register of tour operators and travel agents and controlling the entrepreneurs operating in this field; conducting cases related to the hotel quality certification system, keeping their records and control).



4. Local finances in Poland

The system of local finances in Poland follows several principles determined by the Constitution of Poland and by the European Charter of Local Self Governments. It includes the principle of subsidiarity and the principle adequacy - Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law. The Polish constitution state that the revenues of the local self governments are: own revenues, general grants and earmarked grants. Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate. The important role plays the principle of solidarity (the protection of financially weaker local authorities by the institution of financial equalization procedures or equivalent measures).

There are four major concepts of the financial decentralization in Poland:

- (1) fundamental role of share in PIT and CIT proceeds in own revenue,
- (2) limited autonomy and role of own LGs taxes,
- (3) unchallenged role of general subsidies as major intergovernmental transfer,
- (4) revenue equalization within general subsidies scheme.

Districts and regions have no genuine own taxes because share in PIT and CIT proceeds cannot be assessed in this way.

Table 3: Article 167 of the Constitution of Poland

- | |
|---|
| <ol style="list-style-type: none">1. Units of local government shall be assured public funds adequate for the performance of the duties assigned to them.2. The revenues of units of local government shall consist of their own revenues as well as general subsidies and specific grants from the State Budget.3. The sources of revenues for units of local government shall be specified by statute.4. 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. |
|---|

Own revenues

The Polish local governments own-source revenue constitutes about 55% of their total revenue relies – quiet typically for Central Eastern European countries - on shared taxation, namely proceeds from PIT and CIT (respectively 36.4% and 9.5% of own-source revenue).

Property tax (17.2%) and tax on legal transactions (2.9%) are most important local taxes.

Within the group of own-source revenue there are also some of taxes of less importance (3.4%), numerous fees and asset-based revenue (revenue from property, leasing and sales).



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Local self governmental revenues may also include (on facultative way) – incomes from foreign not refundable resources, resources from the EU budget (mainly structural funds and cohesion fund), other resources determined by the law.

Table 4: Own revenues common for all levels of local governments in Poland

<ul style="list-style-type: none">- income received by LG budget units, contributions from local budgetary establishments and ancillary units of LG- revenue from LG property (leasing, sales, adjacent fee, parking fee etc.)- inheritances, bequests, donations to LG units- income from fines specified in separate regulations- 5% of revenues to the state budget in connection with the delegated tasks of government administration and other tasks delegated by statute (law), unless separate regulations provide otherwise,- interest on loans granted by the local government units, unless separate regulations provide otherwise- interest on the late payment of due for the LG units- interest on funds collected from the bank accounts of local governments		
Gmina (community)	Powiat (district)	Województwo (local governmental region)
Income from local taxes <ul style="list-style-type: none">- real estate (property) tax- agriculture land tax- forest tax- transportation tax- simplified income tax deduction form (karta podatkowa)- tax on inheritance and gifts- tax on civil acts- facultative taxes (like advertisement tax) Income from fees: <ul style="list-style-type: none">- stamp-duties (e.g. alcohol license fee)- market place selling fee- visitors fee (facultative)- spa fee (facultative)- exploitation fee (collected from companies extracting minerals from deposits)- dog fee (facultative) Share in state taxes: → PIT – 39,34% → CIT – 6,71%	Income from district fees Share in state taxes: → PIT – 10,25% → CIT – 1,40%	Share in state taxes: → PIT – 1,60% → CIT – 14%



General grants⁵ (subsidies)

Local governments may spend general grants at their own discretion so the funds disbursed from the state budget are not tied to any specific purpose or activity.

General subsidy consists of 3 so-called „parts”: (1) education subsidy, (2) equalization subsidy, (3) balancing subsidy (municipalities, districts)/regional subsidy (regions).

Minister of Finance is entirely responsible for general subsidies scheme. General subsidies formula is based on objective indicators and every LG can verify if respective transfer has been properly established.

The biggest and by far the most significant grant received by local governments is **education grant** which contributes to 22.7% of total local government's revenue and has 76% share in total amount of general grants. Although education grant is not earmarked for education the functional and historical references are apparent (Herbst, 97).

This grant is allocated according to regulation issued by the minister responsible for education. There are multiple factors⁶ included in mechanism (based on algorithm) of distributing funds between recipients, including:

- number of pupils in schools and other educational institutions run by local governments; different significance is given according to the type of a school and pupils category;
- share of employed teachers according to their professional status;
- share of pupils in schools situated in small localities in total number of pupils;
- additional 20% of employed teachers' salaries to provide funds for other current spending, cost of administration and service.⁷

Inside the grant there is 0.6% reserve disbursed by the Minister of Finance.

Act on Local Governments Revenue requires that the total amount of education grant in the State budget cannot be lower than in previous year, corrected by the amount of other expenditures resulting from the shift in educational responsibilities. Mechanism of financing primary and secondary education, amount of education grant and its distribution is source of disputes between three parties: teachers' trade unions, local governments' representatives and the central government.

Majority of municipalities and districts have higher current expenditure on education than received in form of the grant and earmarked transfers for this activity. Only one city with district rights has spent on education less than received from the State. In average

⁵ The part about general and earmarked grants – after Mikołaj Stęszewski's "Intergovernmental Transfers in Poland", *Paper for the Copenhagen Workshop: 17-18 September 2009*.

⁶ Number of factors is around 40 which makes a rational debate on advantages and disadvantages of this grant virtually very tough (see: Herbst Mikołaj, J. Herczyński, A. Levitas, *Finansowanie oświaty w Polsce – diagnoza, dylematy, możliwości*, Wydawnictwo Naukowe Scholar Spółka z o.o., Warszawa 2009, 163).

⁷ Mackiewicz-Lyziak Joanna, E. Malinowska-Misiąg, W. Misiąg, M. Tomalak, *Wyrównanie dochodów jednostek samorządu terytorialnego. Możliwość wykorzystania w Polsce doświadczeń niemieckich krajów związkowych*, Warszawa; Gdańsk: Instytut Badań nad Gospodarką Rynkową, 2008, pp. 36-37.



municipality ratio of current expenditure to current transfers for education is 120%. For districts and cities with district rights this ratio is 102.1% and 133.4% respectively. Financing of education is improving which is reflected in lower share of salaries in overall spending of local governments for this activity. However an issue is that in some municipalities, especially rural units, education grant doesn't even cover costs of salaries.

Equalization grant contributes to 5.1% of local government's revenue (17.9% share in volume of general grants). This grant intends to equalize differences in tax capacity among each tier of local government and is entirely financed from the State budget, i.e. with no local governments financial input. Average tax capacity per capita is calculated for municipalities, districts and regions. According to Act on Local Governments Revenue for tax capacity computation lowering of tax rates or any relief applied or granted by local government are neutral. For municipalities one tax is not accounted for the purpose of calculating tax capacity; meanwhile two fees are included.

Regarding municipalities with tax capacity below 92% of national average for all municipalities are entitled to receive equalization part. Brackets for tax capacity equalization for municipalities are as follows.

Table 5: Level of equalization for municipalities

Tax capacity of municipality (G) as % of national average for municipalities (GG)	Equalization within the bracket
G ≤ 40% GG	99%
40% GG < G ≤ 75% GG	83%
75% GG < G < 92% GG	76%

Source: Mikołaj Stęszewski elaboration based on Act on Local Governments Revenue

Tax capacity equalization concerns also districts and regions. Some amount of equalization grant is allocated to municipalities with low population density (and tax capacity below 150% of national average) and regions with less than 3 million inhabitants.

Balancing grant (municipalities, districts) and **regional grant** (regions) amounted to 1.5% of total local government's revenue (5.3% of share in general grants). Balancing grant is mainly focused on distributing funds according to the social expenditure. In case of dividing regional grant several factors are taken into the account: unemployment rate, GDP per capita, surface of public roads per capita, expenditure on regional railways. Entitlement to these funds is also conditioned.

Balancing part and regional part is financed with equalization payments. Obligation and amount of the payments depend on tax capacity. Municipalities with tax capacity higher than 150% of national average for all municipalities are supposed to contribute to the mechanism. In case of districts and regions it's 110% of national average for their respective level.



Some municipalities are recipients of **compensating grant**. Entitlement to this grant is due to revenue decrease affected by the statutory exemptions in property tax in so-called Special Economic Zones.

Within the general grants there are also some reserve funds.

Earmarked grants⁸

Among earmarked transfers from the State, grants to carry out State delegated responsibilities play most significant role as they contribute to almost 10.3% of local governments revenue. These transfers have features of non-matching grants. According to law local government shall receive funds necessary to carry out State delegated tasks, so no contribution from local governments is required. Majority of funds is targeted for social assistance (mostly social benefits) representing 2/3 of these transfers in vast part being disbursed on tasks at the municipal level (municipalities and cities with district status).

Next group of earmarked grants consists of funds earmarked to exercise own specific responsibilities of local governments and represent slightly less than 5.1% of local governments revenue being in many cases matching close-ended grants. Capital transfers within this group contribute to 1.4% of local government's revenue which can be explained by the fact that these funds in large part are disbursements under the national and regional development policy schemes. Largest portion of grants for own specific responsibilities is allocated for social assistance (2.2% of local government's revenue) exclusively at municipal and district levels. As a general rule respective local government carrying out a State delegated task is entitled to 5% of proceeds from the exercised task.

Recently newly introduced exemptions in local property taxes are being compensated with grants categorized as current transfers for local governments own tasks. Volume of these transfers is relatively small and unimportant for local government's revenue. It's of some difficulty to qualify "compensation" grants using accepted theoretical concepts.

The last group of earmarked grants making less than 0.2% of local government's revenue are transfers resulting from agreements with the State bodies to carry out certain State tasks. Regarding type of transfer law allows for flexibility while concluding a contract.

Return income of local government units

The Polish law provides for possibilities of making financial obligations to cover local government's budgets deficits or to finance expenditures which are not covered by the annual revenue of these units. These expenditures are often related with multiannual and capital-intensive investments. The sources to cover such expenditures come from credit, loan or municipal bonds. Local authorities decide on the method of external financing taking into

⁸ The chapter about general and earmarked grants - after Mikołaj Stęszewski's "Intergovernmental Transfers in Poland", *Paper for the Copenhagen Workshop: 17-18 September 2009*.



consideration costs and non-cost related criteria (like social acceptance or social advantages of faster implementation of necessary investments etc.). The law on public finances limits the purposes of external financial obligations (e.g. covering the short-term budget deficit; financing the planned multiannual deficit etc.) as well as limit the scale of external financial obligations (e.g. the maximum total amount of all external financial obligations can not exceed 60% of LG budget revenues; the maximum costs of debt servicing can not exceed of 12 or 15% of LG budget revenues etc.). The law provides also a number of precautionary procedures. Exclusions from these rules are related with the LG contribution to UE-funded projects.

Local governments budgets.

Financial economy of local government unit is being run based on **budget resolution** adopted **for a fiscal year**. Starting from FY 2011 law provides that local government has to adopt a resolution on **multiannual financial forecast** (MFF) which is instrumental in long-term planning. MFF must cover at least FY and 3 next years has to be realistic and provide forecast of budget i.e. revenue, expenditure, result, debt

Procedure: LG executive body has exclusive initiative with the regard to preparing budget resolution and amendment to this resolution. The executive body has to present budget resolution proposal to LG council and regional auditing chamber no later than on **15 October** of the year preceding FY. Budget resolution must be passed before FY; under special circumstances budget resolution must be passed no later than on **31 January** of FY. Some changes in budget are allowed while executing budget but i.e. these changes cannot influence budget result as entered in budget resolution

Budget resolution consists of (1) budget, (2) attachments. Off-budget public sector entities and funds are covered by attachments. Within revenue and expenditure current and capital items must be presented. According to principle of transparency certain items have to be presented i.e. earmarked grants for other entities. Bonds, credit and loans inflow and repayment are separate to revenue and expenditure operations. There is important distinction between current (ordinary, on-going operations) and capital items (extraordinary, capital formation) from FY 2007. The distinction allows for easier assessment of overall position of LG economy.

Revenue:

Current (i.e. taxes, fees, general subsidies, specific grants for on-going operations).

Capital (i.e. specific grants and UE funds for investments, proceeds from sale of LG assets).

Expenditure:

Current (i.e. salaries, social transfers, grants for on-going operations, guarantees, interest on debt).

Capital (i.e. investments, purchase of shares in companies).

Although the law on public finances requires division of a budget by categories, the performance budgeting is more and more popular among Polish local governments. The



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budgets in performance orientation are attached to the budget resolutions in many cities incl. the big one like Warszawa and Kraków.



5. External control and supervision: judicial protection of local self- governance

The Polish local government performs public tasks defined by law on its own behalf. The compliance with the Polish law is supervised by central administration (Prime Minister and voivods representing the government in the region) and by the Regional Audit Chambers (in financial cases).

Supervisory bodies have right to request information and data on the local governments necessary to exercise their supervisory power. Local governments are obliged to provide to proper supervisory body resolutions of local governments units within 7 days from the date of their adoption.

Resolution of the local government authority contrary to law is void. In order to eliminate such inconsistency supervisory authority may rule on the invalidity of the resolution authority of local government in whole or in part within 30 days of its receipt. The statement from the supervisory authority of invalidity of the resolution suspends its performance it in the scope of the annulment of the day served with the decision of the supervisory, except of resolution on the appeal over supervisory decision to the Administrative Court. In the case of petty infringements supervisory authority does not annul the resolution, limiting itself to stating that the resolution was issued in violation of the law.

The supervisory authority cannot void the resolution after 30 days of it receipt. After this deadline the supervisory authority still has the right to complain on the local government act to the Supreme Administrative Court.

As regards the tasks delegated/assigned to local self-governments, the supervision refers not only to the legality of the LG acts, but also supervise appropriateness, reliability and economy. The voivod may suspend implementation of the resolution authority of the local self-governments and refer the matter for reconsideration, pointing to the identified weaknesses and the deadline. If the resolution of the LG body, taken as a result of a retrial does not follow this guidance – the voivod may repeal the resolution and issue a replacement order, notifying the competent minister. Replacement Ordinance enters into force within 30 days from the date of its issuance, unless within that time, the Minister issued another ruling in the case.

The supervisory decision has to follow the administrative procedure, need to be justified and inform the LG about the possibility to appeal to the administrative court. Supervisory decision may be appealed by the LG to the court within 30 days of its adoption. The court set a hearing no later than 30 days from the date of the complaint.

Financial matters of LGs are subject of a special supervision performed by the Regional Chambers of Audit. The Chambers are state organs to control and supervise the financial activity of the local self-governments and subjects using the public financial resources of the



LGs. The supervision of Regional Chambers of Audit refers not only to legality (+ appropriateness, reliability and economy in case of delegated tasks), but also to the compliance of the financial documentation with facts. In addition to the right to void financial resolutions of local self government bodies, the Regional Chamber of Audit have right to determine the local budget in case it is not approved by the local self-governments on time.

The compliance with the law can be also controlled by the Supreme Audit Office, administrative courts, by other competent organs and by the citizens. Anyone whose legal interest or right has been violated by a local act or decision issued by the local government units, failure to perform a function prescribed by law or taking any legal action or fact – has a right to appeal to the administrative court. A prerequisite for this measure is a prior unsuccessful call of a local authority that has been guilty of misconduct to its removal.

Empowerment (independence) of local government units in Poland is subject to judicial protection in the sphere of private law (courts), and public law (administrative court). Local governmental units have ability to sue their rights at independent administrative and civil courts. Local governments have rights to apply to the Constitutional Tribunal to check conformity of normative acts of lower rank to the normative acts of higher rank (Constitution, international agreements like European Charter of Local Governments etc., and ordinary statutes (acts/law) and to eliminate provisions adjudicated as unconstitutional from the system of law in force. The Supreme Court of Administration is adequate for sue control/supervisory acts over local governments activities.



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- Law on powiat (district) self-government (o samorządzie powiatowym), 5.6.1998.

⁹ There are over 1 000 legal acts in Poland regulating the local self governance. The most significant are mentioned in the list.



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