

MUNICIPAL COMPANIES IN POLAND

Łukasz Żabski

Faculty of Engineering and Economics, Wrocław University of Economics, ul. Komandorska 118/120
53-345 Wrocław, Poland

Abstract

The main aim of this article is to present the characteristics of municipal companies in Poland. To achieve that purpose the analysis and critique of the literature, as well as an analysis of the structure of the municipal sector in Poland, based on the statement of the Ministry of Treasury, were made. Descriptive and statistical method were used in the interpretation of the study. In addition, key measures are shown in tables and graphs.

Key words: *municipal economy, companies, municipal companies*

1. INTRODUCTION

Since the beginning of economic transformation in 1989 in Poland the separation of tasks between public property and public authorities has been made. Thus, the process of market reforms of the public sector was started. Its aim is to continuously improve the efficiency of performing the tasks important from the society point of view, also the management of municipal property by local government units and the application of market mechanisms used successfully by the private sector.

In the current system of law, local government units can perform their tasks through their own organizational units or other entities entrusted to operate within a certain range. Local government authorities are equipped with the competence to choose the appropriate legal form for carrying out activities aimed at providing public services. The delegation of tasks related to community service delivery does not relieve local governments from the obligation to meet the needs of the community in other areas imposed by the legislature.

The basic act regulating the issue of municipal economy is the Act of 20 December 1996 on municipal economy. This Act sets out the principles and form of implementation by local government units their own tasks, to meet the needs of the local community.

Local government units perform their own tasks in order to meet the needs of the local community. In particular, these are matters of public utility which essence is current and uninterrupted provision and delivery of public goods and services. In accordance with applicable laws, municipal management conducted by the local government can take many forms. However, the most common choice is a form of commercial companies. They now form an important part of the municipal sector, as they favor more effective management of assets LGUs and contribute to the development of local communities.

2. FUNDAMENTALS OF THE MUNICIPAL ECONOMY

In the national literature municipal services is recognized in three main aspects: economic, legal or Community level, which basically intertwine, thus providing for public municipal services. According to M. Bałdyga "formulating the definition of the activities of public utility, we can point out, guided by the literal interpretation that this activity is to benefit the general public and not intended to be profit maximizing" (Bałdyga 2008). Therefore, the municipal economy should be measured in terms of non-profit and aimed to achieve social goals.

However, due to the development of society, some public sphere began to be firmly embedded in the economic dimension, which in turn caused the municipal economy came to be seen as a business. On

the other hand, from a legal perspective, public utility and its economic factors are not the main point of reference.

In fact community activity is seen as all activities of the municipalities in the implementation of its own tasks and commissioned, which is an expression of the state's functions understood as the common organization of public authority subject to the constitutional requirements of legality in the exercise of state functions (Grzymała 2011). However, in the Community aspect it is emphasized that municipal economy is performing its own tasks to meet the needs of communities living in the territory of the local government units. According to the art. 16 of the Polish Constitution self-governing community of law is the whole of basic territorial division units residents. In addition, local government equipped with a public authority carries out public tasks on their own behalf and on their own responsibility (Constitution 1997). Therefore, the main aim of municipal is the basic needs of community residents realization.

In the Act on Municipal may be found a legal definition of municipal economy. It includes in particular the task of a public utility aimed at current and constant satisfaction of collective needs of the population through universal service provision. Constitutional basis to perform these tasks is an art. 163 of the Constitution, which directly shows that the government shall perform public tasks not reserved by the appointed legislation or statutes to other public authorities.

Having regard to three-tier division of local government units, following features of public utilities are distinguished (Rakoczy 2010):

- includes its own tasks performed in order to meet the collective needs of the local community, in particular the services of public utility,
- tasks should serve the current and constant supply of municipal community goods
- own tasks are carried out by the universal service provision.

Own tasks, included in the definition, associated with meeting the needs of the local community, relate to the tasks assigned to local government units that are provided for in the structure laws. In Art. 7 paragraph. 1. Act of 8 March 1990. Local Government tasks are related primarily to the economic governance, economy, real estate, environmental and nature conservation and water management, municipal roads, streets, bridges, squares, road traffic organization, water supply and water supply systems, sewage, local transport, maintenance of municipal buildings and public utility and administrative facilities (Local Government Act 1990).

This catalog does not include all the tasks assigned by law to the municipality. A more complete set of unit own tasks is located in Article 7 of the quoted law. In turn, public tasks carried out by the district of a supra are presented in Art. 4 of the Act of June 5, 1998 on the county government. Tasks assigned to the voivodship are in Art. 14 Act of 5 June 1998 on Province Self-Government.

3. THE ESSENCE OF MUNICIPAL COMPANIES

In the Polish legal system of local government units can perform their tasks through their own organizational units or other entities entrusted to operate within a certain range. Local government organs have been equipped with the privilege of choosing the right legal form for carrying out activities aimed at providing public services.

The legal basis is the Act on municipal government laws and regulations. According to these local governments can form a limited liability company or joint stock companies, as well as join such organizational-legal forms of business entities (Law on municipal 1996). However, the legislation also contains restrictions on the conduct of commercial activities by these entities.

The concept of a public utility company is not defined under the law. In the Act on Municipal there are only the terms "company with the participation of local government units" and "a wholly-owned local government units". Also in the art. 13 paragraph. 1 invokes the law was used the term "company" imposing on it a duty to develop the Rules of use of the services provided. This provision applies to

companies performing tasks in the field of public utilities. It should be added that regardless of the number of local government participation in the company, such company must develop regulations, approved by the executive body. Regardless of the composition, ie. Whether its shareholders are others, eg. Private individuals. Similarly, in the case of partnerships - also they should be treated as municipal, when the government has a stake. W. Gonet believes that a company should be considered municipal entity regardless of the number and the share of local government units (Gonet 2007).

Literature distinguishes different ways qualifications as municipal entities. By S. Dudzikiem it can be assumed that the municipal company (municipal company) is an entity which:

- shall perform public tasks within:
 - Energy (heating, gas, electric power)
 - Transportation (roads, lighting, public transport).
 - Shaping and environmental protection (water supply, sewerage, sewage treatment, urban greenery).
- is under the power of local government units law,
- equipped with public property, which generates power to local government units to invested assets (Dudzik 1998).

Polish municipal companies are entities whose function is regulated in the Code of Commercial Companies. They can be created for any purpose permitted by law (the Commercial Companies Code 2000). However, the legislator in Art. 1. paragraph. 2 of the Act on Municipal defined target companies with participation of local government units operating in the field of general interest as current and constant satisfying the collective needs of the population.

The basis of the company's operations with the participation of local government units is an agreement or instrument of incorporation of the company (in the case of one-person companies) or the company's statutes passed by the legislative body of local government.

Establishment of a municipal company can be divided into 4 different ways. In the first method, the government is obliged to privatization processes converts municipal enterprise in the company. In the second method, it creates a new economic entity. In a third method municipality joins an already existing entity. In the fourth and final method transforms local government budgetary establishment into a capital company.

The capital companies with the participation of local government are separate legal entities. However, their nature can differentiate superior relations system by local government authorities, ie. council and the mayor (mayor, city president). These authorities have a definite impact on the business law companies. Constitutive organs of local government units decide on:

- creating and joining the companies,
- leaving the companies,
- solving of companies,
- rules for contributions, sale of shares by the mayor (mayor, city president).

Utility companies operate through their organs, which include:

- meeting of partners or the shareholders' meeting, in the case of a joint stock company,
- Supervisory Board
- Board of Directors.

Function of the partners meeting or general meeting of shareholders in single-utility company, perform local government executive organs, or the president, the mayor and the commune administrator, or individuals with a power of attorney of the owner. Their powers include the right to sell or lease of the

company, to establish a right of use or right to acquire or sell property if the partnership agreement provides otherwise. Apart from that, by resolution of the general meeting of partners / shareholders there is a change of the association articles, ownership transformation or dissolution of the company (Trojanowski 2013).

Supervisory boards of companies with the participation of local government units subject to the provisions of the Commercial Companies Code, subject to the provisions of the Act on municipal services. In practice, this means that the rules concerning the powers and duties of the supervisory board in companies are equivalent to the supervisory authority in local government companies. Mandatory establishment of the supervisory board of municipal companies is primarily used to ensure proper supervision on the use of public funds in accordance with the principles of proper economy (Misterska-Dragan 2004). For this purpose, the Supervisory Board supervises its activities in all aspects of the company's operations.

The Board of the municipal company can be carried out by one or more individuals and the term of office of its members should be specified in the agreement or articles of association of the company. In case you have not adjusted to the provisions on how to represent the company, is to apply the Code of Commercial Companies, in accordance with which to make representations on behalf of the company is required for two members of the Board or one member together with a proxy. The basic duties of the board should include primarily running the company and representing it outside. Tasks of the board result from the provisions of the Codex and the agreement / the company statute.

4. NUMBER OF MUNICIPAL COMPANIES IN POLAND

Local government units in Poland are obliged to submit to the Ministry of the Treasury reports on the restructuring and privatization of municipal property. Data collected by the Ministry allow for an analysis of organizational transformation, structural and ownership, especially in the public sector privatization of the national economy.

Obtained research material is presented in Table 1.

Voivodship	2010		2011		2012		2014	
	Comp- nies ltd.	Joint stock compa- nies	Comp- nies ltd.	Joint stock compa- nies	Comp- nies ltd.	Joint stock compa- nies	Comp- nies ltd.	Joint stock compa- nies
Lower Sile- sia	210	43	231	48	218	47	261	52
Kujawy- Pomerania	140	20	143	17	139	17	143	19
Lublin	76	5	92	13	95	10	110	11
Lubuskie	72	14	90	14	90	14	88	14
Łódź	121	20	144	18	150	19	144	19
Małopolska	144	48	145	39	166	43	166	44
Mazovia	61	5	132	26	160	25	202	26
Opole	65	4	67	4	74	5	66	4
Pod- karpacie	70	12	96	14	131	24	108	20
Podlasie	49	3	53	4	58	6	62	5

Pomerania	203	23	212	24	240	24	238	22
Silesia	256	105	259	110	287	112	289	117
Świętokrzyskie	62	14	65	12	70	16	71	16
Warmia-Masuria	145	11	157	11	115	12	115	12
Wielkopolska	250	32	280	29	263	20	299	24
West Pomerania	134	14	146	14	146	15	150	14
TOTAL	2058	373	2312	397	2402	409	2512	419

Figure 1. The number of municipal companies with limited liability and joint stock companies by voivodships in Poland.

Source: Ministry of State Treasury.

The above table shows that the most common form of operating municipal management in all provinces were limited liability companies. In 2011, they recorded a large increase compared to 2010. In the following years, the upward trend persisted.

The least of incorporated companies existed in the municipal sector. This proves that local governments choose more efficient way of using municipal property for the proper execution of the tasks of local government. In addition, dividends derived from commercial activities are a potential source of revenue for local governments. A smaller share of joint stock companies in the municipal sector may result from the necessity of incurring substantial financial resources, as well as the difficult process of their creation.

Considering the particular voivodships number of municipal companies, it may be noted that at the end of 2013, the largest number of companies operating in the region of Silesia (406), Wielkopolska (323) and Lower Silesia (313), Mazowieckie (228) and Pomorskie (260). In turn, least of utilities has in Świętokrzyskie (87), Opole (70) and Podlasie (67). Therefore, one can conclude that in provinces with larger surface area and a higher number of counties and municipalities within their boundaries there is more municipal companies providing services to the residents.

CONCLUSIONS

In Poland, local government units may lead public utilities in several forms. However, based on the tables prepared by the Ministry of the Treasury, as well as their own research on their nature and the number it can be concluded that local governments more often entrust the execution of tasks in the field of municipal commercial companies. This is due to not only their important social role, but also the specific nature of the operation, which allows for rational and efficient management of the assets of local government to carry out its own and commissioned tasks.

Among the organizational-legal forms of companies with the participation of local government companies with limited liability dominate. A smaller share in the municipal sector represent joint-stock companies.

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