

CAPACITY BUILDING SESSION

Poland

Andrzej Porawski
Association of Polish Cities

Where are the system and functions of local governments primarily specified - in the national legislation or community charters

- System and responsibilities – in national legislation (Local Government Act),
- Procedures – in community charters (statutes);
- Statutes of 10 largest cities are to be accepted by Prime Minister (only in respect to legality).

General scope of competencies of councils, mayors, executive bodies of councils

- **Council:**

- Electing executive board (counties and regions only);
- Appointing unit's treasurer (on mayor's request);
- Voting salaries of mayor / board (within legal limits);
- Voting community statutes (charter);
- Voting land use master plan and specific/local plans;
- Approving yearly reports on budget execution;
- Voting budget, local taxes and fees (within legal limits);
- Deciding on debt (within legal limits);
- Deciding on municipal property (purchase / sale)*;
- Voting local/regional policies, programs and strategies;
- Voting structure and statutes of supplementary units;
- Announcing local referendum (incl. mayor's dismissal);

General scope of competencies of councils, mayors, executive bodies of councils

- **Mayor / board:**

- Executive authority (counties and regions collegial);
- Appointing unit's secretary;
- Deciding administration structure (chief of administration);
- Executing unit's budget;
- Executing council's resolutions;
- Preparing and presenting draft resolutions;
- Managing property*;
- Appointing and dismissing heads of municipal units and companies;
- Within the range of own tasks (majority) depends only to the council.

Principles of determination the number of council members

- Decided by law, proportionally to the number of inhabitants:
 - **Municipal councils: 15 – 45 (Warsaw – 60);**
(up to 20 000 – 15; 50 000 – 21; 100 000 – 23; 200 000 – 25; +3 / next 100 000, up to 45)
 - **County councils: 15 – 29;**
(up to 40 000 – 15; +2 / next 20 000, up to 29)
 - **Voivodships: 30 – (51);**
(up to 2 000 000 – 30; +3 / next 500 000)

Election system(s) of council members

- **Municipalities:**
 - General – alternative majority (1-mandate districts)
 - Cities with county rights – proportional
- **Counties** – proportional
- **Voivodships** - proportional

Term of office for elected council members and mayors

- 4 years (the same for council and mayor);

Legal character of councilors' mandate

- Free (in the far past (till XVIII century) it was imperative...)

Position of the mayor / board

- Directly elected by voters (since 2002);
- Doesn't chair the council (it elects its chairman);
- Directly elected mayor is one-person executive authority and at the same time head of municipal administration;
- In counties and voivodships the council elects first the head of collegial executive board (*starosta*, *marshall*) and then other (2-)4 members of the board (on the request of just elected head).

How the number of persons on the payroll and compensation of employees of executive bodies are determined? Independently by the council in accordance with the actual need or according to the norms set by the national government?

The number of members of executive boards in counties (3-5) and voivodships (5) are determined by law.

So only county council can differ the number in the range from 3 to 5, according to its will (e.g. „local needs“, but it's rather the result of coalition agreement).

In municipality the mayor employs his deputies, establishing their number and responsibility.

Is there a legal mechanism for the pre-term termination of the authority of the mayor? Council? Individual council members? If so, what is the reason for the pre-term termination of the authority? By whom and how the authority is terminated?

Yes (earlier elections announced within 3 months):

- 1) Mayor or council by local or regional referendum on the request of 10 % of inhabitants (voters) or mayor on the request of council or council on the request of mayor.
- 2) Mayor or council (or both in municipality) by the prime minister on the request of governor while continuously acting illegally.
- 3) Mayor or councilor in several cases determined by law (mayors' longer than 3 months absence, breaking anti-corruption law or finally convicted by court.
- 4) Councilor if was using privately municipal property.

What are the principles for the formation of the territorial foundation of communities? Have any changes in this territorial foundation been taking over the last decades? If so, for what reasons?

1. Municipalities were implemented on the basis of similar units existing in 1990. Council of Ministers may implement corrections under several legal conditions.
2. Counties and voivodships were re-created on the basis of traditional network of similar units existing until 1974. There were initially 307 counties but within 2 years under the social tension additional eight were created through division of existing ones.
3. Not big changes happened – only small corrections.

Does the country have the experience in the overall consolidation (amalgamation) of communities? How did it happen – through voluntary or administrative mechanisms?

This mechanism is legally possible as voluntary common request of two or more municipalities to the Council of Ministers (there are some conditions).

Till now one case happened in 2014 – the referendum in rural community Zielona Góra, surrounding the city of Zielona Góra (125 000 inhabitants), supported by the authorities of the city, resulted in amalgamation of these two units (they will use the legal incentive offered to those who merge – additional 5% of the share in PIT).

In case the community consists of several populated areas, does the council have any authorized persons in these populated areas? If so, how do these persons take the office – through elections? By being appointed?

1. Municipalities can voluntarily establish so-called supplementary units (settlements, districts, with directly elected councils and executive boards elected by those councils). They can execute some local tasks transferred by municipal council within the municipal budget).
2. In rural areas there are active (long tradition) so-called „sołtys” (village mayor) in each village; elected by the meeting of inhabitants. They can execute local tasks transferred by municipal council within the municipal budget, with support from the state budget.

Does the country have regional and sub-regional self-governance along with local self-governance?

How are the major powers (functions) between different levels of government distributed?

Yes (as shown before in slides 5 & 6):

Regional – voivodship;

Supplementary local (not sub-regional) – county;

Municipalities

- **main actors in local development:**
 - spatial planning; local development strategies;
 - local sectorial policies (environment, waste disposal, energy supply, social strategy, schools network, public housing);
 - water, sewage, solid waste; environment;
 - local roads; local public transportation;
 - basic education; local cultural activities;
 - social welfare; open health-care;
 - sport, recreation;
 - basic administrative services;

Counties

- **supplementary local level:**
 - secondary education (colleges),
 - other local cultural units,
 - social welfare (supplementary, advanced),
 - organisation of basic hospitals,
 - county roads,
 - fire protection,
 - building administration,
 - other local administrations (geodesy);

Voivodeships (regions)

- **regional policy subjects:**
 - regional development strategies / policies;
 - regional roads and railways;
 - ERDF planning and distribution (since 2007); (also an important part of ESF);
 - high education;
 - organization of regional hospitals;
 - regional cultural units (theatres, philharmonic orchestras, regional museums etc.)
 - regional environmental policy;
 - practically no administrative services.

Do local agencies of the state executive exist along with local government bodies? What are the principles for the distribution of the main functions between local governments and local agencies of the state executive?

Yes:

At the regional level (voivodship) – governor (voivode) – representative of central government (regional administration, legal control of local and regional government units, head of regional police and inspections);

At the county level – few inspections (epidemiologic, veterinary, food, environmental) and police.

Is there state oversight over the compliance of local governments with the national legislation and constitution?

What happens if a local government approves an ordinance, which violates the legislation? What happens with a local government, which constantly violates the legislation?

- Legal control – voivode;
- Financial – regional account chambers;

Cases:

- Single violation (decision announced illegal – right to appeal to administrative court);
- Continuous violation – request to the Prime minister, dismissal, commissioner, new elections to be announced within 3 months.

Is there public control over activities of local governments? What instruments for such control are applied? Are there legislative regulations for such control?

- referenda (including dismissal of council and/or mayor),
- all information is public (internet and direct access),
- wide range of consultations (some obligatory),
- right to present legislative proposal,
- open sessions and meetings,
- public utilities law;

To what extent council sessions are open for citizens?

Fully

Are there citizen self-organisation entities (neighbourhoods) of streets, residential blocks, etc. in the country? What do they do and how popular they are?

- Supplementary units (slide 14);
- NGOs;
- ca 1,5 mld zlotys per year spendings through NGOs;
- Another ca 3 mld zlotys per year spent through supplementary units;
- New popular actions – „civic (participatory) budgeting.

Are there local government associations in the country? What are they? What are their main tasks? What are their possibilities to influence the national government?

- 6 national (4 municipal, 1 - counties, 1 - voivodships);
- ca 25 regional and sub-regional;
- Joint Committee of Central and Local / Regional Governm.ent

How popular is inter-municipal (inter-community) cooperation in resolving common tasks? What tasks are most often resolved through this mechanism?

It's just now on the agenda!

There are two legal solutions:

- until now there were formed ca 300 municipal unions (executing specific task or service transferred from municipalities); registered by ministry of administration;
- agreements (transfer of task from one or more municipalities to another one) – there is no register;

The form of association or limited liability company is also sometimes in use.

Thanks to new approach in EU development policy the inter-municipal cooperation (in functional areas, not within administrative boundaries) is becoming popular.