



# Local Government and Trade Unions

– the conditions, potential and perspectives  
of social dialogue

Edited by JAN CZARZASTY, PhD

November 2020



FAGFORBUNDET



Supported by Norway through the Norway Grants 2014-2021,  
in the frame of the Programme "Social Dialogue – Decent Work"



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## FOREWORD

This report describes a study carried out in the project “Social Dialogue Schemes for Decent Work in the public sector at municipal level”. It was delivered in partnership between NSZZ Solidarność, the Association of Polish Cities (ZMP) and the Norwegian Union of Municipal and General Employees (Fagforbundet) and the Norwegian Association of Local and Regional Authorities (KS).

The overall goal of the project is to improve the quality of social dialogue in Poland’s local government public sector. This is to be achieved by identifying and developing methods for supporting the sector’s social dialogue and by creating channels of effective communication and cooperation between public sector social partners and local authorities. The project aims to develop a model of social dialogue in the public sector at the local government level and to run a pilot of the model in two selected local authorities.

The report was written by (in alphabetical order): Sławomir Adamczyk (author/co-author of Chapters 4, 6), Jan Czarzasty PhD (editor, author/co-author of Chapters 2, 5, 7, 8), Paweł Krawczyk (co-author of Chapter 3), Nina Monsen (co-author of Chapter 4), Małgorzata Ornoch-Tabędzka (co-author of Chapter 3), Barbara Surdykowska (author/co-author of Chapters 1, 2) and Marek Wójcik (co-author of Chapter 3). The figures in Chapter 3 were co-created by Jan Maciej Czajkowski.

As we hand this report to our Readers, the authors would like to say thank you to all those who have contributed and supported this work right to the end. We wish to acknowledge the efforts of our Colleagues from Norway Björn Pettersen and Christian Larsen. We want to express our appreciation to the academic community who have helped us with the expert survey (in alphabetical order): Dr Paweł Czarnecki, Dr Izabela Florczak, Dr Andrzej Klimczuk, Iwona Kozieja-Grabowska, Dr Maciej Laga, Dr Hab. Łukasz Pisarczyk, Dr Sebastian Samol, Dr Hab. Michał Skapski, Dr Hab. Katarzyna Skorupińska-Cieślak, Dr Hab. Dagmara Skupień, Dr Hab. Jacek Sroka, Dr Rafał Towalski, Dr Marcin Wujczyk and Dr Hab. Andrzej Zybala.



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## INTRODUCTION

This report addresses multiple topics. On the thematic level, it covers the problems of the labour market, social dialogue and labour relations in the local government sector. Its international aspect relates to the situation in Poland and Norway. The report was written at a very special time, during the COVID-19 pandemic which swept across the world, including Poland and Norway in 2020.

The objective of the project is primarily to understand the practice of social dialogue in organisations that are under an indirect influence of local governments. Rather than act as direct employers, local governments are in fact stakeholders with serious tools of control in place, mostly of financial nature. The work was carried out in an empirical study using primary and secondary sources that are described and analysed in this report. Use is also made of pilot studies designed to test new solutions (practices) of social dialogue. Because the pilot will take place later, we obviously cannot show its results. We are, however, presenting the tools we will be using when we launch the new phase. The idea for the pilot is to initiate in-depth conversations between local government representatives and trade union representatives. Trade union representatives will represent the staff of a local government office and indirectly the employees who depend on the decisions/actions of local governments. We will carry out this action in two local governments. The other objective of the project is to exchange experience with Norway whose achievements in the area of local government and social dialogue form a strong and an insightful point of reference in the Polish context.

The point of departure for our work was the assumption that social dialogue in Poland's local government public sector is low on effectiveness and employee problem solving. Given the scale of the whole labour market, local governments are big employers with a strong impact on social dialogue (and by the same token on collective labour relations]. The task they face is complicated due to the dual roles local governments play, all because

of the existing and largely dysfunctional legal environment. What causes the duality is the separation between the employer's responsibility on formal, legal and economic grounds. Polish labour law gives precedence to the organisational (managerial) concept of employer over the concept of ownership. In other words, a formal employer is not the real employer in many aspects, they are merely a representative of an employer and has limited powers, especially in the area of financial management. Trade unions are only allowed to negotiate with direct employers. When the real (but not direct) employer in economic terms is a local government, such negotiations are not possible. In such cases a local government is not obliged to engage in collective bargaining with trade unions. Changing this would require mechanisms of voluntary tripartite dialogue to address issues of importance for employees. This way a consensus would be possible, and solutions could be agreed to help create decent working conditions.

Because the report uses a number of key terms which describe how the institutional sphere of governance is organised and which are related to collective labour law, let us first define them to ensure clarity of our deliberations as we work our way through the report. First, the term "**public sphere**" meaning a sphere operated by the state as it exercises its powers. This does not include economic operations that are carried out based on state-owned assets. This particular terminological convention is adopted based on the type of operation rather than on the "state" nature of the entity running the operations, especially when the entity is a separate legal unit and operates as a state legal person, state-owned company or company largely owned by the state other than the State Treasury. In the case of "**public sector**" the multitude of definitions and the differences between them suggest that the term can be described using three basic research approaches<sup>1</sup> in terms of the:

1. **Subject** – public sector entities are defined based on their revenues and expenditures. Revenues come from compulsory contributions to the state. Expenditures are usually the transfers to households, enterprises or in the form of expenditure for goods and services for public organisations.
2. **Object** – the public sector groups revenues and expenditures on public and local government administration and state funds.
3. **Function** – the public sector comprises all state and local government institutions and organisational units (those with and without legal personality) which deliver their services using exclusively or largely state funds<sup>2</sup>.

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<sup>1</sup> Przygodzka R. (2008) Efektywność sektora publicznego „Optimum. Studia Ekonomiczne”, no. 4, p. 153-167.

<sup>2</sup> Wiatrak A.P. (2005) Sektor publiczny – istota, zakres i zarządzanie „Problemy zarządzania”, no. 10, p. 7-21.

Specified in Article 9 of the Public Finance Act of 27 August 2009 “**public finance sector organisations**” are different and defined as organisational units of the State Treasury (*stationes fisci*) or local government organisational units which makes them organisational units of municipalities and of other units of local government (*stationes municipi*).

Finally, let us explain the term “**local government**” which comprises units of local government and their agencies and organisational units reporting to them. The term “local government” is not a legal term and is not defined in the act.

We have analysed data from secondary and primary sources. The results are given in the report. We used public statistics (not just generally available data but also data we bought from Statistics Poland), scientific literature, specialist publications and public information available on-line. As well as these data, we also have used data we have collected ourselves for the purposes of the project. Our research included an expert survey which we conducted among scientists whose work involves our project fields, mainly labour relations and social dialogue, labour law and administration sciences. In addition, we ran a survey among entities that represent the local government sector in its different dimensions and specifically: units of local government, local government legal persons (and local government companies) and municipal enterprises.

The report consists of eight chapters and a conclusion. **Chapter 1 by Barbara Surdykowska** compares the roles of local government as a direct and indirect employer. Local government is a direct employer for all employees who are covered by the Local Government Employee Act and for those who are not covered by the Act but have local government bodies as party to their employment contracts (or another contract under which a non-employee relation is formed). On the other hand, a local government is an indirect employer of employees whose de iure employer (in other words – party to the contract) is another entity. That entity performs the function of employer in the light of the Polish labour law which is based on the so called organisational (managerial) concept of employer. The entity’s founding body, however, is a local government which holds a significant influence on the operation of the subordinated local government legal person, company or municipal enterprise. The relation is primarily financial and means that the formal employer only has limited powers and agency as regards labour relations.

**Chapter 2 by Jan Czarzasty and Barbara Surdykowska** tackles the problems of social dialogue in the local government sector. It gives a synthetic presentation of the institutional framework of social dialogue in our country. One of the objectives is to show the differences between social and civic dialogue. They are frequently albeit wrongly considered identical. Next, the chapter discusses two most important effects of social dialogue, i.e. collective agreements and collective disputes. Both are described as they are today and how they are proposed to be, should the relevant regulations be revised. The collective actors of social dialogue in the local government sector are analysed, as well as how trade unions evaluate acts of local law in the particular thematic categories. The judicial decisions and consequences of a lack of evaluations by trade unions are also discussed.

**Chapter 3 by Małgorzata Ornoch-Tabędzka, Marek Wójcik and Paweł Krawczyk** describes the condition and dynamics of local government employment. What makes the chapter unique is that it refers to the report “Local government as employer” developed by the Association of Polish Cities in 2014 (2012 data). As a result, the research has continuity, a feature sadly quite rarely found in Polish expert and academic work. The second characteristic is that the chapter is based on public statistics data from the form Z-06 which are not available in standard publications of Statistics Poland. The authors discuss the general state of employment in the sector and relate it to employment in state administration and in general, employee turnover in the sector, share of female employees and finally the salaries. The analysis shows that employment in the sector has grown just as the pay. At the same time the sector continued building its strength in terms of knowledge and competences.

**Chapter 4 by Sławomir Adamczyk and Nina Monsen** presents the characteristics of social dialogue in the local government sector compared to the European experience. It gives a description of dialogue between public sector employee representatives and local government employer representatives at the EU level. Next, the readers can learn about the specificity of social dialogue in the local government sector in Norway. Important points of reference for Poland’s local government sector are outlined at both levels.

**Chapter 5 by Jan Czarzasty** discusses and analyses the results of surveys on Poland’s social dialogue. The material covered in the Chapter is the result of how well the ZMP delivered the study. It gives us an insight into collective agreements and social dialogue in local government units, local government legal persons and municipal enterprises. By including three different categories of respondents we can better identify the similarities and differences of the practice of dialogue, depending on whether the local government is a direct or indirect employer. As much as the image of social dialogue seems rather productive but also fairly ritualised as the study suggests, it is clear that its problems stem from the dual role of the employer (in the case of local government legal persons and municipal enterprises).

**Chapter 6 by Sławomir Adamczyk** presents a query of labour relations conflicts in the local government sector. This is based on data collected under the programme Monitoring of Social Conflicts which the labour ministry ran in the years 2016–2020. The Chapter is a counterpoint to Chapter 5 which painted a generally positive image of social dialogue as a functional process based on empirical data. Labour relations, however, are not free and cannot be wholly free from tension and confrontation.

**Chapter 7 by Jan Czarzasty** gives a synthetic overview of interviews held with invited representatives of the academic community. It is worth noting that the expert survey which helped scientists to present their views, was implemented as a research tool in response to the outbreak of the COVID-19 pandemic. Initially, the plan was to organise a seminar with invited university experts and a discussion with an exchange of views rather than just ex cathedra statements. As the circumstances changed rapidly a more improvised communication had to be organised to collect data and comply with COVID-19 restrictions.

**Chapter 8 by Jan Czarzasty, Barbara Surdykowska and Sławomir Adamczyk** differs from the others in that it is not an analytical piece of work but a proposed method for testing new instruments of social dialogue. The Chapter presents four concepts of pilot practices to be conducted at the level of local government units.

The Report ends with conclusions.

# 1. LOCAL GOVERNMENT AS A DIRECT AND INDIRECT EMPLOYER

## 1.1. Introduction

The purpose of Chapter 1 is to provide the background for further analyses conducted using secondary (literature query, expert reports, statistics) and primary (surveys in local governments and case studies from selected local government units, urban poviats) sources. The background is made up of definitions of the basic legal terms and a description of particular regulations in different branches of the law in Poland. The laws in question are primarily labour law, local government regulations and civil law. It is the intersection of these laws that creates specific conditions of how employee representations can operate (with trade unions in the prime position). Because at times they are contradictory and have gaps between them, they are not always functional. The most important issue is the concept of employer within the meaning of the Polish labour law, and in particular its specific character, namely managerial (organisational) and not one associated with ownership. Following a historical genesis and a description of the legal state today, we will analyse the local government as an employer and the local government as a founding body (employer in economic but not managerial sense) and the position it has within this specific, triangle-shaped system of public entities and private enterprises (*de iure* employers) situated between the local government (*de facto* employer) and employees.

## 1.2. Concept of an employer in the Polish labour law – initial comments

In the Polish labour law doctrine, there are usually two concepts of employer: so called managerial concept and ownership concept. The key issue in this division is the employer holding or not holding a legal personality.

In other words, these concepts can be discerned due to the significance of the civil law capacity to hire employees.

Polish labour law adopted the managerial employer concept (below are comments on the historical definitions of employer in the Polish law). According to the managerial concept, an employer may be part of a separate organisational unit – a legal person or another unit which is an employer (without corporate status). The existence of such an employer is a derivative of the existence of the legal person / an organisation without corporate status. In the managerial model the distinction between the rights and duties of an employer and company manager (within the meaning of subject) is not of importance because the employer himself is a manager by definition.

According to the ownership concept to be an employer you have to be a subject under civil law which means that individuals are allowed to take decisions on their own and use their property and derive benefits from hiring employees. It is clear that the concept differentiates between employer and company manager (within the meaning of subject). This makes them different entities having equal potential rights and duties towards employees / employee representatives.

The fact that Polish law follows the managerial rather than ownership concept of employer translates into different meanings in the public sphere and in the sphere of private ownership.

In the public sphere, public finance units tend to adhere to the managerial model both normatively and statistically. This means that the State Treasury is not an employer, it is public offices and other organisational units of the State Treasury where employees are employed. To continue, in the local government public sphere it is not local government units that are employers (municipalities, poviats, voivodeships), but local government organisational units. In this sphere, as we can see, employers-managers clearly dominate.

As regards the private sphere, we can assume that statistically the majority of employers follows the ownership model. In particular, in small and medium-sized enterprises the employers are usually natural persons or companies which they run. Employers who are managers tend to be more prevalent in large enterprises<sup>3</sup>.

To sum up the division into managerial and ownership concept of employer, we can emphasise that the managerial employer concept is receiving critique in the doctrine<sup>4</sup> and judges' decisions in recent years<sup>5</sup>.

<sup>3</sup> Hajn Z., *Koncepcja pracodawcy w powszechnym prawie pracy i szczególnym prawie pracy sfery budżetowej (w) Powszechne a szczególne prawo pracy* red. L. Florek, Warszawa 2016, p. 98-103.

<sup>4</sup> Wąż P., *Koncepcja pracodawcy rzeczywistego* Monitor Prawa Pracy, s. 120.  
Stelina J., *Pracodawca jako podmiot zakładowego dialogu społecznego (w) Zakładowy dialog społeczny* red. j. Stelina Warszawa 2014, p. 141.  
Maniewska E., *Majątkowa koncepcja pracodawcy także w indywidualnym prawie pracy* PiZS 2015, no. 5, p. 41-43.

<sup>5</sup> As an example Supreme Court decisions: 20 September 2005, II PK 413/04, OSNP 2006, no. 13-14, item 211  
Supreme Court decision 18 September 2014, III PK 136/13 LEX no. 1554335.  
Supreme Court decision 24 February 2015, II PK 88/14, OSNP 2016, no. 11, item. 138.  
The area of collective labour law: decision of 7 Supreme Court judges 23 May 2006, III PZP 2/06, OSNP 2007, no. 3-4, item 38 and Supreme Court decision 29 January 2008, II PK 146/07 OSNP 2009, no. 7-8, item 87.

As the brief description above shows the literature of the labour law usually makes a distinction between the managerial and ownership employer concept.

A lot of times, however, when authors speak / write about the ownership employer concept they actually mean something other than the demand to allow organisations with legal personality only to become employers. The demand to introduce the ownership employer concept is understood as a demand to introduce a “real employer”, i.e. an entity which *de facto* has “economic” oversight over the conditions of work and pay and, specifically, draws “economic” benefits from the work of employees. Irrespective of whether the entities that make up such a structure have or do not have legal personality. If defined like this, the employer (with a more precise definition coming later) in this report will be referred to as indirect employer (“economic employer”). These issues are usually raised and debated in the context of major corporations, holdings and other extended and usually transnational structures. The problems are mostly addressed in the context of collective labour law. This will be given a very brief mention in 1.5.

The question of interest in this Report is the situation when indirect influence is exerted by local government units on entities that have or do not have legal personality, and which are employers. This applies to entities that provide services in areas which are directly controlled by local government in economic terms. The extent of this influence may be more or less intense and may occur when a local government unit both is and is not the founding body of the entity. This will be further explained in 1.6.

Our ultimate “triangle of relations” involves in one corner a local government unit, an employer in the second corner and employee representatives / trade unions representing the employer’s employees in the third corner. Before we get there, let us take a look at the design of the employer and the historical factors that have formed it.

### **1.3. Employer concept in Polish labour law – historically**

Pre-war labour law defined employers as a natural or legal person who employed employees. This category included some independent units that did not have legal personality (e.g. general partnerships). Employers were different from workplaces which were used in the meaning of subject and so one employer could have several workplaces.

After the II World War the employer was still the formally binding legal term because some of the legal acts adopted in the Second Republic of Poland were still in place. The term “employer” was gradually pushed out by the term workplace, a term which the doctrine defined as a workplace in the meaning of subject (or the employing subject). The workplace in the meaning of subject meant any social creation that can be legally transacted, has an organisational structure and separate property, has direct responsibility for its liabilities and acts on its own behalf<sup>6</sup>. Defined like this, a workplace was reflected in the definitions

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<sup>6</sup> As an example, Świącicki M., *Prawo pracy*, Warszawa 1968, p. 126.

in the Health and Safety Act of 30 March 1965 or in the Common Pension Insurance for Employees Act of 23 January 1968.

The workplace in the meaning of subject (employer) was still separate in formal terms from a workplace in the meaning of object. Following the post-war nationalisation of the economy and the subordination of ownership relations to the theory of uniform state property (former Article 128 of the Civil Code) and the limitations on entities as a result of central planning, the concept of legal personality was “devalued”. As a result, workplaces – employers became the managers of state property<sup>7</sup>.

At the same time enterprises or workplaces and public sector units took on a variety of rights and duties and judicial and arbitration capacity, leading to the creation of a new category which the doctrine refers to as “an organisation without corporate status”.

As indicated by Z. Hajn, civil law was unable to keep legal capacity within legal personality and one could hardly expect that this would work with regard to the capacity to employ employees<sup>8</sup>. As a result, demands emerged in the doctrine of the labour law to assign this status to units that hold auxiliary legal capacity in labour relations. This process was also visible in judges’ decisions with the Supreme Court pointing out that a workplace is a specific workplace where an employee is or was employed or was supposed to work under an employment contract and that it is not an organisational unit at the seat of a multi-workplace enterprise (Supreme Court of 21 April 1970, PiZS 1972, no. 2, p. 55).

The processes became established when the labour code was adopted. It took effect on 1 January 1975. Article 3 of the labour code defined the workplace (i.e. employer) as an organisational unit that employs employees even if it did not have legal personality and added that in particular a workplace is a state-owned enterprise, public office or another state organisational unit, cooperative or social organisation. Article 299 § 1 of the labour code indicated that workplace regulations should be applied to natural persons who employ employees. A significant differentiation was made between the legal status of employers who are workplaces and those who are natural persons. As a result, the legal situation of employees working for these two categories of employers was very different. In other words the code did not use the term of employer. The term used was: workplace or “natural person who employs employees”.

The practice and doctrine evolved and eventually the category of entities that employ (workplaces) also included units that are part of legal persons, have the characteristics of an “organisational unit which employs employees”, including in particular the necessary financial and organisational separation. This led to a significant margin of uncertainty as to how to identify an employer within complex organisational structures.

<sup>7</sup> O ewolucji pojęcia pracodawcy w polskim prawie Hajn Z., Definicje pracodawcy, PiP 1994, z. 12, p. 44-54.

<sup>8</sup> Hajn Z., Podmioty stosunku pracy, (w) System prawa pracy, red. K. W. Baran, Tom II Indywidualne prawo pracy. Część ogólna, Warszawa 2017.

## 1.4. Employer concept in Polish labour law – today’s legal status

Introduced on 2 February 1996, the legislative change revised the labour code. Article 3 of the labour code as it is today states: “An employer is an organisational unit, even if it does not have legal personality, and a natural person, if they employ employees”. The definition reintroduced the term “employer” to the labour code. The revising act put the legal position of people employed by natural persons and organisational units on equal footing<sup>9</sup>.

The term employer as a party to a labour relation is of basic importance. Article 22 § 1 of the labour code is key in this case. It means that an employer is party to a labour relation which commits to employ an employee for a salary where the employee represents that they will work for the employer under their supervision and in a place and at a time set by the employer.

At this point, some comments are needed about the legal capacity of organisational units to employ employees.

First, two comments to put it into perspective. As it is commonly believed, the exception to the principle under which legal personality is enough to employ employees is the State Treasury. It is recognised that this entity cannot be an employer, because it is not an organisational unit but a purely normative creation which serves as a point of reference for the property rights and duties in connection with the operations of state units that are not civil law subjects. Civil law capacity is also held by (Article 33(1) § 1 of the civil code) organisational units that are not legal persons to whom the legislator grants legal capacity (the capacity to be a subject of civil law relations)<sup>10</sup>. They are: home owner associations, partnerships, companies in the process of formation, main branch of a foreign insurance company and ordinary associations. The ability of these entities to employ employees has never been questioned.

Legal persons, organisations without corporate status and natural persons are often referred to collectively as “persons”. In this area it is clear that these entities have the capacity to be an employer<sup>11</sup>. It becomes much more complicated in relation to these categories: units of internal legal persons (or organisations without corporate status) and units that constitute separate parts of such units.

In the literature it is recognised that the following may become this type of employer (after they have met specific conditions as explained further): organisational units of the State Treasury (*stationes fisci*) or local government organisational units, which includes municipalities and other units of local government (*stationes municipii*) and separate units of these units as well as branches of commercial companies, municipal enterprise workplaces, state enterprises and others.

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<sup>9</sup> This occurred by repealing a regulation from 1974 which introduced a far reaching differentiation in that regard.

<sup>10</sup> The doctrine entities like that are defined as: legislative persons, incomplete legal persons, organisations without corporate status.

<sup>11</sup> Except the State Treasury.

To sum up: Article 3 of the labour code suggests that the objective of this regulation is not to break up the connection between the capacity to employ and civil law capacity. On the contrary, in light of the regulation the fact of legal personality as such means having the capacity to employ employees. The objective of the regulation is not to break up the connection between the capacity to employ and legal personality but to grant this capacity to some other organisational units<sup>12</sup>.

### 1.5. Employer in the local government sphere (possible transition to ownership employer concept)

In the current legal status Article 3 of the labour code specifies that employees are employed by local government units, which for the purposes of civil law transactions have neither legal personality or legal capacity. As indicated in the literature, where the Local Government Employees Act is applied, all the problems of the managerial model are very much alive<sup>13</sup>.

Some authors point to practical problems that result from the managerial employer concept. As an example, P. Czarnecki points to the practical consequences of a court trial, should enforcement proceedings be instituted – it seems that when the employing unit is sued and that unit has no legal capacity in the sphere of civil law, the defendant should be the employer and the legal person behind that employer (i.e. the appropriate local government unit or a union of local government units, if applicable)<sup>14</sup>.

First, it should be said that already in the current legal state many of the norms suggest that public service employees are attached to the state or a local government unit as their employer. In particular, in the public sector in some situations legal actions towards an employee are taken by a body which is not the employee's employer such as:

- under Article 22.1 of the Teacher's Charter the school manager (e.g. head of a municipality) may require a teacher to work for another school or other schools to do the same job or another job (with the teacher's approval) to help with meeting the weekly target of classroom work, educational or care classes which will not exceed the mandatory number of hours;
- the Head of the Civil Service may transfer a civil servant to another office in the same or a different town (Article 63. 1 and 2 of the Civil Service Act). The Civil Service Act also regulates other situations which suggests that the civil servant reports directly to the state and shows that being an employee in this case involves

<sup>12</sup> Different view – Stelina J., *Strony i nawiązanie stosunków służbowych, (w) System prawa administracyjnego*, t. 11, *Stosunek służbowy*, red. R. Hauser, Z. Niewiadomski, A. Wróbel, Warszawa 2011, s. 170.

<sup>13</sup> Hajn Z., *Pracodawca jako strona stosunków cywilnoprawnych*, AUW No 3844, *Przegląd Prawa i Administracji*, 2018/CXIII, p. 57 and subsequent.

<sup>14</sup> Czarnecki P., *Pracownik i pracodawca samorządowy, (w) Zatrudnienie pracowników samorządowych*, edited by P. Czarnecki, A. Reda-Ciszewska, B. Surdykowska, Warszawa 2020, p. 33.

providing a public service (to the state) and not just being tied to a unit recognised as their employer under Article 3 of the labour code (see: Articles 65, 66, 67, 73, 75, 76 of the Civil Service Act).

As pointed out by Z. Hajn, if the state and the municipality (a different local government unit) were reintroduced as employers in the public sector, it would bring the current image of employment relations in this field to what they really are, strengthen the rights of employees and their representatives, and increase the cohesion of public services<sup>15</sup>.

## **1.6. Local government as an indirect employer (economic) - relations in a triangle**

From our point of view and for project purposes, it is key to go beyond the formal and legalistic idea of employer and grasp the significance of economic and financial relations as a source of power, control, vertical subordination and the related responsibility. Even though the Polish legal system follows the managerial employer concept, it is important to adopt the ownership concept as a point of reference.

The Polish literature on the labour law is clearly under the influence of catholic social science, especially of papal encyclicals dedicated to the topic of labour, its dignity and stressing the importance of its decommodification (a position according to which human labour is not a commodity). The encyclical *Laboremexercens* (1983)<sup>16</sup> is quite popular and uses the term “indirect employer” which applies to “many diverse factors that are beyond a direct employer that have a specific influence on the form of the employment contract”<sup>17</sup>. As explained by Czarnecki this term includes “people, institutions, collective labour agreements and other collective agreements and principles of procedure that define the economic and social system”<sup>18</sup>. The state takes a special position among them which for our purposes can be included in the broad category of public authorities of which local government is part.

In the context of our report, a factor of truly fundamental importance is the financing of local government’s public services, both their own and those delegated by central administration. To do that, finances have to be transferred from the central budget to local government units in the form of generalpurpose subventions (e.g. education subsidy) to deliver the authority’s own services and earmarked grants to deliver services that are delegated by government administration. In addition, the local government also delivers what is called commissioned services.

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<sup>15</sup> Hajn Z., *Koncepcja pracodawcy w powszechnym prawie pracy i szczególnym prawie pracy sfery budżetowej*, (w) *Powszechne a szczególne prawo pracy*, red. L. Florek, Warszawa 2016, p. 113.

<sup>16</sup> Moreaboutthis: Włodarczyk M., Reda-Ciszewska A. (red.), *Wartości i interesy a prawo pracy. Wokół encykliki “Laboremexercens” Jana Pawła II*, Wydawnictwo Uniwersytetu Łódzkiego, Łódź 2014.

<sup>17</sup> Jan Paweł II, *Laboremexercens*, Wrocław 1983, p. 48.

<sup>18</sup> Czarnecki P., *Korporacje transnarodowe jako pracodawca pośredni*, (w) *Wartości i interesy a prawo pracy. Wokół encykliki “Laboremexercens” Jana Pawła II*, red. M. Włodarczyk, A. Reda-Ciszewska, Wydawnictwo Uniwersytetu Łódzkiego, Łódź 2014, p. 64.

The services delivered by local government units at the three levels of governance include: ensuring spatial order, environmental protection and property management; managing roads, streets, bridges, traffic; supply for the population of heat, electricity and gas, water system and sewage system management; telecommunications operations; oversight of public transport and public transport development; health care; social assistance; public education; activities in the area of culture and heritage conservation; ensuring public order, safety, fire protection and flood control; maintenance of municipal public facilities; preparation of general election and referenda; vehicle registration; pro-family policy; preventing unemployment; protection of employee claims in the case of employer insolvency.

The services delegated to local government units at the three levels of governance include: paying out social welfare benefits; operation of registry offices and issuing identity documents; national road lighting in urban areas; running a real property register; operation of voter lists; operation of poviats veterinary and sanitary inspections; operation of poviats labour offices; oversight of private forests; maintenance of drainage systems.

To synthesise, local governments are dependent economically on the state in many fields, both in terms of how they deliver their services and the duties they take on as part of delegated services. There is a similar economic dependence between local governments and their municipal enterprises and local government legal persons, municipal enterprises and local government legal persons.

As a rule, a municipality may run a business which will include the delivery of public services. There are some exceptions to the rule, however, where a municipality is allowed to run a business which goes beyond their public services. The exceptions are specified in the Municipal Management Act as referred to by Article 9.3 of the Municipal Government Act<sup>19</sup>.

If run by a municipality, a specific business has specific features. This means that among other things::

- the business is not conducted under conditions of economic freedom;
- the scope of the municipality's business is limited by the public service it delivers;
- the business is not profit-oriented;
- the purpose of the business is to meet the economic needs of the local community;
- while the business goals are primarily to deliver public services, other activities such as manufacture, construction or commerce, cannot be excluded as long as they fit in with the municipality's tasks;
- the business is not always operated on the municipality's account (sometimes it is the account of independent municipal legal persons).<sup>20</sup>

<sup>19</sup> Article 9.3 of the Municipal Government Act refers to Article 10 of the Municipal Management Act and identifies two situations where a municipality would operate outside the sphere of a public service. First, a combination of the following conditions must be met: 1) unmet community needs exist on the local market; 2) the municipality's unemployment rate is significantly affecting the community's standards of living and previous statutory measures and regulatory legal measures have not helped the economy to recover, in particular on the local market or have not reduced unemployment sustainably.

<sup>20</sup> Compare the commentary to Article 9 of the Municipal Government Act, Dolnicki B. (edited by), Municipal Government Act. Comments, edition II, Warszawa 2018.

The services delivered by a municipality include: water systems and water supply; sewage; removal and treatment of municipal sewage; maintaining cleanliness and order and maintenance of sanitary facilities; landfills and treatment of municipal waste; supply of electricity and heat and gas. The essence of public services delivered by local government units is to meet the collective needs of the local community on the local market.

Activities that are part of a municipality's range of public services can also be delivered by private entities if commissioned by the municipality's authorities.

## 2. CONDITIONS AND PRACTICE OF SOCIAL DIALOGUE IN THE LOCAL GOVERNMENT SECTOR IN POLAND

### 2.1. Introduction

This chapter covers social dialogue and the collective aspects of labour law in Polish local governments. According to the subject matter of the report, we are interested not only in the relations between local government employees (or their representation) and the local government employer<sup>21</sup> but most of all in the local government acting as an indirect employer.

Comments on the legal aspects of the social dialogue process in the local government sector begin by explaining key concepts related to the social dialogue, the public sphere and the local government sector. For the analysis of the legal determinants of social dialogue processes in the local government sector, the construction of the concept of an employer in Polish law, discussed in Chapter 1, is of fundamental importance.

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<sup>21</sup> Local government labour law applies to local government employees. It is a category distinguished according to the formal criterion of performing employment for a specific unit. Local government employees are a group connected by the fact of employment for specific organizational units. This concept is expressed in Art. 2 of the Act on Local Government Employees, which indicates that the provisions of the Act apply to local government employees employed in:

1. marshal offices and voivodeship local government organizational units;
2. Poviats and poviat organizational units;
3. municipal offices, municipal support units, municipal budget units and local government budgetary establishments;
4. offices (their equivalents) of associations of local government units and local government budgetary establishments established by these unions;
5. offices (their equivalents) of administrative units of local government units.

## 2.2. Social dialogue: basic concepts

Social dialogue is an ambiguous concept, which is a cognitive challenge in the context of this project. In order to define the field on which we will navigate, it is necessary to resolve the doubts concerning its definition. Even after a very cursory and random reading of the Internet resources of the Polish local government, social dialogue is understood in a very broad way, as consultations and civic participation<sup>22</sup>. Thus, the term “social dialogue” is usually treated in practice as all the processes that essentially make up the civil dialogue. As Marek Rymsza writes, “[...] the essence of civil dialogue as an institutional solution is the socialization of the processes of making public decisions by enabling citizens (and especially formalized structures representing citizens, including NGOs) to have a systematic impact on the law-making process and the preparation of legal documents relating directly to these citizens”<sup>23</sup>. Representatives of the government, local and professional self-governments, all kinds of non-governmental organizations, organized interest groups and even informal groups of citizens can participate in the civil dialogue.

While civil dialogue is an indispensable component of local government, it is not our focus. In this report we want to cover social dialogue. Social dialogue, contrary to stereotypical perceptions, is a precisely defined and broadly described concept. This does not mean that there is one universal definition of it, but they all have a common core. For example, social dialogue is thus considered to be:

*Any kind of negotiation, consultation or exchange of information between representatives of the state, employers and employees on issues of mutual interest to participants in the field of economic and social policy (International Labour Organization, ILO)*

*Discussions, consultations, negotiations and joint activities involving organizations representing both sides of the employment relationship (employers and employees). In terms of subjects, it takes two main forms: a tripartite dialogue that also includes public authority, and a bilateral (autonomous) dialogue between employers ‘and employees’ organizations (European Union).*

In formal and legal terms, social dialogue is a dialogue between employees and employers, **bilateral**, also called autonomous (between employee representation and employers, usually in the form of collective bargaining aimed at concluding collective agreements, see further part of the chapter), **tripartite** (with the participation of the state) or **multilateral** (led by the government, trade unions and employers with additional participation of representatives of local government or corporate organizations, such as professional and economic chambers, regional councils for social dialogue and labour market councils).

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<sup>22</sup> For example, in Warsaw there are so-called industry social dialogue committees (currently there are 29 of them) at 14 offices of the City Hall of Warsaw (see <https://ngo.um.warszawa.pl/komisje-dialogu-spolecznego>), or district social dialogue committees. More: <https://api.ngo.pl/media/get/101659> There are so-called Social Dialogue Groups in Wrocław (see <https://www.wroclaw.pl/rozmawia/grupy-dialogu-spolecznego>),

<sup>23</sup> Rymsza M. (edition) Organizacje pozarządowe. Dialog obywatelski. Polityka. Instytut Spraw Publicznych, Warsaw 2007, p. 8.

We classify social dialogue on several different levels. In addition to the above-mentioned **subject** (*who*), we can also distinguish the **sectoral** level (*for whom*), on which we distinguish the general (intersectoral / inter-professional), industry and mixed level (a combination of both above). Finally, social dialogue can be analysed on the **spatial** level (*where*) and divided into central (national), regional and enterprise level. Local government may engage in dialogue at the regional level, which then takes a multilateral form (see below: regional/voivodship councils for social dialogue).

Social dialogue can also be analysed in terms of its depth (see Figure 1). Its weakest form is the **exchange of information** (informing), which is limited to providing information to the employee by the employer. One step stronger are **consultations**, i.e. expression of opinions by the parties involved, which, however, do not have any exercise power. The most intense form of social dialogue is **negotiation** when the parties not only present their opinion but also formulate positions that the other parties should consider as an expression of the interest of the group represented by the mandate. Obviously, this does not mean accepting this position *in extenso*, but taking it as the starting position of a partner in the negotiations which should aim at finding a consensual solution by establishing a “part of the common set” of interests of all parties involved in the negotiations or a compromise solution by means of mutual concessions and reduction of demands to the level acceptable to all the negotiating parties.

The main conditions that must be met for the social dialogue to be conducted are:

- the existence of strong, independent organizations representing the interests of workers and employers, with the technical capacity and access to information enabling them to participate in the negotiations that constitute the social dialogue;
- the existence of the political will of all the parties to engage in dialogue;
- respecting fundamental rights: freedom of association and collective bargaining;
- adequate institutional support for dialogue<sup>24</sup>.

The legal foundations of social dialogue in Poland are contained in over a dozen normative acts regulating this issue directly and indirectly. The first ones include, above all, the Act of 24 July 2015 on the Social Dialogue Council and other social dialogue institutions, the amended Act of 15 June 2018 amending the Act on the Social Dialogue Council and other social dialogue institutions, and the Act of 20 April 2004 on employment promotion and labour market institutions.

Legal acts such as the Labour Code (1974) have a significant indirect influence on the social dialogue; Act on Trade Unions (1991); the Employers’ Organizations Act (1991); the Act on Settlement of Collective Disputes (1991) or the Act on Informing and Consulting Employees (2006). Pursuant to the latter, there is a legal possibility of appointing employee councils in workplaces, a non-union form of employee representation.

<sup>24</sup> Carls K., Bridgford J., Social Dialogue – Educational Handbook for Trade Unions, International Training Centre of the International Labour Organization, Geneva 2012, [http://www.ilo.org/wcmsp5/groups/public/---europe/-/ro-geneva/---ilo-brussels/documents/instructionalmaterial/wcms\\_205066.pdf](http://www.ilo.org/wcmsp5/groups/public/---europe/-/ro-geneva/---ilo-brussels/documents/instructionalmaterial/wcms_205066.pdf).

The key institutions of social dialogue in Poland:

**The Social Dialogue Council (RDS)** – the central forum for social dialogue to reconcile the interests of employees, employers and the public good. Pursuant to Art. 1 of the Act, the Council “conducts dialogue in order to ensure conditions for socio-economic development and increase the competitiveness of the Polish economy and social cohesion”, and also acts “to improve the quality of formulation and implementation of socio-economic policies and strategies, and to build social agreement around them”.

**Regional/Voivodship Social Dialogue Councils (WRDS)** – regional social dialogue forums created in the voivodships. There are 16 WRDS. Under the Act, WRDS are entitled to express their opinion:

- in matters which are of concern to trade unions or employers' organizations falling within the competence of government and local government administration in the region;
- in matters which may have impact on disputes between employees and employers;
- in matters of remuneration and social benefits and matters of great social or economic importance, referred by the RDS.

WRDS (like their predecessors, Regional Commissions for Social Dialogue) are basically “quadrilateral” bodies, because public party is represented in them by both the government (voivode) and local government (marshal).

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In addition, there are the labour market councils which are an opinion-making and advisory body on labour market policy for central and local government administration bodies. Their main goal is to involve the labour market partners in the processes of managing the resources of the Labour Fund as well as programming and monitoring the labour market policy at the central, regional and local levels, respectively. Consequently, the councils operate on three levels: the central government (Labour Market Council headed by the minister for labour), region (voivodeship labour market councils headed by the Marshall) and poviats (poviat labour market councils headed by the Starosta). Pursuant to the Act, the Polish Labour Market Council has one representative of the Joint Commission of the Government and Local Government, representing the local government. The minister, marshal and starosta may appoint three representatives from among local government bodies or representatives of science with special knowledge or authority in the area of councils' operation.

The description of the institutional architecture of social dialogue in Poland indicates that there are relatively many points where the levels of action and competences of various types of dialogue bodies and local government bodies intersect. At the same time, when analysing here (of course, very epidermally) the language used by local government bodies to communicate the activities involving stakeholders, one gets the impression that the existing legal conditions which are binding to local governments remain on the margins of the local government's interest, because it uses the notion of social dialogue to describe activities that nominally and practically fit within the civic dialogue.

Bearing in mind that social dialogue is a concept and a process closely related to and resulting from collective labour relations, the above remarks can be considered a strong starting point for the analysis of the involvement of local government in a social dialogue, not as a public authority but as an employer. The low level of awareness of what social dialogue is in the environment of local government authorities can be interpreted in the context of the relationship of the local government as an employer with its own employees and their representation in two ways: 1) as an indicator of the low quality of dialogue, 2) as an expression of a cognitive gap which resembles Molière's Mr. Jourdain who did not realize that he was speaking in prose: the activities and detailed processes that make up social dialogue (information exchange, consultations, negotiations) are not identified as a social dialogue which remains a rather abstract concept.

The situation becomes even more complicated when the self-government is the subject of social dialogue not as a direct employer, but as a founding body or outsourcing public services contractors. Therefore, there is no direct relationship with the employee side, but the responsibility remains as the so-called indirect employer, as defined in Chapter 1.

## 2.3. Effects of Social Dialogue

### 2.3.1. Collective bargaining contract – the legal framework

Theoretically, collective agreements should be the basic legal instrument for the conditions of employment<sup>25</sup>. In practice, they go through a collapse of many years<sup>26</sup>. However, in practice collective agreements are in a long-term collapse. The state's obligation (resulting from the ILO Convention 98) to support collective bargaining is undisputable<sup>27</sup>. This obligation results also from the European Social Charter<sup>28</sup>. Undoubtedly, the small scale of the collective agreement coverage indicates that the prerequisites indicated in the cited international agreements do exist. However, it is not possible to identify any action of the legislator that would be aimed at fulfilling Poland's obligations to promote collective bargaining.

<sup>25</sup> Compare, for example: Florek L., Znaczenie układów zbiorowych pracy, PiZS 2013/ 2; Goździewicz G., Układy zbiorowe pracy jako źródło prawa pracy, (w) Układy zbiorowe pracy. W stulecie urodzin Profesora Wacława Szuberta, red. Z. Góral, Warsaw 2013.

<sup>26</sup> Czarnecki P., Bariery prawne w zakresie rokowań zbiorowych w sektorze prywatnym w Polsce, (w) Rokowania zbiorowe w cieniu globalizacji, red. J. Czarzasty, Warszawa 2014. Gładoch M., Kilka uwag o przyczynach kryzysu układów zbiorowych pracy, (w) Prawo pracy. Między gospodarką a ochroną pracy, red. M. Latos-Miłkowska, Ł. Pisarczyk, Warsaw 2016.

<sup>27</sup> Article 4 of ILO Convention 98 states – Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

<sup>28</sup> Art. 6 sec. 2: To ensure the effective exercise of the right to collective bargaining, the contracting parties undertake to promote, whenever necessary and appropriate, a voluntary negotiation mechanism between employers or employers' organizations on the one hand and workers' organizations on the other, to regulate working and employment conditions by collective agreements.

One can even point to the opposite actions, the clearest example of which was the amendment of the Act on Higher Education which removed the high education minister as a potential party to a multi-enterprise collective agreement covering university employees. In their reply to the National Education Section of NSZZ "Solidarność" (letter of 30<sup>th</sup> March 2018 DLP. ZK. 172.11.2018), the ministry indicates that granting the Minister of Science and Higher Education the right to conclude collective labour agreements could be considered a restriction of the right to negotiate. Moreover, if a minister acted as a party in a multi-enterprise collective labour agreement it would be contrary to the principle of the limited role of the state in collective labour relations.

The Polish Labour Code does not provide any different solutions for the public sector in the field of collective agreements. Only in Art. 240.4, the legislator indicates that the conclusion of an agreement for employees employed in budgetary units and local government budgetary establishments may only take place within the financial resources at their disposal, including remuneration determined on separate regulations. In § 5, the legislator specifies that the application for registration of the agreement concluded for employees employed in the above-mentioned entities shall have a declaration of the authority on the fulfilment of this requirement.

Of course, the basic problem is the management concept of the employer which is anchored in Polish law which means that any negotiations may take place with an entity deprived of the attribute of legal personality.

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Regarding multi-enterprise agreements – an obvious problem in the public sector is the issue of the employers' part of the agreement. The general regulation refers to the organization of employers (Article 241 (11) of the Labour Code). As you can easily guess, the spontaneous process of associating in organizations of state employers and local government organizational units had a very poor effect. It was only in 2000 that the legislator acknowledged the problem and introduced a transitional solution that was to apply until December 31, 2003 – Article 9 of the Act of November 9, 2000 amending the Labour Code and certain other acts (Journal of Laws of 2000, No. 107, item 1127).

Until December 31, 2003, a multi-enterprise collective labour agreement on the part of employers was concluded by the competent minister or the central government administration body - on behalf of employers employing employees of state budgetary units not associated with employers' organizations or, respectively, the municipality head (mayor, city president), starosta, voivodship marshal and the chairman of the board of an inter-municipal or powiat union - on behalf of employers in local government not associated in the employers' organization. Then, the transition period was extended until the end of 2008, and later a provision was introduced that the regulation shall stay in force "until state and local government units are associated in employers' organizations.

At this point, the term "state budgetary units" should be clarified. The term "state budget sector" was defined in the Act of 23 December 1999 on remuneration in the state budget sector and means that the state budget sector is understood as state budgetary units that

conduct financial management on the terms specified in Art. 11 the concept of a budgetary unit Art. 12 creation, merger and liquidation of budgetary units of the Act of 27 August 2009 on finance, i.e.:

- budgetary units are organizational units of the public finance sector which have no legal personality and which cover their expenses directly from the public budget, and transfer the collected income to the account of the state budget income or the budget of the local government unit, respectively;
- a budgetary entity operates under its statute which specifies its name, business place and activity;
- the financial management of a budgetary entity is based on the income and expenditure plan, hereinafter referred to as the “financial plan of a budgetary entity”.

Thus, the budgetary unit is not, for example, a public university, which means that until the public universities get associated in an employers’ organization, it is not possible to conclude a multi-enterprise collective labour agreement for the university employees.

It is also worth recalling that, in accordance with the applicable law, collective agreements are not concluded for (Article 239 of the Labour Code):

- members of the civil service corps;
- employees of state offices employed on the basis of appointment;
- local government employees employed on the basis of election and appointment in marshal offices, poviats, municipal offices, offices (their equivalents) of associations of local government units, offices (their equivalents) of administrative units of local government units;
- judges, assessors and prosecutors.

NSZZ “Solidarność” tried to question the compliance of Art. 239 of the Labour Code with the Polish Constitution regarding the exclusion of the possibility of concluding collective labour agreements for members of the civil service corps. However, the arguments of the applicant were not shared by the Constitutional Tribunal which stated that there was no inconsistency with the constitutional law and international agreements that are binding on the Republic of Poland<sup>29</sup>.

### *2.3.2. Collective Labour Agreements – Proposals of the Codifying Committee*

The Codification Committee proposed significant changes in collective labour agreement to the representation of the employers. As Ł. Pisarczyk has highlighted, the authors of the draft assumed that the current regulations indicating that only an employers’ organization may act a party of the multi-enterprise agreement are not following the complex organizational structures and make it difficult to negotiate with entities deciding on employment conditions. It was assumed that the employers’ party was more diversified in multi-company negotiations. It could be an employers’ organization (representing its members),

<sup>29</sup> The court award discussed by Surdykowska B., , Kilka uwag dotyczących wolności związkowych w kontekście orzeczenia TK 5/15 z 17.11.2015, Monitor Prawa Pracy 2016, No. 6, pp. 290-294.

but also a chamber of commerce or a chamber of crafts for the employers associated therein, and, importantly from the point of view of this study, appropriate governmental or local administration bodies for budgetary units and local government budgetary establishments. They also wanted to allow groups of employers to conclude collective bargaining agreements.

### ***2.3.3. Multi-enterprise Collective Labour Agreements in the Public Sector – the Present Situation***

It might seem that multi-enterprise collective agreements will be a useful instrument for regulating relations between local government and trade unions. However, this is not so. This is mainly due to the fact that, in general, the current condition of multi-company collective labour agreements is very poor. It is an institution of little practical importance. Their number and coverage are systematically decreasing (according to the data from the Ministry of Family, Labour and Social Policy, collective contracts cover only ca 200,000 employees). It is also true for the public sector. Currently, the ministry has registered 174 concluded collective agreements and only 61 are “alive”. The underlying reasons of the systemic collapse are not only in unfavourable legal solutions, but above all in the low quality of social dialogue between the social partners.

In the local government sector, the situation improved at the end of the 1990s. It was when the multi-enterprise collective agreements started to emerge for school employees who were not teachers. The initiative came from the trade unions which wanted to ensure adequate employment standards for people not covered by the Teacher’s Charter. In some municipalities, multi-enterprise collective agreements were also concluded for employees of social welfare homes (Częstochowa) and municipal companies (Łódź, Jastrzębie Zdrój, Warsaw). In total, more than 70 multi-enterprise collective agreements of this type have been concluded. Currently, however, they are often terminated by local government units, which is met with employee protests (an example of this is Łódź).

### ***2.3.4. Collective Disputes – Applicable Regulations***

A party to a collective dispute may be, on the one hand, a trade union and, on the other, an employer or an employers’ organization.

Pursuant to Art. 5 of the Act, the employer within the meaning of the Act on Collective Disputes is the entity referred to in Art. 1 (1) point 2 of the Act on Trade Unions, i.e. an employer within the meaning of Art. 3 of the Labour Code and an organizational unit, even if it does not have legal personality, as well as a natural person, if they employ a person performing paid work other than an employee, regardless of the form of the employment.

For the sake of order, it is worth quoting the definition of “a person performing paid work” – it should be understood as an employee or a person performing remunerated work on a basis other than employment relationship, if he or she does not employ other people for this type of work, regardless of the basis of employment, and has such rights and interests related to the performance of work that can be represented and defended by a trade union.

The latter amendment to the Act on Collective Disputes (in the previous legal system, the employer for the purposes of this Act was simply an employer within the meaning of Art. 3 of the Labour Code) is the result of changes in the Act on Trade Unions related to the extension of the right of association to other entities than an employee within the meaning of the Labour Code performing subordinated work. This change doesn't solve any problems in the public sphere related to the issues of collective disputes. These problems come from the need to initiate collective disputes against entities that do not have any power to decide regarding the demands, in particular related to the area of remuneration of employees. Also, usually the demands related to the work environment generate certain costs and the entity to which the request is addressed is not able to make certain decisions. Of course, a similar problem occurs in the context of collective disputes initiated against an employer in a situation where most decisions are made by the central management of a corporation.

Pursuant to the Act, a collective dispute consists of the following stages: negotiations, mediation, arbitration (which is optional) and a strike.

Under the current regulations, many problems have been indicated in relation to the inability to control the correctness of the initiation of a collective dispute and the inability to control the correctness of organizing a strike action. Hence the demands in the doctrine of introducing judicial control of examining the correctness of initiating a collective dispute and commencing a strike. These issues have been discussed several times in the Social Dialogue Council.

By accepting the court control, the trade unions indicated the need to introduce binding (and not recommended) time limits for the court to issue a decision. This element seems to block the possibility of introducing changes to the act.

The numerous limitations to the right to strike also need to be looked at. They are included in Art. 19 of the Act on Resolution of Collective Disputes. From the point of view of this study, a critical importance is in Art. 19.2 which states that the right to strike is not granted to employees of state authority, government and local administration, courts and the public prosecutor's office.

The issue of excessive restrictions on the right to strike is the subject of the application of NSZZ "Solidarność" to the Constitutional Tribunal of 2014 (application K 23/14, the application has not been examined to date)<sup>30</sup>.

### ***2.3.5. Collective Disputes – Proposals of the Codification Committee***

The Commission has proposed the reconstruction of the employers' side as a party to a collective dispute, so that it would be possible to have disputes with entities having a real impact on employment conditions. In particular, a dispute constituting a continuation of the arrangement negotiations could be conducted with entities that are capable

<sup>30</sup> <https://trybunal.gov.pl/sprawy-w-trybunale/art/7174-rozwiazywanie-sporow-zbiorowych-prawo-dostrajku/>

of arrangement, e.g. with chambers or a group of employers. The draft enables disputes with state bodies and local government bodies<sup>31</sup>.

The draft assumed the introduction of modifications to limit the right to strike. This was especially true to the rights of people employed in public administration. The current restrictions have been assessed as too stringent and not in line with the international standards<sup>32</sup>.

The right to strike would not be enjoyed by persons holding the function of organs or persons employed in clerical positions in offices servicing state authorities and in government and local government administration offices, as well as judges and prosecutors.

The Commission also tried to safeguard the interests of the employees who did not have the right to strike. The trade union representing these persons could apply for a dispute to be resolved by submitting it to the College of Social Arbitration.

### ***2.3.6. Actors of Social Dialogue in the Local Government Sector***

A valuable (in our opinion) supplement to the chapter will be the presentation of a short overview of the main actors of collective social dialogue in the local government sector. For the sake of precision, we intend to focus on representing the interests of collective parties to labour relations, i.e. employers' organizations and trade unions.

Polish collective labour relations are characterized by advanced pluralism. The situation in the local government sector does not differ from the "national average". On the employers' side, there are several industry-level employers' organizations whose domain is public services (of universal access). Some of them are affiliated in a national employer organization with the status of representative social partners within the meaning of the Act about Social Dialogue. The key employers' organizations are:

- Waste Management Employers' Association - a nationwide organization, founded in 2004, associating "employers of the broadwaste management and municipal hygiene", a member of the Association of Employers and Entrepreneurs.  
<http://www.zpgo.pl/>
- The Polish Association of Public Transport Employers belongs to the Employers of the Republic of Poland. <http://www.pzptp.pl/>
- The Polish Federation of Hospitals (PFSz) is a nationwide employer organization associating hospitals, regardless of their ownership structure, size or operating model. PFSz was established in 2011 and belongs to the Employers of the Republic of Poland.  
<http://www.pfsz.org/>
- The Employers' Union "The Polish Theatre Union", founded in 2003, associating 13 public institutions, belongs to the Lewiatan Confederation.  
<https://uniapolskichteatrow.pl/>

<sup>31</sup> Stelina J., Szmit J., Zieleniecki M., Osoby pozostające w zatrudnieniu niepracowniczym w projektach Kodeksu zbiorowego prawa pracy, (w) Zbiorowe prawo zatrudnienia, red. J. Stelina, J. Szmit, Warsaw 2018.

<sup>32</sup> Szmit J., Spory zbiorowe w projekcie Kodeksu zbiorowego prawa pracy, PiZS 2019/7 p. 12 and the referred literature.

- Employers of Health, an organization of employers from Lower Silesia, with members from primary and specialist health care providers, belongs to the Lewiatan Confederation. <https://pracodawcyzdrowia.pl/o-zwiazku/>

The nationwide employers' organizations also include individual entities (enterprises) representing universal access services. These include, for example, the companies Suez Bielsko <http://www.suezbielsko.pl/>, Aqua S.A. <https://www.aqua.com.pl/> or the Independent Public Complex of Open Health Establishments Warszawa-Żoliborz belonging to BCC.

It is also worth mentioning the chambers of commerce that represent entities operating in the local government public sector. Those are:

- Chamber of Commerce "Polish Waterworks";
- Chamber of Commerce "Polish Heating";
- Chamber of Commerce for City Transport.

On the trade unions side, there are nationwide autonomous trade unions and federations which are members of nationwide union organizations which have the status of representative social partners within the meaning of the Social Dialogue Act. Trade union organizations that fall within the scope of our interest are listed below. Due to their large number, they are divided into federations.

NSZZ Solidarność:

- National Secretariat for Culture and Media, which includes the following national sections: the National Section of Museums and Monument Protection Institutions and the National Section of Public Libraries Employees;
- National Secretariat of Public Services, which includes the following national sections: National Section of Municipal Transport, National Section of Municipal and Housing Employees, National Section of Water Supply and Sewerage Employees, National Section of Government and Local Government Administration Employees;
- The National Secretariat for Science and Education, in particular the National Section of Education and Upbringing;
- National Secretariat for Healthcare, in particular the National Section of Social Welfare Workers belonging to it.

The nationwide Alliance of Trade Unions: (OPZZ)

- Polish Teachers Association;
- Union of Surgical and Anesthetic Nurses;
- nationwide Trade Union of Psychologists;
- Trade Union of Local Government Employees and Public Benefit Institutions 'Agreement 2014';
- National Trade Union of Physiotherapy Employees;
- National Trade Union of Heat Engineers;
- Federation of Trade Unions of Employees of Municipal and Local Economy in Poland;

- Federation of Trade Unions of Healthcare and Social Welfare Workers;
- Trade Union of Anaesthesiologists;
- Federation of Trade Unions of Public Transport Workers in the Republic of Poland;
- Federation of Trade Unions of Workers of Culture and Art..

Trade Union Forum (FZZ):

- National Free Trade Union of Water Management and Environmental Protection Workers;
- nationwide Trade Union of Midwives;
- nationwide Trade Union of Nurses and Midwives;
- nationwide Trade Union of Workers in the Anaesthesiology and Intensive Care Unit;
- nationwide Trade Union of Medical Diagnostics and Physiotherapy Employees;
- Free Trade Union "Solidarity-Education";
- Trade Union of Public Transport Workers in the Republic of Poland;
- Trade Union of Creators of Culture;
- nationwide Trade Union of Drivers and Tram drivers;
- NSZZ Ciepłowników in Poland;
- National Trade Union of Medical Diagnostic Laboratories Employees;
- nationwide Trade Union of Medical Technicians of Radiotherapy;
- Polish Actors Trade Union;
- nationwide Trade Union of Medical Technicians in Electroradiology;
- Federation of Trade Unions of Employees of Public Institutions.

### ***2.3.7. Opinions on Local Legal Acts by Trade Unions***

Trade unions provide their opinion on acts of local law pursuant to Art. 19 of the Act on Trade Unions. As commonly indicated in the literature, certain doubts arise with regard to acts of local law<sup>33</sup>. This type of legal acts of a general and abstract nature is subject to review in the manner and on the terms specified in Art. 19.1 of the Act on Trade Unions. Interpretation difficulties result from a special category of local legal acts, which leads to certain discrepancies in the jurisprudence. In one of the rulings it was decided that the regulation contained in Art. 19.1 and 19.22, does not restrict the concept of legal acts only to the concept of general acts of a universally binding nature. This provision stipulates that assumptions as well as draft legal acts are by nature only informative. A resolution on the intention to liquidate a public school is certainly not an act containing abstract and generally binding norms, as it is an act that constitutes a kind of information about the intention to take specific actions. Thus, such a resolution cannot be considered only as an act of

<sup>33</sup> Szlachetko J.H., *Udział podmiotów spoza sytemu administracji publicznej w stanowieniu aktów prawa miejscowego przez organy jednostek samorządu terytorialnego*, Sopot 2016; Książek D., (w) *Zbiorowe prawo*, edition K.W. Baran, 2016, com. to art. 19.

an internal nature, and since it constitutes the basis for taking obligatory actions addressed to an indefinite group of entities from outside the local government administration, it cannot be considered only as an act of an internal nature that is not subject to opinion. The resolutions on the intention to liquidate a school and on the liquidation of an institution are legal acts in the broad sense and there is no reason for giving them a narrower meaning. Since the subject of both types of resolutions is the liquidation of a specific school, such a liquidation must be considered a matter covered by the requirement to consult the relevant trade unions (ruling of the Supreme Administrative Court of 23 February 2011, I OSK 2027/10, Legalis). On the other hand, in another ruling, the position was presented that the resolution on the intention to liquidate a school is a type of legal act constituting a special type of information about the intention to take actions of an external nature, as it constitutes the basis for further actions directed at entities “outside” of the local government administration aimed at to liquidate the school and make notifications and obtain the opinion required by law. Therefore, a resolution on the intention to liquidate a school cannot be considered an act of an internal (organizational) nature only. The resolution is a formal and legal prerequisite for such liquidation in the process of liquidating a public school. In the doctrine, this type of act is referred to as “intentional” (ruling of the Administrative Court in Gorzów Wielkopolski of 13.7.2011, II SA / Go 309/11, Legalis). Differently, the Administrative Court in Kielce took the position that consultations under Art. 19 Act on Trade Unions applies only to general and abstract norms which are subject to the procedure set out in Article 19 (2) of those acts which are individual, internal and organizational in nature. A resolution of the local government on the establishment, liquidation, and transformation of a budgetary establishment is an individual organizational action (the ruling of the Administrative Court in Kielce of 4 October 2012, II SA / Ke 551/12, Legalis).

Further doubts concern the question to which structure (territorial or sectoral) of a given union represented within the meaning of the Act on Social Dialogue should a given draft / assumption of a legal act for opinion.

The key issue is the consequence of not following the right opinion procedure. The rulings of the Supreme Administrative Court and supervisory decisions of voivodes indicate a sanction in the form of invalidity of a given, for example, resolution of a local government. It is also pointed out that the lack of proper seeking for opinion is a serious violation of the law.

At this point, it can only be noted that this is a fundamentally different approach from the view repeated by the Constitutional Tribunal in numerous rulings that the lack of a proper procedure for issuing opinions on draft legal acts (pursuant to Article 19 of the Act on Trade Unions does not affect the validity and correctness of the legislative process), see the rulings of the Constitutional Tribunal: K 10/94; K 15/03; Kp 1/18).

Although the above remarks are very brief, it seems that they show an urgent need to organize *de lege ferenda* the issue of issuing opinions by trade unions on drafts of legal acts created by local government.

*De lege ferenda*, it is possible to consider the introduction of the Regional Councils for Social Dialogue into this procedure, which would act as “contact boxes” to which local

governments could direct their drafts and assumptions of legal acts. It should be emphasized that Article 19 of the Act on Trade Unions was established in 1991, when no social dialogue organisation existed that could be used in this process. At present, the situation is different, and they can be used.

The current practice is very unsatisfactory, as the manner of applying the law is very dependent on local conditions, as well as the awareness of certain rights and obligations under Art. 19 is slim.

Examples of rulings of the supreme and voivodship administrative courts regarding the issuing of opinions on acts of local law are presented below. There are also examples of supervisory decisions of voivodes. These references show the following:

- the problem of the lack of clarity to which trade union structure the project should be referred to (examples: to the trade structure or territorial federation);
- the issue of sanctions in the event of an incorrect procedure.

It can also be emphasized that the rulings included in the LEX database allow us to formulate a working thesis that over the last five years the number of supervisory rulings and decisions has clearly decreased, which may (does not have to) indicate that the opinion procedure is rarely used in real life.

### **Resolution on the intention to liquidate the school and resolution on the liquidation of the school**

The resolution on the intention to liquidate the school and the resolution on the liquidation of the school, adopted pursuant to Art. 59 sec. 1 of the Act on the Education System, are legal acts taken in the matter covered by the opinion of the relevant statutory authorities of the trade union pursuant to the provision of Art. 19.2 of the act on trade unions, except that the submission of a draft of one of them for an opinion is the fulfilment of the obligation referred to in Art. 19.2.

(ruling of the WSA Court in Warsaw of 23 June 2017, II SA/Wa 2143/16, Legalis)

### **Participation of trade unions in the legislative process**

1. Trade unions that do not meet the statutory criteria may be asked for opinions on the legislative intentions of local government bodies, but this will not be the performance of the statutory obligation, but only a manifestation of the policy pursued by local government bodies due to the local importance of the trade union as a representation of working people.
2. Due to the fact that the participation of trade unions in the legislative process is regulated by law, a case in which trade unions were omitted in the opinion on a draft resolution of a commune body may not be treated otherwise than as a significant violation of the law, thus giving grounds for annulment of the resolutions.

(ruling of the WSA Court in Wrocław of 30 May 2017, IV SA/Wr 2/17, Legalis)

### **Depriving a representative trade union organization of the right to express an opinion on the assumptions and draft legal acts in the scope covered by the tasks of trade unions as a significant breach of law within the meaning of Art. 91 sec. 1 and 4 of the Act on Municipal Local Government**

1. Depriving a trade union organization, representative within the meaning of the Act of 6 July 2001 on the Tripartite Commission for Socio-Economic Affairs and voivodship committees for social dialogue, the right to issue opinions on assumptions and draft legal acts in the field covered by the tasks of trade unions constitutes a significant violation of the law within the meaning of Art. 91 sec. 1 and 4 of the Act on Local Government, regardless of the nature of the legal act, the draft or assumptions of which have not been submitted to the relevant trade union organization for opinion.
2. Correct fulfilment of the obligation under Art. 19.2 of the Act of May 23, 1991 on trade unions is to direct them to the territorial and not industry structures of OPZZ.  
(ruling of the NSA Court in Warsaw of 8 February 2017, I OSK 1329/16, Legalis)

### **Non submitting to the trade union the draft of resolution on liquidation of a health care unit for consultation is a material violation of the law**

A local government body by refusing to submit the assumptions of the draft resolution to the trade union – in terms of its opinion-giving powers – breaches its statutory obligation to ensure that the union participates in the legislative process. Failure to comply with this obligation is tantamount to a material violation of the law.

(supervisory decision by the ŚląskVoivod of 6 November 2013, NP11.4131.1.516.13)

### **The trade union's right to present an opinion on a draft act of local law**

A trade union operating in the plant has – pursuant to Art. 19.2 of the Act of 1991 on trade unions – the right not to present an opinion within the time limit set by the local government body, which is a waiver from the right to express it, however, the local government body may not infringe this right by not submitting a draft act of local law for an opinion.

(supervisory decision by the MazowieckieVoivod of 5 April 2013,  
LEX-S. 4131.9.2013.TN)

### **Entities authorized to provide opinions**

One cannot equate the opinion on the draft resolution by trade unions associating a specific professional group (e.g. teachers) with the opinion on the draft resolution by the trade unions pursuant to Art. 19.2 of the 1991 Act on Trade Unions.

(supervisory decision by the DolnośląskiVoivod of 5 July 2012,  
NK-N6.4131.437.2012.JK8)

### **Consequences of not giving opinions – 1**

Due to the fact that the participation of trade unions in the legislative process is regulated by law, a situation in which the procedure provided for in the Act of 1991 on trade unions has not been exhausted is a significant violation of the law.

(supervisory decision by the Warmińsko-Mazurski Voivod of 13 June 2012, PN.4131.164.12)

### **Consequences of not giving opinions – 2**

The right of trade unions resulting from the indicated provision is independent of the fact of belonging to a trade union of persons who are affected by the effects of the proposed legal act. All trade union organizations meeting the criterion of representativeness within the meaning of the above-mentioned of the Act, are entitled to give opinions on all legal acts concerning the matter covered by the tasks of the unions, regardless of the actual activity of the union in a given area. Adopting a resolution without submitting its draft for opinion to trade unions significantly violates Art. 19.2 of the Act on Trade Unions, which results in the declaration of invalidity of the resolution.

(supervisory decision by the Lubuskie Voivod of 25 July 2019, Lubus. 2019/2153)

### **Consequences of not giving opinions – 3**

A local government body by refusing to submit the assumptions of the draft resolution to the trade union - in terms of its opinion-giving powers – breaches its statutory obligation to ensure that the union participates in the legislative process. Failure to perform this obligation is tantamount to a material violation of the law.

(supervisory decision by the Śląski Voivod of 6 November 2013. Śląsk. 2013/6521)

## **2.4. Conclusions**

### ***2.4.1. The Need to Revive Collective Agreement Practice***

In this context, two solutions proposed by the Codification Committee can be identified. The first one is a new mechanism for generalizing arrangement provisions. It was assumed that the new generalization mechanism would become an important element of the reconstruction of the industrial relations system, allowing for the unification of working conditions and pay for numerous groups of employees. A condition for the generalization would be a joint application to the minister responsible for labour affairs by all trade unions and employers' organizations forming the Social Dialogue Council. Generalization could apply to a multi-enterprise system. The second element is the proposal for mandatory collective negotiations. This obligation would apply to employers employing at least 50 employees in a unionised workplace without any collective agreement. Negotiations would be initiated by the employer by October 31 of a given year, and the starting point would be the employer's proposal concerning at least: conditions of remuneration for work, equal treatment in

employment and professional development of employees. The need to revive the collective agreement practice should be seen in the context of “tools” that may be an element of the negotiation process, which is a collective dispute and a strike.

### *2.4.2. Need for Changes in Collective Disputes*

The doctrine of the Polish labour law often indicates that the Polish model which formally separates the process of collective bargaining from the collective dispute procedure is atypical compared to other countries. Changes in this respect were proposed by the Codification Committee. It is also pointed out that the parties to a collective dispute are not defined in a way that would ensure effective resolution in the event of demands regarding pay and work conditions in the public sphere. While, of course, the low number of collective labour disputes cannot be perceived as a disturbing phenomenon, the very low coverage of employees by collective labour agreements shows that the entire legal framework (concerning the conclusion of collective labour agreements and collective disputes) does not create an effective mechanism.

### *2.4.3. Need for Changes in the Right to Strike Limitations*

The restrictions on the right to strike existing in the Polish legal system are perceived by numerous representatives of the doctrine as violating the ILO standards. This fact alone should induce the legislator to take actions aimed at introducing changes in the Polish legal system. It is possible that the long-awaited ruling of the Constitutional Tribunal will give the required impulse. As described above, it should be emphasized that the very low number of strikes is nothing to worry about, but the lack of decentralized and autonomous shaping of working conditions and pay (low coverage by collective agreements) is worrying. Polish restrictions on the right to strike also raise serious doubts in the light of the constitutional principle of equality. They also raise numerous doubts as to the categories of employees for whom the legislator uses “multi-level” statutory references, for example, employees of courts and prosecutor’s office<sup>34</sup>. The ban on strike for government administration employees should apply only to employees working in managerial positions in the administration, and not to all employees as it is now. This was the subject of a complaint from the National Commission of NSZZ “Solidarność” to the ILO Trade Union Freedom Committee for the restriction of trade union freedom in the context of the right to strike by the Polish law<sup>35</sup>. In response to the complaint, the Committee encouraged the government to establish a procedure for identification of the civil servants who exercise public authority and to limit the right to strike to this category only. To date, the recommendation has not been implemented.

<sup>34</sup> <https://www.rp.pl/Sady-i-prokuratura/190709645-Strajk-pracownikow-sadow-i-prokuratur-jest-porozumienie-ws-plac.html>

<sup>35</sup> <http://www.solidarnosc.org.pl/biura-eksperckie2/kontrola-prawa/miedzynarodowa-organizacja-pracy/item/9947-skarga-dot-sporow-zbiorowych-i-strajku>

## 3. THE LOCAL LABOUR MARKET

### 3.1. Introductory remarks

From Poland's accession to the European Union, the local governments' need for reliable statistical information has increased, as it allows to better define the development needs of municipalities and to better prepare budgets and applications for EU funds. It turned out then that the system of official statistics does not meet all the expectations of local governments as it usually generates data only at the regional level. Recognizing the gaps in public statistics, the Association of Polish Cities for many years has been running its own Local Government Analysis System (SAS)<sup>36</sup> which contains data that allows cities to compare their achievements in various areas of municipal management. However, SAS does not collect data on the local government labour market. Currently, the Association of Polish Cities is developing a tool for in-depth analysis, also covering the local labour market under the project "Building the Institutional Capacity of Medium and Small Cities in Poland for the Implementation of Effective Local Development Policies"<sup>37</sup>.

In 2014, the Association of Polish Cities made a report "Local Government as an Employer"<sup>38</sup> where it has covered a comprehensive answer to the question – who is a local government employer and what the local government labour market is like. The Norwegian "Employment Monitor" was the inspiration of the report which was developed under a project "Social Dialogue in Enterprises and the Local Government Sector", which was carried out by the Association of Polish Cities in cooperation with the Norwegian Association of Local and Regional Authorities. The project was financed from the Norwegian Financial Mechanism 2009–2014, under the "Fund for Decent Work and Tripartite Dialogue."

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<sup>36</sup> <https://www.miasta.pl/strony/baza-danych-o-miastach-system-analiz-samorzadowych-sas>

<sup>37</sup> <https://www.miasta.pl/strony/rozwoj-srednich-i-malych-miast-projekt-predefiniowany>

<sup>38</sup> [Samorząd\\_jako\\_pracodawca\\_Raport\\_o\\_zatrudnieniu\\_w\\_sektorze\\_samorzadowym\\_Poznań\\_2014.pdf](#)

Following the example of a study which was made six years earlier, the Association of Polish Cities asked the Statistics Poland Bureaux to send specific data extracted from the Z-06<sup>39</sup> form on the basis of “the criterion of ownership of a local government unit” or “as an entity with a local government share of more than 50%.” Just like the report from 2014, the current publication is based on the statistical data available on the website of the Statistics Poland and the data obtained for the purposes of this analysis only. Therefore, having an identical catalogue of statistical data characterizing the local government labour market from 2012 and 2018, we will compare the values from both periods and determine how they changed in the six-year time horizon.<sup>40</sup>

All calculations and charts have been made for this report based on Statistics Poland data and other available sources of information.<sup>41</sup> The report prepared by the employees of the Association of Polish Cities is not of a scientific nature. Its aim is to increase the knowledge of the two parties of the social dialogue – employers and employees of local governments – about the available data on the labour market and the possibility for them of using this knowledge to improve the quality of public services provided.

### 3.2. Sources of information and data on employment in the local government sector

For the purposes of this publication, we focus mainly on statistical reporting, statistical yearbooks, publications of the Statistics Poland on the labour market and the results of the quarterly survey of the economic activity of the population (BAEL) conducted by the Statistics Poland.

In Poland, each entity employing more than 9 employees is required to submit a Z-06 report to the Statistics Poland. The report concerns: the number of people employed in the plant, full-time and part-time employees, forms of employment, wages, hours worked, staff turn-over and reasons thereof, reported separately for women and men. As explained in the introduction, in order to separate information referring only to the local government sector, the ZMP purchased from the Statistics Poland data on employment in entities classified according to ownership - as local government property. The local government sector has two forms of ownership:<sup>42</sup>

- 113 – local government property;
- 123 – mixed ownership in the public sector with predominance of local government ownership.

<sup>39</sup> The scope of data collected by the Statistics Poland is included in the Z-06 form, which is completed as standard by all entities in Poland that employ 9 or more employees.

<sup>40</sup> At the time of the study, data for 2019 was not yet available.

<sup>41</sup> Most of the charts and choropleth maps are made by Paweł Krawczyk. Cartograms with the division into poviats were made by J.M. Czajkowski.

<sup>42</sup> Codes in accordance with the regulation of the Minister of Labour and Social Policy of November 8, 2010 amending the regulation on the statistical accident card at work.

In order to compare employment in the local government sector and employment in Poland in total by sections of the labour market, the following sections were separated according to the Statistical Classification of Economic Activities in Poland (PKD) 2007:

- Section D – Supply of electricity, gas, steam, hot water and air conditioning;
- Section E – Water supply; sewage and waste management and remediation activities;
- Section F – Construction;
- Section H – Transport and warehouse management;
- Section O – Public administration and defence;
- Section P – Education;
- Section Q – Healthcare and Social Work;
- Section R – Arts, entertainment and recreation <sup>43</sup>.

The information collected in this way allows to get a general picture of the number of people employed and their earnings in the local government sector by region <sup>44</sup>.

### 3.3. Employment in the local government sector

#### 3.3.1. Employment in local government administration compared to state administration

Public administration employees according to the terminology adopted by the Statistics Poland:

- employees of the state administration (central and regional government administration) who are subject to the rules of employment of the civil service <sup>45</sup>;
- local government administration employees who are employed under the provisions of the Act on Local Government Employees.

<sup>43</sup> Other sections of Statistical Classification of Economic Activities in Poland 2007 - not included in the local government sector due to the ownership form are: Section A + Section B + Section C + Section G + Section I + Section J + Section K + Section L + Section M + Section N + Section S + Section T + Section U

<sup>44</sup> A more detailed description of the sources of statistical information for the local government sector can be found in the report "Local Government as an Employer" from 2014, pp. 21-25.

<sup>45</sup> According to the Statistics Poland (the Statistics Poland), the state administration includes:

- 1) supreme and central administration bodies, including employees of their foreign institutions:
  - a) supreme and central institutions (e.g. offices of the Sejm, Senate and the President, ministries, central offices);
  - b) local government administration bodies (e.g. tax and customs chambers and offices, district labour inspectorates, statistical offices, regional accounting chambers and, until 2010, support units of budgetary units);
- 2) field bodies of combined government administration: voivodeship offices, support units for service activities (e.g. inspectorates of commercial inspection, construction supervision, veterinary, pharmaceutical, environmental protection, plant protection and seed inspection, as well as historical heritage protection offices and education boards);
- 3) some state agencies (e.g. the Material Reserves Agency, the Polish Agency for Enterprise Development and, since 2009, the Agency for Restructuring and Modernization of Agriculture) and support state administration units with regional branches).

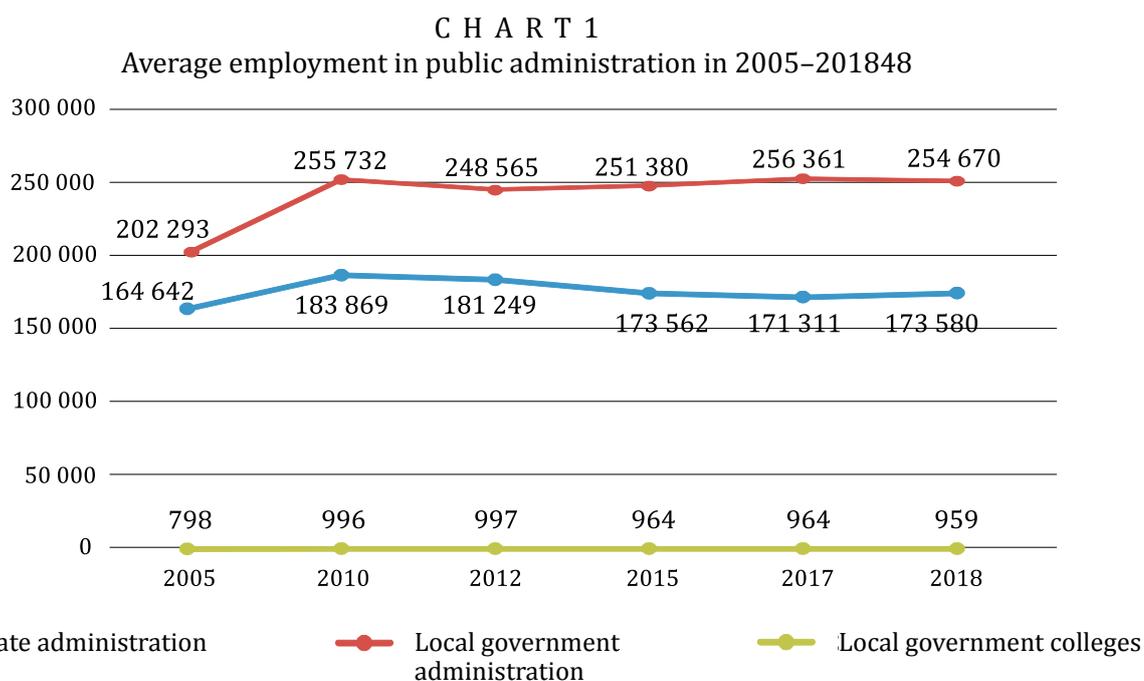
The public statistics do not separate the category of employees of the local government sector, so for the purposes of the 2014 research and the current analysis, the Statistics Poland delivered required statistical data on a special request of the Association of Polish Cities. These are collective data from the employment and remuneration reports (form Z-06), obligatorily submitted by every employer with more than 9 employees in Poland. As in the 2014 report, our study focuses on showing employment in 2018 in the entire local government sector, comparing it with statistical data on employment in Poland in general. We additionally compare it with the data from 2012 which shows changes in a dynamic perspective. We have partially maintained the historical layout of the presentation of data on employment in a regional breakdown, together with three cities: a large voivodeship city – Poznań (537 682), a medium city – the centre of the subregion – Słupsk (329 170) and a town of Dzierżoniów (33 137).

According to the Statistics Poland's data, the total number of people working in Poland as at December 31, 2018 was 9,892,268 people<sup>46</sup>. As a rule, the issue of excessive employment in public administration, both central and local, is the most emotional and media-debated topic. If we analyse these numbers, it turns out that people working in public administration in 2012 accounted for only 5% of the total number of employees, and in 2018, even less, only 4.3%. Local government administration includes employees working in administration and supporting functions and servicing all offices at all levels of local governments in 2,477 municipalities, 380 poviats and 16 voivodeships as well as in their budgetary and organizational units<sup>47</sup>.

<sup>46</sup> The category of "employed" always refers to all employees of entities with 9 or more employees, regardless of whether these persons work in other reporting entities (persons with employment contract for apprenticeship) as of December 31.

<sup>47</sup> The administration of local government includes:

1. Communes and cities with poviats rights:
  - a) Municipal offices and auxiliary service activity units (e.g. municipal service units and, since 2009, road authorities);
  - b) City offices with poviats rights and units supporting service activities (e.g. centres for geodetic and cartographic documentation and, since 2009, road authorities);
2. Poviats, i.e. poviats starosts and units supporting service activities (e.g. labour offices, road authorities);
3. Voivodeships, i.e. marshal offices and regional government organizational units (e.g. labour offices, drainage and water facility managements, and road authorities since 2009).
4. Local Government Appeals Colleges are the authorities competent to examine, inter alia, appeals and complaints against the decisions of local government units.



Source: *Employment and wages in the national economy, the Statistics Poland.*

After joining the European Union, in the first full 7-year financial perspective (2007–2013), Poland received 101.5 billion euro at its disposal, including 68 billion euro for the cohesion policy. Naturally, the need to make good use of EU funds forced an increase in employment and the development of competences of public administration. The number of regional operational programs developed and implemented by marshal offices grew dynamically. Thus, both in the state and local governmental administration a large increase in employment is observed in the period 2005-2010. In the local government administration, this increase continued until 2017, and then decreased a year later. The local government labour market is closely watched by the public opinion, mainly due to the open budgets of municipalities, poviats and voivodships, to which every resident has access. In this context, the money spent on salaries for administration employees is limited by municipal councils, and the terms of remuneration are predictable, as they are mostly regulated by the Act on Local Government Employees.

We notice the opposite tendency in the state administration. After a period of some stabilization, or even a reduction in the number of government administration employees in 2014–2017, in the last of the analysed years we have noticed an increase in employment in the government sector. This is, inter alia, the effect of increasing the number of ministries in 2017–2019<sup>49</sup>, expansion of central offices and the appointment of many new administration positions.

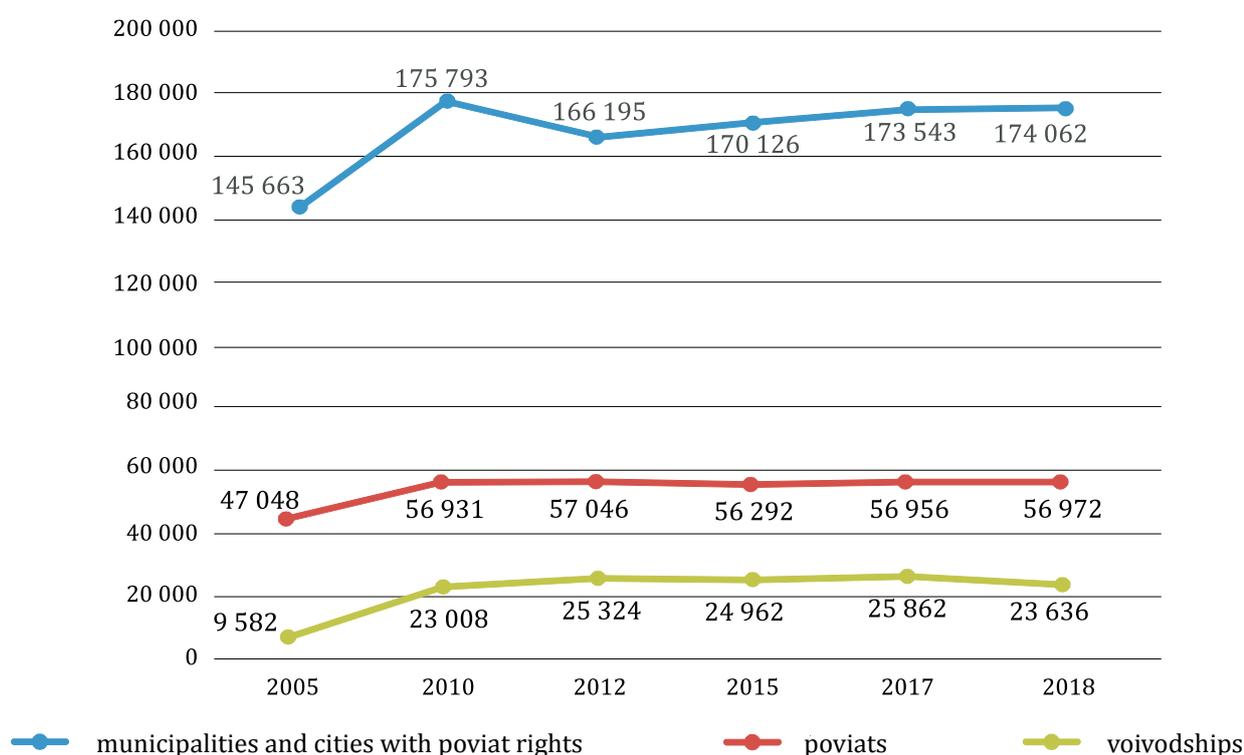
<sup>48</sup> **Average employment** is the average number of employees calculated for the analysed period (eg in the case of data from the Statistics Poland of Poland – forecast on the basis of the recorded employment status. The average employment in the analysed period includes both full-time and part-time employees converted into full-time jobs.

<sup>49</sup> <https://innpoland.pl/146341,liczba-ministrow-i-wiceministrow-w-polsce-bije-dzis-rekordy>

**In 2017–2018, employment in the local government administration decreased by almost 1,700, while at the same time the number of employees in state offices increased by almost 2,300.**

2005–2018 is a time of intensive investment for local governments. Only in 2006–2016, the municipalities received a total of PLN 70.4 billion of EU subsidies, i.e. almost 1' of funds from the structural funds and the Cohesion Fund <sup>50</sup>. Management of these subsidies required additional staff at all levels of local governments. In 2016, the highest increase in employment was recorded in the Marshal's Offices – by 2.87%. In poviats this percentage was 0.91%, and in municipalities and cities with poviat status – 0.82%. According to the information provided by the PAP Local Government Service on May 11<sup>th</sup>, 2017, the Marshal's Office of the Wielkopolskie voivodship (108) hired the greatest number of new employees. The representatives of the Office explained that the increase in employment was largely due to the need to absorb EU funds and implement the operational programs. On the other hand, the increase in employment in municipalities was influenced by the 500 plus program, which generated significant staffing needs.

**CHART 2**  
Average employment in local government administration in 2005–2018,  
by types of local government units

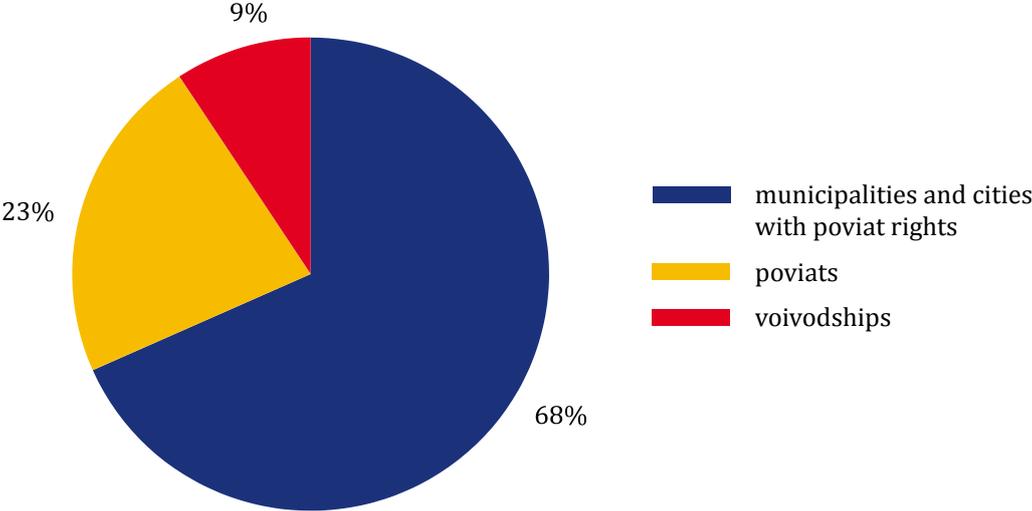


Source: *Employment and wages in the national economy, the Statistics Poland.*

<sup>50</sup> [https://repozytorium.uwb.edu.pl/jspui/bitstream/11320/7372/1/Optimum\\_3\\_2018\\_J\\_Sierak\\_Alokacja\\_funduszy\\_unijnych.pdf](https://repozytorium.uwb.edu.pl/jspui/bitstream/11320/7372/1/Optimum_3_2018_J_Sierak_Alokacja_funduszy_unijnych.pdf)

The comparison of the average employment in 2018 in three types of local government units is related to the number of local government units: 2,477 municipalities, 380 poviats and 16 voivodeships. This is shown in the chart below.

C H A R T 3  
Distribution of employment in the local government administration in 2018 (%)



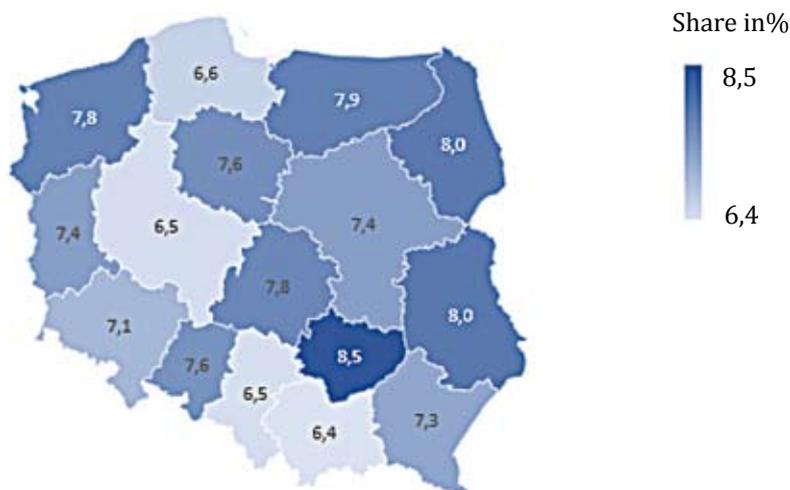
Source: *Employment and wages in the national economy, the Statistics Poland' data.*

In the regional governments in 2015-2017 there was an increase in jobs by 900, which on average meant about 56 new jobs per voivodeship. The upward trend in employment in self-government offices of voivodeships, communes and cities with poviats status continued until 2017. A year later, regional governments recorded a decrease in employment by 2,226, while in the state administration the number of employees increased by a similar number of people. It was probably related to the transfer of competences related to the management of environmental protection and water management tasks to the Ministry of Environment.

When we look at the distribution of employment in administration in individual regions of Poland, we can see a clear trend. The highest rates of people working in local government administration per 1000 people are in voivodeships with a relatively lower level of economic development. We can assume that people working in offices do not have any alternatives and many opportunities to find other, profitable jobs on a fairly poor labour market. Offices are a desirable employer who guarantees stability of employment and predictable wages.

FIGURE 1

Total number of employees in the local government sector in section O of the Statistical Classification of Economic Activities in Poland 2007 “Administration” per 1000 population in 2018, by voivodship

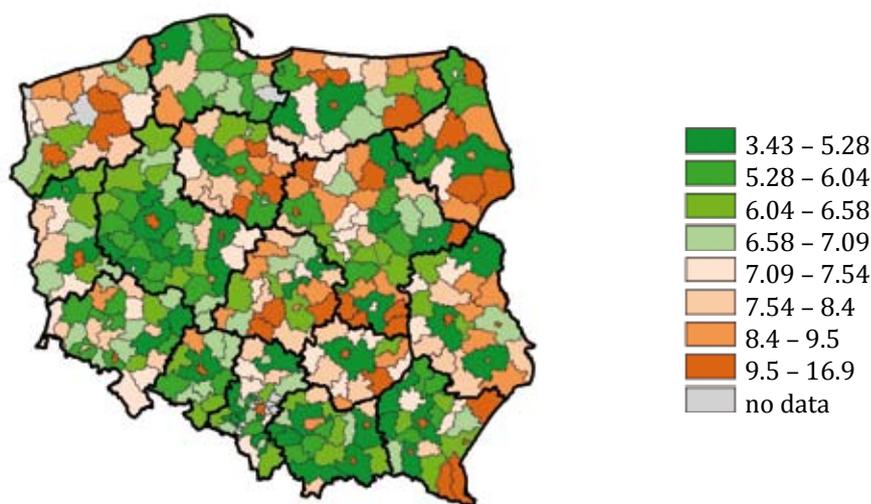


Source: *Employment and wages in the national economy, the Statistics Poland's data.*

The situation is not so clear-cut when we look at the distribution of employment in local government administration by powiat.

FIGURE 2

Number of employees in the local government sector in the section with the “administration” classification 2007 per 1000 population in 2018, by poviats



Source: *Own calculations based on the Statistics Poland's data.*

The highest employment rate per 1,000 people is in cities with powiat rights, which are the main administrative centres for the neighbouring municipalities (regardless of the degree of economic development of the region). This is the case, for example, in Poznań,

which brings together all the most important offices on three levels of local government administration, at the same time serving the inhabitants of the powiat. The situation is similar in other regions dominated by large conurbations. However, the ratio is not as high in other cities. In cities with powiat status: Opole and Rzeszów, almost 17 people per 1000 inhabitants work in local government, while in Warsaw this indicator is almost 9 points lower – only 8.2. Lower employment in local government administration was recorded in Gdańsk (7.23) and Gdynia (6.51). It can be assumed that lower employment in the administration of cities located in developed metropolitan zones may be influenced, among others, by the maturity of e-services in offices and the residents' capacity to use them.

We notice a significantly low rate of people working in administration per 1000 people in powiats with a large number of inhabitants which are administrative regional capital city. This applies to Gorzów (Marshal's Office in Zielona Góra) and Bydgoszcz (Marshal's Office in Toruń). On the other hand, this indicator is high in large-area powiats with a small number of inhabitants. Local government offices located there must deliver the same administrative tasks, the implementation of which requires a certain number of employees. It is well exemplified in the Bieszczady and Leskipowiats, which have the lowest number of people per square km (19 and 30 people/ km<sup>2</sup>) in the Podkarpackie voivodship.<sup>51</sup> and at the same time a relatively high rate of employed per 1000 population (21.50 and 14.49 respectively).

46

In the Podlaskie Voivodeship<sup>52</sup> we note both phenomena, i.e. high rates of people working in local government administration per 1000 inhabitants for the entire voivodeship (8.0) and very low population of the Sejny and Hajnowskipowiats.

The percentage of people working in local government administration in relation to the total number of employees never exceeded 5%, while the national average in 2018 was 2.8%. Over the years 2012–2018, the share of employees in local government administration in relation to the total number of employees in all voivodeships decreased. It remained the lowest in the Mazowieckie voivodship (1.7%), and the highest – in the Świętokrzyskie voivodship (4.7%). This is illustrated in diagram 4.

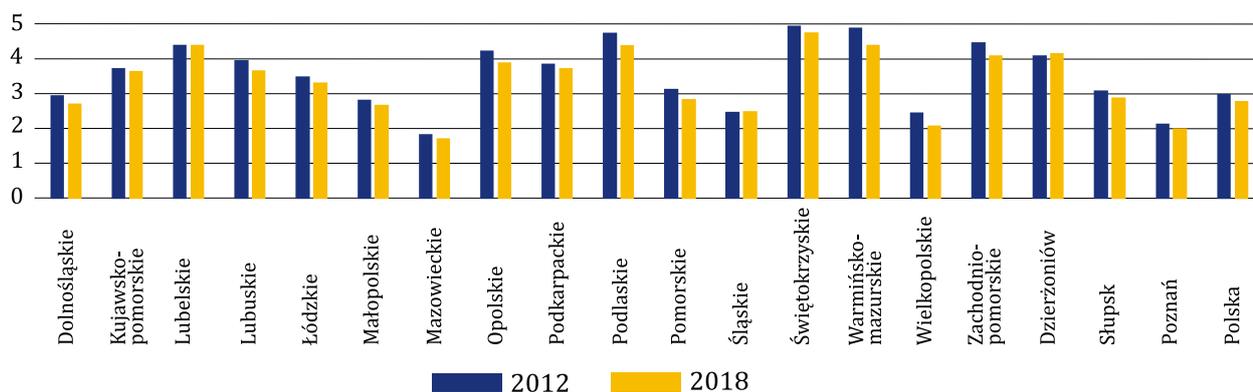
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<sup>51</sup> [https://rzeszow.stat.gov.pl/vademecum/vademecum\\_podkarpackie/portrety\\_powiatow/powiat\\_bieszczadzki.pdf](https://rzeszow.stat.gov.pl/vademecum/vademecum_podkarpackie/portrety_powiatow/powiat_bieszczadzki.pdf)

<sup>52</sup> In Podlaskie Voivodeship, the level of economic development measured by the GDP per capita was 30,100 PLN (71.7% of the national average) in 2018, which is 14<sup>th</sup> highest in Poland.

C H A R T 4

Share of employees in local government public administration (local government sector in section 0 of Statistical Classification of Economic Activities in Poland 2007) in relation to total employment 31 December 2012 and 2018



Source: Own study based on the Statistics Poland's data.

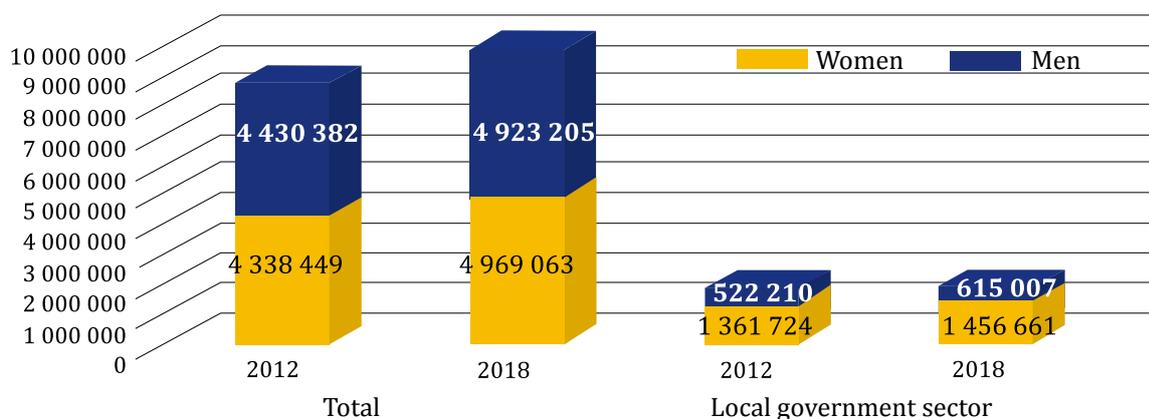
### 3.3.2. Employment in the local government sector compared to total employment

The information that the broadlocal government sector covers more than 20% of the labour market in Poland turned out to be a big surprise in the report on employment in local governments from 2014. **Nearly 1.9 million people worked** in public institutions (being part of local government administration, or for which the ownership bodies are local government units, or which perform functions that are the statutory responsibility of local governments) **which corresponds to as much as 21.5% of the total working population** in the country<sup>53</sup>.

Comparing the labour market in 2012 and 2018, we see a large increase in employment on a national scale not only in the local government sector, but in all sectors of the economy, which was significantly influenced by the implementation of projects financed by the European Union.

C H A R T 5

People working in Poland in 2012 and 2018<sup>54</sup>



Source: Own study based on the Statistics Poland's data.

<sup>53</sup> Excluding economic entities employing up to 9 people.

<sup>54</sup> Excluding economic entities employing up to 9 people.

In the perspective of six years, the increase in total employment amounted to 12.8%, which clearly correlates with the increase in GDP and the increase in the level of consumption in Poland. In 2012, GDP growth was low and amounted to 1.9%, while in 2018 GDP increased by 5.3%. The growth in individual consumption was similar, reaching 0.5% in 2012 and 5.3% in 2018.<sup>55</sup>

Meanwhile, in the local government sector, the increase in employment was much lower and amounted to 4.7%. As a result of better economy and increased demand for employees in the enterprise sector, the interest in the less financially attractive employment in the local government sector decreased. The lower employment dynamics in the local government sector could also be impacted by the possibility of starting own business activity subsidized from sectoral programs. As a result, the share of people working in the local government sector in the total number of employees decreased by 1.6% and in 2018 amounted to 19.9%. Despite the outflow of some employees from the local government institutions, **in 2018 local governments were employers for almost 20% of the total number of people employed in Poland**<sup>56</sup>.

T A B L E 1  
Workforce general and in the local government sector in 2012 and 2018 in Poland  
and in some selected towns

	Total		Local government sector		Share of people working in the local government sector in the total number of employees (%)		Change in the number of employed in 2012–2018 (%)	
	2012	2018	2012	2018	2012	2018	<i>in total</i>	<i>local government sector</i>
<b>Poland</b>	8 768 831	9 892 268	1 883 934	1 971 668	21,5	19,9	12,8	4,7
<b>Dzierżoniów</b>	8 581	8 545	1 757	1 812	20,5	21,2	-0,4	3,1
<b>Poznań</b>	236 234	265 646	32 880	33 729	13,9	12,7	12,5	2,6
<b>Słupsk</b>	24 928	27 641	6 929	6 739	27,8	24,4	10,9	-2,7

*Source: Own study based on data purchased from the Statistics Poland's data.*

We do not have a similar statistical analysis for individual cities. However, it can be assumed that employees from large cities have a greater tendency to look for a job outside the local government sector. This is clearly visible in the case of Poznań and Słupsk, while in a smaller town such as Dzierżoniów, where the labour market is limited, the trend will be rather opposite.

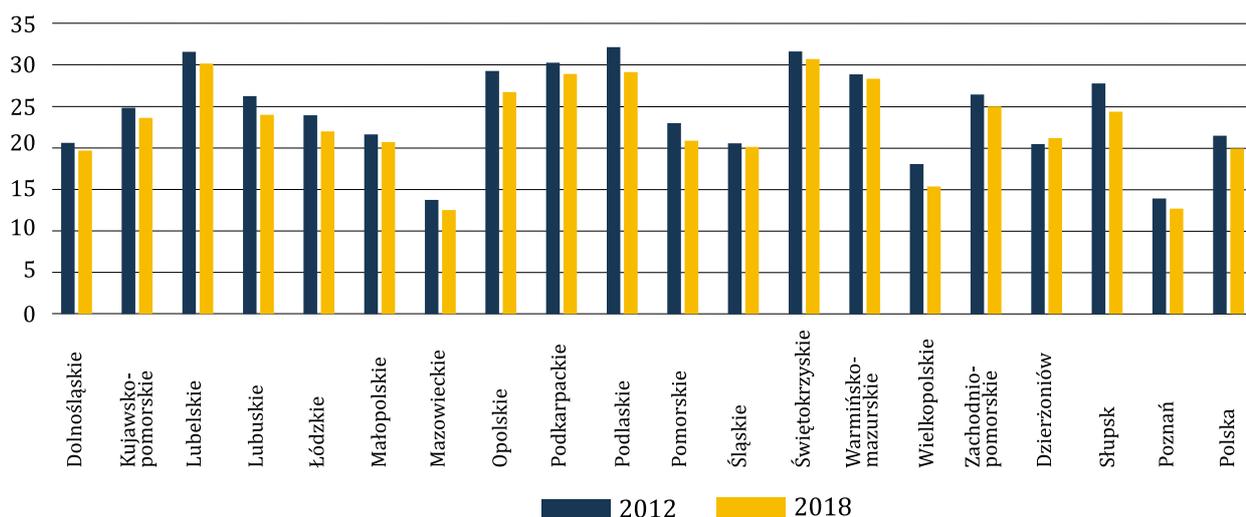
In the years 2012–2018, we see an increase in the total number of employees in Poland, which was 8.1% higher than the increase in the number of employees in the local government sector.

<sup>55</sup> The macroeconomic situation in Poland compared to the processes taking place in the global economy in 2018. Publication in PDF format.

<sup>56</sup> Excluding economic entities employing up to 9 people.

This greater interest in working in sectors other than local government was mainly due to the high absorption of the labour market in times of increased economic prosperity. We remember that wages in the local government sector, primarily in education, health care and social welfare, were relatively low in relation to the employment available on the entire labour market.

**CHART 6**  
Share of people working in the local government sector in the total number of employees,  
31 December 2012 and 2018 (in %)



Source: Own study based on data purchased from the Statistics Poland's data.

We can see above that, compared to 2012, the percentage of people working in the local government sector in the total number of employees in 2018 is lower in all voivodeships. This share will decrease by as many as 3 percentage points in the Podlaskie voivodeship, which, however, remains at the forefront of voivodeships where employment in the local government sector is the highest. They are only ahead of the Świętokrzyskie voivodeship where people working in the local government sector constitute 31% of the total number of employees. At the other extreme are the Mazowieckie and Wielkopolskie voivodeships with the city of Poznań, where in 2012–2018 the reduction in the percentage of people employed in the local government sector did not exceed 1.5% and 2.8%, respectively, but their current level is much lower than in the voivodeships of Podlaskie and Świętokrzyskie and remains at the level of 12 and 15 percent, respectively.

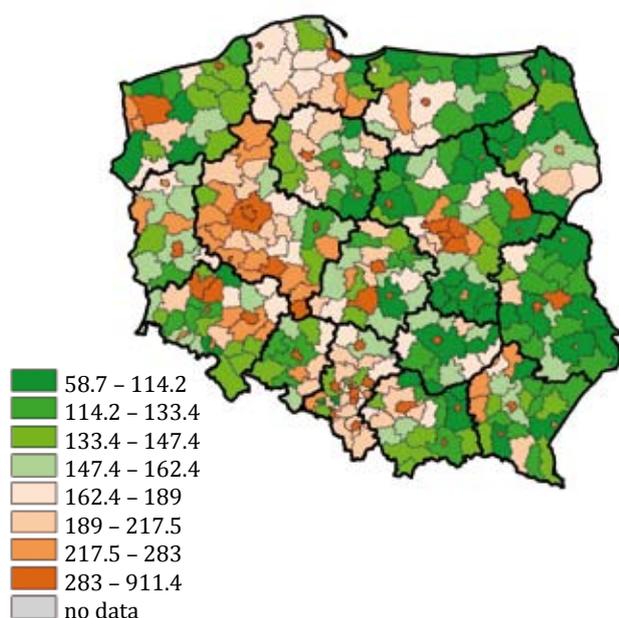
Below, for comparison, we present the indicators of the total employment in the local government sector per 1000 inhabitants in 2018 and in a geographical breakdown.



This is shown by the indicators of the employees per 1000 people in Wielkopolska, as well as in the Pomorskie and Zachodniopomorskie voivodeships, as opposed to the Podkarpackie, Świętokrzyskie and Lubelskie voivodships.

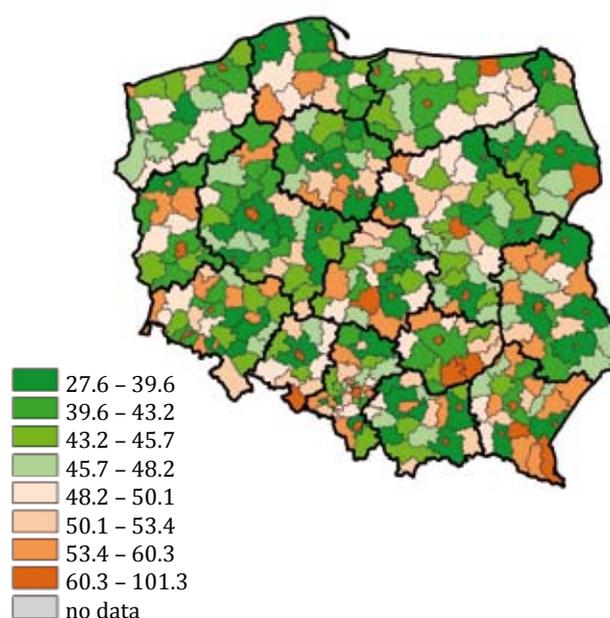
In 2012, we only had data on employment in local governments at the voivodeship level. In 2018, however, we can track employment trends in individual poviats. It turns out that there are less economically developed areas not only in south-eastern Poland. Let us compare two maps with the indicators for the total number of employees and the local government sector.

FIGURE 5  
Total employed persons per 1,000 people  
in 2018, by poviats (PLN)



Source: Own calculations based on the Statistics Poland's data.

FIGURE 6  
Total employed in the local government sector  
per 1,000 people in 2018, by poviats (PLN)



Source: Own calculations based on the Statistics Poland's data.

There is no simple and unequivocal relationship between the economic situation of voivodships, measured by the GDP indicator and the number of employees in the local government sector in voivodships per 1,000 people or the number of employees in the local government sector in poviats per 1,000 people.

We may see from Figure 6 that the relatively highest rates of people working in the local government sector per 1000 inhabitants, i.e. from 60.3 to 101.3 (the most saturated brown), concern cities with poviats status. It is understandable as there are at least people employed in municipalities and poviats governments in this group. In regional capitals, as in Rzeszów, there are also employees of voivodeship government institutions. Five cities-poviats with the highest rates are Rzeszów (92.4), Krosno (94.73), Tarnów (94.41), Przemyśl (93.24) and Zamość (92.94). On the other side of the scale, in the range

of 27.6-39.6, there are poviats: Siedlce (27.65), Łomża (29.20), Ostrołęcki (29.76), Suwałki (30.09) and Leszczyński (30.72).

The thesis about the inverted relationship between the wealth of the local government and the number of inhabitants in a given area is confirmed in the Podkarpackie Voivodeship, where as many as 9 poviats are marked in the range of 101.3-53.4 (Bieszczady, Leski, Sanocki, Brzozowski, Lubaczowski, Jarosławski, Ropczycko-Sędziszowski, Stalowa Wola, Leżajsk + city with powiat rights – Rzeszów).

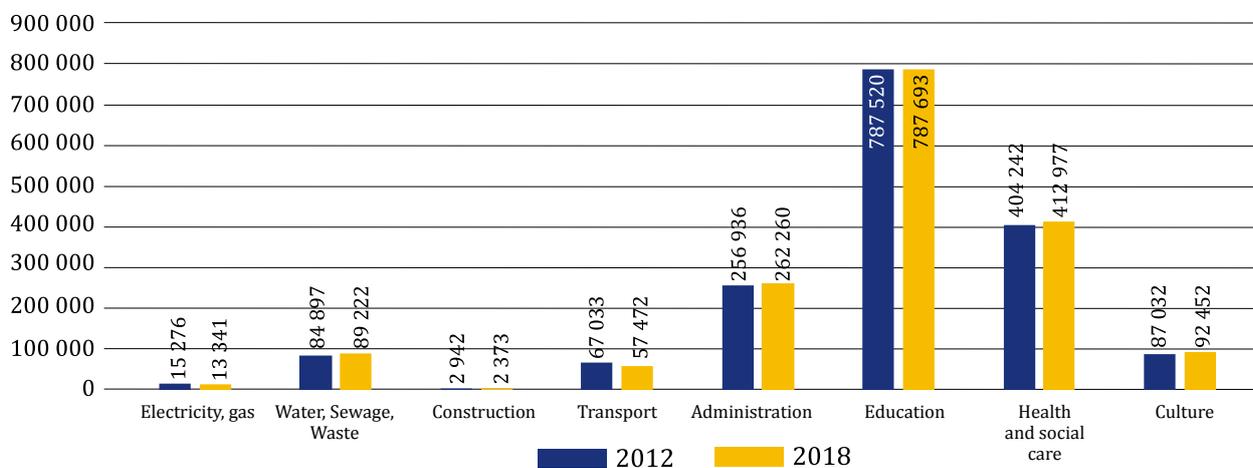
One sole indicator may not delimit socially sensitive and economically neglected areas. It seems that a multivariate analysis is needed here to combine other indicators such as per capita income, unemployment, education and the degree of urbanization. However, using the indicator of the local government employment per 1000 people, it is possible to show how the intervention role of local governments in the labour market is played in the absence of development of other sectors of the economy. This is probably the case in voivodships and individual poviats where local government units are the most significant employers for employees of education, health, social assistance, culture and other municipal services.

In the analysed period (2012–2018), the labour market changed significantly. The changes were the result, inter alia, of the improving global economy, but also of the increasing consumption on the internal market coming from, inter alia, the 500+ family allowances. The employer’s market, which we wrote about in the 2014 report, began to transform into the employee’s market.

It is worth looking at changes in national employment in 2012-2018 which took place in selected areas of services that local government is responsible for. In statistics, they are referred to as sections.

C H A R T 7

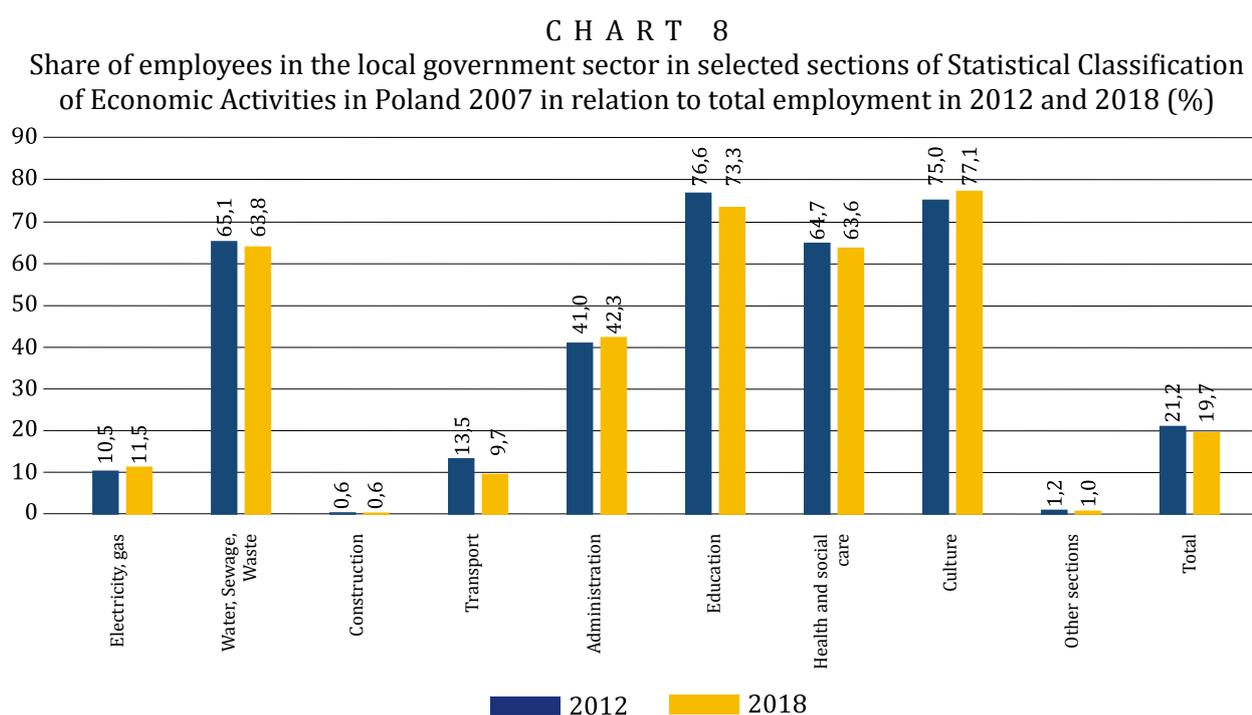
Average employment in the local government sector in selected sections of Statistical Classification of Economic Activities in Poland 2007



Source: Own study based on the Statistics Poland's data.

From 2012 to 2018, employment increased in almost all sections. It is not surprising that in 2012 the largest percentage of local government employees was employed in the education section. The increase in employment in the education over 6 years has been 4.3%, which in fact translates into millions of zlotys that local governments add to the teachers' low salaries<sup>58</sup>. Public education is one of the statutory tasks of municipality<sup>59</sup> and poviata. Education is subsidized by the state, but local governments have been for many years raising concerns that they do not receive enough money for the task. In the years 2012–2016, rural municipalities had to add an average of 19.6% to the received subsidy. Payments in municipalities ranged from 18% in small towns to 40% in large cities<sup>60</sup>. This serious gap in the budgets of local governments translates into the financial situation of teachers, who are increasingly leaving the profession.

On the other hand, forced by the EU regulations on environmental protection, the increased involvement of municipalities in waste management resulted in an increase in employment in the municipal economy (6.7%)<sup>61</sup>. If we try to compare the data on average employment in the local government sector with the share of this sector in total employment in Poland, we see that this share has decreased by 1.6% since 2014.



Source: Own study based on the Statistics Poland's data.

<sup>58</sup> <https://www.wnp.pl/parlamentarny/spoleczenstwo/pensje-nauczycieli-po-raz-pierwszy-od-2012-roku-w-gore-o-ile-wzrosna.20394.html>

<sup>59</sup> Act of March 8, 1990 on the local government (Journal of Laws of 2019, item 506)

<sup>60</sup> <https://www.miasta.pl/edukacja/aktualnosci/finansowanie-oswiaty-w-polsce>

<sup>61</sup> <https://ec.europa.eu/environment/efe/environmental-law.pl>

This does not apply to all the sections of the Statistical Classification of Economic Activities in Poland. Compared to 2012, the employment rate in local government administration increased slightly, by 1.3%, and the employment rate in the culture section increased by 2.1%. However, there is a clear decline in employment in transport. The poviats and voivodships were primarily responsible for local transport, which, due to the reduction in the number of transported passengers, liquidated or reduced frequency of runs of many bus and railway lines. The outflow of employees also occurred in the health and social welfare section. In local government health care units at the poviat and voivodship level, medical personnel is underpaid, and wards are being closed due to the shortage of medical staff. There is also a shortage of social workers whose difficult work is underpaid and underrated. On the other hand – as mentioned above – the lower interest in work in education has been observed for several years and is caused by low earnings of employees in all the institutions founded by municipalities and poviats. That is why teachers leave for private education sector or find employment in professions not related to education, where the offered salary is much more attractive<sup>62</sup>. An additional factor accelerating the outflow of teachers from the profession has been the education reform, as a result of which junior high schools were liquidated. Virtually all teachers were guaranteed employment, but many of them did not want to work in primary schools.

Despite specific problems in individual sections, until recently all local government institutions were perceived as desirable employers, not guaranteeing high earnings, but employing under a contract of employment and providing a sense of security. Each year, local governments are allocated with new tasks, social expectations regarding the standard of services are increased and new legal requirements emerge, the trend of increasing employment in this sector has been maintained for years. This results in a constant, nominal increase in the cost of maintaining local government administration – primarily an increase in the cost of wages in the local government sector.

That is why local governments are trying to rationalize employment both in administration and in subordinate units. Often, they decide to hire employees on temporary contracts, e.g. to perform short-term tasks (e.g. design) or filling in for long-term sick employees.

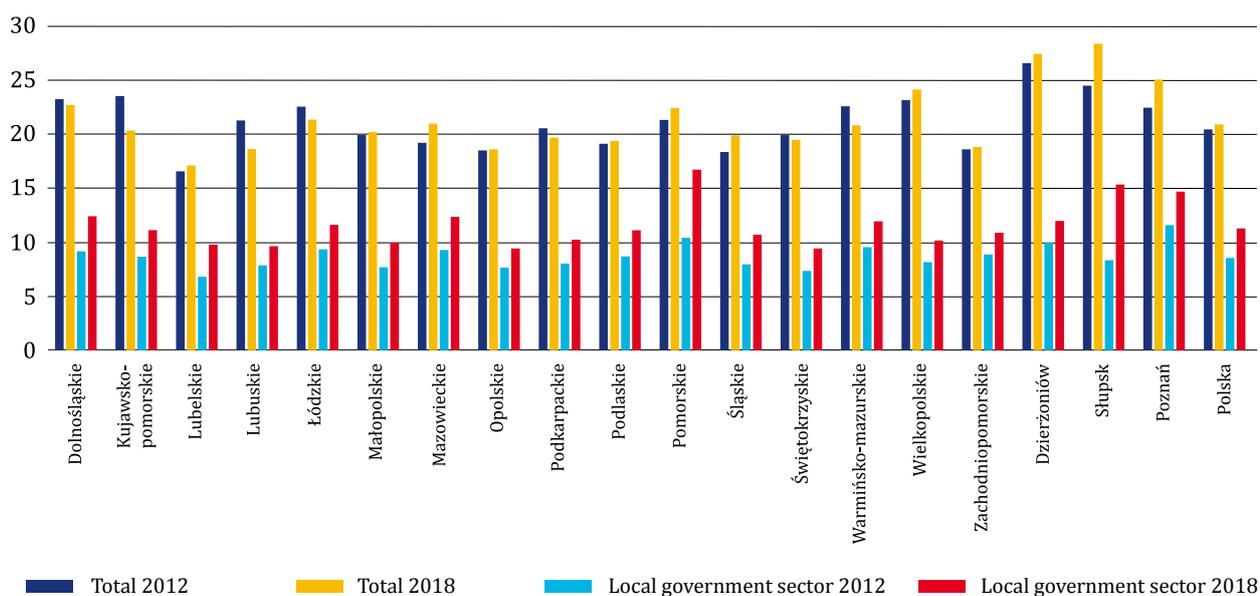
Compared to the total number of employees, the share of people employed under temporary contracts in local governments is relatively low and amounts to approx. 10%.

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<sup>62</sup> <https://serwisy.gazetaprawna.pl/edukacja/artykuly/1401490,skoly-szukaja-nauczycieli-do-pracy.html>

C H A R T 9

Share of persons employed under periodic contracts in the total number of full-time employees [%]



Source: Own study based on the Statistics Poland's data.

W roku 2018 we wszystkich województwach zarówno w sektorze samorządowym jak In 2018, in all voivodeships, both in the local government sector and outside it, there was an increase in the share of employees under temporary contracts in relation to full-time employees. In the Pomorskie Voivodeship, the share of this type of contracts increased by almost 40% compared to 2012.

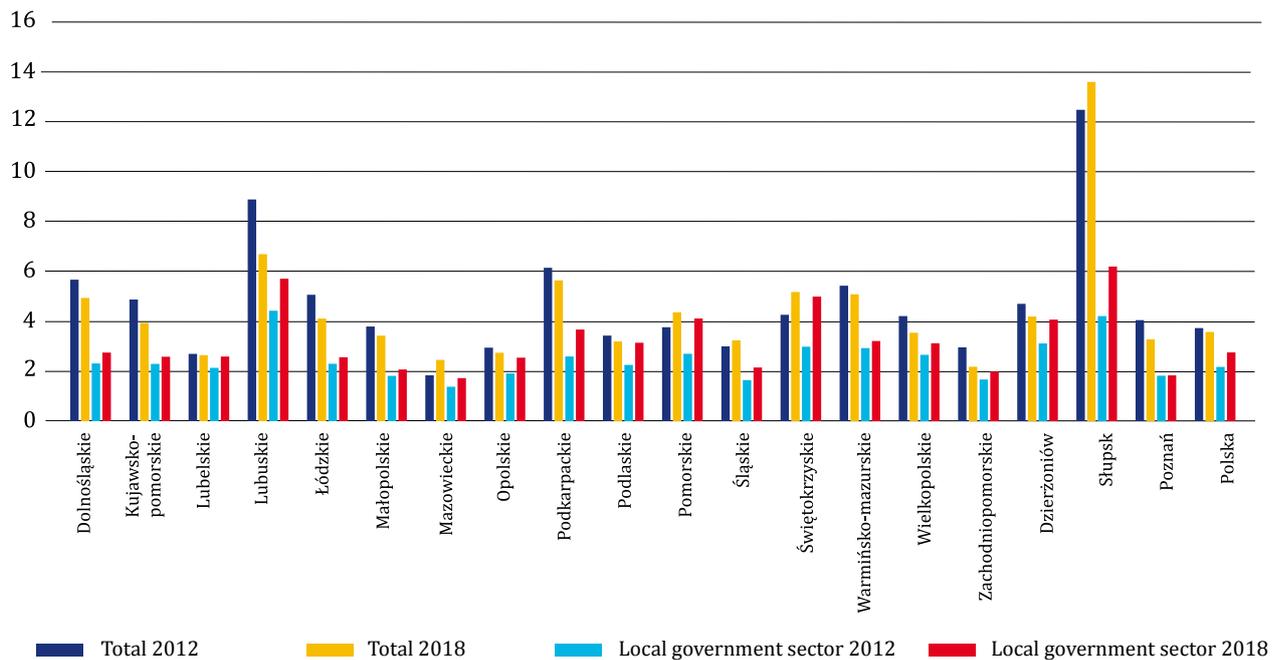
In the local government sector, employment contracts for an indefinite period prevail. If there is a need to replace an employee during their long-term sick-leave, the employer may hire another employee with a fixed-term employment contract for the duration of the absence<sup>63</sup>. Temporary employment contracts are gaining in popularity. In the local government sector, they represent on average about 10% of the total number of employees, and outside local governments, where many occupations are seasonal, they reach almost 28%.

Based on the Z-06 form, it is possible to find out what share in employment are retirees and pensioners, foreigners, disabled people and people employed under teleworking contracts. From the perspective of social interest, we will only investigate the employment of disabled people. In the local government sector, it is not high. In 2018, we have seen a decreasing number of disabled people employed in the local governments. This is strange because employers are required to pay contributions to the National Fund for Rehabilitation of Disabled Persons (PEFRON) if they don't employ at least 6% of employees with a certified disability.

<sup>63</sup> Art. 16 Law of 21 November 2008 on Local Government Employees.

C H A R T 1 0

Share of employees with disabilities in relation to the total number of employed persons for which the reporting unit is the main place of work in 2012 and 2018 (%)



Source: Own study based on the Statistics Poland's data.

In 2012, the situation slightly improved. Słupsk stands out among the cities. On the other hand, Lubuskie voivodship had the highest percentage of the employed disabled and amounted to over 4% in the local government sector, and over 8% in total employment. In 2018, again, only in the Lubuskie voivodeship, the rate of people with disabilities in the local government sector increased to 6%. In other voivodships it does not exceed 4%. The same situation is in Lubelskie voivodship, although the city of Lublin won in the competition of the Association of Polish Cities in September 2020 “Local Government Management Leader – Local Government as an Employer. Social Dialogue for Decent Work”<sup>64</sup> for systemic solutions related to the employment of disabled people, both in the city hall and in the municipal units. In 2006, 24 people with disabilities were employed at the Lublin City Hall, and in 2020, a total of 110 people with various degrees of disability are employed<sup>65</sup>. Of these, 10 are service workers, 7 are specialists, 85 are administrative and office workers, and 8 are employed in managerial positions. The city has gained valuable employees and budget savings due to the lack of the need to pay contributions to the National Fund for Rehabilitation of Disabled People. The good practice of the city of Lublin will be widely

<sup>64</sup> The competition “Local Government Management Leader – Local Government as an Employer. Social Dialogue for Decent Work” was carried out in the period June-September 2020. The competition and this report are integral parts of the same project” Social Dialogue Schemes for Decent Work in the Public Sector at the Local Government Level” co-financed by the Norwegian Grants 2014–2021 under the Social Dialogue – Decent Work Program.

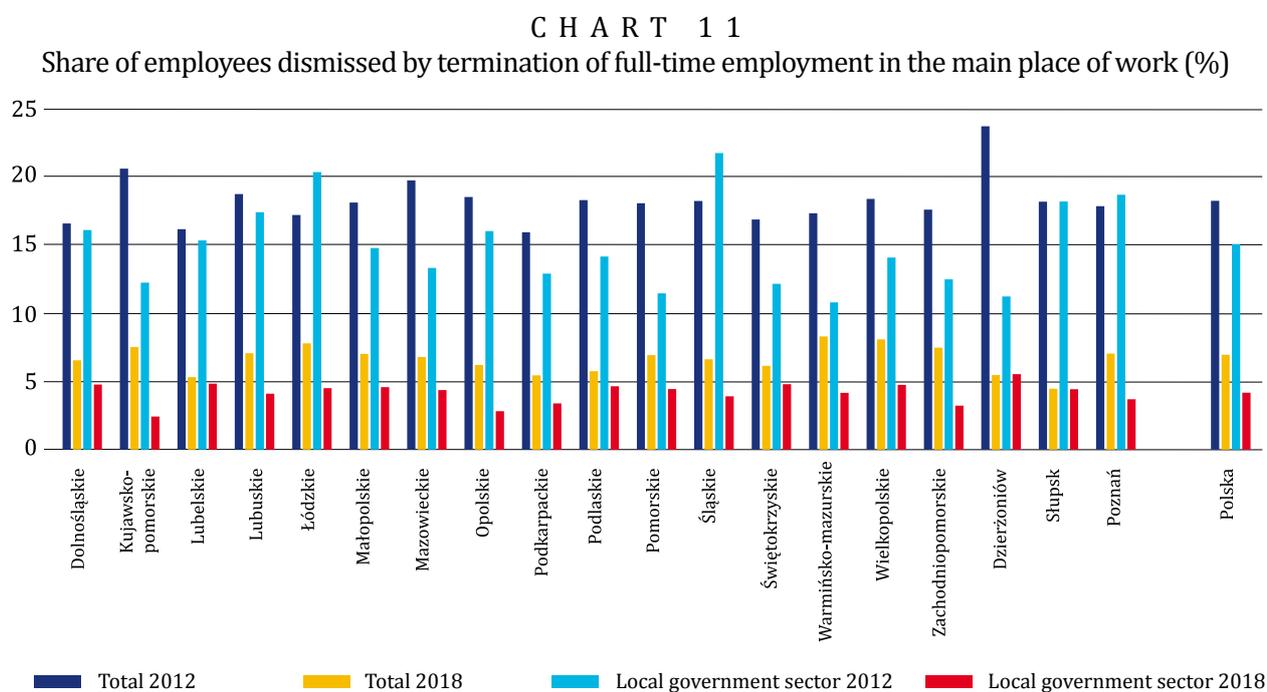
<sup>65</sup> In Lublin, the percentage of employed disabled people may be as high or higher than in Słupsk. Unfortunately, we do not have such data.

promoted by the Association of Polish Cities as a model solution enabling the promotion of equal opportunities for disabled people on the local labour market, possible to be used by all local governments in Poland.

### 3.4. Staff Turnover in the Local Government Sector

HR practitioners emphasize that the cost of losing one employee is between 30 and 200% of their annual salary (Philips J.J., Edwards L., 2009)<sup>66</sup>. As a result, recruitment systems, HR policy and the so-called employee benefits are interesting not only to large corporations, but also to the local government sector.

We have already learned during the implementation of the first project “Social Dialogue in Enterprises and the Local Government Sector” that every employer who wants to provide high-quality services should be interested in maintaining a stable and well-trained workforce and in development of the employees. Many practices were reported in two editions of the competition “Local Government Leader of Management – Local Government as an Employer” organized by the Association of Polish Cities. Such practices were promoted during the post-competition seminars and were not popular at that time. Employees were not appreciated – there were less jobs available than the people seeing job. It is well reflected in chart below.



Source: Own study based on the Statistics Poland's data.

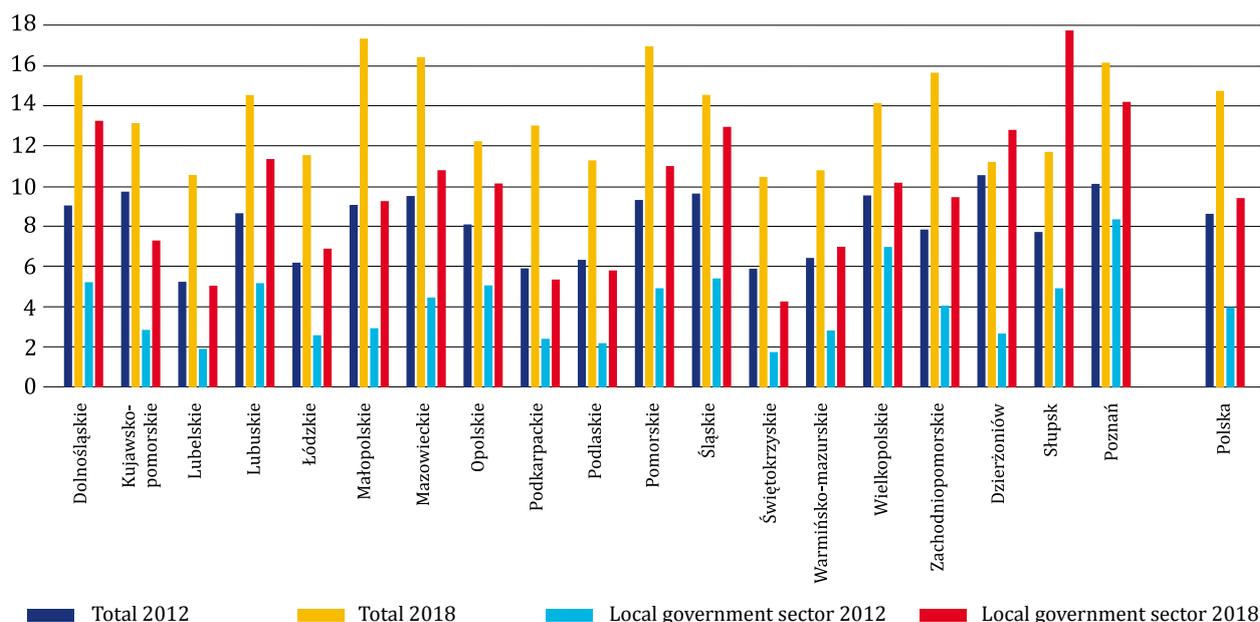
66 After Piotr Sedlak, <https://rynekpracy.pl/artykuly/rotacja-pracownikow-koszty-rodzaje-przyczyny>

In 2012 the share of people dismissed by employers was 18.25% and was higher by 11.3% compared to the local government sector. The exception was the situation in two voivodships: Łódzkie, Śląskie and the city of Poznań. In 2018, the situation is quite different. The share of people dismissed by a local government employer in the regions was higher than among those dismissed by other employers and did not exceed 5%. The smallest number of employees was dismissed in the voivodship Kujawsko-Pomorskie (2.4%) and voivodship Opolskie (2.8%), and the most in the voivodship Dolnośląskie (4.77%) and voivodship Wielkopolskie (4.76%).

The change and the percentage reduction in layoffs were clearly seen in the local government sector in all sections of the Polish Classification of Activities.

In 2012, when the unemployment rate in Poland was still double-digit, the local government sector and generally public sector were perceived as jobs that do not give much money but provide employment security.

C H A R T 1 2  
Share of dismissed full-time employees at the main job by employee notice (%)

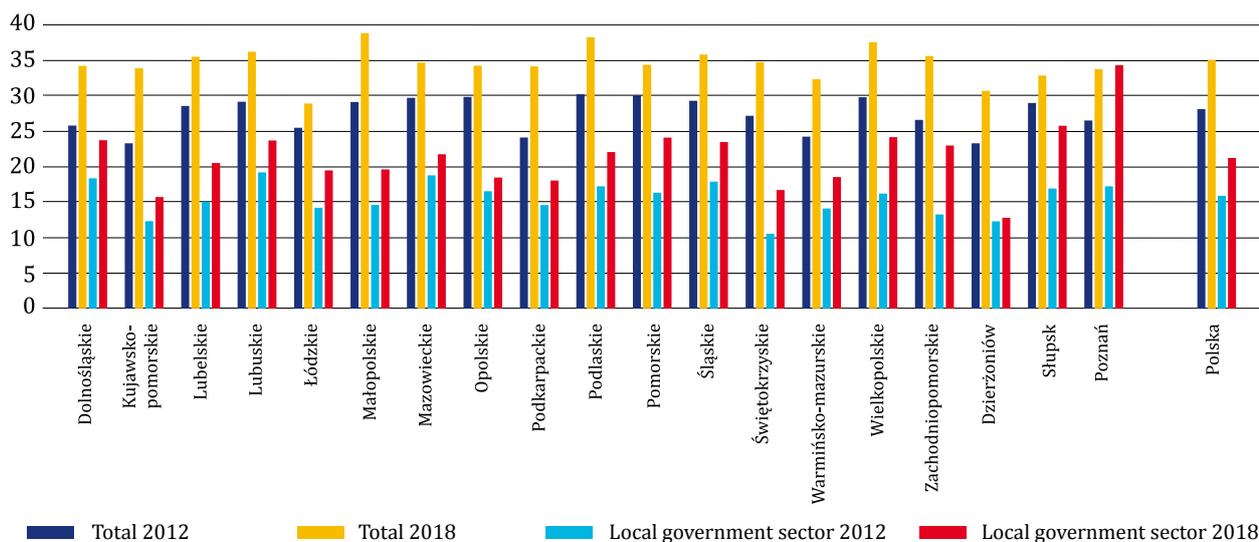


Source: Own study based on the Statistics Poland's data.

In 2018, the percentage of employees who voluntarily quit their jobs concerned in all voivodeships was higher by an average of 6% compared to 2012. A similar tendency can be seen in the local government sector. Nationwide, the average percentage of employees who decided to terminate their employment contract was on average 5.4%. It was highest in the following voivodships: Dolnośląskie (8.03) and Śląskie (7.53), and lowest in Mazowieckie (0.9) and Warmińsko-Mazurskie (1.34).

C H A R T 1 3

Share of full-time employees dismissed under mutual agreement in the main place of work (%)

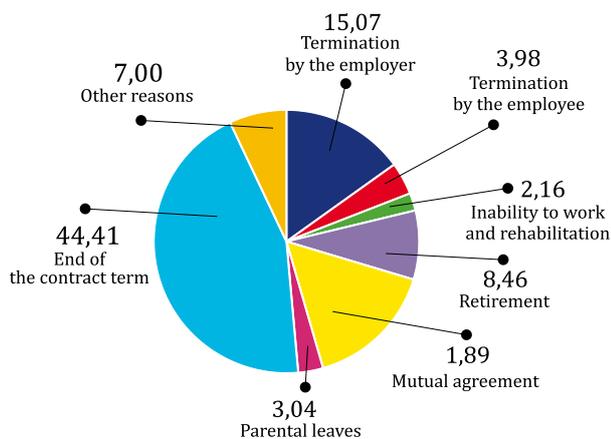


Source: Own study based on the Statistics Poland's data.

Termination of an employment contract by mutual consent is the most frequent form of termination of employment contracts, convenient for both the employer and the employee<sup>67</sup>. Based on the above chart, we can conclude that the percentage of employees who left their jobs by mutual consent in 2018 increased. In the local government sector, it was by 5.5 percentage points more than in 2012.

C H A R T 1 4

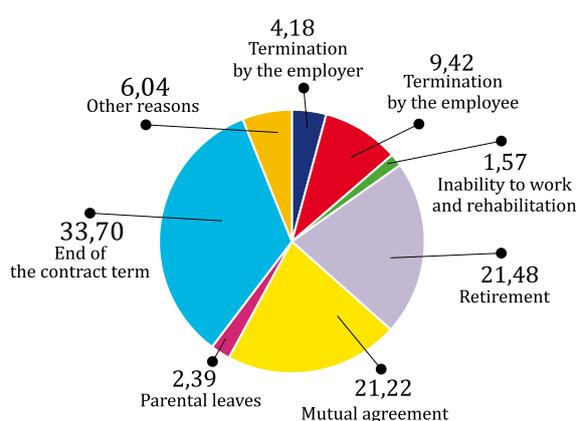
Reasons of termination of full-time employment contracts in the main workplace in the local government sector in Poland in 2012 (%)



Source: Own study based on the Statistics Poland's data.

C H A R T 1 5

Reasons of termination of full-time employment contracts in the main workplace in the local government sector in Poland in 2018 [%]

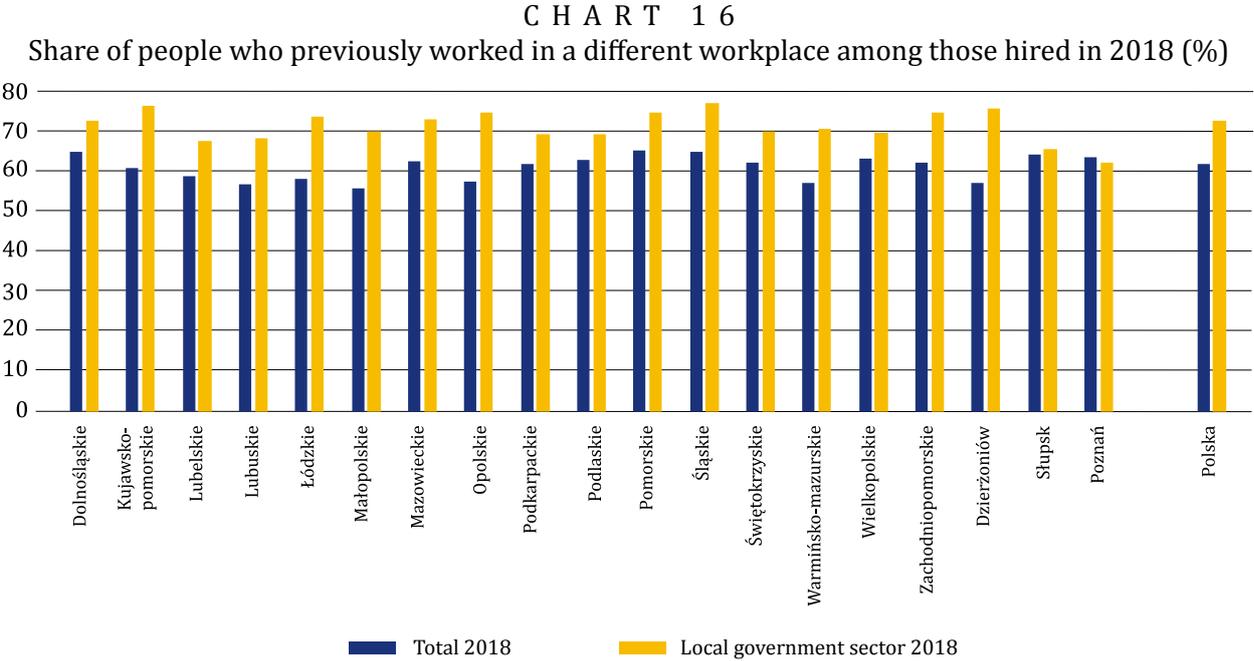


Source: Own study based on the Statistics Poland's data.

<sup>67</sup> <https://www.pit.pl/aktualnosci/wypowiedzenie-umowy-o-prace-co-warto-wiedziec-993134>

There may be a variety of reasons for termination of employment. We show how the reasons changed by comparing 2018 and 2012. In 2012, the dismissal from the employer was given to 15% of people, while in 2018 it is just over 4.18%. In 2012, terminations were filed by less than 4% of employees, and in 2018 this percentage increased to 9.5%. The end of the contract term applies to fixed-term contracts. We can see that compared to 2012, the percentage of people employed temporarily decreased by almost 7% in 2018. A very high percentage of people who decided to retire in 2018 was surprising.

The next chart shows the share of people with who came to work in local governments with experience from another workplace.



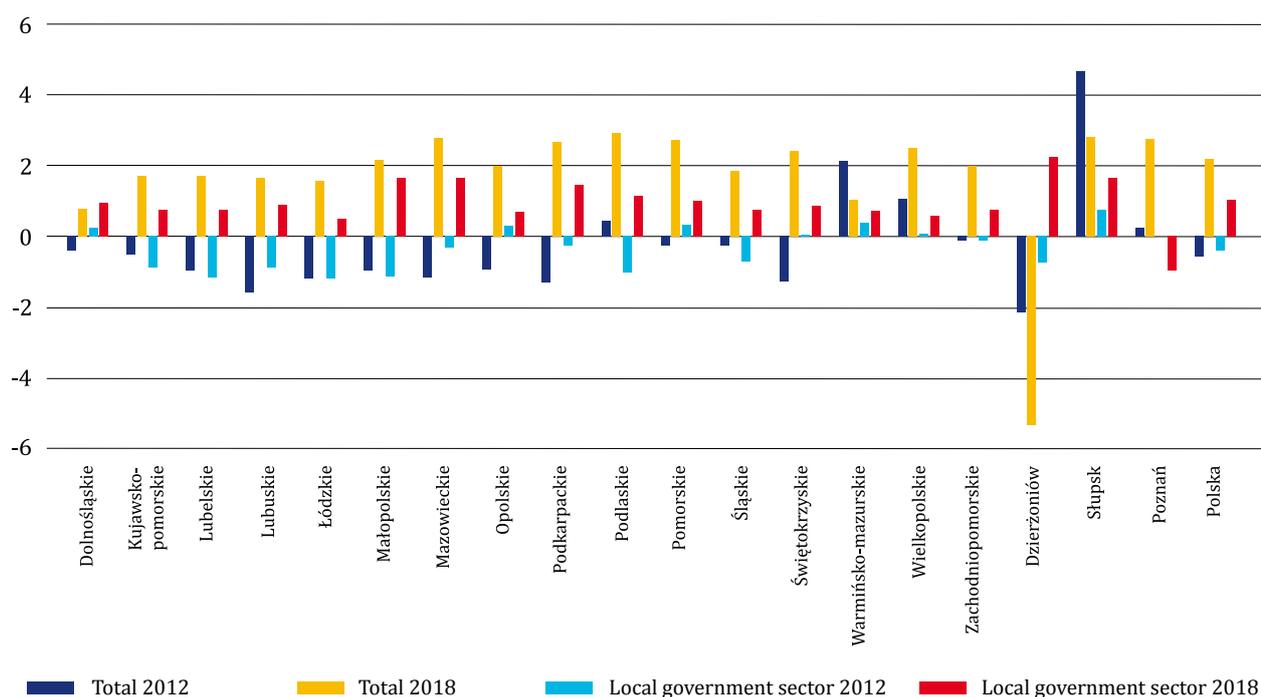
Source: Own study based on the Statistics Poland's data.

We can clearly see that local governments were more willing to employ people with experience. 60 to 75 percent of new hires previously worked in other institutions. As emphasized by the management practitioners of Kids & Co, the cost to be borne by the employer in connection with the new hires amounts to PLN 92,000. PLN. This amount includes, inter alia, recruitment, medical examination costs, administrative costs and training. The entire implementation process of a new employee may take up to 9 months. First after this period, the company is able to reliably use the capability of the new employee.<sup>68</sup>

<sup>68</sup> <https://www.pulshr.pl/zarzadzanie/tyle-kosztuje-zatrudnienie-i-wyszkolenie-nowego-pracownika-trwa-9-miesiacy.69144.html>

C H A R T 17

Difference of people hired and dismissed in the audited year compared to the total number of full-time employees on December 31 in the previous year (%)



Source: Own study based on the Statistics Poland's data.

We illustrate the staff turnover in the local government sector compared to the total number of employees. In 2012, only in 6 voivodships in the local government sector, the balance of people recruited to work versus people dismissed from work within one year was positive. In 2018, this balance is positive in all voivodships and among all employers, both in the local government sector and in other sectors. It is clear that the position of the employee on the labour market has changed in the local government sector. As a result of the good economic situation and greater wage competitiveness in other sectors, employers will probably look for non-financial instruments to keep employees in the local government sector.

### 3.5. The situation of women employed in the local government sector

Every two years, the Statistics Poland publishes a special report "Women and Men in the Labour Market". Last year two interesting analyses were published. One concerning the gap in employment and wages of women and men<sup>69</sup>. The second study is an interesting dissertation on the importance of women's work for the economy<sup>70</sup>.

<sup>69</sup> [https://www.parp.gov.pl/storage/publications/pdf/Raport-Analiza-luki-zatrudnieniaorazwynagrodzenia\\_8\\_05\\_2020\\_2.pdf](https://www.parp.gov.pl/storage/publications/pdf/Raport-Analiza-luki-zatrudnieniaorazwynagrodzenia_8_05_2020_2.pdf)

<sup>70</sup> [https://zpp.net.pl/upload/oscr8g\\_02.02.2017RaportPracaiprzedsiębiorczokobiet.pdf](https://zpp.net.pl/upload/oscr8g_02.02.2017RaportPracaiprzedsiębiorczokobiet.pdf)

All the publications attempt to answer the question why the activity of women in the labour market in Poland is lower than the European average. All their authors agree: there is a deep, cultural origin of this phenomenon. As Magdalena Harponiuk writes: “The professional situation of women is determined by many barriers and stereotypes that hinder equal access to work and career advancement. Barriers are the result of attitude, and are of institutional and individual nature. They refer both to women themselves and to other participants of the labour market: the state, employers, and co-workers”<sup>71</sup>.

According to the OECD Report, quoted after the Scandinavian-Polish Chamber of Commerce,<sup>72</sup> in 2017 the employment of women in Sweden was 82%, in Denmark 74%, and in Norway 72.2%. Norwegian trade unions believe that women in the labour market are an extremely valuable resource and compare the value of their work to the income from oil production. Therefore, the Norwegian government facilitates part-time employment on the labour market, provide good working conditions, access to nursery schools, and ensure a good balance between work and family life.

The Association of Polish Cities promotes good local government practices in supporting women on the labour market. In the 2014 competition “Local Government Leader of Management – Local Government as an Employer”, one of the awarded finalists was an internship from the town of SępólnoKrajeńskie entitled: “Young Moms at Work”. A support system for women returning from maternity leave has been created in the City Hall and its units, consisting of many facilities related primarily to the flexibility of working time and the priority of planning holiday leaves.<sup>73</sup> Similarly, other municipalities introduce flexible working hours which is considered a good solution for mothers taking care of their children. Most local governments of large cities subsidize and supervise the work of nurseries in their area.

In both periods, the number of employed women in the local government sector was higher than the number of men.

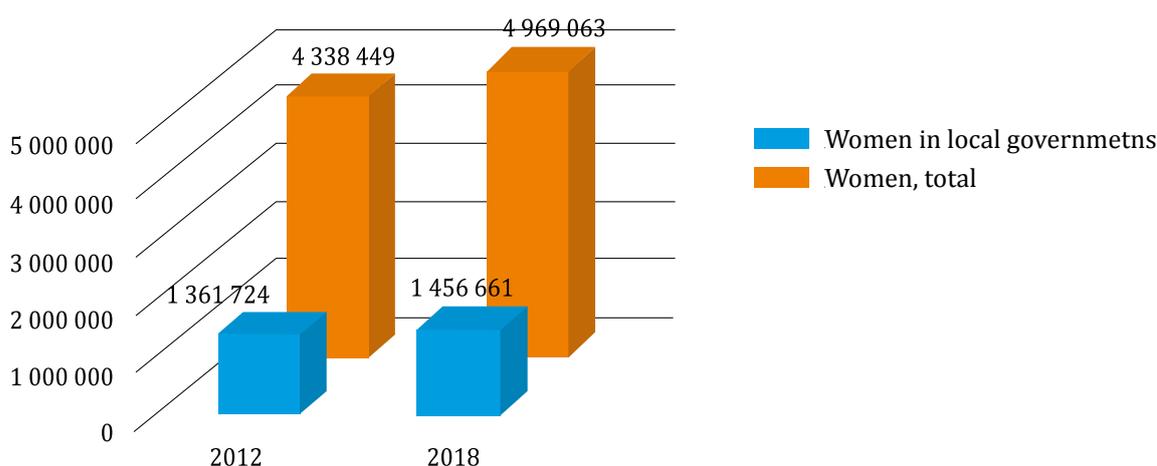
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<sup>71</sup> The Situation of Women in the Labor Market in Poland – Civic Institute [www.institutobywatelski.pl](http://www.institutobywatelski.pl)

<sup>72</sup> <https://www.spcc.pl/node/2059>

<sup>73</sup> <http://www.dobrepraktyki.pl/social-dialoguetab>

**CHART 18**  
Employment of women in total and in the local government sector in 2012 and 2018

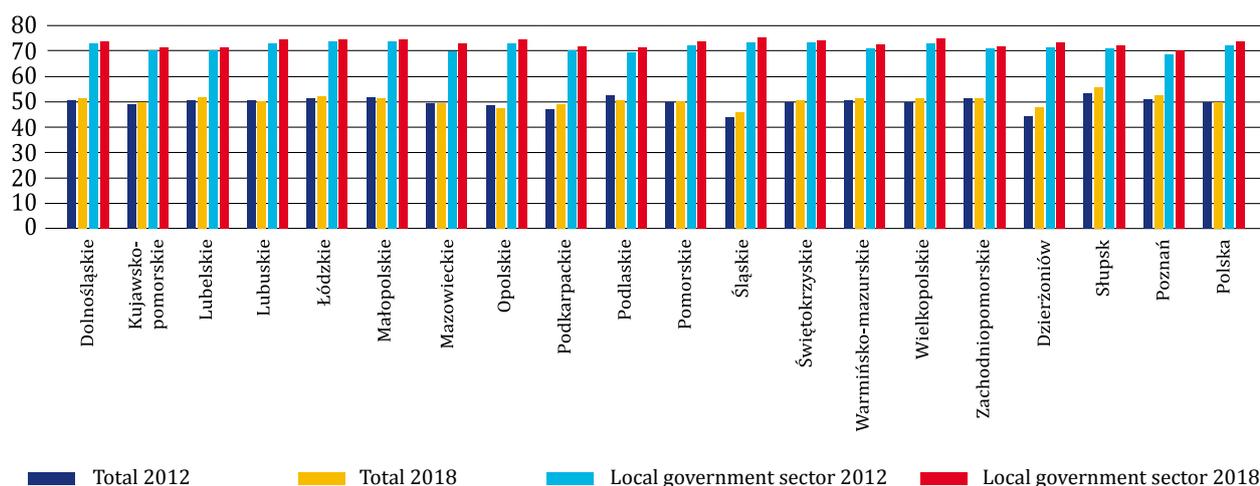


Source: Own study based on the Statistics Poland's data.

In the years 2012–2018, the number of women in the local government sector increased by 6.9%. While the number of men slightly decreased (by 1.4%). In 2012, women working in local governments accounted for 72.3% of the total number of employees in local governments, and in 2018 this percentage increased to 73.9%. The conclusion is that mainly men left the local government sector in search for a more attractive job.

The over-representation of women employed in the local government sector in relation to the total number of employees is presented in the chart below.

**CHART 19**  
Percentage of women working in the local government sector in the total number of employees in 2012 and 2018 (%)



Source: Own study based on the Statistics Poland's data.

Increasing employment of women in local governments occurs in all the voivodeships and the cities. According to the source data, in 2018 the highest percentage of employed women

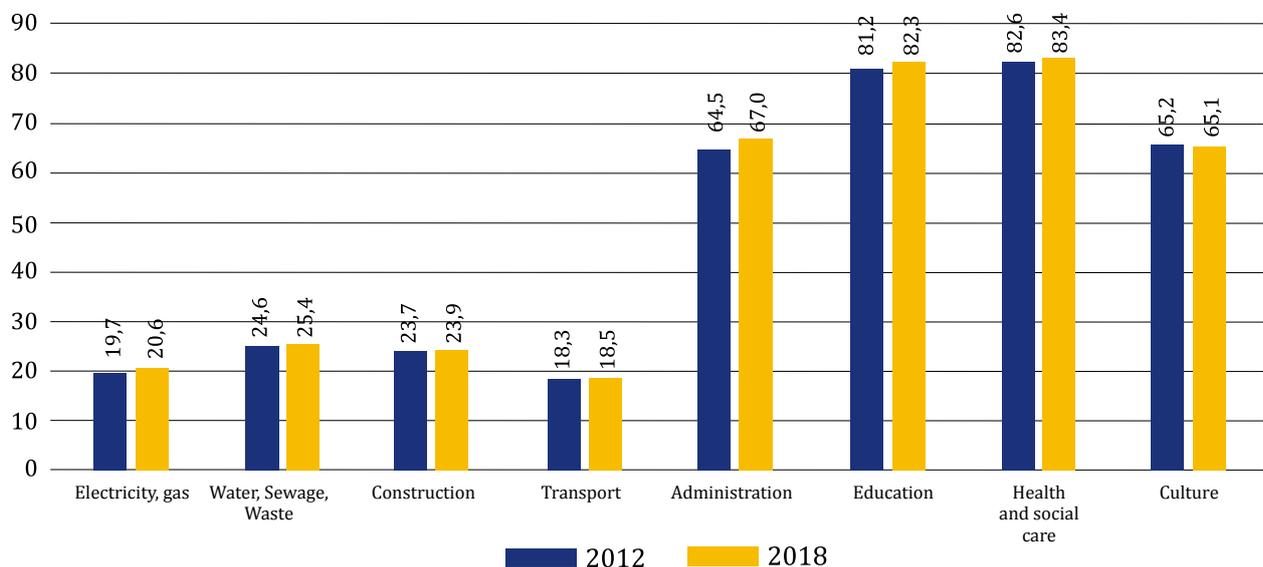
in the local government sector in the total number of employees was observed in Łódzkie (75.39), Małopolskie (75.01) and Śląskie (75.96) voivodships. The lowest percentage was recorded in the following voivodships: Zachodniopomorskie (72.5), Kujawsko-Pomorskie (71.8) and Lubelskie (71.9).

When looking at the employment of women per 1,000 inhabitants in local governments on a regional scale, there is a certain analogy to the maps presenting the total number of employees (Fig. 1). We see that the high rate of employed women mainly concerns less economically developed areas in Świętokrzyskie, Podkarpackie, Lubelskie, Podlaskie and Warmińsko-Mazurskie voivodships. Women in these areas have a chance to find work locally, mainly in educational and care institutions and cultural institutions. Men probably look for employment in other, more financially attractive sectors of the economy or migrate to work in countries that will guarantee them higher income.

In all sections of the Polish Classification of Activities in 2012-2018, an increase in employment of women in relation to the total number of employees was shown. The only exception is culture – the rate of women working in this area decreased by 0.1%. Most of all, women are over-represented in education, health and social welfare, which is reflected in the overwhelming number of teachers in schools, female diagnostic and care personnel in district hospitals and carers, social workers in social welfare centres.

C H A R T 2 0

The percentage of women in the total number of employees in the local government sector according to the Statistical Classification of Economic Activities in Poland 2007 section in 2012 and 2018 (%)



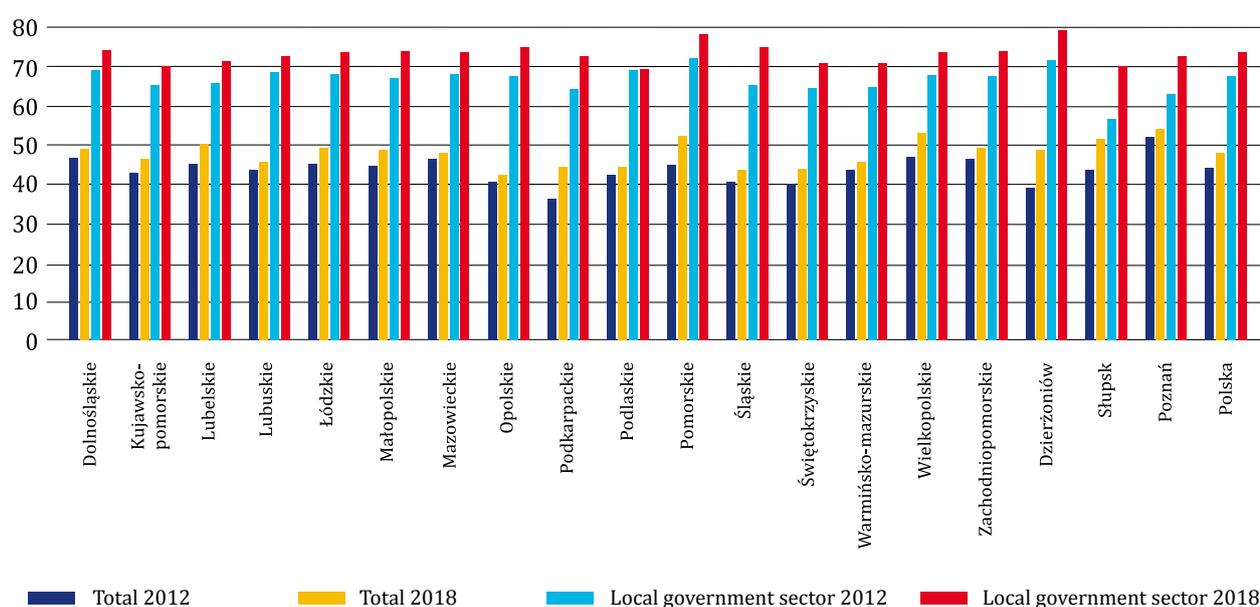
Source: Own study based on the Statistics Poland's data.

Over-representation of women in the above-mentioned sections of the economy is to some extent related to the rights guaranteed by the Labour Code for women in Poland. These are: employment protection during pregnancy, maternity leaves, childcare and childcare leave as well as protection against burdensome and health-threatening work

Local governments in Poland, granting women the right to a dignified motherhood and then return to work also try to protect the interests of the employer. Fixed-term employment contracts are quite frequent in this sector. Such contracts are often offered by employers to replace an employee taking a childcare leave, a health leave (at school), in a situation of long-term rehabilitation or in other situations in which full-time employees must take longer leave. Compared to 2012, the share of women employed under temporary contracts increased by an average of 7%.

C H A R T 2 1

The share of women employed under fixed-term contracts in relation to all employed under fixed-term contracts in 2012 and 2018 (%)



Source: Own study based on the Statistics Poland's data.

Employers in all voivodeships use this instrument to replace a permanent employee who has a longer break from work.

When talking about the employment of women, the topic of remuneration for work cannot be ignored. **The existing gender pay gap is one of the most critical issues in measuring gender equality.** From the publication of the Statistics Poland, we learn that in October 2016 the average monthly gross salary of a woman was PLN 3,973.13, and the salary of a man – PLN 4,705.63, which gives a significant difference of PLN 732.5 in monthly income.<sup>74</sup>

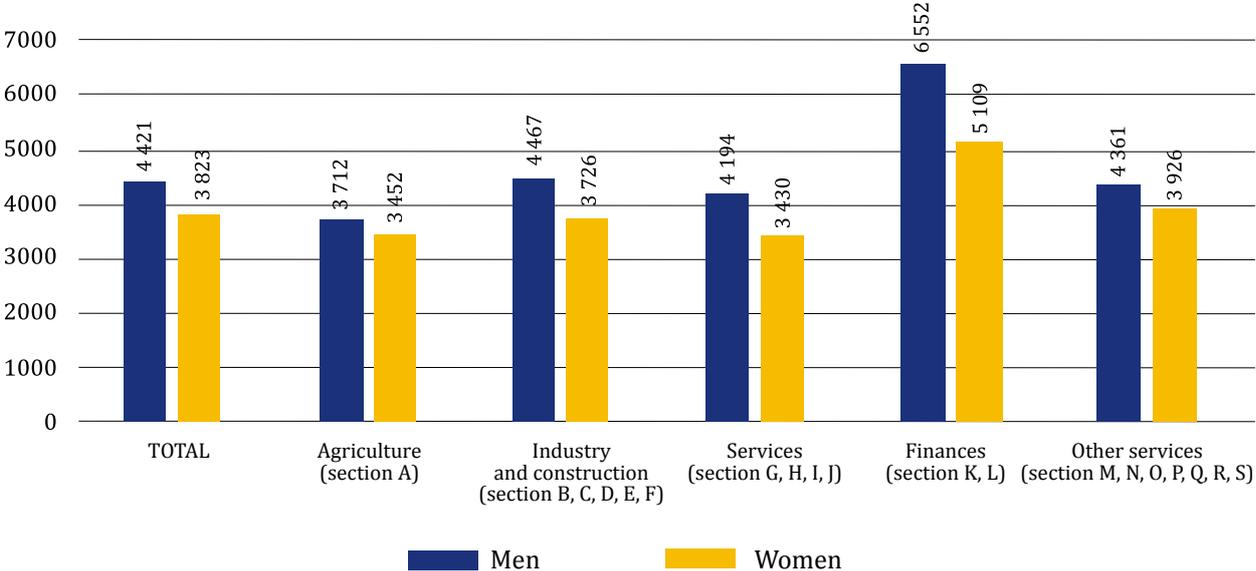
This is not a problem typical for Poland only. Statistics from Eurostat, the official European statistical office show that the gender pay gap exists across Europe. Defined by Eurostat on the basis of an hourly wage, the gender earnings gap, expressed as a percentage of men's

<sup>74</sup> The Gender Pay Gap in Poland, 2016, Statistics Poland, Bydgoszcz 2018.

earnings, is on average 16% across the European Union<sup>75</sup>. Against this background, Poland does not look too bad. In 2016, the gender pay gap ratio for Poland was 7.2%. This means that women earned on average 7.2% less than men. In 2015, countries such as Denmark, the Netherlands, France and the United Kingdom were behind us<sup>76</sup>.

We do not have specifics about the gender pay gap in the local government sector. Unfortunately, in the data derived from the analysis of the Z-06 form, extracted for the purposes of this study, there is no information on the gender pay gap. Therefore, we cite unpublished data from research works aimed at developing a methodology and estimating the number of people working in the national economy.<sup>77</sup>

C H A R T 2 2  
Average gross remuneration paid in June 2017 by gender and groups of Statistical Classification of Economic Activities in Poland



*Source: own study based on the results of the research work Development of a Methodology and Estimation of the Number of Employees in the National Economy by Place of Residence and Main Place of Work at the NUTS 4 level, the registered unemployment rate at the NUTS 5 level and gross wages measures at the NUTS 4 level.*

We are only interested in other services. As you can see, the gap between the earnings of men and women is PLN 435, which means that women earn 9.9% less than men. We remember, however, that they include other services, e.g. craftsmanship or scientific expertise.

<sup>75</sup> [https://www.epsu.org/sites/default/files/article/files/Gender\\_pay\\_gap\\_FINAL\\_DRAFT\\_report\\_Nov\\_2013\\_PL.pdf](https://www.epsu.org/sites/default/files/article/files/Gender_pay_gap_FINAL_DRAFT_report_Nov_2013_PL.pdf)

<sup>76</sup> [http://ec.europa.eu/justice/gender-equality/genderpay-gap/index\\_pl.htm](http://ec.europa.eu/justice/gender-equality/genderpay-gap/index_pl.htm)

<sup>77</sup> Research within the project “Statistics for Cohesion Policy. Support for the Monitoring System of the Cohesion Policy in the Financial Perspective 2014–2020 and the Programming and Monitoring of the Cohesion Policy after 2020 “.

The publication of the Statistics Poland, entitled “Differences in the Remuneration of Women and Men in Poland in 2016” presents the values of the wage gap broken down by sub-sectors. They show the difference in the average gross wages and salaries of employees by section and gender for October 2016. The wages of women are lower in:

N – administration – by 2.9%;

P – education – by 4.9%;

Q – health care – by 13%;

R – culture – by 11%.

Local government employers realize that they do not have a large influence on the remuneration, especially if they deliver services ordered by the state, e.g. school education. Therefore, they are trying to introduce various non-wage incentive systems encouraging employees to stay in the sector. One way growing in popularity is providing support in childcare.

### 3.6. Salaries in local government institutions

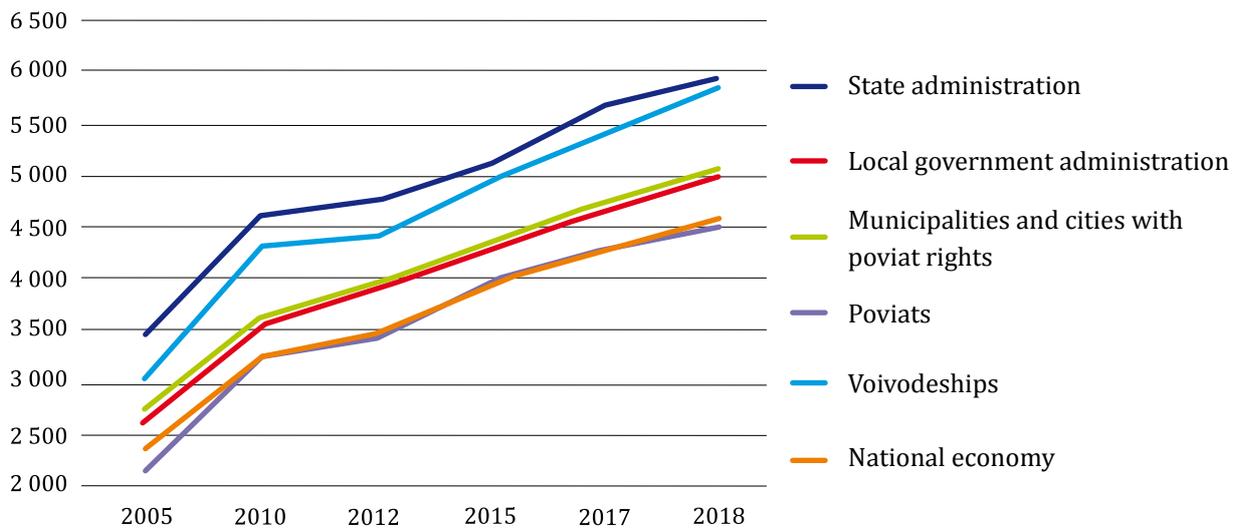
In the table below, we compile and compare over time data on average employment and average monthly gross wages and salaries in state and local government administration in nominal terms. The next two charts show the relation between wages in the national economy and different levels of state administration and local government, first in the nominal value system in [PLN], and then as the ratio to these wages in [%].

T A B L E 2  
Comparison of the average employment and monthly remuneration in state  
and local administration

	Average employment					Average monthly gross remuneration in PLN				
	2005	2010	2012	2015	2018	2005	2010	2012	2015	2018
State administration	164 641	183 869	181 249	173 562	173 580	3 462	4 596	4 749	5 091	5 920
Local government administration	202 293	255 732	248 565	251 380	254 670	2 636	3 593	3 901	4 347	5 015
Municipalities and cities with poviat rights	145 663	175 793	166 195	170 126	174 062	2 761	3 610	3 974	4 389	5 054
Poviats	47 048	56 931	57 046	56 292	56 972	2 161	3 245	3 465	3 939	4 543
Voivodeships	9 582	23 008	25 324	24 962	23 636	3 059	4 324	4 409	4 978	5 865
Local government appeal colleges	798	996	997	964	959	5 271	6 085	6 166	6 580	7 216
Average salary in the national economy		-----	-----	-----	-----	2 380	3 225	3 521,67	3 900	4 585
Average salary in the enterprise sector		-----	-----	-----	-----	2 516	3 435	3 728,36	4 121	4 852

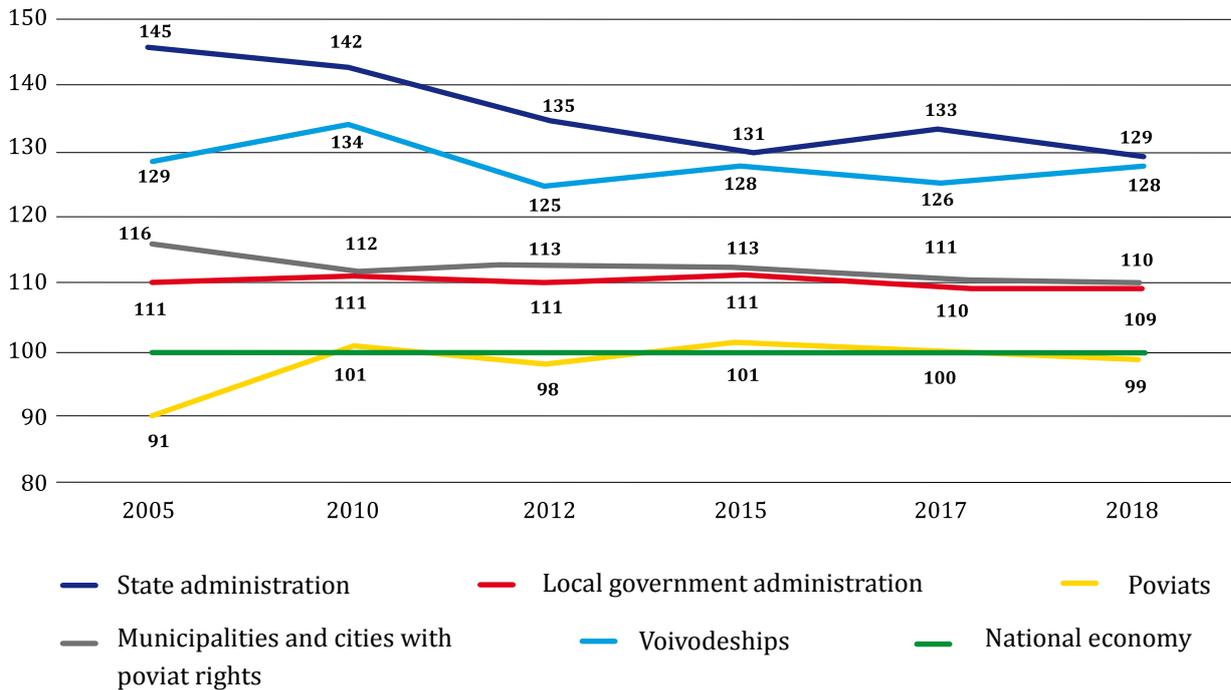
Source: Statistical Yearbook of the Statistics Poland's data, 2019.

**C H A R T 2 3**  
Average monthly gross wages and salaries in the national economy and administration (PLN)



Source: *Employment and wages in the national economy, the Statistics Poland's data.*

**C H A R T 2 4**  
Average monthly gross remuneration in administration in relation to remuneration in the national economy (remuneration in the national economy = 100%)



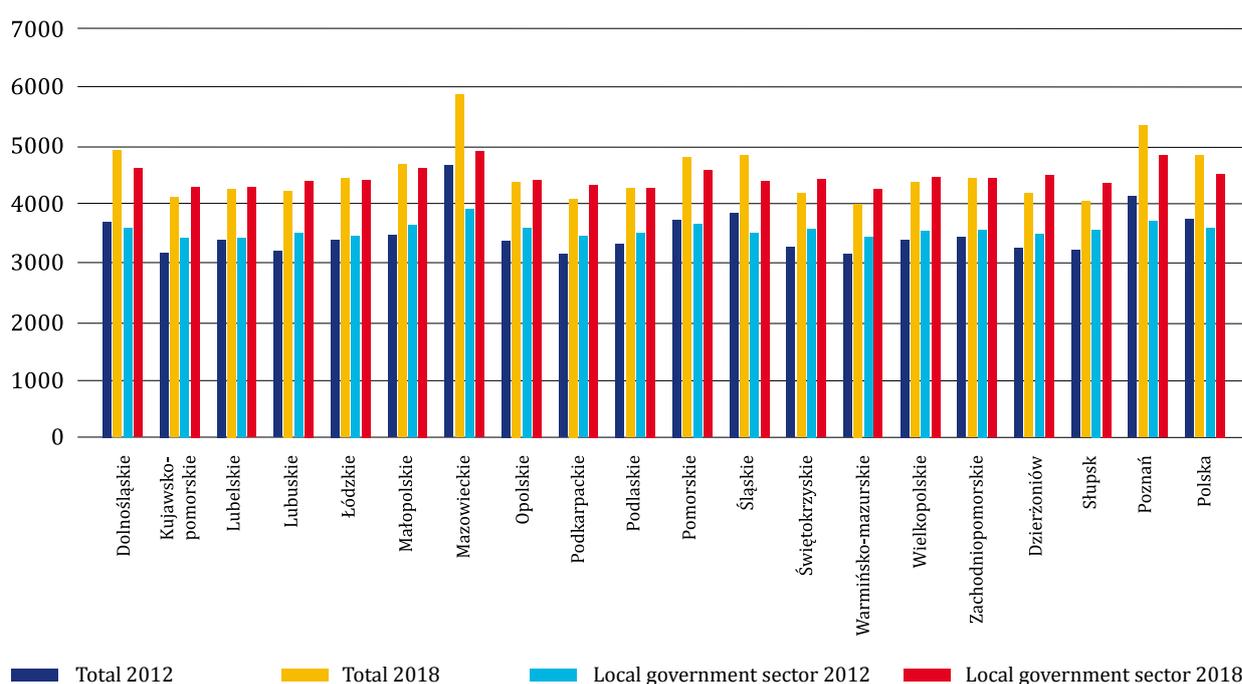
Source: *Employment and wages in the national economy, the Statistics Poland's data.*

The presented data show that:

1. Administration employees earn more than the average people working in the national economy and the enterprise sector. In 2018, state employees (central government) earned 22% more than employees in the enterprise sector and 29.1% more than in the national economy.
2. Salaries in local government administration at all levels have been growing steadily since 2005, with a slight slump in 2012, which was recorded for employees of voivodeship and poviats administration.
3. The average salary in the central government administration in 2012-2018 increased by 24.6%, and the average salary in the local government administration increased by 28.6%, but in nominal terms in 2018 the difference in salaries in favour for the central government administration amounted on average to PLN 905.
4. There are big differences in wages between different levels of local government administration. The highest wages have always been paid in the regional administration. In 2018, the average salary regional administration was PLN 5,865. The average wages in municipalities and cities with poviats status were lower by 13.8%, and in poviats by 22.5%.
5. From 2010, the remuneration in the administration of poviats has been around the average remuneration in the national economy and in 2018 amounts to PLN 4,543 and is 0.9% lower than in the national economy.
6. The nominal amount of the average salary in local government administration in the analysed period was always higher than the average salary in the national economy. In 2018, this difference was PLN 430. Remuneration of local government administration employees, however, varies and depends both on the financial condition of the local government and the positions held. With the high average wages of managers and specialists, the remuneration of lower-level employees remains relatively low and may soon be comparable to the minimum wage, especially if the minimum wage increases to the announced PLN 4,000 in 2024.<sup>78</sup> That is why the financial instruments cannot be the main tool for motivating to improve the quality of work. Local governments rely on non-financial instruments to motivate employees.

<sup>78</sup> <https://serwisy.gazetaprawna.pl/praca-i-kariera/artykuly/1431376,wynagrodzenia-w-administracji-urzednicy-podwyzki.html>

C H A R T 2 5  
Average monthly remuneration per employee in 2012 and 2018 (PLN)



Source: Own study based on the Statistics Poland's data.

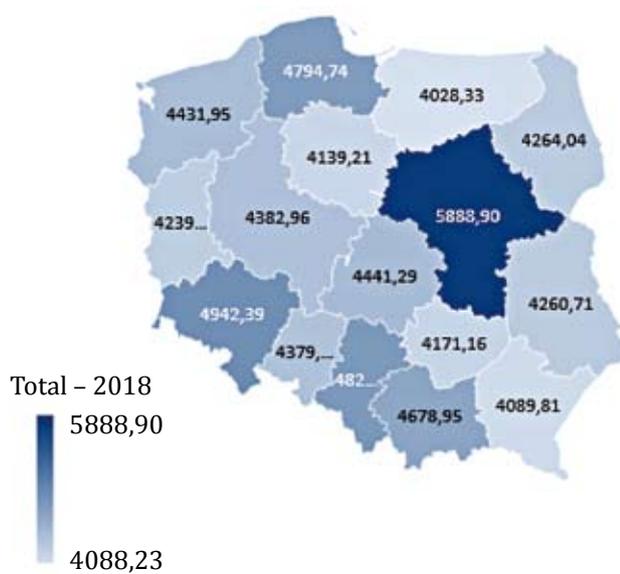
The comparison of the average salary in 2012 and 2018 per employee is an illustration of the scale of development that took place in Poland at that time. The difference between the average total remuneration in 2012 (PLN 3,744.4) and the average total remuneration in 2018 (PLN 4,834.7) is 29.1%. In the local government sector, from 2012 (PLN 3,592.0) to 2018 (PLN 4,500.8), salaries increased by 25.4%. In 2012, the spread of earnings for the total labour market and for the local government sector per employee was PLN 152.5 (4% in favour of the total market). In 2018, the difference between total labour market earnings and earnings in the local government sector was PLN 334, which means that local government earnings accounted for 93% of total earnings. Both in 2012 and in 2018, the highest earnings in the local government sector were recorded in the Mazowieckie and Dolnośląskie voivodships. The voivodships with the lowest wages per employee in 2012 were: Warmia and Mazury (PLN 3,421.4) and Lubelskie (PLN 3,445). As you can see on the map with a division into voivodships, in 2018 the lowest salaries for the local government sector were again recorded in the Warmińsko-Mazurskie voivodship, but the Kujawsko-Pomorskie voivodship was second. On the other hand, for Poland in general, the lowest values are also found in the Warmińsko-Mazurskie voivodship, while the Podkarpackie voivodship is in second place.

In the regional breakdown, the situation is similar to the one analysed earlier in connection with employment. In rich regions with a high concentration of employment, as in voivodships with high GDP: Mazowieckie and Śląskie – wages are high. Conversely, in typically agricultural voivodships, such as Warmińsko-Mazurskie and Podkarpackie, where there

are no jobs in industry and no high demand for labour, wages are much lower. It can be said that the wages derive from the economic attractiveness of the region. On the other hand, a region offering high wages is no longer competitive for potential investors, as higher wage levels will result in higher costs of business<sup>79</sup>.

FIGURE 7

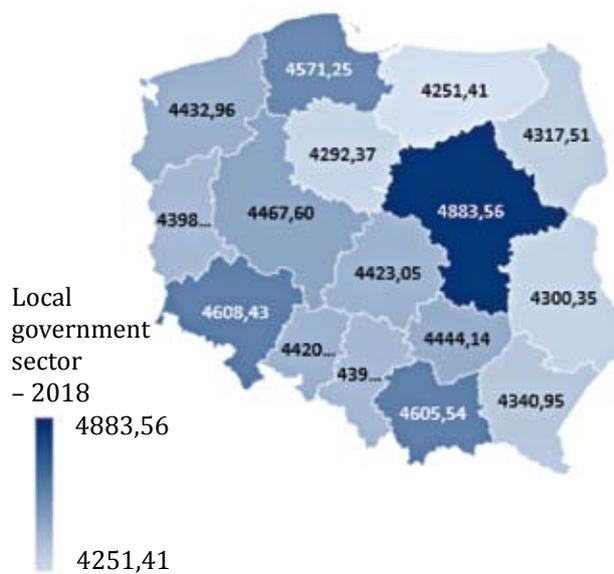
Average monthly salary per employee in Poland in 2018, by voivodships (PLN)



Source: Own study based on the Statistics Poland's data.

FIGURE 8

Average monthly salary per employee in the local government sector in 2018, by voivodship (PLN)



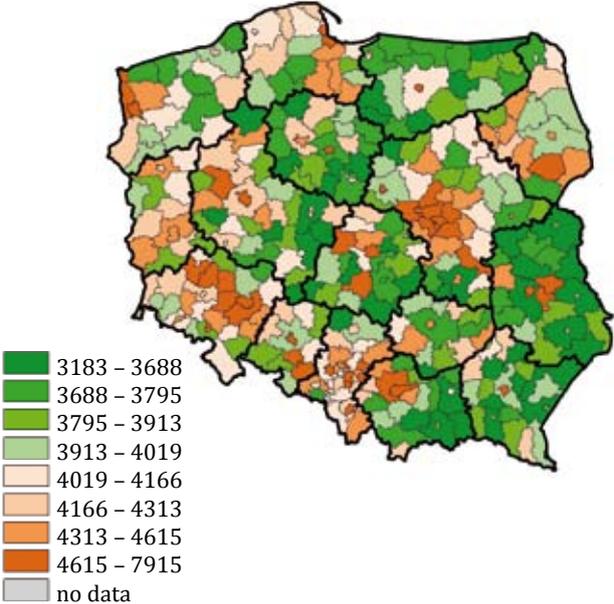
Source: Own study based on the Statistics Poland's data.

High earnings rates for the Mazowieckie and Pomorskie Voivodeships are not synonymous with an equally high quality of life. The economic attractiveness resulting from the geographical location in highly industrialized areas is not equal to the social attractiveness, such as contact with nature or clean air. Many municipalities try to reconcile these contradictions but closing a polluting plant can be both a social success and a loss for the municipal budget and an individual tragedy of employees who lost their job. Attempts to reconcile contradictions and concrete actions are also taken at the central government level. In 2019, the National Strategy for Regional Development (NSRD) until 2030 was developed, the purpose of which is, on the one hand, to provide financial aid for the most neglected areas, and, on the other hand, to plan sustainable development based on new technologies, green energy and the use of local social capital. The areas of strategic intervention (ASI) will include medium-size cities losing their socio-economic function as well as rural municipalities and functionally related towns below 20,000 inhabitants with the highest concentration of development problems and the greatest risk of permanent marginalization.

<sup>79</sup> Antoszek P., *Przyczyny zróżnicowania wynagrodzeń w Polsce*, Uniwersytet im. Kazimierza Wielkiego w Bydgoszczy, Bydgoszcz 2017.

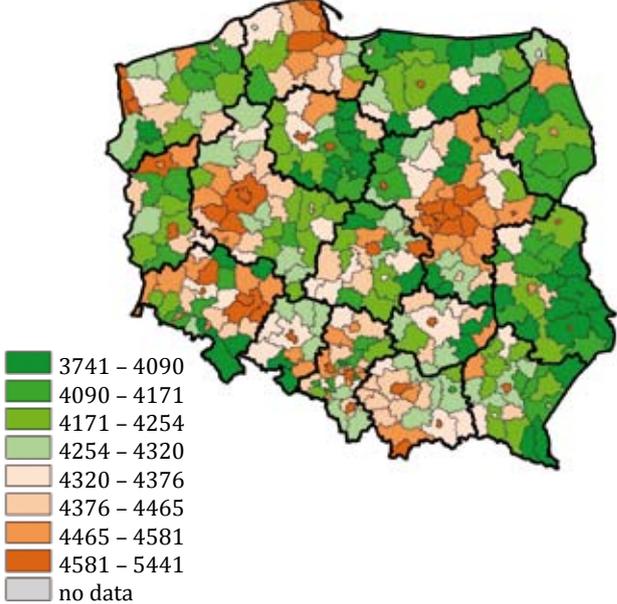
They are identified all over Poland but are clearly concentrated in the northern and eastern belt<sup>80</sup>. Therefore, local governments need information on employment, wages and other development factors which may provide base for rational socio-economic decisions. Hence, the statistical information addressed to smaller regional centres, prepared by the Local Government Analysis System (SAS) and the Local Development Monitor (MRL) as part of the ongoing project implemented by the Association of Polish Cities, is very popular among municipalities.<sup>81</sup> The project has the support of the Ministry of Regional Funds and Development. We present the poviats level wages in Poland in 2018.

FIGURE 9  
Average monthly remuneration per employee in Poland in 2018, by poviats (PLN)



Source: Own study based on the Statistics Poland's data

FIGURE 10  
Average monthly remuneration in the local government sector per employee in 2018, by poviats (PLN)



Source: Own study based on the Statistics Poland's data

A comparison of the wage rates in poviats and regions indicates that the high average salaries in some regions do not reflect the situation inside these regions, which varies greatly in poviats of the region. The classic example is the Mazowieckie Voivodeship, where the high wage rate mainly applies to the metropolitan area of Warsaw, while on the outskirts of the voivodeship, e.g. in the poviats of Żuromiński, Łosicki, Przysucha or Szydłowiec, average wages are among the lowest in the country.

<sup>80</sup> <https://www.prawo.pl/samorzadz/zalozenia-krajowej-strategii-rozwoju-regionalnego-2030,474013.html>

<sup>81</sup> "Building the Institutional Capacity of Medium and Small Towns in Poland for the Implementation of Effective Local Development Policies" 2019–2024 implementation Association of Polish Cities, operator Ministry of Regional Funds and Policy, Financing, Norwegian and EEA funds.

If we look at the wage data divided into 314 poviats and 66 cities with poviat status and compare it to the total number of general market employees and employees in the local government sector, the following conclusions can be drawn:

1. The poviats with the lowest average monthly salary per employee are mostly located in voivodships where this ratio is also the lowest. These are mainly all poviats and voivodships on the eastern and north-eastern wall of Poland.
2. High earnings, in the range of PLN 4,581–5,441, marked on maps with the most saturated brick colour, both in the local government sector and outside it, are concentrated mainly in poviat and voivodeship administration centres, in large urban conurbations.
3. There is no simple relation between the average monthly salary and the employment rate per 1,000 inhabitants. The situation of remuneration and employment rates in several dozen poviats in Poland has been investigated. There are poviats where the remuneration is relatively low, does not exceed PLN 3,800, and the employment rate varies between 220–240 people per 1000 working people. This is the situation in Wieruszów and Złotów poviats, cities with poviat rights: Tarnobrzeg, Piotrków Trybunalski, Grudziądz and others. The Kępińskipoviat in Wielkopolska seems to be an exceptional case, where in 2018 the lowest total salary was recorded (PLN 3,183), and the employment rate per 1,000 inhabitants is one of the highest in the country and amounts to 408/1000. It may be associated with the highest employment rate of foreigners in Poland (6%). The Kępińskipoviat is a specific area of furniture production, in which low-paid Ukrainians find employment. However, we may see the opposite situation. Wages are high and very high in regions with low and very low employment rate. The following poviats are good example: Koziernice (5488 PLN / 151 / person), Grójecki (4588.5 PLN / 153 / person), a city with poviat rights in Świnoujście (4,776.2 PLN / 142.3 / person). Unfortunately, it was not possible to track changes in the remunerations in poviats and compare them over time. The analysis was based on the indicators from the Z-06 form for 2018.
4. The difference in salaries between the total number of employees in Poland and those employed in the local government sector is greater in the poviats with the lowest salaries, ranging from PLN 3,183 per month per person (Kępińskipoviat) to PLN 4,000 (Płockipoviat). Salaries in the local government sector are on average PLN 800-400 higher. In the range from PLN 4,000 to PLN 5,000, probably depending on the wealth of the poviat, the remuneration in the local government sector may be lower, equal to or slightly higher than the total remuneration. From the amount of PLN 5,000 (Wołowskipoviat) up to the highest salary in Poland, in the Lubinpoviat (PLN 7,915), salaries in the local government sector are significantly lower.

### 3.7. Summary

This report is being prepared in times of the coronavirus pandemic which covered all of Poland in 2020. The lockdown resulted in the collapse of many companies, people lost their jobs, there was a decline in consumption and quality of life. GDP, which is a commonly accepted criterion for economic development, decreased by 8.6% year on year in the second quarter of 2020. We are aware that the data on the labour market in the local government sector from the Z-06 form are historical data, not only due to the two-year delay in presenting data in public statistics.

Let's summarize the most important findings regarding the local government labour market in 2018:

1. Compared to 2012, the number of people working in the local government sector increased by approximately 4.7%.
2. At that time, the employment growth dynamics in the local government sector was lower compared to other sectors of the economy, and therefore the percentage share of people working in the local government sector in the total number of employees decreased from 21.5% to 19.9%.
3. Employment trends in the geographical distribution of Poland have not changed since 2012. Still, the percentage of people working in the local government sector in the total number of employees is inversely proportional to the economic development indicators. In 2018, it was the highest in the Świętokrzyskie and Podlaskie voivodeships.
4. As many as 77.1% of people working in the field of culture are local government employees. This percentage increased by 2.1% between 2012 and 2018.
5. Compared to 2012, the percentage of people employed in the field of education decreased by 3.3% but was still very high and amounted to 73.3% of the total number of employees.
6. In 2012, employers decided on the termination of employment contracts in 15.07%, while 3.9% of employees terminated the employment contract. The opposite was true in 2018, when the percentage of termination of contracts by employees (9.42%) was higher than by employers.
7. In 2018, in the local government sector, the balance of people recruited and dismissed from work during the year was positive in all voivodships, while in 2012 a positive balance was recorded only in 6 voivodships.
8. The average total monthly remuneration in the local government sector per employee was higher in all voivodships in 2018 compared to 2012 by 25.3% for Poland.
9. In 2018, the average monthly salary per employee in the local government sector in the geographical distribution was the lowest in the Warmińsko-Mazurskie Voivodeship, and the highest in the Mazowieckie Voivodeship.
10. Z-06 form on employment which is normally filled in by all employers does not provide data on the structure of remuneration by gender.

At the end of the summary of this statistical part of the report, we refer to the concept of local government as an indirect (economic) employer – local governments, not directly performing a management function, exercise somehow economic “supervision” and are responsible for financing and implementing public activities which are their own and commissioned by the central administration. To fulfil these tasks, it is necessary to constantly strive to improve the quality of services for the citizens. Local politicians realize that their performance depends not only on the economic possibilities of the local government and good management based on reliable information, but also on many non-financial factors, such as: political stability, the ability to conduct civic dialogue or care for improving the qualifications/competences of employees and their working and pay conditions.

In three editions of the competition “Local Government Management Leader – Local Government as an Employer”, the Association of Polish Cities was looking for local government employers all over Poland (both “direct” employers managing local government offices and “indirect” employers representing schools, social welfare centres, cultural institutions, etc.) who use well-thought-out organizational solutions that increase motivation to work and increase trust in the employer. The experience of these three competitions indicates that the quality of the services provided largely depends on the ability to conduct social dialogue between the employer and employees and to create a friendly atmosphere and decent working conditions.

Collecting and sharing various types of financial and statistical information as well as information from surveys has been one of the most important activities of the Association of Polish Cities for many years. This information is used both in the substantive work of thematic committees, workshops, seminars for local governments (e.g. Local Development Forum), numerous expert opinions, conferences and in talks with the central government on the forum of the Joint Government and Local Government Commission.

Recently, the public statistics have changed dramatically. Statistical offices publish many interesting and accessible analytical studies, including those on the labour market on a macro and regional scale. However, they still miss out a local scale, including data for the local government labour market. In order to better understand many social and economic phenomena occurring at the three levels of local government, information should be constantly verified. It should be the basis for the civil dialogue between municipal authorities, starosts, marshals and local communities, as well as social dialogue between local government employers and employees - contractors of services for the citizens.

## 4. SOCIAL DIALOGUE IN THE LOCAL GOVERNMENT SECTOR: THE EUROPEAN EXPERIENCE

### 4.1. Dialogue between representatives of the public sector employees and representation of local government employers at the EU level

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Dialogue between trade unions representing public sector employees and employers' representation of local government takes place in an institutionalized form under the European social dialogue mechanism. The partners of this dialogue are the European Federation of Public Service Unions (EPSU) and the Council of European Municipalities and Regions (CEMR). The informal cooperation of these organizations started as early as in 1996 and is carried out in the framework of the sectoral social dialogue committee.

The basis for the functioning of such bodies at the EU level is the Commission Decision 98/500 / EC of 20 May 1998 establishing the legal framework for the European sectoral dialogue<sup>82</sup>. This document sets out detailed provisions for the establishment, representativeness and functioning of the new sectoral committees to act as central consultative bodies, to come up with joint initiatives and to negotiate. They were to be established on a wholly voluntary basis in the sectors where the social partners jointly request to participate in the dialogue at European level and where the organizations representing social dialogue partners meet the following criteria: they relate to specific sectors or categories and are organized at the European level; they consist of organizations which are an integral and recognized part of the structures of the Member States' social partners, have the capacity to negotiate agreements and represent several Member States; are properly structured to ensure their effective participation in the work of the Committees.

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<sup>82</sup> Commission Decision of 20 May 1998 on the establishment of Sector Dialogue Committees promoting the Dialogue between the social partners at European level (notified under document number C (1998) 2334).

The European sectoral social dialogue committees are a forum for consultation of European policies. They also serve as tools for independent social dialogue between European social partners, who can undertake joint actions and negotiate matters of common interest, thus contributing directly to the development of EU labour law and policies.

There are 43 sectoral social dialogue committees (as of the end of 2019)<sup>83</sup>. They cover the entire spectrum of areas, from traditional industries such as metallurgy or shipbuilding, through services to very specific sectors such as professional football. It is estimated that the existing committees already represent 75% of the employees of the EU countries. According to the Commission's decision, the task of the committees is to provide consultations on developments taking place at Community level with social implications and to develop and promote social dialogue at sector level. The effects of their work include both agreements later transformed into directives, as well as codes of good practices or common positions and declarations which indicate the desired direction of Community actions in relation to the sectors represented.

Social dialogue in the local and regional government sector was formally established in 2004 and includes local and regional public services (in particular activities defined by the NACE codes 84.11, 84.13, 84.24, 84.25). It is estimated that the sectoral social dialogue committee represents around 150,000 local and regional authorities in the EU<sup>84</sup>.

EPSU represents the workers side in the sectoral dialogue committee<sup>85</sup>. The federation was established in 1996, it associates 7.2 million public service employees through 270 affiliated national trade unions, 68.5% of which are women. EPSU organizes health and social service workers as well as local and national administrations and workers in the energy, water and waste management sectors. EPSU is a member of the European Trade Union Confederation and the global public service union PSI (Public Services International). The strategic goal of EPSU is to seek to strengthen universal access to high-quality public services and good employment conditions as key elements of the European social model. Polish members of EPSU are: Secretariat of Public Services of NSZZ "Solidarność" and the Federation of Trade Unions of Healthcare and Social Welfare Workers.

On the employers' side, there is CEMR<sup>86</sup>. It is the oldest (established in 1951) and the largest European association of local and regional governments. It brings together national associations of local and regional government from 41 European countries and represents through them all levels of local government. According to its mission, since its establishment, CEMR has been promoting a united, peaceful and democratic Europe based on local government, respect for the principle of subsidiarity and the participation of citizens. The association's activities are organized around two main pillars: influencing European policy and legislation in all areas affecting municipalities and regions; creating a forum

<sup>83</sup> <https://ec.europa.eu/social/main.jsp?catId=480&langId=en>

<sup>84</sup> <https://ec.europa.eu/social/main.jsp?catId=480&langId=en&intPageId=1843>

<sup>85</sup> <https://www.epsu.org/>

<sup>86</sup> <https://www.ccre.org/>

for debate between local and regional authorities through their national representative associations. CEMR is also the European section of the world organization United Cities and Local Governments (UCLG), through which it represents European local and regional governments on the international stage. The Polish members of CEMR are the Association of Polish Cities and the Association of Polish Poviats.

The scope of work of the sectoral social dialogue committee is very extensive. In recent years, it has covered the following issues:

- promoting social dialogue between employers and trade union organisations in local and regional governments;
- exchange of information on labour market issues and sharing of best practices;
- monitoring technological development and its impact on the workforce and employers (especially digitalisation);
- climate change, energy change, migration and its impact on municipalities and citizens;
- employment of young workers and keeping older workers employed in local public services;
- lifelong learning;
- migration and anti-discrimination guidelines;
- information and consultation rights - minimum standards;
- socially responsible public procurement;
- social services;
- health and safety at work;
- violence at work – especially by third parties.

The results of the work of the committee are joint documents adopted by both parties to the dialogue. There are initiatives such as:

- 2020 – declaration on "localization" of the European Semester;
- 2017 – guidelines for drawing up gender action plans at local and regional level;
- 2014 – Joint Guidelines on Migration and Strengthening Migration and Combating Discrimination in the Member States (revised in 2016);
- 2013 – common position supporting the implementation of the European framework for action on youth employment in regional and local governments;
- 2010 – guidelines on violence from third parties.

It is worth paying attention to the committee's activity related to the current EU initiatives in the social area. In January 2020, the committee adopted a common position on fair minimum wages, as part of the first stage of consultations between the European Commission and social partners on this issue<sup>87</sup>. The document endorses the goals of rising wage convergence and shared economic prosperity in the EU, equal pay for women and men and

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<sup>87</sup> <https://epsu.org/article/local-regional-governments-social-dialogue-adopts-joint-reaction-minimum-wages>

the sustainable financing of social protection systems, and sets out some of the principles that the Committee considers fundamental for the future of this initiative, namely the importance of collective bargaining and non-discrimination among the public, private and non-profit sectors.

The Committee has set the following priorities in its work program for 2020–2023<sup>88</sup>:

- The future of work – activities in three areas: digitization (while monitoring the transposition of Art. 88 GDPR), implementation of the European Pillar of Social Rights and its results, and non-standard forms of work.
- The future of local and regional governments and economic governance – linking the activities of local and regional governments with the European Semester; gender equality, including the continuation of the fight against the gender pay gap.
- Capacity building: by 2022, the Committee intends to complete the social dialogue project "European Dialogue, Local Solutions" submitted to the European Commission.

## 4.2. Social dialogue in the local government sector – Norwegian experiences

### 4.2.1. *Basics of social dialogue in Norway and tripartite cooperation at the local government level*

Norway is a country with free market capitalism combined with a comprehensive welfare state that aims to provide free and affordable public services. One gets the impression that high oil revenues feed the economy, but only 3% of the Norwegian state budget originates from oil revenues.

Norwegian society is characterized by a high level of trust based on social dialogue and tripartite cooperation at national and municipal levels. Collective agreements and collective bargaining at national level, with some local adjustments, ensure relatively little wage differentiation, especially in the public sector. The low wage stratification and high employment rate ensure high purchasing power. Most residents pay taxes because the majority of the population works or benefits from a pension system. The combination of high private demand, fair taxation and a small-scale informal economy is good for the economy as a whole.

About half of all workers in Norway are union members. Eighty percent of public sector workers are union members, while less than two in five are union members in the private sector. The trend visible in Norway, as in many European countries, is a decline in the number of people associated in trade unions. A high level of association is important for

<sup>88</sup> <https://epsu.org/article/social-dialogue-committee-local-and-regional-governments-adopts-its-new-work-programme-2020>

the maintenance of the Norwegian model and the legitimacy of collective agreements. An important feature of Norwegian political life is social dialogue and tripartite cooperation.

A century of collective bargaining and representation of the interests of diverse groups in the political arena has resulted in:

- universal and well-developed social services;
- high employment rates for both men and women;
- low unemployment rate;
- low wage differentiation and high degree of social mobility;
- well-organized labour market;
- central wage coordination and co-existing local negotiation at municipal / enterprise level;
- pension financing mechanisms;
- close cooperation between government, employers' organizations and trade unions, as well as strong co-determination and employee participation at company level.

#### ***4.2.2. Main principles of trilateral cooperation in Norway***

Wages are fixed in a collective agreement that is the result of centralized negotiations between several large trade unions and employers' organizations. Due to their size, trade unions are motivated to take into account the impact of wage increases on unemployment. To avoid rising unemployment, overall wage growth is limited to what the export-oriented industry can offer while remaining competitive. This form of collective bargaining facilitates the emphasis on common interests and a fairly equal distribution of income.

#### ***4.2.3. The difference between social dialogue and tripartite cooperation***

Social dialogue is a broad concept that includes dialogue between interest groups, NGOs, churches, etc. Tripartite cooperation is a special concept that includes employers' organizations, trade unions and state / government. In trilateral municipal cooperation, the culture of trust covers the local government / municipalities and three parties: the mayor / local politicians, representatives of the administration and trade unions.

Both tripartite cooperation and social dialogue build trust among the participants. Tripartite dialogue is not an unnecessary exercise or a luxury that only rich countries can afford. On the contrary, it is relevant in emergencies such as the current COVID-19 pandemic. Tripartite dialogue offers significant economic benefits. Employees have decent jobs, impact on their professional situation and higher salaries. Employers are more productive and become leaders in better public services. Society is gaining more employment, a large proportion of the taxable population, a higher birth rate and less conflicts due to commitment and trust.

#### 4.2.4. *Municipal tripartite cooperation*

Tripartite cooperation at the municipal level is defined as constructive cooperation between local politicians, representatives of the administration and trade unions. The aim is to create a culture of cooperation and joint search for the best solutions to the challenges of the municipality. This cooperation is created by three parties at national level: the Ministry of Local Government, trade unions and the Norwegian Association of Local and Regional Authorities (KS). They create a platform for sharing ideas where suggestions from employees and other marginal groups are heard and systematically considered by the municipal management. Local tripartite cooperation is not a formal part of the political decision-making process; it is only part of the development process. The rationale is that clashing different views and perspectives leads to better solutions.

Social dialogue - commitment, empowerment and collaboration - is more effective than management by control and distrust. The tripartite cooperation of local governments creates a development-oriented municipality. A city that is considered an attractive employer, representing innovation, a culture of trust and boldness in searching for new solutions. A municipality where social dialogue is practiced internally and externally, where issues are widely discussed and solutions involving several interests are chosen may develop successfully.

#### 4.2.5. *Framework for formal cooperation in the municipal sector*

##### 4.2.5.1. The Act on Local Government

This law stipulates that each municipality must have a Joint Committee for administrative matters. In the Joint Committee, representatives of the municipal management board have the right to speak and report matters, while trade union representatives / union leaders and local elected politicians have the right to vote.

##### 4.2.5.2. Collective Agreements

The collective bargaining system is the backbone of the Norwegian model. The two most important agreements are the Basic Agreement and the National Collective Agreement. These two agreements are re-negotiated every two years.

##### A. BASIC AGREEMENT

The Basic Agreement sets out the general rules of the game and is often described as the constitution of social dialogue. All collective agreements in Norway are based on cooperative dialogue, starting with the first basic agreement in 1935.

The basic agreement between Fagforbundet and other trade unions under the aegis of the Norwegian Trade Union Confederation and the Norwegian Association of Local and Regional Authorities (KS) regulates formal and encourages informal cooperation. It establishes the rules of resolution of disputes and negotiation mechanisms, while describing

the rights and obligations of both parties, such as the workers' right to access information and the trade union leader's "duty to react" to suspected violations of labour law:

The main social partners (organizations) concluded this agreement in order to create the best possible basis for cooperation between the social partners at all levels. The agreement will be a means of creating cooperative relations between employers and employees and the development of high-quality public services. Cooperation should be based on trust and mutual understanding of the roles of respective parties. Workers and their trade unions will be involved as early as possible in implementing reorganization and reforms. The lead social partners will independently and jointly contribute to good local processes and the follow-up of local partners to the intentions of the Basic Agreement.

## B. NATIONAL COLLECTIVE AGREEMENT

The arrangement is renegotiated every two years but is subject to an annual wage adjustment. It regulates wages and pensions, general terms and conditions of employment, such as pay during sickness, maternity leave, vacation, termination rules, working hours, rest periods, rest days, etc.

Annual wage adjustments can be a combination of central and local negotiations. Central negotiations are about the economic divide between the central and local economic frameworks as well as negotiating aspects which have impact on macroeconomy. The rest of the issues are agreed locally. This can be called cooperation on income policy to give the municipality a complete picture.

There is an agreement between the social partners on the statistical and economic foundations and on a framework known as the Technical Computation Committee for Payroll Accounts.

In addition to the above-mentioned agreement, there are 25 specific agreements between employers' associations and workers' organizations.

### 4.2.5.3. Act on Working Conditions

The Act ensures safe working conditions and equal treatment of employees and covers standards of the working environment, working time, provisions on children and young people, the right to paid or unpaid leave, protection against discrimination, employment and termination procedures.

The original law was passed in 1977, while the current version is from 2015. It covers both public and private companies and institutions and integrates EU directives into Norwegian law.

#### **Working Conditions Committee**

This committee complies with the Working Conditions Act and deals with health, safety and environmental issues such as sick leave and gender equality.

Social partners have a good flow of information and there is often a willingness to find solutions based on a mutual understanding of the challenges. Both formal and informal cooperation in various areas builds trust. Multiple fields of engagement and collaboration create better social dialogue.

#### **4.2.6. Examples of Good Practices in Social Dialogue at the Level of Local Governments**

The Norwegian Union of Municipal and Universal Workers (Fagforbundet) has been involved in national development programs based on tripartite cooperation for over 15 years, involving the close cooperation of the Ministry of Local Government, the national confederation of trade unions and the Norwegian Association of Local and Regional Authorities (KS).

National tripartite city cooperation programs include:

##### *New municipalities (2016–2020)*

National program of social partners' cooperation for the best possible process of structural reforms for new municipalities and counties.

##### *Cooperation in digitization and competences in municipalities (2017–2020)*

The aim of the program was to increase the involvement of all social partners in the digitization process.

##### *Together for a better municipality (2011–2015)*

Collaboration on reducing sick leaves, securing full-time jobs, and improving communication.

##### *Quality in public services (2007–2010)*

First national tripartite cooperation program in municipalities focusing on kindergartens, education, health and social services.

##### *Model municipalities (1996–1997)*

Piloting in ten municipalities to improve public services by involving three social partners in the municipalities: trade union, administration and local politicians.

The national programs were based on the first program that Fagforbundet had started on its own, the aforementioned 'Model Municipality Project'. Its success triggered off the national cooperation in programs encouraging local tripartite cooperation. Over 60% of all municipalities participated in at least one national program. Over the past 10–15 years, the ministry responsible for local government has worked with the Norwegian Association of Local and Regional Authorities (KS) and four largest national trade unions to support municipal programs. Fagforbundet played a key role in these programs.

To qualify for participation in the program, municipalities must base their projects on local tripartite cooperation between local politicians, administration leaders and workers and their union representatives. Several research institutions such as Fafo, Osloeconomics and the Norwegian Institute for Urban and Regional Research have evaluated the programs. Some of the results are:

- more efficient project execution and better results;
- lower costs;
- creating a learning-oriented environment;
- more dynamic organizations at municipal level;
- more innovation;
- improved services.

Employees play a key role in the development of their jobs. Together with municipal administration leaders and local politicians, these actors recognize the mutual benefit of engaging each other's experience and input to make better decisions and more effective outcomes.

#### **4.2.7. Case studies**

##### **MUNICIPALITY OF PORSANGER**

The municipality of Porsanger participated in the national digitization program in 2017–2019. The municipality decided to use the tripartite municipal cooperation in creating a new digitization strategy.

“By cooperating in the development of a strategy, we receive not only a strategic document. We learn a lot by working together to agree on a common strategy”, Renate Fagerness Sjøenden, Fagforbundet Officer said about the project. Porsanger's Head of Development, Kjell Rasmussen, agreed and said that the actual process of working together on the strategy was very helpful and increased the effectiveness of the strategy as all parties were involved in its creation from the very beginning.

##### **THE MUNICIPALITIES OF MELHUS, STEINKJER AND MALVIK**

Fagforbundet systematically builds up knowledge and experience on the local tripartite model of participation and development, working with the municipalities and research institutions involved. An example is the cooperation with the research institute Sintef in three municipalities in central Norway in 2017–2019.

The research institute measured the impact of tripartite collaboration in three selected municipalities: Melhus, Steinkjer and Malvik. The aim of the project was to improve the working environment by strengthening cooperation and social dialogue between the trade union and employees, management and the representative for health, safety and

environmental protection at the organizational level in kindergartens and nursing homes in municipalities.

The Sintef research institute reported the following: fewer sick leaves, increased self-confidence and active union representatives, improved decision-making bases, and stronger support for the management. It also found that trade union representatives worked closely with management on shared goals.

#### SUMMARY OF RESEARCH RESULTS

The research participants were trade union representatives, management and safety and health representatives from three kindergartens and three nursing homes who were trained to use social dialogue to improve services. Municipal tripartite cooperation is a tool for the development of a good working environment, effective organization of work, and even better quality of services. All training and objectives were based on the political priorities of the municipalities. Sintef calls this cooperation a “close service cooperation” because it complements tripartite cooperation of municipalities and formal social dialogue regulated by law. The project was structured as an action research project. By establishing operational tripartite cooperation, Fagforbundet may understand when it is necessary to build trust and competence in development work based on social dialogue Fagforbundet helps to ensure a well-functioning cooperation structure between the parties. At the local level, it is an essential tool for improvement and development.

The main finding is that the nursing home or daycare manager, shopkeeper and safety representative understand their role more confidently and are more cooperative. Good cooperation at the workplace provides the municipal tripartite cooperation an operational body to implement political decisions but is also a quality assurance system for the operational units to provide good quality services. When the tripartite cooperation gets its own “operating unit” organized by representative development groups in the workplace, they will get what Sintef calls a tripartite close-to-service cooperation.

#### MUNICIPALITY OF HVALER

In 2018–2020, Fagforbundet assisted Hvaler in introducing municipal tripartite cooperation in service development. The result was increased efficiency in routine activities and clearer responsibility division for tasks in the workplace. Local politicians benefited from the services’ increased insight and control. The recruitment of qualified personnel has increased, and the staff turnover has decreased. Absenteeism due to sickness among employees has also decreased.

#### CHALLENGES FOR THE FUTURE OF DIALOGUE AT LOCAL LEVEL IN NORWAY

Social dialogue and tripartite cooperation do not happen automatically. Trust could not be declared. It has to be achieved. The model of social dialogue should not be taken for granted. Some of the model’s challenges include gender imbalances in the labour

market, declining numbers of organized workers, and increasing income inequality and social dumping.

The model is also threatened by the increase in the number of non-standard forms of employment, e.g. an increase in temporary employment, temporary work and subcontracting, dependent self-employment. It is difficult to conclude collective agreements in non-standard forms of work.

In addition, the challenge is in demography: the aging population and declining birth rate which affect the labour market and the Norwegian model of cooperation. Climate change and environmental issues are also potential threats. Norway must prepare to move away from an economy based on fossil fuels.

## 5. SOCIAL DIALOGUE SURVEY RESEARCH IN THE LOCAL GOVERNMENT SECTOR IN POLAND

While implementing the project, we decided to conduct a survey in the form of a short survey addressed to local governments and local government employers, aimed at diagnosing the state and dynamics of social dialogue in the local government sector. We have developed a questionnaire in several variants, taking into account the specificity of individual categories of respondents. These categories included:

- local government entities(LGU);
- municipal enterprises (ME);
- local government legal persons (LGLP).

The various variants of the survey, despite the differences reflecting the specificity of each category of respondents, had a common core, which included questions about:

- assessment of discussions/negotiations practices with trade unions regarding the situation of employees;
- subject of discussions/negotiations with trade unions;
- workers representatives' responses to the epidemic threat (COVID-19) and remedial action.

In addition, the survey about local governments included questions about:

- assessment of the quality of trade unions' opinions on draft local law acts and draft executive acts of local law (see Article 19 (2) of the Act on Trade Unions);

- taking actions and/or interventions to solve problems in labour relations signalled by employee representation in workplaces for which the local government is an establishing body but not a direct employer, or in independent enterprises providing public services to local governments (e.g. waste management).

The questionnaires were sent to respondents by the Association of Polish Cities. We received the following numbers of questionnaires in respective categories:

- 126 questionnaires from local governments;
- 121 questionnaires from ME;
- 34 questionnaires from theLGLP.

The analysis of the questionnaires allows us to notice certain common features in the positive social dialogue. This applies, inter alia, to consultations on draft acts of local law by trade unions. Such practices were confirmed in a large part of the surveyed **local governments** and, importantly, were generally assessed favourably.

With regard to the experience from discussions/negotiations with trade unions regarding the situation of employees for whom the local government is not a direct employer, the situations described in the questionnaires received from local governments generally occurred in relation to key professional groups related to public services: teachers, security guards, health or cultural workers. The following are examples of such situations, presented in the questionnaires, which – although they should by no means be considered representative – may be treated as “significant cases”<sup>89</sup>.

- Teachers' remuneration rules were agreed, positively agreed, there were no major problems (municipality).
- the City of Bielsko-Biała, pursuant to Art. 30 sec. 6a of the Act of January 26, 1982, the Teacher's Charter, conducted negotiations with the unions aimed at agreeing on the content of the rules specifying the amount and detailed conditions for granting bonuses to the base salary, detailed conditions for calculating and paying remuneration for overtime hours and hours of ad hoc replacements as well as the amount and conditions for paying awards to the teachers of kindergartens, schools, institutions for which the leading body is the city of Bielsko-Biała. Working group which consisted of trade union representatives and representatives of the city had meetings. During the meetings, individual provisions of the rules were agreed. The result of the negotiations was the signing of a protocol of agreeing on the content of the rules by both parties (powiat city).
- Negotiations with the employees of SP ZOZ in MiędzyrzecPodlaski (County Hospital) during the liquidation of the Obstetrics Ward. A compromise was reached (BiałaPodlaska).

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<sup>89</sup> The original spelling was kept in all quoted statements from the questionnaires.

- Negotiations on the Rules for Remuneration of Teachers in Schools and Institutions for which the poviatis the leading body. The negotiations concerned an allowance for the functions of a class teacher, an incentive allowance and working conditions allowance, moreover, the conditions of payment and the criteria for awarding teachers for achievements in teaching, care and educational work (municipality).
- The topics of the meetings were matters related to the functioning of the enterprise, including employee remuneration. The meetings ended with a mutual agreement (powiat town).
- Interview with a trade union at the city's public library. Problems were identified, mediation is still in progress due to COVID-19 (municipality).
- The arrangements concerned the change of bonuses to the basic salary of teachers. The first stage of arrangements – raising the allowance for class education, the second stage – the setting the same allowance for the class teacher and the teacher taking care of the kindergarten department. The demand of the unions was met, the arrangements were factual and substantive (the municipality).
- Proposal of the MZKNSZZ "S" Employees of Education and Upbringing in Rzeszów and the Management Board of the ZNP Branch in Rzeszów concerning increasing the salaries of employees of educational entities (pedagogical, administration and service staff) and regarding local legislation in the field of education (voivodeship capital city).
- Discussions on changes to the remuneration rules, e.g. incentive bonuses for directors, health fund rules, etc. Negotiations ended with agreeing compromise solutions (provisions) and a consensus (NN, powiat 150,000).
- Trade unions are the statutory partner for local government in adopting local law resolutions relating to teachers' matters. In matters relating to the remuneration rules, a reconciliation procedure is required. Due to the lack of a uniform position regarding the interpretation of the term "reconciliation procedure", there were many times when a trade union did not agree to the changes proposed by the local governments, which effectively blocked further work. Currently, the position of the Supervisory Authority – Lower Silesian Voivode is such that the reconciliation procedure is required, but the parties do not necessarily need to come to a common position, although if possible, they should. The result is presented to the executive body which decides whether to undertake further talks or to end the procedure. The unions are informed of the decision (powiat).

Many interesting answers were also received to the question of whether actions and/or interventions are undertaken to solve problems signalled by the employee representation regarding its relations with management in independent enterprises providing public services to a given local government. While a large part of LGUs denied that such situations

occurred (or did not provide answers), a relatively high (although still a minority) percentage of respondents confirmed that they did occur. As in the previous statement, we present “significant cases” below.

- Complaints against directors of powiat organizational units. Such complaints are handled by the committee appointed for the case and it consists of powiat politicians or the complaint is handled by an audit committee of the powiat in Białą Podlaska. They are called to assess a specific situation. The result of the intervention in the form of a resolution of the powiat in Białą Podlaska. Until now all complaints have been assessed unfounded (a powiat city).
- Meetings were held in person or through members of supervisory boards of companies. Other cases were handled in writing. In the result an agreement was reached (powiat city).
- Resistance of education workers over wages, discussions about ending the strike were unsuccessful (the municipality).
- Interview with a trade union at the city's public library. Problems were identified, mediation was carried out, however due to COVID-19, the process is still in progress (municipality) (sic!).
- The case was examined by the competent council committee – the employer did not share the committee's opinion – negative result (municipality).
- Interventions most often concern periods and the legal basis for concluding an employment contract. Reported cases are analysed. The body in charge each time takes steps to ensure compliance with the applicable regulations, e.g. the Teacher's Charter Act, for example in the matter of employing teachers for an indefinite period and by appointment (voivodeship city).
- Consultation of the rules that have been approved by the trade unions (NN, 150,000 land powiat).
- In the event of receiving from the unit's employee representative information about problems in its relations with the management, representatives of the executive body of the local government take appropriate actions to determine the causes of the problem and provide assistance in solving it. An example of the above is the participation in 2019 of representatives of the Powiat Board in discussions and negotiations between trade union organizations operating in the healthcare entity and its management in order to end a collective dispute lasting almost a year regarding pay raises for employees of the healthcare entity. The discussions of the representatives of the District Board with trade unions and the management of the medical entity concerned the improvement of communication between the parties and were aimed at creating conditions enabling the development of a common position on the matter and reaching an agreement. As a result of the participation of the representatives of the County Board in the discussions between the

parties, a compromise was reached on the pay rise and an agreement was signed between the management of the medical entity and trade unions on solving a collective dispute in a medical entity (poviat).

- In such a situation, the local government is taking the role of the negotiator. Actions interfering with the employer-employee relationship (poviat) are not taken.

It is significant, however, that the very concept of an **“indirect employer” could raise doubts among the respondents**, an example of which would be a statement sent – instead of a questionnaire – by the city hall (approx. 50,000 inhabitants). In the statement, the local government states that, in its opinion, the questionnaire “does not apply [...] to entities in which the creating body is a direct employer”. Whether this statement is an expression of belief, or rather a misunderstanding of the objectives of the study, remains an open question.

The second of the categories of respondents were **local government legal entities**. In a significant number of cases, the questionnaires were only partially completed, as there were no trade unions operating at the local government legal entities. It should be added that only sporadic collective agreements have been reported. Out of 121 returned questionnaires, the existence of trade unions was confirmed in 55 companies, while collective agreements were in force in 9 cases. Where trade unions operate, social dialogue has generally been characterized as correct, with one interesting exception<sup>90</sup>. At the same time, however, the answers indicate the occurrence of situations in which in the “triangle” of collective employment relationships (direct employer, i.e. the manager of the workplace – employee representation – the actual / indirect employer, i.e. the founding body), responsibility and impact become blurred. This is evidenced by affirmative answers to the question “Have there been situations when problems reported by trade unions were transferred to local governments?”, as well as the following statements from the questionnaires:

- Discussions with trade unions usually involve wage regulation. The unions expect pay rises. Actions are taken to obtain funds from the *Organizer* (it is not clear whether this is a founding body, but such an assumption can be made – editorial note) (Ethnographic park).
- As a result of talks between the employer and trade unions: the *organizer* was requested to consider the possibility of raising the salaries of employees of the institution in connection with the change in the minimum wage (library).

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<sup>90</sup> In the provincial road traffic centre, the relations between the employer and trade unions were described as conflicting, quoted as follows: “trade unions showed a very demanding attitude, taking into account only the employee’s interests, without any regard to the regulations applicable to the employer (such as the provisions on public finance discipline). [...] Moreover, the attitude of the trade unions is mostly geared to attacking the employer and denying its conclusions”.

Other examples of answers to the question about the practice of discussions/negotiations with trade unions regarding the situation of employees of a local government legal entity are as follows:

- Legal and organizational problems in the functioning of the admission room of the hospital (voivodeship psychiatric hospital).
- Consultations and discussions regarding changes in rules and regulations. Organization of changes resulting from the Covid-19 pandemic (city guard).
- Lack of funds to increase the basic salary for employees, lack of funds for awards for museum employees in connection with the 110th anniversary of the museum (as a result of the pandemic - editor's note) (museum).
- Negotiations on decisions regarding the allocation of funds for pay raises, provisions of the collective agreement, health and safety conditions, incl. related to the COVID-19 pandemic, changes in the organizational structure, changes in the organizational regulations regarding working hours. In each case, a compromise was reached (Municipal and Regional Public Library).
- Establishing rules due to the legal obligation (real estate management company).
- Discussions on the implementation of the bonus system, remuneration rules, employee development and education (no data).
- Monthly meetings of trade unions with the management of the company are held, during which a joint, best solution is achieved from the point of view of both the enterprise and employees (transport company).
- In March, regular meetings were held to amend the remuneration rules, update the list of job positions, assign them to appropriate grade categories and modify the table of basic salary rates. The meetings ended with the development of a common position on changes to the rules. After the announcement of the Covid epidemic, there was an exchange of letters between the trade unions and the management regarding the reduction of the basic allowance for the company social benefits fund. The trade unions acknowledged the management's position and agreed to change the amount of the write-off (museum).

**Municipal enterprises** were the third of the categories of respondents. The original element of the questionnaire addressed to them were questions whether there is a trade union organization in the enterprise and whether there is a collective agreement. Out of 34 questionnaires returned, the trade unions were confirmed in 9 cases, while collective agreements were in force in 5 companies. Social dialogue, especially in unionized enterprises, was regular and generally cooperative. When asked about the experience from the discussions/negotiations with trade unions regarding the situation of municipal enterprise employees over the last year, there were many interesting answers, which fall into the category of "significant cases".

- Most often, the issues concerned low wages which is caused by a low increase in tariffs (agreed with the Polish Waters). Currently, a large increase in the lowest statutory salary causes high expectations among all employees (everybody expects a similar increase in their current remuneration) (water supply and sewage systems).
- Due to the lack of employee representation, the president of the management board held talks with individual departments directly, after prior appointment with the head of each department. The demands submitted by the employees were implemented on an ongoing basis, as well as the management board's proposals on the organization of work in the company during the pandemic were adopted for use by the employees (urban greenery, statement on activities related to COVID).
- Situations related to the increase in employee remuneration. Recently, a collective dispute began, which resulted in a strike of some employees. During the strike, talks were held with the parties to the collective dispute with the participation of the mediator, city authorities and the social dialogue council. After two weeks, the parties reached an agreement and an agreement was signed ending the collective dispute (public transport, trams).
- Regular discussions concern both current affairs of the company, such as monthly meetings at the social and life committee and meetings with the management board of the company, as well as those resulting from the Act on Trade Unions, i.e. agreeing changes in the work rules, in the collective agreement, as well as in the last COVID-19 negotiations. There was no direct support for public transport, employees worked during the pandemic similarly to other services (health service, fire brigade), and there was no direct support for these professions, e.g. COVID-19 tests financed by the National Health Fund, or subsidies to lost income due to lower mileage. In summary, the lack of systemic solutions (financed by the state) related to the implementation of COVID-19 recommendations in public transport was reported, while imposing certain restrictions on the number of passengers, masks, etc., thus transferring the risk (costs) to the transport companies and their employees (public transport).

A significant number of submitted questionnaires, even though many of them were incomplete, provided a relatively broad empirical material allowing for the formulation of a number of conclusions. The general conclusions are as follows:

- the answers given are generally very brief;
- few answers to semi-open questions, where there was a request to share details;
- in many cases, the returned questionnaires were only partially completed;
- a rather ritualistic nature of social dialogue is observed, it is generally cooperative, disputes were reported incidentally;

- the subject of dialogue in the municipal companies are generally matters belonging to the traditionally understood collective bargaining, such as remuneration, the company social benefit fund, work rules, remuneration rules.

As indicated by the responses received, the issue of under-defined scope of the employer's responsibility for the organizational (managerial) concept of the employer in the Polish labour law may result in tensions, although they are not common, if measured by the low number of revealed cases of escalation of unresolved situations. In the light of the answers from medium-sized city office, however, the legitimate claim goes that the reason for such a low flow of information (and, consequently, consultations and decisions) to entities that are de facto employers may not be so much the de jure employer's ability to deal effectively in collective labour relations as their direct side, but rather the lack of awareness (both among local government officials and the managers of the companies) of the complex and ambiguous state of affairs determined by the current law. Going a step further, one can ask whether this state is, in turn, a convenient point of reference for behaviour aimed at diffusion of responsibility (or rather pushing the responsibility away)? As a result, we may witness growing conflicts, as illustrated in the next chapter of the report.

## 6. SOCIAL DISPUTES BETWEEN THE EMPLOYEES/TRADE UNIONS – AND LOCAL GOVERNMENTS

Under the provisions of the labour law, the employer is the party for trade unions representing employees of local government institutions or municipal companies. The practice of the Polish industrial relations to date shows, however, that trade unions or employees very often, in the event of dispute, submit their demands directly to a local government, expecting support or even a solution to the problem. This mostly applies to wage expectations. The following list presents selected cases from the last five years and was prepared based on data obtained by the Ministry of Labour<sup>91</sup>.

### September 2016

- Krakow – "Silent Walk" at the Regional Public Library, as part of the trade union action against many years of wage discrimination against employees of cultural institutions in the Małopolskie Voivodeship. Demands for wage increases and the development of a recovery plan assuming a gradual increase in wages in cultural institutions.

### November 2016

- Łódź – a picket line in front of the city hall of several hundred employees of the Veolia company, a heat supplier for Lodz apartments. The protest was about withdrawal of the company's management board from the collective bargaining agreement, which guaranteed employees, inter alia, additional health care and discounts.
- Poznań – occupation of the city mayor's office by trade unionists from various organisations representing the public sector, demanding the negotiations on an

<sup>91</sup> <http://www.dialog.gov.pl/monitoring-konfliktow-spoecznych/>

increase in salaries for over 9,000 people employed in Poznań plants, public companies and cultural institutions. Ultimately, an agreement was signed in December.

### **December 2016**

- Zielona Góra – after two months, a compromise ended a dispute over wages between unions representing employees of public companies and the city authorities. The dispute began in late October with a street demonstration by city workers who protested against low wages.

### **March 2017**

- Szczecin – a manifestation of several hundred employees of companies reporting to the mayor of the city organized by all unions (employees of MOPR, municipal nurseries, nursing homes, powiat labour office, city hall, municipal police, cultural institutions). There were demands for pay rises and the conclusion of a multi-enterprise collective labour agreement for employees of the public sector of the city of Szczecin.
- Łódź – a street protest of MOPS employees organized by trade unions, demanding pay rises.

### **August 2017**

- Elbląg – warning strike in Elbląg trams as a result of the failure of discussions with the company's management and city authorities regarding pay increases.

### **October 2017**

- Częstochowa – a strike referendum in a nursing home due to the lack of a decision by the city authorities regarding wage increases negotiated with the employer. Ultimately, the strike was suspended.

### **November 2017**

- A protest picket-line organized by the trade section of museum employees of NSZZ "Solidarność" Mazovia Region in front of the building where the Mazowieckie Voivodeship Sejmik held meetings. The trade unionists protested against neglecting their demands by the region government. The picket participants criticised style of management in the museum sector and low wages in museums.

### **December 2017**

- A protest in front of the Poznań City Hall of employees of cultural institutions, nurseries, kindergartens and social care homes run by the local government. Representatives of four trade unions associating employees of local governments came to the magistrate and sent a letter to the president in which they expressed their hope that he would agree to the demanded increase in salaries.

### March 2018

- Trade unions in transport companies in Białystok in response to the refusal of management boards to raise wages by PLN 500 threatened with a strike and demanded that the city president take a position on the pay rises.

### April 2018

- Łódź – employees of MPO Łódź have suspended the departure of garbage trucks into the city, demanding wage increases and the provision of new equipment due to the frequent deterioration of the current one. The deputy mayor of the city, together with the MPO board, started talks with the protesters, which ended with the signing of an agreement.

### May 2018

- Krakow – a protest action coordinated by trade unions for the librarians, museologists and philharmonics. Participants once again demanded respect for their professions and compensation for many years of arrears in the pay system of employees of cultural institutions organized by the Małopolskie Voivodeship.

### October 2018

- Łódź – street protest of social workers in Łódź. A petition was submitted to the mayor of the city demanding an increase in wages.
- Częstochowa – social assistance and labour office workers demonstrated in front of the city office demanding the pay increases promised by the city authorities.

### December 2018

- Włocławek – picket-line of employees of welfare homes in Włocławek during a session of the city council regarding demands for pay rises.

### March 2019

- Sieradz – a protest of the employees of social welfare homes demanding a pay rise. They turned to the authorities of the Sieradz poviats with financial demands.

### April 2019

- Rybnik – a demonstration of several hundred employees of municipal companies in front of the city hall demanding an increase in wages. Another edition of the NSZZ "Solidarność" campaign conducted for several months in a coordinated manner, aimed at increasing the salaries of employees working in local government companies and public services in Rybnik.

- Oświęcim - five trade unions demanded higher salaries for officials and employees of local government institutions in Oświęcim and Brzeszcze. As part of the industrial action, collective disputes were initiated with individual employers.

### **September 2019**

- Rybnik – NSZZ "Solidarność" started next round of fighting for pay raises for employees in companies reporting to the Rybnik local government. This time, collective disputes were initiated in four institutions: the city greenery company, housing company, social welfare home and the Rybnik municipal services company.

### **October 2019**

- Bielsko-Biała – wage protest of employees of municipal sports facilities. The action was supported by NSZZ "Solidarność". Ultimately, an agreement was reached with the city authorities.
- Łódź – protest of social workers of MOPS in front of the municipal office regarding demands for pay rises.
- Rybnik – NSZZ "Solidarność", as part of its action, submitted wage demands to other companies reporting to the local government: MOSiR and MOPS.

### **November 2019**

- Piotrków Trybunalski – trade unions in the municipal family assistance centre entered a collective dispute with the employer over wages. Only after a few months did the city authorities join the discussions.

### **February 2020**

- Elbląg – a strike in the company "Trams Elbląskie" in relation to payroll. Trade unions indicated that the city authorities did not joined the discussions on the demands.

### **Maj 2020**

- Elbląg – a public protest of the administration and service staff of educational institutions in Elbląg, supported by the Inter-Enterprise Education Commission of NSZZ "Solidarność" in Elbląg, regarding the lay-offs from the mayor of the city without consulting trade unions.
- Łódź – in the opinion of unions representing MPK drivers, the city authorities are provoking a public transport strike, because from August 2019 they have not responded to the call for wage increases.

## June 2020

- Przemyśl – NSZZ "Solidarność" in a water and sewage company in Przemyśl, threatened a collective dispute over its demands to improve the company's operations. Trade unions asked the mayor of the city to intervene.

## July 2020

- Łódź – street protests of the unions representing non-pedagogical employees of schools, kindergartens and orphanages against the unconsulted termination of a multi-company collective agreement by the city president because it was – according to the city – "outdated".

## October 2020

- Jarosław – street protest of MOPS employees regarding an increase in salaries.

## 7. SOCIAL DIALOGUE IN THE LOCAL GOVERNMENT SECTOR FROM THE ACADEMIC PERSPECTIVE, THE EXPERT SURVEY RESULTS

From the very beginning (i.e. research programming at the application stage), we have intended to get support with the opinions of researchers in the field of social dialogue, labour relations and related areas. However, the planned seminar could not be held due to the epidemic situation. Not wanting to lose the opportunity to consult the scientific community, we rearranged the research, replacing the seminar with an on-line expert survey. As a result, we received feedback from 10 researchers who represent various fields and scientific disciplines, such as law, economy, public and social policy.

The review of the opinions of the surveyed experts was arranged according to the structure of the questionnaire. Their statements are not quoted in extenso. Due to the necessity of anonymization, statements are identified by the specialization key (e.g. a lawyer).

*What are the characteristics of social dialogue in local government? Is it possible to point to “good practices” in the dialogue that have benefited both local governments and employees of companies and entities providing services to them?*

Local government is a part of the public sector. As a result, the trade unions typical for the public sector provide great opportunity for the social dialogue – as quite often we don’t see trade unions in many companies in the private sector. However, I believe that despite this, “good practices” are unfortunately disappearing, and social dialogue in this area has been less frequent and less fruitful in recent years, (a lawyer).

Social dialogue in the form of information exchange, consultations or negotiations between employees and employers should serve to improve the efficiency of enterprises / institutions,

which in the sphere of local government means primarily improvement of the quality of public services provided, (an economist).

Here you can indicate the Kaizen improvement method<sup>92</sup>, introduced in one of the heating companies in the Łódzkie voivodship. This method improved the quality of work, accelerated the decision-making process and increased employee involvement in the company's improvement process by promoting the so-called culture of "prevention" in the company. Other forms of a dialogue between the employer and the employees have been the ad-hoc consultation teams on new projects or anonymous employer satisfaction surveys. Another example of good practices within the social dialogue is the award committee of the mayor of the city, operating in one of the cultural institutions of the Mazowieckie voivodship. It includes, in addition to the representatives of the institution's management and the chief accountant, representatives of the trade union and the works council. An example of communication and dialogue with employees is the participation of the works council in discussions on the development of new remuneration regulations between management and trade unions or the introduction of employee satisfaction surveys or the so-called codes of conduct (an economist).

The public sector seems to be more friendly for trade unions compared to the private sector. Almost three-fourths (74%)<sup>93</sup> of employees who declare trade union membership are employed in institutions, offices or enterprises which belong to the state or local government (including sole state treasury companies), (a lawyer).

### *Where are the main barriers to dialogue between trade unions and local government (especially at the local level)?*

The main barrier to a dialogue between trade unions and local government is the lack of mechanisms under which such a dialogue could take place. At the same time, I do not question the very structure of employers' arrangements within local government structures, but the lack of regulated forms of negotiation that would include, apart from the direct employer, also the owner or supervisory entity in the negotiations. This is not a difficulty specific to local government employers, although it is particularly visible within local government. Another barrier is the limited scope of issues subject to negotiation, due to the fact that some of the financial conditions on which work is performed are determined by generally applicable regulations, which in the area of local government are more extensive than in other sectors, (a lawyer).

In my opinion, the main barrier are legal regulations, regarding the public finance discipline, as well as the standardization of the structure of remuneration of local government

<sup>92</sup> Kaizen – from English Japanese: change for the better. In business practice, it is a daily process improvement originating from the involvement of every employee of the company. Each work improvement that leads to increased safety, company efficiency and work quality is called kaizen. (source: [www.leancentr.pl/bazawiedzy/kaizen](http://www.leancentr.pl/bazawiedzy/kaizen)), editorial note.

<sup>93</sup> CBOS data (2019) editorial note.

employees in the form and at the level of an act and a regulation. There is not enough space for dialogue, (a lawyer).

Research has shown that in many companies with both trade unions and works councils, there was a problem with the information provided by the employer. Sometimes both bodies were perceived as one institution, and the problem of duplication of powers arose. The specificity of the activities of these organizations was indicated as one of the main reasons for the lack of real consultations in enterprises and institutions providing services to local government. The fact that all important decisions are made outside the enterprise which only “receives” the funds instead of developing it, affects the weakness of social dialogue in these organizations, (an economist)

The main barriers are in the attitude, collective and individual culture. Trade unionists and many local politicians have no will to dialogue, deliberation, and to improve their understanding of the problems to be solved. (public policy)

### *Do they result from defective legal structures or from other reasons?*

Managers of local government employers are authorized to issue various types of acts affecting the situation of employees (rules for conducting preparatory service, rules for periodic employee evaluation, etc.). The provisions regulating the procedure for issuing these orders do not provide for the obligation to consult them with the employees’ representatives. In this respect, the potential for supporting the dialogue of social partners is high, but not used. [...] Ergo extending the consultation powers of trade unions in the process of creating company law (internal regulations, periodic assessments, preparatory service and others) is a necessary precondition, the fulfilment of which may in the longer term translate into the revival of social dialogue in local government (a lawyer).

A provision that may adversely affect the practice of negotiating collective labour agreements is Art. 39 sec. 1 of the Act on Local Government Employees, pursuant to which the remuneration of local government employees is specified in the remuneration regulations adopted by the employer. Moreover, in the local government administration there is no possibility of putting pressure on the employer to start wage negotiations in the form of a strike (Article 19 (3) of the Act. The use of the arrangement method at the company level is also limited as the actual employer is not entitled to make financial decisions, (a lawyer).

Merely strengthening the law will not help if the parties do not recognise the dialogue. (an economist).

### *In your opinion, is the “disability triangle” described above a good diagnosis of the situation?*

I do not agree that the concept of a real economic employer can be effectively used in formulating legal solutions. Empowering the economic employer in social dialogue would

require prior definition of the concept of “economic employer” for the purposes of social dialogue. I doubt that it is possible to formulate such an abstract definition satisfactorily. For example, it is possible that local governments would have such a status only with respect to some of their contractor’s employees. This and a number of other complications mean that the concept of an economic employer has a general theoretical value and may be suitable for use by courts in specific cases, but this does not justify that the concept of an economic employer should be introduced into the legal language. (a lawyer)

The above described “disability triangle” largely resembles the problem of social dialogue in temporary employment. The direct recipient of the service who creates the conditions for the performance of work, is different, and the employing entity is different. It is important to take actions aimed not only at promoting dialogue within the “triangle”, but also at the contractor-local level. (a lawyer)

### ***How can the dialogue between trade unions and local government be improved and revitalized?***

Liberalization of generally applicable law (state law) and thus creating more space for dialogue between social partners (including local government employers). (a lawyer)

The negotiation “field” is strongly determined by the economic condition of local governments. Therefore, universal solutions would have to be general and flexible enough not to tie the hands of local governments and provoke them to “avoid” the dialogue. (an economist)

### ***Do the economic changes, such as the increasing importance of services in relation to production, technological change or demographic change affect the quality of social dialogue in the local government? Should these processes become a reference point for negotiations / consultations in new areas concerning the working environment?***

It is predicted that in the future, public administration may become a bastion of the classic employment relationship. The same is true for industry. Although one industry differs significantly from the other, one can expect strategic alliances between the trade unions operating in them. (a lawyer)

### ***Will the public health crisis (COVID-19) and its socioeconomic consequences affect the social dialogue in local governments? What are the possible scenarios?***

I can see two scenarios. I don’t know if they are possible. Covid-19 ----- economic crisis ----- budget hole ----- introduction of cadastral tax ----- more money in local government sector and its greater financial independence ----- more room for social dialogue in local governments. Or: Covid-19 ----- a wider field for remote work ----- inequalities in access to remote work among local government employers ----- tensions in this background and development of social dialogue. (a lawyer)

Two scenarios can be envisaged here. The first one, which will result in the limitation of dialogue due to the need to introduce financial restrictions for individual employers. The experience so far shows that such actions lead to a reduced dialogue. This restriction is based on the claim that there is no room for negotiating workers' working conditions. The second scenario assumes that the dialogue will continue, but it will focus more on issues related to ensuring safe and healthy working conditions for the employees. Of course, it cannot be ruled out that the socioeconomic crisis will contribute to greater interest by the employees of local governments in protection from trade unions, and thus intensification of social dialogue – but I believe that this scenario is unlikely. (a lawyer)

There are two extremely different possible scenarios of the impact of COVID-19 on the social dialogue in local government. According to one of them, the current situation will strengthen social dialogue as a tool to combat extreme situations in which the employer and employees are forced to look for optimally beneficial solutions. A completely different effect may be the collapse of social dialogue related to the deteriorating situation on the labour market and the decline in the general negotiating position of the employees.

A scenario of strengthening the role of social dialogue at the local level and expanding its mechanisms beyond the existing traditional forms is possible. Trade unions can play an important positive role in mitigating the socioeconomic impact of the coronavirus by negotiating with employers for anti-crisis agreements to reduce the labour costs. (an economist)

In the financial crisis of 2007–2008 we have seen projects promoting flexicurities. We may soon see similar new ideas or innovations to be promoted and implemented. However it may realistically and systematically solve problems of the labour market. (social policy)

### ***What are the main legal and factual obstacles for the trade unions to give opinions on draft legal acts to be adopted by the municipal authorities?***

As far as I know, the dialogue between NGOs and local governments is developing. I guess NGOs push away the trade unions from the wide social dialogue, and this is a process that has been taking place on a larger scale for some time. Participatory democracy is developing at the local government level and NGOs participate in it while the trade unions don't. (a lawyer)

In my opinion, the main obstacles for the trade unions in providing their opinion on draft legal acts to be adopted by the local government are factual. Issues that are the subject of a typical social dialogue are rarely the subject of draft legal acts to be adopted. There are however also legal obstacles: the lack of legal measures that would enforce taking into account the positions expressed by trade unions during the resolution process. (a lawyer)

The analysis of expert statements shows certain common conclusions from the respondents. These are as follows:

1. The local government sector, as part of the public sector, is a relatively more favourable space for social dialogue compared to the private sector, if only because of a stronger position of organized employee representation.
2. Legal provisions, especially the Public Finance Act, which narrow the field of negotiation, are indicated as the main source of barriers and obstacles to dialogue in the local government sector.
3. Breaking the “triangle of impossibility” seems to be a difficult challenge, the option of defining an “economic employer” at the regulatory level was basically not discussed (except for one quite sceptical opinion).
4. A possible revival of social dialogue at the level of local governments could be achieved by loosening the excessively binding legal provisions, which (see 2) were described in specific deterministic categories, which did not leave much scope for negotiation.
5. There is a reoccurring view that the outbreak of the COVID-19 pandemic, as a potential factor (difficult to predict during drafting this report) which may trigger a radical social change, may lead to the implementation of extreme scenarios: strengthening or weakening the social dialogue. The status quo is not expected to remain intact.

Summarizing the results of the expert survey, it can be concluded that the picture emerging from the statements of the surveyed scientific community is cracked. On the one hand, they emphasized that the local government sector (by generalizing observations for the entire public sector) was a relatively friendly space for social dialogue and employee representation. On the other hand, they were rather unanimous in pointing out that the corset of legal provisions severely impeded the negotiating freedom of the parties (apart from the “triangle of impossibility”, i.e. who was to be a real representation on the employer’s side) and was not conducive to initiating the dialogue. We have not seen, even in outline, the concept of solving the problem of the “disability triangle”.

## 8. LOOKING INTO THE FUTURE – SUGGESTED AREAS (PRACTICES) FOR PILOT TESTING OF NEW SOCIAL DIALOGUE INSTRUMENTS

### PRACTICE ONE

**Developing a model solution to strengthen and deepen the dialogue between the local government and trade unions representing employees in the entities which deliver tasks commissioned by the local government.**

***Objective:** to make a mechanism for consultation with trade unions on the draft budget of a local government entity or other plans of constituting/executive bodies of local government entities which relate directly or indirectly to the employees of these entities.*

Social dialogue is a process that needs to be strengthened because of its importance in maintaining social peace and in the autonomous regulation of labour relations. In this aspect, it is important to overcome the barrier resulting from the existence of the “organizational concept of the employer” in Polish labour law, affecting the practice of collective labour relations and social dialogue.

### Grounds

Pursuant to the Act on Public Benefit and Volunteer Work, local government entities may have a wide range of cooperation with non-governmental organizations, including in the consultation process. The framework of these activities is determined by the annual or multi-annual cooperation program adopted by a decision-making body of the local government entity. There is also a significant development of direct public consultations with citizens by local government entities (especially municipalities). However, this is not

enough. The practice of local government entities undertaking a separate dialogue with trade unions representing employees of entities performing tasks for local governments in relation to the plans of local government entities having a significant impact on the working conditions and pay of these employees has not developed. The query conducted for the purposes of this report shows that this can often lead to social conflicts, especially where collective labour agreements do not function in such entities and as a result there is no option for negotiating to reach a consensus. The practice so far shows a few agreements concluded by trade unions with local government entities, in which the issues of employment in municipal companies were referred to. This practice should be developed further and lead to the provision of a definitively defined legal framework.

## PRACTICE TWO

**Promotion by the local government of the idea of collective bargaining as an instrument which regulates employee relations in municipal companies and other entities for which the local government is the founding body.**

***Objective:** Working out an agreement signed by the executive body of local government entity with the trade union representing employees of entities providing services to the local government.*

The agreement would cover:

- trainings initiated by a local government entity on negotiations and collective labour agreements;
- legal support to employers in the negotiation process;
- mediation in the negotiation process.

The purpose of the agreement would not be to modify the statutory content of the collective labour agreement (workplace trade union organization/employer in the meaning of the labour code), but to facilitate the conclusion of a collective labour agreement.

### Grounds

For many years, we have seen in Poland that it is impossible to increase the number of collective labour agreements, both sectoral and for a single company. The number of employees covered by the agreements is gradually decreasing.

At this point, there is no need to analyse all the factors which impact the situation. However the researchers and practitioners point to:

- over-regulated labour market;
- no pressure from trade unions as a result of decreasing membership;

- underdevelopment of employers' organizations and their low representativeness (simply a small number of members compared to all entrepreneurs in Poland);
- economic and social changes related to globalization or technological change;
- Polish model of economic development based on low-costs labour.

However (regardless of whether these or other factors are dominant and explain the lack of collective labour agreements), both sides of the dialogue (and the doctrine of labour law) still point to collective bargaining as the most adequate method of organizing working and pay conditions, potentially ensuring social peace and optimal conditions for the development of enterprises. Thus, the need for their promotion.

### PRACTICE THREE

#### Joint actions to improve the quality of the working environment and analysis of working conditions in selected areas of municipal services.

**Objective:** *To reach an agreement on the organization of training for urban transport drivers in the field of skills to combat work-related stress, verbal abuse, etc.*

The role of the agreement would be:

- control by the local government whether the employer performs any training activities;
- inspiring and organizing trainings and workshops aimed at acquiring stress management skills;
- inspiring the exchange of good practices in this area between local government entities and with the participation of trade unions.

#### Grounds

Relations between local government and entities providing local (urban) transport services may be different. A local government entity may be a founding body and these services can be delivered by a municipal company or an entity completely independent of the local government.

A quick query shows that the drivers may work under stress which may translate into aggressive or destructive behaviour on their part<sup>94</sup>. Risk mitigation methods are discussed in the literature<sup>95</sup>.

<sup>94</sup> <https://finanse.wp.pl/kierowca-autobusu-zaatakowalem-ja-bo-mnie-zdenerwowala-6114183519032961a>

<sup>95</sup> [http://infobus.pl/kierowcy-autobusow-stres-zawodowy-i-zapobieganie\\_more\\_252.html](http://infobus.pl/kierowcy-autobusow-stres-zawodowy-i-zapobieganie_more_252.html)  
<https://rn.ciop.pl/CIOPortalWAR/file/73806/Zapobieganie-stresowi-w-pracy-kierowcow-autobusow.pdf>  
<https://oswiecim.naszemiasto.pl/nigdy-nie-wiadomo-kto-wsiada-do-autobusu-kierowcy-w-stresie/ar/cl-7661721>  
<https://www.fakt.pl/wydarzenia/polska/trojmiasto/dramat-kierowcow-autobusow-z-gdansk/cyt6r4g>  
<https://natemat.pl/313463,kierowcy-autobusow-o-pracy-i-wypadku-kulisy-pracy-prowadzacych-autobusy>

Certain stress factors (for example, unsatisfactory salary levels, “traffic jams” and other traffic difficulties, increasing aggression from the passengers) will not change as a result of training activities. On the other hand, the role of trainings and workshops is to learn the skills of a healthy lifestyle that allows you to cope with professional stress.

It is worth noting that the European social partners have recognized the problem of psychosocial risks in the workplace which has been expressed in two autonomous agreements<sup>96</sup>. Although they have not been effectively implemented in our country, Polish social partners have developed a set of recommendations that may be useful in joint actions of local government and trade union<sup>97</sup>.

**Objective:** *To reach an agreement on the prevention of musculoskeletal pain in solid waste loaders (city cleaning services).*

The role of the agreement would be:

- control by the local government whether the employer provides training in the prevention of musculoskeletal pain,
- inspiring and organizing trainings, workshops and classes aimed at improving the health condition and ergonomics of the work of loaders.

## Grounds

Municipalities, for the fee charged from residents, must ensure not only collection of municipal waste from households in specific waste fractions: paper, glass, metals and plastics, bio-waste and through selective municipal waste collection points (PSZOK), but also their correct handling. Providing optimal conditions for segregating waste is the basic duty of each municipality<sup>98</sup>. The tasks may be performed by entities founded by the municipality or by entities independent of the municipality.

Regardless of the above, in both cases there are similar threats related to the working conditions of solid waste loaders, which are associated primarily with high physical loads. Maintaining good health, which is a prerequisite for long professional activity, requires inspiration and conducting specific educational and practical activities towards employees, allowing them to learn about the risks associated with their work and how to mitigate them. This requires the development of health practices related to proper physical activity.

<sup>96</sup> [http://www.solidarnosc.org.pl/stara/uploads/oryginal/3/3/78b54\\_stres.pdf](http://www.solidarnosc.org.pl/stara/uploads/oryginal/3/3/78b54_stres.pdf)  
[http://www.solidarnosc.org.pl/stara/uploads/oryginal/3/3/36b91\\_przemoc.pdf](http://www.solidarnosc.org.pl/stara/uploads/oryginal/3/3/36b91_przemoc.pdf)

<sup>97</sup> [http://www.solidarnosc.org.pl/stara/uploads/oryginal/3/3/11817\\_nekanie.pdf](http://www.solidarnosc.org.pl/stara/uploads/oryginal/3/3/11817_nekanie.pdf)  
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[http://www.solidarnosc.org.pl/images/files/dokumenty/Rekomendacje\\_partnerw\\_spoecznych\\_dotyczce\\_stresu\\_zwiazanego\\_z\\_prac.pdf](http://www.solidarnosc.org.pl/images/files/dokumenty/Rekomendacje_partnerw_spoecznych_dotyczce_stresu_zwiazanego_z_prac.pdf)

<sup>98</sup> [http://www.bibliotekacyfrowa.pl/Content/92241/PDF/Gmina\\_w\\_systemie\\_gospodarowania\\_odpadami\\_komunalnymi.pdf](http://www.bibliotekacyfrowa.pl/Content/92241/PDF/Gmina_w_systemie_gospodarowania_odpadami_komunalnymi.pdf)

It should be emphasized that it is not about minimizing the statutory obligation to ensure safe and hygienic working conditions and carrying out an occupational risk assessment that rests with the employer, but it is about training and workshop activities that allow for long professional activity of cleaning service employees.

## **PRACTICE FOUR**

### **Joint actions to reduce the problem of mobbing and other psychosocial threats in local government cultural institutions (such as libraries, community centres, museums).**

***Objective:** to develop a document setting out the rules of cooperation between trade unions and local government concerning, inter alia, monitoring and enforcing the anti-mobbing policy, equal treatment and counteracting psychosocial risks in local government cultural institutions.*

#### **Grounds**

The activities of municipalities in the field of culture, as a compulsory own task of local government have been regulated by the Act of October 25, 1991 on organizing and conducting cultural activities.

Pursuant to Art. 9 sec. 1 of the Acts, local government organizes cultural activities by founding local cultural institutions with promotion of culture as their primary statutory goal. A local government which is an organizer of a cultural institution provides such institution with the means necessary to conduct cultural activity and to maintain the facility where such activity is conducted (Article 12). Upon entry in the appropriate register kept by the organizer, the cultural institution obtains legal personality.

Pursuant to Art. 14, the cultural institution, upon entry in the register, obtains a legal personality separate from the local government and runs its own financial management (Article 27 of the Act). The independence of a cultural institution as a legal person means, among other things, that the organizer cannot freely modify the scope of activities of a cultural institution, cannot decide on the principles of such an institution and the rules on which the cultural institution will conduct its financial management.

The Labour Code imposes certain obligations on the employer regarding, for example, counteracting mobbing (Article 94 (3) of the Labour Code), facilitating for the employees to improve their professional qualifications (Article 94 (6)), ensuring safe and hygienic working conditions and conducting systematic training in the field of health and safety (Article 94 point 4), making rules for social coexistence in the workplace (Article 94 point 10).

Other obligations can be derived indirectly from the applicable regulations and here it is possible to indicate the obligation to facilitate balancing personal and professional life.

As indicated in the literature (and as shown by the review of information available on the Internet), problems with mobbing / suspected mobbing / psychosocial risks in the work of librarians are occurring<sup>99</sup>, also the information available on the Internet shows the worrying scale of the phenomenon<sup>100</sup>.

It should be very clearly emphasized that the purpose of the agreement between trade unions and a local government (a body which is a founder of the cultural institutions, for example a library) is by no means a change in the statutory rules of responsibility and obligations. The employer is still responsible for counteracting lobbying and an employee who believes that they are a victim of mobbing may bring an action provided for in the Labour Code.

Having an agreement on the need to “check” working conditions in terms of mental well-being of employees of cultural institutions is important out of two reasons.

Firstly, various types of training activities are cheaper and easier to organize when they concern a larger number of entities. This is also an area for cooperation between local governments<sup>101</sup>.

Signing the agreement, even in one local government, can help to promote a good practice to be disseminated. This is important because libraries undergo specific changes related to the greater number of tasks they carry out. For example, in 2019, public libraries organized 275,000 various types of meetings and events attended by 7 million participants. Increasingly, libraries are expected to provide e-services. Further challenges are related to the opening hours of libraries (which naturally translates into the working time of the librarians)<sup>102</sup>.

<sup>99</sup> <https://ksiazki.wp.pl/czy-spodziewali-sie-panstwo-mobbingu-w-bibliotece-6445654780995201a>  
Zybert E.B., Problem mobbingu w życiu zawodowym bibliotekarzy i ich organizacyjnej działalności, [http://bbc.uw.edu.pl/Content/2679/p2006\\_1\\_02.pdf](http://bbc.uw.edu.pl/Content/2679/p2006_1_02.pdf)

Wanik K., Zjawisko mobbingu w bibliotekach i sposoby walki z patologią, <http://www.ebib.pl/2007/83/a.php?wanik>

<sup>100</sup> Podejrzenie mobbingu w bibliotece publicznej w Jaśle – <https://nowiny24.pl/mobbing-w-bibliotece/ar/11416953>

Mobbing w bibliotece wojewódzkiej w Gdańsku

<https://gdansk.naszemiasto.pl/gdansk-paradoksy-po-skargach-na-mobbing-w-bibliotece/ar/cl-3377474>

<https://dziennikbaltycki.pl/gdansk-mobbing-w-bibliotece-wojewodzkiej-sa-dwa-zgloszenia/ar/3847737>

Podejrzenie mobbingu w bibliotece w Słupsku, brak efektywnej komunikacji na linii samorząd dyrektor biblioteki

<https://m.radiogdansk.pl/wiadomosci/item/75718-nadal-nie-wyjasnili-czy-byl-mobbing-w-bibliotece-bo-dyrektor-nie-otworzyl-drzwi-sytuacja-kuriozalna/75718-nadal-nie-wyjasnili-czy-byl-mobbing-w-bibliotece-bo-dyrektor-nie-otworzyl-drzwi-sytuacja-kuriozalna>

Podejrzenie mobbingu i innych naruszeń praw pracowniczych w Bibliotece im. Norwida w Zielonej Górze

<https://zielonagora.wyborcza.pl/zielonagora/7,35182,25091693,donosze-ze-tu-w-bibliotece-jest-mobbing-i-nepotyzm.html>

Biblioteka w Zamościu

<http://www.tygodnikzamojski.pl/arttykul/57599/mobbing-w-bibliotece.html>

Biblioteka Raczyńskich w Poznaniu

<https://plus.gloswielpolski.pl/poznan-konflikt-w-bibliotece-racz3mskich-pomiedzy-pracownikami-a-nowa-dyrektor-czy-doszlo-do-mobbingu/ar/cl-14334485>

<sup>101</sup> As at the end of 2019, there were 7,881 public libraries, including 5,272 library branches. Public libraries ran 875 departments for children and youth and 995 library kiosks. During the year, 5,983,700 readers borrowed 102.7 million volumes of the book.

<sup>102</sup> More than half (55.7%) of active public libraries offered their services 5 days a week. On Saturday, 22.0% of the total number of open branches was available, while on Sunday 0.4%. On average, 1 library was open for 33 hours per week.

## 9. SUMMARY AND CONCLUSIONS

While this report certainly does not solve all issues related to social dialogue and collective labour relations in the local government sector, it helps to formulate conclusions and hypotheses which may become a starting point for further research and analysis regarding employment relations in the sector. This is made possible thanks to a thorough review of data from secondary sources and empirical research that provided many valuable, original data. There is no doubt that the duality of concepts in Polish labour law regarding the institution of “employer” is a significant problem for both the daily employment relationships in the local government sector and a more long-term, strategic approach. The discrepancy between the ownership and managerial concept of the employer, which is dominant in the Polish regulations, is a source of potential and real tensions making the employer’s relation towards employees and their organized representations imprecise. The concept of local governments as indirect employers raises many questions and requires further reflection from the perspective of labour law.

It was the deficit of knowledge that prompted us to develop and implement this research project. There has been a lack of studies and analyses of social dialogue in companies where employers are indirectly dependent on local government. Our project is probably the first attempt to enter a poorly explored area, so it should come as no surprise that its results raise more questions than answers. Both the results of the surveys and the queries of social conflicts show that local governments take actions that have an impact on the conditions of work and pay of employees. However, there is no comprehensive analysis of this issue. What is more, there is no analysis in the legal literature of the role of local government as an indirect employer in relation to, for example, municipal companies and other entities providing public services. Previous analyses were usually carried out in relation to central boards of corporations indirectly influencing employers who are their constituent parts, which undoubtedly creates an important point of reference (*per analogiam*), but does not fill the cognitive gap by itself. In addition, the situation is complicated by the fact that local governments are not direct employers – employees, including local government employees, are employed by local government organizational units. As stated

by prof. Hajna above, if the state and the municipality (a different local government unit) were reintroduced as employers in the public sector, it would bring the current image of employment relations in this field to what they really are, strengthen the rights of employees and their representatives, and increase the cohesion of public services<sup>103</sup>.

An important added value for our research is the study developed and delivered by our Norwegian partners. Thanks to it, we learn about the experiences of partners from a country where local government and social dialogue have been declared and practiced values for many decades. Bearing in mind that Norway has consistently been one of the world's best-managed countries for many years<sup>104</sup>, the institutional solutions used successfully in this country deserve attention and should be followed as role models.

Given the general collapse of collective bargaining in Poland and the difficulties which accumulated in recent years in the functioning of social dialogue at its various levels, not only the central level, finding a solution to the above problem seems to be one of the most important challenges for labour relations in our country in general and within the local government sector. For the latter, this challenge is extremely urgent, because work in the public sector has been systematically losing its attractiveness in recent years compared to the private sector<sup>105</sup>. The erosion of public employee benefits (wrongly referred to as privileges in public discourse) and the persistently low level of wages (nominally not increased for years, i.e. losing real value) is effectively stopping the inflow of young workers.

As can be seen from Chapter 3 which discusses the state and dynamics of employment in the local government sector, over the last few years employment in the sector has increased, along with the level of wages, but – what is extremely important and worth emphasizing, the sector has strengthened in terms of content and competence. However, given that local government finances are currently under a strong and growing external pressure which is and will objectively be difficult for local governments, these positive and optimistic trends may be inhibited or even reversed. As a result, the relatively good situation from the employees' point of view may soon worsen and, as a consequence, working conditions may begin to resemble those of the state budget sphere, with similar effects, i.e. drying up of the inflow of young workers. Contrary to the stereotypical views regrettably reproduced in the media, employment in the local government administration is not increasing, in 2017–2018 there was even a decrease (by almost 1,700), which contrasts with the increase in the number of employees in state offices (by almost 2,300). It is regrettable that the statistical data available from the Central Statistical Office (form Z-06) do not show the differences in the level of remuneration due to gender. However, as evidenced by other data used in the report, a wage gap actually exists. The local government sector is strongly feminised: in 2018, three-quarters of all employees were women, yet they were on average paid less for their work. This issue could be identified as a potentially important topic for the sector's social dialogue.

<sup>103</sup> Hajn Z., 2016, op. cit.

<sup>104</sup> <http://www.worldjusticeproject.org/rule-of-law-index>; <http://info.worldbank.org/governance/wgi/>

<sup>105</sup> See Czarzasty J., Patchyworld. Privatisation as the driving force behind the evolution of labour relations in Poland, „Przegląd Socjologiczny” 2018, 67(3), p. 135-153.

The expert survey that we conducted for the purposes of our research does not give clarity on ways to solve the dilemmas that are the subject of our work. While representatives of the academic world rather unanimously emphasized that the local government sector is perceived as relatively friendly to social dialogue and employee representation, they also pointed to the legal environment narrowing the “negotiating field” for social dialogue as an objective force.

The survey conducted in the local government sector, and more precisely in local government entities, local government legal entities and municipal enterprises, showed similarities and differences in the social dialogue, depending on whether the local government was a direct employer in a given institution (local government) or an indirect one (as in the case of local government legal entities and municipal enterprises). An optimistic conclusion is that social dialogue does take place and can be assessed as moderately effective, despite its shortcomings (clear ritualization), as has been confirmed by the researchers. The pessimistic conclusion is that a significant problem in the dialogue is the split of responsibilities, a result of the status of indirect employer held by legal personality entities and municipal enterprises. This type of empirical research should be continued on a larger scale.

Despite all the doubts and reservations that had to arise in the course of research and data analysis, it is important to look for ways to improve the quality of employment relationships. The unification of the employer’s concept would make it possible to build a clear picture of the structures of mutual obligations and rights (who pays, who decides), and thus to organize employment relations. While evaluating proposed local laws was not of direct interest in this report, our analysis of the jurisprudence and the questionnaires shows that more clarity is needed. Under the Trade Unions Act sec. 2 Art. 19 local government bodies are required to carry out the consultation process. When it was adopted (1991), there were no formal regulations regarding tripartite dialogue at the regional level (Voivodship Social Dialogue Commissions, now called the Voivodship Social Dialogue Councils). In turn, the query of social conflicts suggests that the Codification Committee’s proposal to introduce direct collective disputes with local governments seems justified, although this issue undoubtedly requires further analysis.

It seems that the best solution for the development of social dialogue at the local government level is to follow the mechanisms of multi-company collective labour agreements adapted to the needs of a given local government and the employees of companies which provide services for it. However, the current legal and factual status does not give much hope that it will become possible in the foreseeable future. There is not any interest from local governments either: with the exception of school employees who are not teachers, not much else is regulated. Hence, a rational move would be to develop less formalized forms of dialogue based, of course, on the principles of cooperation agreed by the parties.

In addition, COVID-19 has clearly demonstrated the need to create a framework for an ongoing dialogue, which in times of “peace” would serve for general consultation on issues of mutual interest to unions and local government, while in a crisis it would allow for quick arrangements to be made for workers.

Regardless of the clear shortage of the empirical and theoretical findings in the course of our research, there is a need to promote cooperation agreements between local governments and the trade union representation of employees working for entities indirectly dependent on the local government. While nothing more can be said at this stage, it will certainly be possible to explore such an option after two pilots which are part of this project.

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