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Normative Frameworks of Decentralisation and Intergovernmental Fiscal Relations:
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Poland: Between ideology of local autonomy and pragmatic convenience of central control

The set of questions asked by the seminar organizers seems to assume the coherent and conscious vision which is implemented in the architecture of inter-governmental fiscal relations. I have serious doubts whether this assumption is really fulfilled in Poland¹.

On the one hand, at the beginning of the political transformation of 1989/1990 decentralization was almost identified with democratization. This is easy to understand, remembering the extremely centralist nature of the communist regime. It is not a unique Polish phenomenon either, but it is rather characteristic for countries enjoying the democratic transition. As Coulson and Campbell (2006) wrote on Central-East European countries:

In most of the transitional countries a De Tocquevillian myth of localism had flourished in opposition circles in the years preceding the fall of the Communism, in which local self-government was to be the incarnation of civil society and everything that the regime was not.

But Hesse and Sharpe (1991) made similar observation on (than) new democracies in Greece, Portugal and Spain where centralization was often identified with authoritarian regime. On such a background the popular (verbal) support for decentralization and local autonomy is almost self-explanatory. On the top of this, there has been an influential lobby of “founding

¹ I have also reasons to doubt whether it is met in several other countries, but his paper is focused on the Polish reality, largely ignoring broader international context.

fathers” of Polish decentralization reforms – mostly university professors, originating from Solidarity opposition of 1980s, who have been (and still are) very active advocates of local autonomy². Finally it should be mentioned, that it is almost commonly accepted, that decentralization has been among the most successful Polish reforms, which Poland should be proud of. Local politics in Poland – which is perhaps the least partisan among all European countries³ (Fallend et al 2006, Swianiewicz and Mielczarek 2005) - is often presented as positive alternative to the compromised central political scene. This type of narration has dominated the public discourse of local government, providing the positive ground for local autonomy.

But on the other hand, there are forces which act in an opposite direction, ie. of imposing central level control over the local governments. One of them is central level bureaucracy in sector ministries, who does not want to lose its power of control. It is very influential when it comes to preparation of acts to be adopted in the Parliament. Second, the populist anti-establishment discourse identifying political elites with corruption, selfish behaviour and other negative features. This discourse often calls for central control over not accountable local politicians. Thirdly, as Polish sociologists identify, the Polish political culture is rather egalitarian, and the demand for equal access to services often calls for more state responsibility for the quality of services which are delivered by local governments. And this demand implies tighten control from the centre.

The actual development is an incoherent result of these contradictory forces. Moreover, all of these positions are not clearly spelled out in any political programmes or ideological manifestos. Nevertheless they may be indirectly identified in the public discourse. The difference of the language used by the last two central governments is a good illustration of the difference. The Law and Justice (PiS) government under the leadership of Jarosław Kaczyński (2005-2007) provides an example of the lack of trust towards decentralized institutions. Ambivalent attitude towards strengthening regional governments (including attempts at introducing of veto power for government appointed governor in case of decisions on allocation of structural funds), changes in local electoral law which were subordinated to the logic of political games on a central level, or suggestion to limit number of terms the mayor may stay in his/her office are just examples of this attitude. The change of governments to Civic Platform (PO) led in 2007, marked also change of the language of the decentralization discourse. The new government made further decentralization (including

² Their decentralization manifestos in English language version can be found in: Kulesza 2002, Regulski 2003.

³ Close to 80% of mayors and councillors do not identify themselves with any of national political parties. They even refuse to call themselves “politicians”, since political is identified with “partisan”, and parties are very unpopular in the eyes of public opinion (Swianiewicz 2009). This naïve stereotype of de-politicised local politics is a very interesting phenomenon, is somehow important as the background of issues discussed in this paper, however the broader discussion of this phenomenon goes beyond the scope of this paper.

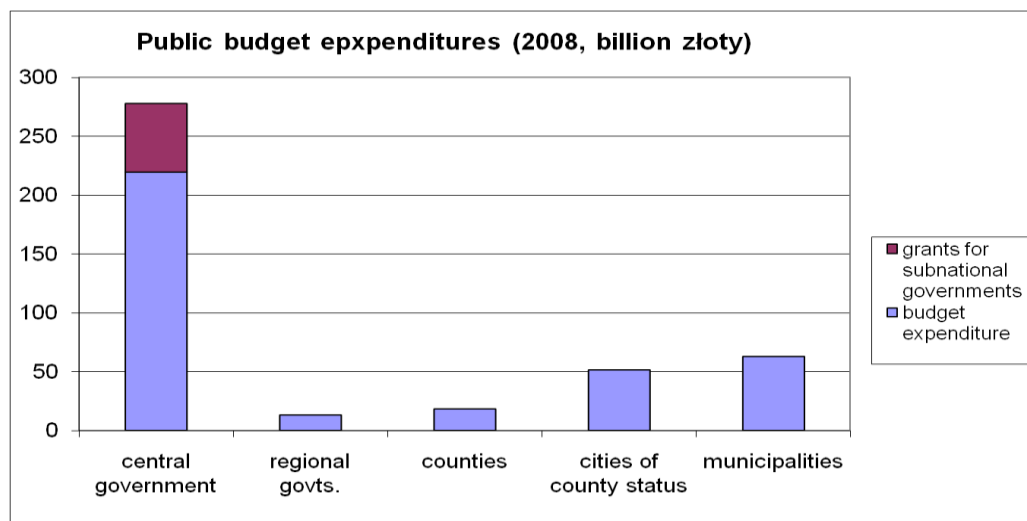
promises of enlarged competencies for regional governments and deregulation of local services) one of the flagships of its political agenda. Another thing is that these widely announced plans found little confirmation in actual legislative changes over subsequent two years, but at least the language has changed significantly to more favourable towards decentralization.

Fiscal or Administrative Federalism?

Even if actual situation is not entirely the result of the implementation of the consequent and coherent vision, but rather a result of contradictory forces, we may say that the outcome is much closer to the concept of administrative than a classic fiscal federalism.

Polish local governments are responsible for a wide range of functions. Comparing with other countries of Central and Eastern Europe, Polish local governments spend the highest share of annual GDP (over 12%). The system consists of three elected sub-national tiers, among which the lowest (municipal) is by far the most powerful – both in terms of functions and financial discretion (see also fig 1.).

Fig. 1.



The scope of local government functions goes well beyond the classic public goods (as it is suggested by the fiscal federalism model), but it includes also serious involvement in the delivery of social welfare services, including:

- pre-school and school education (including responsibility for organizing the school network and paying teachers' salaries);
- health care (responsibility for maintenance of the buildings and organizational issues; current costs are financed by the separate health insurance fund);

- several responsibilities related to social protection, such as taking care of disabled, programmes for unemployed etc.

Sub-national governments (mainly regional, but also lower tiers) is also heavily involved in implementation of European regional policy. Above a quarter of EU structural funds for Poland is managed by the Regional Operating Programmes, which are controlled by the elected regional governments. In that way⁴, local governments are involved into the multi-level governance system.

Local autonomy and its limitation in various segments of the inter-governmental finance architecture

This section presents the blends of local autonomy and central control (regulations) in the major elements of local government revenues.

Local taxation caps

Municipal tier is the only one which enjoys limited power of taxation in Poland. The remaining tiers of sub-national governments (counties and regions) are financed through the mixture of tax-sharing, general and specific purpose grants.

The most important one is a property tax, which is collected both from built-up and un-built plots of land (except of agriculture land) and which provides more than half of all municipal revenues from own sources. With some exceptions, the property tax is not directly related to the value of the property but it is paid per square meter (with different rates for commercial and housing properties). In practice, due to variation of rates, about 80% of property tax revenues are collected from commercial entities. The other (much less significant) municipal taxes include: agriculture tax (which depends on the quality of soil and is related to the market price of crops), forest tax (levied per hectare), tax on motor vehicles (currently levied only on lorries, busses and tractors), market charge (levied on sellers on designated market places), tourist tax (levied on tourists spending nights in tourist attractive places) and couple of others of a very minor importance.

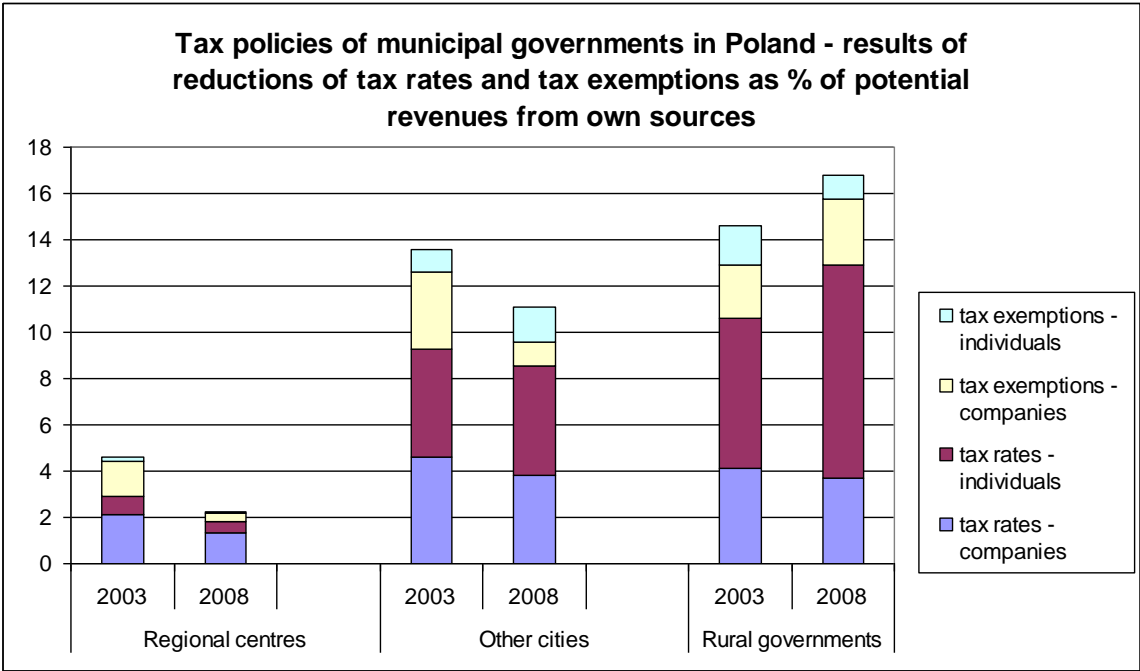
In each case the general rule of local autonomy is similar – the local council may decide any rate of the tax, if it does not exceed the maximum rate which is defined in the Law on Local

⁴ As well as through the role of local governments in implementing the EU directives related to environment protection, public procurement etc.

Taxes and which is annually automatically increased by inflation rate. The unspoken assumption is that some local governments, if left uncontrolled, could be irresponsible enough to harm local companies or citizens by levying too high rates of taxes, which would kill local economy and/or provide negative macroeconomic effects.

In practice, local governments enjoy their tax autonomy to a different degree. The general rule is that big cities apply tax rates on a maximum or close to the maximum level, while smaller local governments decide to reduce the rates or to offer various incentives and exemptions more often (see fig. 2).

Fig. 2.



This variation is a result of two parallel phenomena:

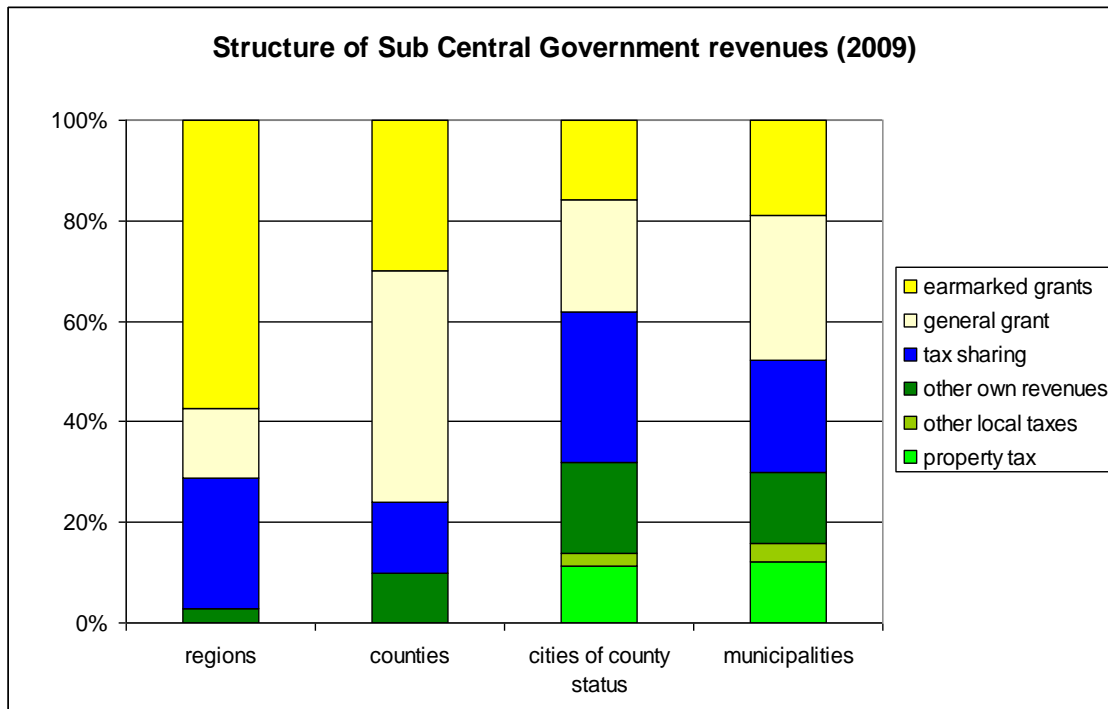
- higher taxes in big cities to some extent compensate the lack of direct relationship between the value of property and the tax yield. In fact, the maximum rate applied in Warsaw or Krakow is often negligible for the tax-payer (especially if it concerns housing property, for which the maximum rates are low – not exceeding 0.20 per square meter) while the reduced rate in the small, provincial town or a village might be a heavy burden for the tax payer;
- setting the tax rates is often treated as more social (populist) policy rather than economic exercise. In smaller communities the pressure of voters on local councilors is more direct, and consequently there is a relationship that the smaller community the

lower rates of taxes (for a more extensive discussion of local tax policies see Swianiewicz 2011).

Grant system

Grant system is the most obvious element of imposing state control over local government financial autonomy. It is the most so in case of general purpose grants for current expenditures. Earmarked grants are relatively unimportant in case of municipalities (less than 20% of total revenues) but in case of counties they provide close to 1/3 of revenues and in case of regions even more (see fig. 3). There is a larger number of grant schemes, controlled by various ministries. The system is somewhat chaotic and quickly changing. There is no even a clear inventory of schemes currently in operation.

Fig. 3.



The separate – and very important - category of specific purpose grants are investment grants, especially those offered through European union structural and cohesion funds. Defining the goals for which they can be allocated is of course a limit of local autonomy. However, it is the decision of local government to select and design the specific project. Moreover, it should be mentioned, that most of these funds are allocated through Regional Operating Programmes, which have been co-defined (through the series of negotiations with Polish government and the EU Commission in Brussels) by regional governments, who had at least partial discretion to decide how much would be allocated to which priority.

The discussion on the role of regions in decisions on EU funds is another example of the ideological debate on local (regional) autonomy and central control. In 2004-2006 period (ie. immediately after the accession to EU structures) the role of regional governments in managing the EU structural funds was limited (although still larger than in any other new member states). There was one Integrated Regional Operating Programme for the whole country, and the discretion of regional governments to allocate funds to individual projects was limited. The discussion before 2007-2013 financial perspective reflected different attitudes to decentralization and local (regional) autonomy. The proponents of more discretion for regions followed the argument of more efficient decision making on a lower level. But there was also an opposition, referring to arguments of integrity of the state (in more extreme variants arguing that autonomy for regions might be the beginning of disintegration of the state) and equalization policies require strict control from the central level.

It is more controversial to what extent the local autonomy is limited through the general purpose grant. There are three major elements of the grant: equalizing, balancing (working like a classic “Robin Hood tax”) and education. In case of equalizing and balancing parts the allocation formula is clearly defined through the Parliament, the rules are stable and local governments are fully free to use the money for whatever function.

The case of education grant is more complicated. The formula is decided each year by the Ministry of Education, so it sounds like an additional of central control. But the formula is a subject of negotiations in the Joint Central-Local Government Committee (where the major associations of local governments are represented), and local governments exert often an effective lobbying regarding the final shape of the formula. Since it is a part of general purpose grant, local governments are free to spend the education grant on any of services. But it is intended to serve first of all financing current expenditures on schools. Local governments often complain that it is not sufficient (sometimes even to cover costs of teachers’ salaries), and indeed most of them spend on education 16% more than received in form of the subvention (2009 data). But at the same time, there is a group of about 6% of municipal governments (2009 data) which have been able to “save” on education grant, ie. spending on maintenance of schools less than received in a form of a grant (usually this has more to do with imperfectness of the formula than with efficiency of spending policies).

Fees for local services

Local governments (again, it concerns mostly municipal tier) have a discretion to decide on the level of several fees and user charges for services delivered. It concerns in particular:

- tickets for city public transport;

- water and sewage
- parking in city centres
- rents in municipal housing
- kindergartens.

In each of services mentioned above, the variation of fees among individual local governments is very significant, the price in the city A is often more than double of the amount required in the city B.

There are also services which are usually delivered by local governments, but fees for which are regulated by the national level institution (central heating).

But even in cases when local government has a discretion to decide, there are often different limitations for this discretion. They may have different form:

- maximal rates (in case of parking and rents in municipal housing);
- limitation for frequency of changes (the price for water and waste water may be changed only once a year);
- various specific standards and limitations implying the level of user fees.

The case of kindergartens is an excellent example of unstable and chaotic national policy in this respect. For several years local governments could define their fees in form of a monthly lump-sum paid for every child attending the kindergarten. But at the beginning of the previous decade it was decided that “basic pre-school education” should be provided free of charge, while additional services (exceeding the basic standard) may still be paid by the parents. However local governments should clearly define what are these additional services they charge for. At the same time the definition of the “basic standard” was so vague, that it was next to impossible to find a formula of the council resolution which would justify collecting the fees. On the other hand, local governments were unable to cover the total cost of the pre-school education. The situation was additionally chaotic due to different interpretations of the law by state supervisory organs (regional governors) and the courts in different regions. As a result, what was allowed in one region, was often questioned by the governor in another one.

In 2010 it was decided to clarify the rules: starting from 2011 the 5 hours per day of child care is delivered free of charge, while local governments may levy fees for additional time in the kindergarten. Also this regulation raises several controversies:

- local governments complain that it imposes excessive burden of measuring and recording time spend by each child every day in the kindergarten;

- the organization of the work of the kindergarten is based on declarations of parents who declare how much time they want their children to spend in the facility. Local governments plan the budget and employee teachers on the basis of these declarations. However, it is not clear how often parents may change their declarations (and the contracts with teachers are signed for the full school-year anyway). What happens if the child does not attend the kindergarten for any reason? Most of the courts suggest that the proportional part of the fee should be returned in case of the absence, but local governments complain it is not possible to plan the budget under such circumstances.

Another line of the conflict concerns the right of local governments to differentiate the fees according to certain criteria (for example to lower the fees for multi-children families or for families of a low social status). Some courts question these decisions as violating the equal treatment of all clients (consumers of the service). The amendment to the law on local government is under preparation, which would clearly state the right of local government to differentiate the rates according to its policy criteria, but the adoption of the amendment is not certain.

Local debt regulation

Limitations of the debt level provide another example of limitation of local financial autonomy. At the moment Polish law allows borrowing for capital spending, which is ex-post controlled on the basis of following thresholds:

- accumulated level of debt at the end of a year cannot exceed 60% of annual budget revenues;
- annual debt service cannot exceed 15% of annual budget revenues.

The new regulations are going to be in place from 2013, which would relate the borrowing limits not to total revenues, but to the level of operating surplus (difference between operating revenues and spending) during last 3 years. This would more closely relate the borrowing capacity to ability to re-pay the loan.

But limitation of the local autonomy is also related to more general regulations. Polish constitution limits the level of public debt (being a sum of central government and local government debts) to 60% of GDP. The Law on Public Finance imposes several limitations after the level of public debt exceeds 50%. It means (and it is actually the case at the moment) that ability to borrow may be limited for local governments due to excessive indebtedness on the central level.

Norms and standards related to locally delivered services

Financial autonomy is limited not only through revenue regulations but also through externally imposed norms and standards related to locally delivered services. This category includes not only standards defined on a national level, but for Polish local governments the EU directives are of the increasing importance. The most important are those related to environment protection (sewage treatment, solid waste disposal) and public procurement.

But of course the most numerous are standards defined by the Parliament and central government by-laws. Among those which produce the most serious financial implications for Polish local governments are regulations on teachers' salaries and employment (which is protected through the special "Teacher's Charter"). Since education is by far the largest single item of local expenditures (in small municipalities often exceeding half of all spending) this regulation is of a crucial importance.

Several services, especially related to the broadly defined social welfare, have also many detail standards which have implications for the size and structure of spending. It is difficult to prove it quantitatively, but it seems that after very radical deregulation on 1990th, the number of these standards has been increasing systematically during the last dozen of years or so, so local governments are more and more bound by them.

Instead of conclusions

It is a popular view in which there is a central-local conflict over the scope of local autonomy. According to this vision local governments want more discretion, they lobby for more favourable regulations in this respect. At the same time central level bureaucracy tries to impose more strict control over the local government activities. There is no doubt that there is some merit in this description, but the real word differs from this simplistic picture. Sometimes it happens that central administration favours passing over to local governments responsibility for services which are problematic. It is sometimes described as "decentralization of problems".

At the same time local lobbyists for more fiscal autonomy are rather un-numerous, although very visible, while the majority of local governments is more focused on seeking secure financial resources for the services they are responsible for. For this group what is the most trouble-some is not limitation of autonomy, but lack of sufficient transfers from the central level, and more responsibility for the central level (together with a deeper dependence on the transfer system) are welcome. Once again, the research on kindergartens provide a good illustration of the discussed issue. In the recent research conducted on a sample of over 300

municipalities, local politicians and officials were asked how they would prefer to solve the problems related to the lack of sufficient resources to finance the service. Only 10% of respondents choose the option “to correct the system of local own revenues in a way which would allow to collect more resources”, while 62% selected “extend the education part of the general purpose grant in order to take into account needs related to kindergartens” and 24% preferred the “special purpose grant for kindergartens”. In the same research, asked about the regulations which make management of the service difficult and which limit the level of local autonomy below the appropriate level 53% of surveyed local politicians could not give any example of such a regulation, while only 43% indicated one or more regulations.

On a more general level: extension of local powers to collect own revenues is not among the most popular directions of local government lobbying related to the preferred changes in inter-governmental financial arrangements. The most often formulated demand related to local revenues refers to the tax sharing mechanism, while the local power of taxation is almost missing. This attitude is not difficult to understand. Taking over more responsibility for collecting own revenues is related to political risk, while demanding more transfers and support from the central budget is (politically) much safer and convenient.

The reality of political interplay among tiers of government and interests related to trade off between local autonomy and central level control (related sometimes to responsibility) is more complicated than it may look like.

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