

The Role of Inter-municipal Cooperation in the Process of Urbanisation in Poland

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Abstract The aim of this study is to determine the role of legal forms of inter-municipal cooperation in the process of urbanization in Poland. Characteristics of institutions which are forms of inter-municipal cooperation on the basis of Polish legal regulations were made. In the context of urbanisation such legal forms of inter-municipal cooperation as: municipal unions, metropolitan unions, municipal agreements, associations of local government units and commercial law companies were analysed. Special attention was paid to metropolitan unions, which have the greatest potential impact on the urbanisation process. The study takes into account statistical data related to those spheres of activity of local self-government units within inter-municipal cooperation, which are most related to the urbanisation process. The study formulates a thesis according to which Polish legal regulations in the field of forms of inter-municipal cooperation create optimal conditions for the implementation of public tasks related to the urbanisation process. However, in the case of metropolitan unions, it is necessary to amend legal regulations in terms of the territorial applicability of the provisions of the metropolitan law, whose legal force should be extended to the entire territory of the state, thus creating favourable conditions for urbanisation processes in other regions of Poland.

Keywords: • urbanisation • inter-municipal cooperation • local government • municipal law • Poland

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1 Introduction

The main aim of this study is to determine the role of legal forms of inter-municipal cooperation in the process of urbanisation in Poland. In order to answer the question which of the forms of inter-municipal cooperation existing in the Polish legal system play the greatest role in the urbanisation process and why, the author of this study had to cover the following issues. Firstly, the author had to review the legal forms of inter-municipal cooperation in Poland. Secondly, in order to determine which forms of inter-municipal cooperation play the greatest role in the urbanisation process in Poland, empirical research had to be carried out using official data and available statistical survey results. It is worth noting that the vector of relations between legal forms of inter-municipal cooperation may have a two-way orientation. On the one hand, the urbanisation process may give rise to the need to initiate cooperation between local government units to a greater extent. On the other hand, the already functioning institutions of inter-municipal cooperation may influence the acceleration of urbanisation processes themselves. This study does not take into account legal forms of cross-sectoral cooperation, such as: agreements of local government units with so-called other partners, consortia, clusters, local action groups and local tourist organizations, which also have a significant impact on urbanisation processes in Poland (Kostrubiec, 2020: 196-199). However, research in this area would require a separate study.

In the study, two elements of substantive character can be distinguished. The first element is a legal analysis of the provisions regulating the organisation and functioning of institutions that are a form of inter-municipal cooperation. There was made a review of those legal forms of inter-municipal cooperation which have or may have a significant influence on the urbanisation process in Poland. Therefore, such legal forms of inter-municipal cooperation were characterised as: municipal unions, metropolitan unions, municipal agreements, associations of local government units and commercial law companies. The second element of consideration is constituted by statistical data related to the functioning of entities being a form of inter-municipal cooperation. The aim was to expose those spheres of activity of local government units within particular forms of inter-municipal cooperation, which have a direct or indirect influence on the urbanisation process in Poland.

The urbanisation is generally understood as the development of cities associated with the concentration of industry and trade, which encourages the influx of population. This urbanisation process is accompanied by the expansion of urban areas and an increase in the number of urban inhabitants as a proportion of the total population (Hoffman et al., 2020: 14). It is worth mentioning here that, as the urbanisation process is accelerating worldwide, it is estimated that by 2050 two thirds of the world's population will live in cities (Wang, Liu & Zhang, 2021: 1). Consequently, the urbanisation process determines the development of residential space, the expansion of technical infrastructure, including telecommunications (Karpiuk, 2019: 39) and local public transport. The urbanisation also

results in an increase in the demand for energy and water, the need to create an optimal municipal waste management system (Borucińska-Bieńkowska, 2015: 89), and even ensuring cybersecurity, in which local government bodies play no less important a role (Karpiuk, 2021a: 616-617; Karpiuk, 2021b: 241). Meeting the needs of the population related to the process of urbanisation may to a large extent take place precisely with the use of legal forms of inter-municipal cooperation. Therefore, the thesis that will be verified in this study is the claim that Polish legal regulations in terms of forms of inter-municipal cooperation create optimal conditions for the implementation of public tasks related to the urbanisation process, but in the case of metropolitan unions it is necessary to amend legal regulations in terms of the territorial validity of the provisions of the metropolitan law, whose legal force could be extended to the entire area of the state, thus accelerating the urbanisation process in other regions of Poland.

2 Methodology

In the study first of all classical research methods and techniques characteristic of legal sciences (law) were used. The main method used was the formal-dogmatic method. Consequently, the rules of linguistic interpretation of law were mainly used to analyse and evaluate the binding legal regulations on forms of inter-municipal cooperation in the Polish legal system. The analysis of legal regulations binding in the above scope allowed to formulate *de lege lata* and *de lege ferenda* conclusions. In addition, the author used the method of analysis of official statistical data and surveys in order to determine which legal forms of inter-municipal cooperation are most often applied to achieve the objectives related to the urbanisation process in Poland, in particular such as: local public transport, municipal waste management, activation of the local labour market, road management, collective water supply and sewage disposal, which is structurally linked to the water supply and sewage sector (Czesak, 2014: 134).

3 Legal forms of inter-municipal cooperation in Poland

The first legal forms of inter-municipal cooperation, such as: municipal unions, municipal agreements and associations of municipalities, were introduced to the Polish legal system in 1990. At first they referred only to municipalities, as the local and regional self-government units operating in Poland today were established only in 1998 (Karpiuk & Kostrubiec, 2017: 19; Hoffman, 2018: 16-17). The applicable legal forms of cooperation between local government units are as follows: municipal unions, metropolitan unions, municipal agreements, associations of local government units, commercial law companies. The cooperation of local government units in the above-mentioned forms is voluntary. Polish legal regulations provide for freedom both in the choice of the form of cooperation and in the creation and liquidation of specific forms of inter-municipal cooperation (Kotlińska, 2017: 20). Depending on the goal that local government units want to achieve by undertaking joint activities, inter-municipal cooperation may take different legal forms. When its objective is the implementation of public tasks,

cooperation can take the form of inter-municipal or inter-district unions, agreements or associations of local government units. The execution of activities by local government units other than the execution of public tasks allows for the choice of other forms of cooperation. Particular forms of inter-municipal cooperation find application in urbanisation processes to a different degree. The examination of their legal construction and the results of empirical research will allow for a gradation of forms of inter-municipal cooperation in the context of their role in the urbanisation process in Poland.

The table below presents various possible forms of inter-municipal cooperation at all levels of the self-government structure in Poland.

Table 1: Legal forms of inter-municipal cooperation in Poland

	Communal government	District government	Regional government
Legal forms of inter-municipal cooperation	<ol style="list-style-type: none"> 1. Inter-communal union 2. Commune-and-district union 3. Metropolitan Union in the Silesia Province (Silesian Voivodeship) 4. Inter-communal agreements 5. Agreement with a district 6. Agreement with a region 7. Association of local government units 8. Commercial law company 	<ol style="list-style-type: none"> 1. Inter-district unions 2. District-and-commune union 3. Agreement between districts 4. Agreement with a commune 5. Agreement with a region 6. Association of local government units 7. Commercial law company 	<ol style="list-style-type: none"> 1. Agreement with a commune 2. Agreement with a commune 3. Agreement with a district 4. Association of local government units 5. Commercial law company

Source: Authors' own study

3.1 Municipal unions

Municipal unions in Poland may occur in horizontal and vertical arrangements. This means that a municipal union may take the form of an inter-communal union, an inter-district union or a district-and-commune union (Articles 64-73b of the Act of 8 March 1990 on commune government, Journal of Laws of 2021, item 1372, hereinafter: the Act on commune government; Articles 65-72 and Articles 72a-72c of the Act of 5 June 1998 on district (poviat) government, Journal of Laws of 2020, item 920, hereinafter: the Act

on district (poviat) government). However, Polish municipal law does not allow for the creation of unions of voivodships (regions), vertical unions with voivodships (regions) and unions with entities that are not local government units. Municipal unions are formed in order to perform jointly public tasks. They have legal personality and carry out public tasks in their own name and on their own responsibility. The municipal union may perform legal acts in the sphere of public law and civil law. The rights and obligations of local government units related to the performance of specific public tasks within a municipal union are transferred to the union. The decision of local self-government bodies to cooperate within a municipal union is voluntary. Polish law has also not introduced restrictions on the number of entities forming a municipal union (Zioło & Oliwa, 2016: 125). Local self-government units may be participants in several municipal unions at the same time. The creation and operation of municipal unions are not subject to territorial or temporal restrictions. Polish municipal law does not define in detail the rules concerning the system and functioning of a municipal unions, so the relevant regulations should be included in the statutes of such unions (Karciarz & Kiełbus, 2016: 69-70).

Currently, there are 314 inter-communal unions, 7 district unions and 15 district-and-commune unions registered in Poland (Source: Registers of unions of local self-government units: <https://www.gov.pl/web/mswia/zarejestruj-zmien-statut-lub-wyrejestruj-zwiazek-miedzygminny-zwiazek-powiatow-zwiazek-powiatowo-gminny>).

It should be remembered that in Poland there are 2477 communes and 314 districts. One of the largest and oldest still operating inter-communal unions is the Union of Municipalities of Opole Silesia with its seat in Opole, which was established in 1991. The Union comprises 38 municipalities, and according to its statute, the aim of its activities is “social and economic development of municipalities and the Opole Silesia region”, which may also be considered in the context of urbanisation (Kiełbus & Ziemski, 2020: 84). The analysis of the data available in the registers of unions of local self-government units, which are kept by the minister responsible for public administration, shows that in the case of inter-municipal unions, environmental protection, municipal waste management and local public transport dominate among the registered public tasks. In the case of district (poviat) unions, the main tasks carried out are those related to the computerisation of the land and building records. In the case of commune-and-district unions, which can only be established from 2015 onwards, the tasks relating to the organisation of local public transport, first of all, are realized.

The scope of activity of municipal unions in the light of the studies carried out is presented in the table below.

Table 2: The scope of activity of municipal unions

Tasks	Inter-communal unions	Inter-district unions	Commune-and-district unions
Local public transport	23	1	11
Common handling of the district's and commune's organisational units	-	-	1
Activation of the local labour market	1	-	1
Computerisation of the land and building records	-	6	-
Environmental protection	122	-	3
Water and sewage management	18	-	-
Municipal waste management	86	-	1
Gasification	14	-	-
Renewable energy sources	11	-	1
Road management	5	-	1

Source: Authors' own study

3.2 Metropolitan unions

Under the current legal status, a metropolitan union is an association of municipalities in the Silesian Voivodeship (Province), characterised by the existence of strong functional links and advanced urbanisation processes, located in a spatially coherent area with a population of at least 2.000.000 (Article 1(2) of the Act of 9 March 2017 on the Metropolitan Union in the Silesian Voivodeship (Province), Journal of Laws of 2021, item 1277). The previously applicable Act of 2015 on Metropolitan Unions contained regulations that in practice prevented the effective establishment of a metropolitan union. In light of the Act of October 9, 2015 on the Metropolitan Unions, spatially coherent sphere of the city development, which is the residence of the voivodeship governor or the regional council, could be considered the metropolitan area. The metropolitan area should have been characterised by the existence of strong functional links and advanced urbanisation processes. The Metropolitan Unions, as in France, could be created in the area where the population was at least 500.000 residents (Bosiacki & Kostrubiec, 2018: 365). The Act on the Metropolitan Union in the Silesian Voivodeship (Province) of 2017 was a response to the need to establish a metropolitan union in the Upper Silesian area, as the previous act contained solutions that did not consider the specifics of the region and the already existing forms of cooperation between local governments.

A metropolitan union has legal personality and may be established to carry out public tasks on its own behalf and on its own responsibility. Only municipalities can be members of a metropolitan union established in a Silesian agglomeration. The metropolitan union's status is regulated by its statutes, the draft of which is subject to consultation with the Prime Minister at the request of the minister responsible for public administration. The Council of Ministers decides on the establishment of a metropolitan union in the Silesian Voivodeship (Province) by way of a regulation which defines its name and the seat of its authorities, as well as its area and borders by indicating the communes which are part of the union. When issuing the ordinance, the Council of Ministers should take into account the existing forms of cooperation between the municipalities comprising the metropolitan union, functional links and the advancement of urbanisation processes, as well as the settlement and spatial arrangement taking into account the social, economic and cultural relations in the area (Article 4(1) of the Act on the Metropolitan Union in the Silesian Voivodeship). On this basis, on 26 June 2017 the Council of Ministers issued the ordinance on the establishment of a metropolitan union in the Silesian Voivodeship called "Upper Silesia and Zagłębie Metropolis" (GZM Metropolis), which is the first metropolitan union to be established on the basis of the new law. This union consists of 41 municipalities with a population of approximately 2.280.000 people, which is almost 50% of the inhabitants of the Silesian Voivodeship (Province) (Marchaj, 2018: 10).

The metropolitan union shall perform public tasks (metropolitan tasks) within the scope of: 1) shaping spatial order; 2) social and economic development of the area of the metropolitan union; 3) planning, coordination, integration and development of local public transport, including road and rail transport, as well as sustainable urban mobility; 4) metropolitan passenger transport; 5) cooperation in determining the course of national and voivodeship roads in the area of the metropolitan union; 6) promotion of the metropolitan union and its area. In addition to the above, the metropolitan union may carry out public tasks on the basis of agreements and commissioned tasks of government administration. As it can be seen from the above, metropolitan tasks correlate closely with urbanisation processes and are subsidiary to local and regional tasks performed by local government units (Marchaj, 2019: 114). The role of the metropolitan union in the urbanisation process is particularly evident against the background of the forecast changes in population number for municipalities in the Upper Silesia and Zagłębie Metropolis up to 2030 (Figure 2).

3.3 Municipal agreements

Municipal agreements in the Polish legal system may be concluded between all local government units. The basis for their conclusion is a resolution of the legislative body of the local government unit to agree to cooperate under the municipal agreement. The agreements may be only cover public tasks specified by applicable law, which belong to the jurisdiction of local government (Cieślak, 1985: 114). The essence of agreements being concluded is "entrusting" the execution, or in the case of inter-communal agreements - the transfer of specific public tasks, to another local government unit, while other units are required to contribute to the costs of these tasks. The conclusion of an agreement does not lead to the creation of a new entity having legal personality, as in the case of a municipal union. The agreements of local government units in Poland are based on the principle of voluntary participation. The analysed agreements are a public law, external and non-sovereign form of activity, although the content of the agreement depends on the will of the parties, which brings them closer to civil law contracts (Sikora, 2019: 78). As a rule, the Polish legislator has not introduced any territorial limitation, apart from agreements concluded with the participation of voivodships (provinces). In the case of provinces, an agreement may only be concluded with communes or districts from the area of that province. Certain restrictions appear only in the case of vertical agreements. For agreements between communes and a district or province, and between districts and a province, the transfer of tasks may take place only in one direction, i.e. downward (Karpiuk, 2014, p. 41). The municipal agreement is flexible form of inter-municipal cooperation. The Polish legislature has not introduced procedural requirements for the conclusion of these agreements. In particular, there is no need to adopt organisational documents such as, for example, a statute (Jagoda, 2019: 61). However, the agreement must be published in the regional official journal.

Municipal agreements in the Polish legal system may occur in horizontal and vertical arrangements. The group of horizontal agreements includes: 1) inter-communal agreements (Article 74 (1) of the Act on communal government); 2) agreements of districts (Article 73 (1) of the Act on district government) and 3) agreements of provinces (regions) (Article 8 (2) of the Act on regional government). The group of vertical agreements includes: 1) agreement on the transfer of tasks to a district or commune by the province (Article 8 (2) of the Act on regional government); 2) agreement on the transfer of tasks to a commune by the district (Article 4 (5) of the Act on district government).

There is no register of municipal agreements in Poland. In the light of the surveys, in the framework of which questionnaires were sent back by 849 communes (34.25% of all communes in Poland) and 140 districts (44.59% of all districts in Poland), among the dominant fields related to urbanisation, within the framework of which communes and districts concluded agreements, it should be indicated in the case of communes: public

transport (21%, 100 inter-municipal agreements); education (19%, 94 inter-municipal agreements); social welfare services (12%, 59 inter-municipal agreements); waste management (10%, 48 inter-municipal agreements); water and sewage management (9%, 44 inter-municipal agreements). In the case of districts, most agreements were concluded in the fields of: social welfare services (43%, 101 inter-district agreements); public transport (20%, 47 inter-district agreements); education (8%, 19 inter-district agreements); entrepreneurship and labour market (7%, 16 inter-district agreements) (Source: Porawski, 2013: 25).

3.4 Associations of local government units

Associations can be established in Poland within communes, districts and provinces (Article 84 (1) of the Act on communal government; Article 75 (1) of the Act on district government; Article 8b (1) of the Act on regional government). In the case of communes, the legislature set out the condition that associations may be created by communes in order to support the idea of local government and defend common interests. Associations formed by districts and regions can be established primarily in the sphere of culture, economy and environment protection (Kostrubiec, 2020: 194). An association obtains legal personality upon entry into the National Court Register and is a separate legal entity. Local government units have the freedom to decide on participation, seceding or termination of the association. Local government units may independently define the association's goal, structure and programme. In addition, the goals of associations created by local government units must be long-term. The organisation, tasks and manner of operation of associations are to be set out in their statutes. Under Polish law, associations of local government units are not corporations of public law. It is not possible to transfer to them any powers of a sovereign nature. Associations may not be established to jointly perform public tasks. The local government units may entrust the association with performing the unit's tasks, but it still has the possibility of independent fulfilment of these tasks and is held responsible for this. Associations of local government units may pursue an economic activity on general terms and allocate the income for the achievement of statutory objectives.

In the light of the surveys, in the framework of which questionnaires were sent back by 849 communes (34.25% of all communes in Poland) and 140 districts (44.59% of all districts in Poland), the leading area of cooperation within associations of local government units includes local social and economic development: communes (14%, 77 associations), districts (13%, 17 associations) (Source: Porawski, 2013: 42).

3.5 Commercial law companies

In the Polish legal order system, commercial law companies are a form of inter-municipal cooperation mainly in the sphere of municipal management. In this form of cooperation, public utility tasks are implemented which aim to meet the collective needs of the

population in a current and uninterrupted way by providing publicly available services (Article 1 (2) of the Act on municipal management, Journal of Laws of 2021, item 679). The category of public utility tasks includes matters of real estate management, water supply, sewerage, municipal sewage disposal and treatment, maintenance of cleanliness and order, landfills, municipal waste disposal, heat supply, local public transport, health care and social welfare (Wojtkowiak, 2018: 74). In the sphere of public utility, local government units may create limited liability companies or joint stock companies and join such companies. Beside the sphere of public utility, a commune may establish or accede to commercial law companies only in strictly statutorily defined cases, which in particular are the unmet needs of the community on the local market, or the pursuit of banking, insurance or education activities (Article 10 (1-3) of the Act on municipal management). As regards districts, the possibility of creating or accession to companies outside the sphere of public interest was excluded. The province (region) may, in turn, establish commercial law companies outside the public sphere only in the area of promotional, educational, editorial and telecommunications activities for the development of the region (Article 13 (2) of the Act on regional government).

In the light of the surveys, in the framework of which questionnaires were sent back by 849 communes (34.25% of all communes in Poland) and 140 districts (44.59% of all districts in Poland), the leading areas of cooperation in the framework of commercial law companies are, in the case of communes, waste management (13%, 107 commercial law companies), water and sewage management (12%, 105 commercial law companies) and entrepreneurship and the labour market (15%, 124 commercial law companies). However, in the case of districts, the leading areas of cooperation within commercial law companies may include local social and economic development (23%, 21 commercial law companies) and entrepreneurship / the labour market (20%, 18 commercial law companies) (Source: Porawski, 2013: 35).

4 Conclusions

The considerations contained herein allowed drawing conclusions that have formed the basis for a positive verification of the main thesis. In accordance with the thesis, Polish legal regulations regarding forms of inter-municipal cooperation create optimal conditions for the implementation of public tasks related to the urbanisation process. However, in the case of metropolitan unions, it is necessary to amend the legal regulations in terms of the territorial applicability of the provisions of the metropolitan law. Its legal force could be extended to the entire territory of the country, thus accelerating the urbanisation process in other regions of Poland.

The conducted research shows that in the case of a municipal union, the task that appears in all configurations of this form of inter-municipal cooperation is the organisation of local public transport. The fulfilment of this task is undoubtedly connected with the urbanisation process. As can be seen from the conducted research, the local public

transport is the basic public task in the case of 73% of registered district-and-commune unions. In the case of both inter-communal and inter-district agreements the tasks that appear are public transport, education and social welfare services. The leading area of inter-municipal cooperation within associations of local government units is local social and economic development. On the other hand, commercial law companies are most frequently used in the context of urbanisation processes in the case of communes in the fields of waste management, water and sewage management and entrepreneurship and the labour market. In the case of companies established by districts, activities in the sphere of local social and economic development as well as entrepreneurship and the labour market come to the fore in connection with the urbanisation process. Nevertheless, the Polish legal system does not give freedom in choosing the purpose of business activity undertaken by local government in the form of a commercial law company, which makes it difficult to independently identify the needs of the local government community.

However, irrespective of the above-mentioned forms of inter-municipal cooperation, it should be stated that the urbanisation process is influenced to the highest degree by the process of metropolisation. From this point of view, the metropolitan union should be the most desirable and play the greatest role as one of the most momentous examples of a legal form of inter-municipal cooperation. This is because metropolisation is the most dynamic process that contributes most effectively to the urbanisation of communes within the metropolitan area. In view of this, it would be appropriate to postulate amendments to the provisions of the Metropolitan Act to give it such content as would be appropriate for the majority of provinces. Implementing the above proposal *de lege ferenda* would enable local authorities to pursue an appropriate policy of sustainable development, which would contribute to the urbanisation of other regions in Poland.

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