



Local Government
and Public Service
Reform Initiative

LOCAL GOVERNMENT REFORM
IN POLAND:
AN INSIDER'S STORY

by

JERZY REGULSKI

OPEN SOCIETY INSTITUTE
LOCAL GOVERNMENT AND PUBLIC SERVICE REFORM INITIATIVE

Address

Nádor utca 11
H-1051 Budapest, Hungary

Mailing Address

P.O. Box 519
H-1357 Budapest, Hungary

Telephone

(36-1) 327-3104

Fax

(36-1) 327-3105

E-mail

lgprog@osi.hu

Web Site

<http://lgi.osi.hu/>

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About the Author

Jerzy Regulski is professor of urban economics and urban planning and a recognized authority on decentralization and local government reforms in countries of transformation. He is an author and co-author of 28 books and of over 170 articles and chapters. Recipient of Doctor Honoris Causa Roskilde University Centre, Denmark (1993) and the University of Łódź, Poland (1996). Initiator of work on re-establishment of local government in Poland (1981) and leading researcher of long-term studies on decentralization (1981–1989). Member of Lech Wałęsa's Citizen Committee and Chief "Solidarity" Negotiator on local government reform during the "Round Table" negotiations with the communist government (1989); Senator of the Republic of Poland and Minister in charge of the Local Government Reform (1989–1991); Ambassador to the Council of Europe (1992–1997); Chairman of the Advisory Council for the Reforms of the State at the Prime Minister (1998–1999); Chairman of the Advisory Council for European Integration of Local and Regional Governments (2000–2001); Co-founder and the President of the Foundation in Support of Local Democracy, Warsaw, Poland (1989–present). Awarded the Great Cross of the Order of Poland's Restitution (1999), Special Award of Polish Associations of Local and Regional Governments for implementation of the state's reform (2000), Grzegorz Palka Award for contributions to local democracy building and Honorary Medal of the National Assembly of Polish Local Governments (1994). Holder of honorary fellowships and academic awards of Leicester Polytechnic, UK; The Johns Hopkins University, Baltimore, USA; Joint Centre for Urban, Regional and Local Government Studies, University of Birmingham, UK; and Department of Town Planning, Oxford Polytechnic, UK.

Member of the Steering Committee of the Local Government and Public Service Reform Initiative, Open Society Institute, Budapest (1997–2000).

Local Government in Poland

Jerzy Reguński

INTRODUCTION

The year 1990 marked the beginning of systemic transformations in Poland. The restoration of democratic local and regional authorities had a prominent role in that process. Local *gmina* administrations are now in their fourth term of office; middle-tier *powiats* and voivodships have existed for five years. Much knowledge and experience has been gathered through these years. But until now no history of the reestablishment of local government in Poland, or a critical analysis of the preparation and implementation of reforms, as well as their effects, has been published. Neither have these reforms been given proper attention in the numerous publications on government in the West. This is in a sense understandable as the problems of transition in post-communist countries are difficult to evaluate without practical knowledge of the context in which they began. The lack of this historical knowledge is even more regrettable when we consider the fact that Poland was among the first countries freed from communism, where restoration of local government was attempted on a broad scale.

But the new network of local authorities is a result of not only of consecutive governments; it was also created by a historical process determined by various, often contradictory, conscious actions and objective factors. Decisions made even before the first local elections were of primary importance to the process as well. Those decisions were limited by the legislation, institutions and public mentality inherited from the communist system. The further progress of reforms was a consequence of the dynamic between legislative initiatives and the resistance that hampered them. Government reform is not a technical, but thoroughly political process. Legislative and institutional changes must not be isolated from the needs and attitudes of the public, nor from the play of various political forces and interest groups. This is clearly evidenced by the experience of the entire transition period in Poland.

We need to learn from experience. The transformation of the Polish state is not yet complete, although it has advanced considerably. The Polish experience may still be useful to other post-communist countries where the process is less advanced. That is why I decided to make my book, written for Poles,¹ available to the foreign reader as well. It seems everyone has a duty to share experiences; not to instruct, but to aid others in avoiding the same mistakes.

The Polish local government reforms are a great success, and I am proud to have had an opportunity to contribute to the process. But the purpose of this book is neither to give publicity to these reforms, nor to describe their achievements. My intention has been to present the real issues associated with reforming a state. I have attempted to analyze the mechanisms that implement transformation, show the barriers to changes and evaluate our achievements and failures. Any

reform challenges many groups who are interested in retaining the existing state systems. Change comes from the struggle between those who push the transformation forward and those who would like to see it halt. It is necessary to step over several barriers, win numerous battles and resolve countless conflicts. I have paid considerable attention to just such difficulties. Giving proportional balance to the description of successes and difficulties is a difficult task. Thus, I would like to reiterate: the Polish local governments are a great success, but a success achieved through the treacherous processes of political, social and economic transformation.



First I would like to say something personal. Before I became directly involved in the restructuring of the state and assumed the function of government plenipotentiary, I had mostly worked as an academic. I had some practical experience as director of a construction company and later as director of an institute. I had also conducted studies on the organization of building sites and implementation of large-scale development projects. I was thus pragmatic and knew how to devise implementation strategies for big projects. But I was also an idealist who believed in the significance of systemic transformations and the positive side of human nature. If I did not believe in people, building democracy would not make a lot of sense.

When I entered the world of politics I did not have any personal ambitions to satisfy. I had a stable position as a researcher, and at my age it is not possible to start a career in a different field. I therefore had complete freedom of action. But I was emotionally involved in aspects of local government. It had become my hobby in a way. I have committed more than twenty-five years of my life to local government, and I hope there are many more years ahead.

As I had taken a prominent role in the reform of the state, I was in a quite difficult situation when I wrote this book. I have tried to describe faithfully my motivation, expectations and problems. I am responsible for my actions and do not want to hide behind impersonal statements. Hence, I use the first person when I describe my personal decisions or actions in which I was personally involved. I was directly involved in decision-making until the beginning of 1991. Later I was more of an observer and advisor. This change of position can be easily observed in the book. In some chapters events are described by an actor directly involved, in others by an observer and analyst. This difference determined the style and character of the text.

In various sections of this book I also use the pronoun *we* in expressing that *we thought* or *we acted* in a certain way. It is hard, however, to identify exactly who this *we* represents. In the initial stage, I can say it represents people from the democratic opposition who believed that transformations at the local level were of fundamental importance to the future of the country. Over time, however, the composition of the group of 'reformers' changed and became more political. The group was subject to divisions and its homogeneity was lost. The process slowly resulted in the formation of a large, but extremely diversified group actively involved in decentralization.

I consider myself a 'reformer' of the first stage. I would like to explain how we thought at that time and what principle guided us. This will be both a very concise and personal picture. But it seems worth recording.



The first steps toward the restoration of local government were made in very specific social and political circumstances. Reform was initiated at the central level, against the will of the existing local state administration, who were resistant to all changes. Political leaders understood the necessity for deep reforms of the state, but no program existed at that time. The driving force for establishing local democratic government was a relatively small group of individuals who acted, with missionary zeal, based on their own convictions and knowledge. They were supported by the local communities which looked forward to the possibility of participation in public life. Thus, reform was not implemented in a democratic manner. We started it top-down, driven by a conviction that the elites at that time had to introduce quick changes in order to launch democratic mechanisms.

We created structures for institutions which did not yet exist. We did that to the best of our knowledge, based on many years of studies but without practical knowledge or the possibility of consulting local authorities. At the same time we believed—and rightly, it turned out—that local governments would become a significant political force on their own, capable of accomplish what we, who did not represent anyone, could not. Thus, our primary goal was to establish and enable the operation of democratic local authorities. For that purpose we needed fundamental legislation. What we could not achieve in a short time, we simply postponed until later. We thought if we struggled too long to achieve goals that were important but not crucial, we would risk wasting a historical chance to restore local government. Even so, we never accepted compromise solutions which could have eliminated the opportunity to adopt proper solutions when the political situation allowed it. We were aware that decentralization is mainly a political struggle for influence. But the result of that struggle also conditions the future of the system.

We were conscious of the fact that the success of reforms depended on the individuals who would begin to work within the new framework. The system had thus to be created for people with the skills and mentality characteristic of Poland at that time—not of the elite, but of the average citizen. Local government resembles the nation. Therefore, the system had to be comprehensible to average people and take their habits and level of knowledge into account. The model to be adopted had to be based in Polish tradition and existing practices. The task was not to seek an ‘optimal’ model, but one which could incorporate the knowledge, traditions and skills of Poles. Hence, it was not possible to import models developed elsewhere. Poles are particularly sensitive to such ‘imports,’ because it reminds us of the recent past when the communist authorities claimed they would make us happy with a system brought from Soviet Union. We therefore used the experience of other countries, but implemented our own Polish system.

The philosophy behind our actions during the breakthrough of 1989 was concentrated on the primary goal of establishing a new system within a few months. But we did not act in a complete vacuum. The state existed and was operational. Also, public mentality and habits cannot be changed by the stroke of a legislator’s pen. Western researchers and analysts frequently fail to consider this fact. Sometimes I come across statements claiming that during the breakthrough politicians we had complete freedom to build a new system out of the ruins of the old. This is an obvious misunderstanding. Not only did the state exist, with a working administration, but

powerful groups were interested in maintaining the former system. The transformation was met with opposition from the very beginning.

While implementing reforms it was necessary to ensure that the state did not stop functioning. We assumed from the start that restoration of local and regional authorities would be a long process guided not by the programmers of reform, but by the masses of citizens who would operate in the new structures. Our task was to activate the operation, to free up the vast resources of human potential “frozen” by the former system.

Our role as committed reformers was to create conditions for the work of future councilpersons who would assume responsibility for *gminas* and local communities. We only had to open the door. That assumption was not easy to make; not at the beginning of our mission, or later when reality confirmed it was correct. Reformers are no longer needed once reform is enacted. Nobody remembers then what was done at the preparatory stage when those who now form the government did not participate in public life. Reformers are therefore doomed to leave the stage as soon as they have succeeded—once the system they designed has been launched. Not everyone can accept this fate. It is not easy to accept. Reformers are then criticized by some for having changed the country too radically, and by others for inadequate efforts. It is always easier to analyze history than to make it.

In my discussion of the critical opinions on the transformation process in Poland, I have tried to be as objective as possible. However, my personal involvement in the construction of the local government system predetermines my point of view. I have always been an advocate of decentralization and supported delegation of responsibility to communities for their own affairs. I believe this is the only way to achieve democracy.



This book consists of three quite different parts. The first presents a chronological history of events from 1981 to 2000. Its purpose is to describe the events, indicate the existing correlations and outline the causal nexus. I have divided the discussion into the following periods:

- 1945–1988, with particular attention to the period 1981–1988, when the first reforms were drafted and groups of supporters, even enthusiasts of local government, emerged. A time of communist rule when studies were made even though their practical application did not seem realistic.
- Mid-1988–June 1989—The rise of Lech Wałęsa’s Citizens’ Committee; the “round table” negotiations between the existing government and the democratic opposition. A period when political will coalesced around a concrete program.
- July 1989–May 1990—A time of direct legislative and organizational work; preparation for reforms resulted in the first municipal elections.
- June 1990–June 1992—*Gminas* came into existence and took ownership of property. A period of fractures within the Solidarity camp, delay of reforms and the first obstacles in the development of local democracy. At the end of the period the government led by Hanna Suchocka was formed, declaring continuation of reforms.

- July 1992–May 1994—New efforts for local government reforms, undertaken by the government and Parliament, slowed after the parliamentary elections of 1993. The end of this period coincides with the end of the first term of *gmina* government, new elections and the resignation of the government plenipotentiary in protest of the government's anti-reform policies.
- June 1994–October 1997—The SLD–PSL coalition obstructs reforms, including creation of higher tiers of local government. Local budgets are burdened with more and more functions. This period concludes with parliamentary elections and the formation of a new coalition.
- November 1997–end of 2000—The AWS/UW coalition implements the second stage of building elected local and regional authorities and creates two new tiers—*powiats* and voivodships, which become functional elements of the system. The period discussed in this book does not conclude with any special event. Opportunities created by the last reforms are continuously pursued even as new problems arise. Further changes in legislation and practical action will be necessary. Hence, I have not attempted to evaluate the events of recent years. It is too early for such evaluation. I have limited discussion of the recent period to a concise description.

The first three chapters of the book differ from the four that follow. The former describe activities of a rather small group of individuals, engaged for many years in the restoration of local government, who were eventually given a chance to carry out their plans. It was a time when local government concepts matured and were transformed into reality. After the elections, the history of local governments was made by thousands of *gmina* councilpersons and mayors whose work contributed to the further development of local governance. They should be given credit for the success of reforms. The original reformers' role was to create conditions for civic activity. The fulfillment of these opportunities, however, depends precisely on those thousands of individuals willing to commit their time and effort to work for public benefit. After the moment when *gmina* councils were elected, it was no longer possible to describe action in terms of individuals. The next chapters of the book are rather concerned with a description of processes, with emphasis laid only on a few facts which determined their direction.

Part two of the book analyzes transformations in specific areas. It deals with the evolution of local government legislation as well as the responsibilities, property, economic activity and finance, the status of *gmina* staff and boards, associations of *gminas* and supporting institutions; finally, we look at the relations between local governments and local communities. This section focuses mostly on the chronology of events; its purpose is rather to define what happened. But it is not a statistical discussion or a presentation of a full set of data (which can be found in more specialized studies). This book concentrates mostly on the illustration of processes and correlations between them.

Part three is an attempt to assess to what extent decentralization has been achieved in various areas and identify the mechanisms of transformation. I will also analyze methods of evaluation and research, treating these considerations only as a tool to explain my way of thinking. I want to prove that local government reforms are a political process and should be evaluated in a political context. The problem is not to design an ideal reform. The problem is to implement it. These chapters present my personal views and opinions.

The annexes provide additional information such as a chronology of important events and selected institutional information.



The process of building local government must not be analyzed in isolation from the general processes taking place in Poland. Decentralization does not only denote changes in legislation and institutional transformations designed by Parliament and the cabinet. Decentralization is a much more comprehensive and complicated process. The creation of self-governing *gminas* produced transformations that definitely exceeded administrative issues. The municipalization of property was the first quasi-privatization which breached the monopoly of the state and enabled the rise of a real estate market. It led to the development of local nongovernmental organizations, local press and radio, even banks providing services for local budgets. Many institutions that support and cooperate with *gminas* were established. The enormous amount of development projects for water supply, sewer systems and other infrastructure elements not only created a lot of jobs; they also changed living conditions—especially in rural areas. Obviously not all of these changes were the direct result of the establishment of *gminas*, but without *gminas* the changes would have been much smaller, as nothing can replace local initiatives and the commitment of huge groups of citizens.

The analysis of such broad issues is a task beyond the capacity of a single person. This book, then, was prepared in association with many outstanding specialists who conducted detailed analyses of many subjects. The conclusions and evaluations necessitate the correlation of events that took place in many spheres and their relationship to the general process nationwide. Hence, I took the risk of presenting original work that synthesizes these partial studies. A complete list of these studies can be found in Annex 5.

This book could not have been written without the goodwill and enormous knowledge of many people. I would like to convey my deepest appreciation to Tadeusz Aziewicz, Dariusz Gawin, Piotr Gliński, Andrzej Gójski, Maciej Kozik, Paweł Marciniak, Krystyna Milczarek(†), Bogdan Mościcki, Jakub Opałka, Hanna Palska, Katarzyna Pełczyńska-Nałęcz, Agnieszka Piskorz-Ryń, Krystyna Sieniawska, Andrzej Śniadowski, Włodzimierz Tomaszewski, Marian Walny, Janusz Warakowski, Maria Weber, Renata Wróbel, Grażyna Zalas, Piotr Zawadzki, Zygmunt Zell and Teresa Zimowska.

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ENDNOTE

- ¹ *Samorząd III Rzeczypospolitej, koncepcje i realizacja* (Local Government in the 3rd [Polish] Republic: Concepts and Implementation) Warszawa: PWN, 2000 and: *Reforma samorządowa. Materiały źródłowe 1980–90* (Local Government Reform. Documents 1980–90). Warsaw: Foundation in Support of Local Democracy, 2000.

PART I

Historical Overview

In Communist Poland
(1945–1988)

The Breakthrough
(Mid-1988–August 1989)

Toward the First Free Elections
(September 1989–May 1990)

First Steps, First Problems
(June 1990–June 1992)

One Step Forward, Another Step Back
(July 1992–May 1994)

Stagnation Again
(June 1994–October 1997)

The Second Stage
(November 1997–2000)

CHAPTER 1.

In Communist Poland (1945–1988)

Local government has a long history in Poland, dating back to the Middle Ages. It was diverted from its natural course of modernization and development, however, first by the absence of national sovereignty from the nineteenth century through the end of World War I, and later by the German invasion in 1939.

The entry of the Red Army in 1944 brought Poland a new system of governance, one modeled after Soviet totalitarianism. The new authorities introduced their influence gradually, eliminating opposition and increasing their control over public life. They restricted the practice of local government, as they viewed all forms of public organization a threat to their rule. A law officially abolishing local government was enacted on March 20, 1950, replacing the traditional local government apparatus with a new system of ‘people’s councils.’ This arrangement survived, with a few modifications, until 1989.

The communists’ conception of governance in Poland was a significant departure from Polish tradition and familiar models of democratic statehood. Under communism, the party made decisions and the state administration served as an executive managerial body only. Conditions were expressed in a familiar slogan: “The party rules, the government manages.” Public opinion was ignored, as the strategic goal of the state, according to the 1976 Constitution, was to implement the “great ideas of socialism.” Party ideology guided social order, despite recognition that it would generally conflict with the will of the people. The state’s legal and institutional structures and its operational procedures were also defined according to principles springing from its ideological orientation. Therefore, the state had to be constructed in such a way as to control citizens and leverage their compliance with state decisions, often against their will.

Thus, the communists found it necessary to maintain a centralized state whose control infiltrated both the public and private lives of its citizens. In the initial stages, they exercised this control through political pressure and police terror. Over time, as police intimidation was limited, they developed systematic methods allowing rule by direct order.

The state was divided into economic sectors. Each minister, in addition to his responsibilities to national policy in a given area, headed a hierarchical organization within the sector, controlling hundreds of state-owned enterprises. Within such enterprises, primary-level party organizations directed the operation of the enterprise and determined the career paths and working conditions of its employees. Additionally, trade unions played an important role in distributing goods and privileges to reward political obedience. They organized employee holidays in enterprise holiday centers, distributed vouchers allowing for the purchase of a car or access to the enterprise’s allocated flats. The trade unions concluded labor agreements independently, by sector, defining the loss of privileges accompanying the change of jobs. In effect, this alliance

between political authorities, the police and employers produced a framework within which citizens, in order to maintain a living, had no choice but to acquiesce to conditions of restricted rights and liberties. The purpose and the effect were the attachment of citizens to their places of work; such tight regulation diminished the likelihood of independent activity.

There were, no forms of public organizations associated with places of residence. The ruling party feared spontaneous and uncontrolled local initiatives. These two forms of citizen organization—based on one's workplace or place of residence—are mutually antagonistic; the strength of one necessitates the relative absence of the other. Totalitarian systems prefer the former type of organization, democratic systems the latter. A country's post-communist transformation therefore also requires social reorganization, a feat that meets challenges from societal mentality, tradition and the resistance of groups who stand to lose something as a result of such changes. Transformations in this area are of key importance to the development of civil society, however. Equally significant to the topic at hand, the opposition that emerged in Poland posed a serious barrier to the growth of local government.

Under communism, all structures of state administration were organized in hierarchical pyramids. Administration at the sub-national level was organized in the same way. A quite artificial concept of dual subordination instructed the behavior of local authorities, which were supposed to represent both local and national interests at once. Simultaneous representation is infeasible, as local and national interests are often contradictory. Adherence to the principle that local interests (at that time pejoratively called "group" interests) are inferior to the interests of the state required council members to obey the central government and local authorities to follow instructions from the central level. Because an individual's career was unequivocally dependent on obedience, councils acted as the executors of instructions, representing the interests of the state, or to be more accurate, the party. People's councils, which theoretically were elected bodies, constituted a hierarchy with the Council of the State at the top. Higher-level councils exercised power over the councils situated beneath them.

The executive bodies of the councils were also subject to dual subordination. On one hand, they were forced into submission by the councils, while on the other, individual departments at the *gmina* level were subordinate to corresponding departments at the *powiat* and voivodship levels, which in turn were controlled by the relevant ministry. In practice, each ministry had its own administration at the sub-national level, formally supervised by local authorities. Local authorities had no means by which to implement policies of their own: they were not legal entities and did not have their own property. They merely managed property owned by the state and operated budgets that were elements of the national budget.

The three-tiered administrative system characterizing local government in Poland traces its origins to the Middle Ages. A major adjustment to this arrangement was made in 1973–1975, because central authorities felt endangered by the increasing political power of regional party authorities. They increased the number of voivodships, decreased their territory and abolished *powiats*. This system existed until the political breakthrough in 1989. In addition to 49 voivodships, there were 2,394 local entities at the lowest level, including 247 cities, 26 urban districts, 1,546 rural *gminas* and 575 units of mixed urban and rural character.



The ineffectiveness of the political system became more evident as years passed. Centralized management of the national economy severely obstructed economic development. Social protests broke out every ten to twelve years. Each crisis was followed by an attempt at decentralization, generally enacted over the following two years (see Table 1.). New legislation concerning local authorities reflected the regime's response to the demands of the people. Reforms were usually short-lived and amended quickly thereafter. In no period of time, however, was this apparent liberalization allowed to advance far enough to threaten the existing state model.

Table 1.
Laws on Local Government

Year of Political Crisis	Year of a New Law	Year of an Amendment
1948	1950	
1956	1958	1963
1968–1970	1972–1975	
1980–1981	1983	1988

In 1948 the Communist Party eliminated all opposition in the country, including even the Socialist Party. In 1956 Poles protested against the lawless activity of security forces. In 1968 the government responded to student strikes with repression in universities and an anti-Semitic campaign to rid the party of its members of Jewish descent. Strife within the party forced thousands of Polish citizens to emigrate. In 1970 workers rebelled—their uprising was violently suppressed. Party leaders were replaced, but the system remained unchanged. Protests broke out again in 1976, but they were also brutally crushed. In that year, however, workers received support from intellectuals, who established the illegal Committee in Defense of Workers (Komitet Obrony Robotników—KOR). The organization would become a main element in the network of independent initiatives fighting for “civil society” and would play a key role in the process of liberating the country. The second half of the seventies was a time for consolidating opposition. As a result the Solidarity Trade Union emerged in 1980 as a nationwide movement with strong support from intellectuals.

The necessity of reforms, chiefly the need for economic decentralization, was widely understood in the late seventies, as the Polish economy lay deep in crisis by that time. The government did not want to allow any economic reforms beyond partial decentralization; political reform was out of the question. The party interpreted social protest as originating from dissatisfaction with living conditions; in that view, it sufficed to raise living standards in an effort to avert protest against political constraints. The authorities continued to brutally repress all forms of political action, but they tolerated so-called ‘positive criticism’ of the economy. The government

did not want to acknowledge that political centralization and the subjectivity of economic and political decisions were the principal barriers preventing the solution of economic problems.

Judging from the ineffectiveness of past efforts to change the system, KOR's theoreticians proposed a new strategy – resistance through self-organization. The opposition hoped that the activity of various citizens' groups would carry the seeds of a free society within a non-democratic reality. This gave rise to the idea of establishing citizens' organizations in which every member would work within a small, independent group to carry out his or her mission (Michnik 1984, Kuroń 1984).

These ideas gradually developed and later shaped the opposition's thinking about politics in the breakthrough period. Their approach was characterized mainly by anti-institutionalism. KOR activists did not want to take power over the country, nor did they think it would be possible in the immediate future. The opposition was designated a "movement," meaning a dynamic, self-organizing network of informal contacts among groups, initiatives and representatives. At the same time, it reduced resistance politics to their moral dimension—the combat against totalitarian authorities, not the struggle for power.

This line of thinking challenged all existing interpretations of organizational structure. The state was an instrument of "power," a part of the perceived hostile system; civil society was supposed to be its opposite in every sense of the word. The self-organizing, ethical community of dissidents was to become not a surrogate of parliamentary democracy, which was infeasible under existing conditions, but rather a full alternative to parliamentary democracy.



Various groups debated the form that necessary reforms should take. Among them were urban planners, from whose viewpoint the consequences of centralized government were particularly acute. The physical planning system under communism was also a hierarchy of mutually subordinated plans – an inadequate foundation for directing the development of urban and rural areas. Finding ways to eliminate the causes of ineffective planning was a concern of many researchers and the subject of research activity as early as the sixties (e.g., Regulski, Wyganowski 1965, 1968; Regulski 1966, 1976). That work focused, however, on improving planning methods. At that time we did not dare propose systemic changes.

It was only in the late seventies that groups began sponsoring increasingly in-depth discussions on the growing crisis. A discussion forum called "Experience and the Future" (*Doświadczenie i Przyszłość*), a group of intellectuals supporting radical but evolutionary changes, was one such group. Its first and only legal session took place in November 1978. The authorities did not permit the group to hold any more meetings.

The topic of local governance was initially absent from the group's work. "Experience and the Future" was primarily concerned with restoration of fundamental values and citizens' rights. However, that forum was used on June 12, 1981 to present the first document demanding the restoration of local government in Poland (Regulski *et al.* 1981)¹, a document that opened the history of local government reform processes.

That initiative also triggered the formation of a group that in the following years would play a leading role in the restoration of local government. Initially, however, the number of people interested in local government issues was so small that it proved difficult even to organize a discussion on the topic. The opposition was made up mostly of intellectuals and trade union members. To both groups, local issues were unfamiliar and strange. Intellectuals, coming generally from big cities, concentrated on fundamental values such as freedom, democracy or human rights. Trade unions, which were naturally associated with peoples' places of work, could not see people's needs associated with their places of residence.

Proponents of local government reform did, however, find an outlet in the activities of the Solidarity Trade Union, which was the principal political force demanding the restructuring of the state system. Solidarity was the embodiment of the idea of the self-organizing society previously constructed by the democratic opposition. In September 1981 its first National Congress of Delegates adopted a resolution advocating systemic change. Due to its origin as a workers' trade union, its first demands called for the creation of a workers' self-management system for state-owned factories. These were somewhat utopian claims derived from efforts to identify goals for reforming the state that would receive the support of the working masses.



The declaration of martial law in Poland on December 13, 1981 crushed all hopes for quick and painless reform. The Military Council for National Rescue (*Wojskowa Rada Ocalenia Narodowego*) took over power in the country, and two thousand people were interned. All telephone lines were cut off and filling stations closed. All associations and some institutions were suspended. Meetings and gatherings were forbidden. Solidarity and its agencies were dissolved and their property confiscated. Military commissioners were appointed everywhere to control institutions and enterprises, demonstrating the government's resort to violence to solve escalating problems and suppress the opposition.

Despite this, it was obvious to many people that the existing system would not likely survive. While it seemed impractical at the time to begin working directly on local government, the events of 1981 confirmed that the years spent to achieve its establishment had not been in vain.

Considerations and studies of local government were concentrated during this time in research institutions.² Political constraints made it impossible to include these topics in official work plans; therefore, this research was conducted in a semi-legal manner. We tried to develop the theory and investigate the practical possibilities of reform implementation at the same time. We sought insights into Polish traditions of local government but also conducted a program of international comparative research. While it was evident that the mechanics of any other country's model could not be identically replicated, we found it necessary to use others' experiences to avoid detachment from reality. We were not able to conduct any empirical analyses in Poland and turned instead to collecting research in association with universities in Denmark, Sweden, Norway, Great Britain, Italy, Belgium, the Netherlands, France and the United States. We also had contacts with Canada, Israel, Germany and Austria. Co-operatively, we published books, organized conferences and sent members of our teams to foreign countries as interns.

In addition to scholarly activity, we sought an active and direct role in influencing the course of reforms. Following Solidarity protests in 1980–1981, the government recognized the need to attempt slight modification of the system and to this end appointed a Commission for Economic Reform. Among its members were independent experts³ associated with the democratic opposition. The Commission's proposals did not shake the fundamental principles of the system, instead being confined to making corrections within the boundaries they already defined. However, without systemic overhaul, the changes suggested were effectively meaningless.

As we looked to other available means of pressure, we asked the Catholic primate's office for help and assistance. The secretary of the Polish episcopate sent a special letter to the chairman of the Local Government Commission at the *Sejm* to present the episcopate's position. The transmission made clear that the existing system was "ineffective and did not constitute grounds for national agreement."⁴ Furthermore, the letter stated that the need for reforms stemmed from contradictions within the system and from the necessity of adjusting the system to the development of society and economy. It also read, "attempts made by the government to heal the situation should by no means be a substitute for systemic reforms."

Over time, however, the authorities withdrew from even their own proposed cosmetic changes. General Jaruzelski and the party's political leadership concluded that martial law had been successful and Solidarity had been defeated. It determined it was possible to solve all problems using its own resources without seeking the opposition's cooperation or resorting to significant reform of the system.⁵

Meanwhile, the economic situation continued to deteriorate, and the need for change grew increasingly evident. In response, political leaders launched another campaign of economic reform called Stage II. In April 1987 the government publicly announced the objectives of the program, which included two proposals regarding local government. The first of these called for increased economic autonomy of local authorities, specifically through the restoration of municipal property, and the second for an increase in local governments' share of national revenues.

By this time, recognition of the need for systemic change extended beyond the opposition, reaching the general public. With the knowledge our opposition groups had assembled, we were able to move on to address more practical issues. The problem of restoring municipal property seemed close to solution, and accordingly we attached priority to it. We also turned our attention to developing models for local government financing and identifying "blasphemous" practices within the existing system. We had undertaken studies evidently challenging the foundations of Marxism, such as studies of land prices (according to Marxist theory land has no value).

A common belief at the time was that local governments' economic activity should be one of the principal sources of local revenues, a view stemming from the conviction that local governments, where possible, should free themselves from all kinds of dependence on central authorities, including the national budget. It appears today that this view was also guided by the constraints of the existing situation and the reigning social mentality, which construed local governments to be a form of social self-organization oriented against the state, rather than as a public authority acting within state structures.

In our construction of a model for future local government, we considered the difficulties likely to arise in implementation. Today we can say with certainty that the success of the *gmina* reforms were possible not only because a clear concept of local government was available, but also because we anticipated the basic challenges that needed to be overcome in the implementation phase. It is not enough to know what one wants to achieve, one needs also to know how to achieve it. Reformers too often overlook this truth.

ENDNOTES

¹ *Reform 2000*, Document 3.

² This effort primarily focused around the Department of Regional Economy, headed by J. Regulski, at the Polish Academy of Sciences' Institute of Economic Science, the Department of Urban Development Economics at Łódź University, also headed by J. Regulski, and the team of M. Kulesza from the Law Faculty at Warsaw University.

³ The Local Government Sub-Committee included A. Kowalewski, M. Kulesza and J. Regulski.

⁴ *Reform 2000*, Document 11.

⁵ A. Paczkowski, *Polska 1986–1989: od kooptacji do negocjacji. Instytut Nauk Politycznych PAN*, Warsaw 1997.

CHAPTER 2.

The Breakthrough (Mid 1988–August 1989)

In May 1988 a wave of consecutive strikes occurred. In December Lech Wałęsa established the Citizens' Committee—the political incarnation of the illegalized Solidarity Trade Union. Due to worsening political and economic conditions, the communist leadership invited democratic opposition to round table talks, beginning February 4, 1989 and lasting two months. A political agreement opened the possibility for semi-free parliamentary elections held in June. A landslide victory for the opposition resulted in the first non-communist government, formed in September 1989.



Political changes in the late 1980s heralded the approach of revolutionary transformation, both in Poland and throughout all of Eastern Europe. As Gorbachev's *perestroika* reduced Poland's dependence on the Soviet Union, the Polish government began to recognize the need for deep reforms involving the opposition. Still, economic conditions were worsening, and it was increasingly evident that the reforms undertaken by the Polish United Workers' Party (PZPR) could not bring about significant results unless accompanied by political change. Workers' strikes in the spring of 1988 indicated the clear need for changes both to the system and to its administration.

Simultaneously, opposition groups in Poland intensified their activity, achieving a semi-official status. Some Solidarity leaders surfaced from the underground. In the spring of 1987 Lech Wałęsa invited a group of intellectuals to work closely with the Solidarity movement. That group gradually expanded and became the Citizens' Committee later that year.

General Jaruzelski and other leaders began to accept the need to allow the opposition to participate in government. In August contacts were initiated with groups associated with Lech Wałęsa, and the possibility of round table talks was considered.

At that time, neither political authorities nor the opposition viewed restoring local government as a major systemic issue. Although the authorities permitted some economic reforms, they continued to insist upon maintaining the existing system of people's councils, centralized state administration and party leadership. The increasing importance opposition groups attributed to the establishment of local government reflected their pragmatism rather than their genuine understanding of the significance of local government to democracy.

As early as 1983, the well-known journalist Bogdan Gotowski initiated meetings between individuals of diverse political conviction who shared a strong commitment to thinking about the future. The group was one of the many discussion forums created at that time. The impossibility of conducting public debate forced the transfer of public life to private homes, which became the settings of clandestine meetings resembling those held during the Nazi occupation. Despite the official ban on such activities, Polish society was always seeking ways to reform the state. People

discussed developed projects and published illegal periodicals and books. Bogdan Gotowski's forum turned out to be especially fruitful, as a number of politically important individuals involved in it would shape Poland's history in the following years.¹

During the five years of our meetings, I attempted repeatedly to underscore the utility of local democracy as an instrument that could be used to restructure the state. As a result, in September 1988, when talks with the government appeared to be forthcoming, Bronisław Geremek asked me if I would participate in those talks. Problems of local government were to be addressed by a team dealing with freedom of association. I was to be the only advocate of local government on that team, working with representatives from associations of journalists, writers, artists, solicitors and physicians. The relatively low priority given to issues of local government was a consequence of the opposition's philosophy at the time, which emphasized establishing citizens' organizations opposing the state and its administration regardless of their nature. My protest against this inadequate treatment of local government issues was futile. Despite these frustrations, I accepted the proposition to attend, sensing the opportunity to increase awareness of local government issues.

Yet the new government led by Mieczysław Rakowski made another attempt to prevent talks with the opposition, assuming once again that the Polish United Workers' Party could resolve the crisis itself. The promised round table talks were postponed. Negotiations were inevitable, however; talks were merely delayed. The political situation forced authorities to seek a compromise, as society demanded changes in various areas. Rather than halt preparations for round table discussions, the opposition accelerated them.



On December 18, the informal group of intellectuals was transformed into the Citizens' Committee affiliated with the chairman of the Solidarity Trade Union, a move intended to create the cohesive base necessary for holding negotiations with the party and the government. A local government commission, of which I was appointed chairman, was established as part of the committee, performing the basic task of preparing for the emerging possibility of negotiations on that topic. The fundamental platform and terms of negotiations were prepared in January,² outlining our ambitions for the talks. We treated the approaching negotiations very seriously and regarded the government as a strong and experienced rival. Fearing that the government would water down discussion in attempt to distract us from priority issues, we formulated precise demands focusing on basic issues

Our demands grew out of two guiding ambitions: 1) restoration of real local government in cities and *gminas* and 2) rejection of the Stalinist principle of uniform state authority. This meant it was necessary to:

- adopt democratic election laws;
- establish *gminas* as legal entities and transfer a major share of state property to their ownership;
- create executive bodies in individual *gminas*;
- afford autonomy in defining the exercise *gminas'* responsibilities;

- reduce intervention by higher-level authorities and grant local governments the right to court protection.

We also demanded the dissolution of existing people's councils and called for local elections to be held earlier than previously scheduled. Furthermore, we opposed the party's suggestions relating to autonomy at the voivodship level on the grounds of our belief that restoration of local government is a process that must necessarily progress through stages. We did not feel authorized to represent local governments that did not yet exist. Moreover, once local governments were established, they themselves should determine the system's future development. Initially, local governments should be established at the *gmina* level while voivodships would continue to be run by the central administration. Breaking with the principle of uniform state authority required clear division of responsibilities between state and local levels. At this time, real local government at the voivodship level was not possible for many reasons. The most significant among them were:

- 1) If voivodships were to become legal entities, it would mean the acceptance of the existing administrative division of the country. Meanwhile, it was obvious that the administrative division of Poland had to be changed completely.
- 2) *Voivods* controlled many state-owned enterprises. Therefore, if *voivods* were to become municipal officers, the enterprises would have to be transferred or a new institution created to represent the state as their owner.
- 3) From the social perspective, voivodships were not complete units offering residents the opportunity to identify with their communities, raising the question of how faithfully their leadership could speak for the 'common interest' or act as 'common representatives.'
- 4) Local government reform was a major upheaval that had to address the efficiency of public administration. Reorganizing both levels (*gminas* and voivodships) at once could dangerously unsettle the operation of the state and the entire reform program.

Due to these considerations, we directed our efforts to restore local government at the lowest level only, but our goal was the installation of a real, not merely simulated, autonomous government. We were certain that the next levels of local and regional authorities would be established in the following years.

The Local Government Commission appointed a small group for the very challenging task of negotiations. While opposition leaders focused their attention on legalizing Solidarity, implementing economic reforms, abolishing censorship and restoring human rights, local government issues remained marginal. In general, the opposition was in a disadvantaged position in struggles with the government party. It had practically no organizational base, consisting of merely a few underground activists and scattered student support. Coordinating all the themes to be negotiated proved an unimaginable task. Therefore the Local Government Commission had to take the responsibility for negotiation entirely into its own hands. The government party used its efficient administrative apparatus and pre-established special teams within the Central Committee to coordinate round table talks.

In preparing for negotiations, it did not suffice to draft technical documents. We also needed to assure ourselves that problems of local government would be covered during the talks, a task that did not prove easy. At the last moment, the government tried to replace topics relating to local government with issues of workers' organizations in state-owned enterprises. Documents published later by the PZPR Central Committee confirmed my feeling that this was another artifice used to freeze the problem. The government had been interested in cosmetic solutions only and did not need to talk to the opposition to propose them. However, we managed to keep local government issues on the agenda, although they were not distinguished by the government or addressed by the same team that dealt with other associations.³



The local government group began its work on February 25, 1989. Although the government employed many negotiators, the composition of its negotiation teams was always variable.⁴ It appeared at first that PZPR was willing to permit the restoration of local government in Poland, as we were able to agree on a list of issues. But at the beginning of the next session, the government withdrew from almost all of its commitments. Throughout negotiations, the government requested breaks at difficult moments to telephone for instructions. After each call, the government's position grew stiffer. In the end, it agreed only to some improvements without approving changes to any of the system's principles. Their stubbornness is understandable in light of the Central Committee's documents later disclosed: the party had defined very narrow limits for compromise on systemic issues.

The government's unbending position caused a serious crisis for us, as we were responsible for the production and content of any agreement and, unlike the government, had no one to call for consultation. We wondered whether the talks should not be completely discontinued, aware that the general interest lay in maintaining dialogue. However, due to the lacking will to conduct real negotiations, the Solidarity delegation proposed breaking discussions and instead preparing records of remaining divergences. This proposition was accepted and a document to this effect was signed on March 4. The main differences revealed during negotiations were as follows:

- The constitutional formulation of people's councils, which served as both state and local authorities: the government delegation demanded that this system be maintained; Solidarity's main demand was the rejection of that formula.
- The abolition of state administration at the primary level: the party delegation wanted to keep the central administration in *gminas*; our small group demanded clear boundaries between administrations.
- The structure of voivodship administration: the government insisted on the establishment of a pseudo-local government at that level; we stood firmly against such a superficial solution that would inevitably distort the unambiguous position of local government institutions.
- The pace and organization of changes, particularly the demand to conduct early local elections: the government was not ready to concede to Solidarity's demands for fully democratic and possibly early elections.

The two sides agreed, however, to grant *gminas* legal status and to transfer a portion of state property to them. There were significant differences in regards to the details. The recording of these divergences marked the end of an important period but also prepared ground for future dialogue. We were entering a new stage, in which the opposition was offered the opportunity to exist and act legally.

It may seem paradoxical that our entire delegation was very satisfied with the outcome of the round table, but we considered it a success despite our inability to achieve substantial results. The differences between the two sides clearly stemmed from opposing orientations. While Solidarity wanted systemic changes, complete departure from the previous system and the construction of a civil state, the government preferred to perceive the whole issue in terms of a political power struggle. Government representatives feared that the opposition would gain control over cities and rural areas through free elections and use this base as a springboard for forming various types of associations and unions, which would in turn exert independent but powerful pressure on the central government (Sokolewicz 1989).

The authorities at that time were aware of the public's attitude toward party rule: it was obvious to them that free elections would bring about a transfer of power in *gminas* to the opposition. Considering PZPR's defeat in local elections the only possible outcome, the government naturally resisted ceding its electoral mandate. We should look to the party's fear of substantive changes and its refusal to allow them for explanation of the PZPR *Sejm* members' dismissal of the idea of an obligatory national association of *gminas* the following year.

Curiously, local government issues also received attention during agricultural negotiations, and the minutes from those sessions reveal a much more positive and encouraging stance concerning the need for reforms. That flexibility may be attributed to the Peasant Party's (*Stronnictwo Ludowe*) representation of the government in the agricultural forum, as it regarded local government more favorably than did PZPR. The Peasant Party hoped to increase its influence in rural areas and believed local elections could assist this cause. Until that time, the Peasant Party's local participation had been entirely dependent on PZPR's discretion.

Equally, Solidarity did not regard the restoration of local government as a priority. However, the government's inflexibility and resistance to all changes surprised Solidarity leaders, who expected that PZPR was ready to make far-reaching concessions in that area. The government's lack of will for compromise hinted at its view of local government as a threat to the existing system and signaled Solidarity leaders to examine its merits more closely. As a result, interest in local government grew considerably, although the significance of local government as an instrument for restructuring the country remained undervalued. In the final document signed to close the round table talks, the two sides conclude in the section dealing with political reforms that "local government, made strong through its full rights and free elections" originates from "citizens' inalienable right to live in a state which fully realizes national sovereignty." That same document, however, excludes local government from the category of state institutions in the statement, "the reform of state institutions encompasses the *Sejm*, the Senate, the president's office and the courts." No promise to establish local government was mentioned.

In April 1989, we were optimistic. The government's resistance to local government reform made opposition leaders realize its primary importance to systemic transformation. In addition, the party was forced at this time to identify its priorities. At last, a clear program of political changes was formulated. The guidance it provided soon turned out to be indispensable. The Citizens' Committee was transformed into an election committee, whose task it was to prepare the opposition for its participation in the general election to be held on June 4, 1989.

The Citizens' Committee published its practical program, reading that, as regards local government:

Restoration of genuine local government in cities and *gminas* is a critical step towards democracy. Local governments have to be the only managers of their territories, completely separated from the central administration. Councils must be elected in free and democratic elections. Only if these conditions are met will it make sense for local governments to have their own property and finances. Cities and *gminas* should have a right to form associations and be protected from the interference of voivodships and central authorities.



Completion of negotiations at the round table opened a new stage in the historic transformations, as the talks had created opportunities for legal opposition activity and generated new tasks associated with elections. The opposition began calling for changes to its own internal structure in order to attract a broader spectrum of political opinions. The election campaign gave strong impetus to the process of citizen organization by encouraging people to act, which in turn produced a huge demand for various forms of activity. Local citizens' committees, which linked individuals wanting to take an active part in the restructuring of their country, arose in a mass scale.

Those committees were instrumental to the success of elections, which would have been impossible without the campaigning efforts of the nation-wide network. Owing to the spontaneous and enthusiastic work of thousands of individuals, the opposition (under the name of the Citizens' Committee) was declared the winner of the June 4 elections. According to the terms signed into agreement at the round table talks, seats in the *Sejm* were divided as follows: 65% were taken by parties of the regime, the remaining 35% by winners in the majority elections. Candidates supported by the Citizens' Committee won all seats comprising the 35%. Another victory came as the Senate was established as the upper house of the Parliament and granted powers (however limited), most notably to veto resolutions adopted by the *Sejm*. Elections for the Senate were completely free, and candidates of the former opposition won 99 seats out of the 100 available.

While chairperson of a commission in the Citizens' Committee, I ran for the Senate as a candidate from Jelenia Góra voivodship, where the opposition was weak and had to be strengthened. The campaign was conducted in the absence of organizational resources. Our base was composed of just a few trade union activists and retired workers. Public meetings were the only means of contacting voters, who incidentally were afraid to attend for fear of repression by the police. Even in that region, we won all seats that could possibly be taken.

The campaign and the opportunities it afforded to meet with residents of remote villages were unforgettable experiences. I had the feeling I was witnessing the awakening of a nation. Each time I spoke out against the system at public meetings, I set myself free from the bondage of fear and self-censorship it had imposed. When, six weeks later, I was returning to Warsaw with a Senator's mandate, I felt reinforced by the support of thousands and fortified with strength for renewed struggle.

The parliamentary election was obviously only a first step toward restoring democracy. In conceiving the next steps, we had to include those people who had committed their time and resources, often at great risk, to ensuring others' victories in the election. It seemed that activists would be best encouraged by the promise of participation in local elections, which had to take place within one year, but the leadership of the Citizens' Committee did not agree to grant such assurances.

Following the victorious June elections, Lech Wałęsa dissolved the local citizens' committees. It was a surprising decision with far-reaching consequences. Perhaps most importantly, members of citizens' committees felt they had been discarded, merely weeks after their service to the election campaign. The decision was particularly dangerous from the perspective of restoring local government. I made it clear in Wałęsa's presence that it was a big mistake that could have a negative impact on the reconstruction of local democracy and on future elections. In every case, those elections would be won with the efforts of local committees, and it was of consequence whether the victors would win under the Solidarity banner or as altogether independent campaigns.

Wałęsa's decision had been inspired by the common belief held by Solidarity's regional leaders that local committees would compete with them for political influence. Trade unions were and are still interested in maintaining the organization of society around places of work, as that arrangement favorably conditions their political base and consequent scope of power. Conversely, citizens' committees associated individuals who lived in a particular area, despite their differing occupations and employment in different institutions. Instead of sharing common professional interests, they held common local interests. This contradiction led to confrontation; at that time, the committees were bound to be defeated.

The election campaign had a very positive effect on the political elite's attitude toward local government issues. Many leaders ran for seats in areas remote from their places of permanent residence. The campaign therefore enabled contact between representatives of the elite and residents of small towns and villages, which happened for the first time and on a mass scale. Running a successful campaign meant talking to people and understanding their problems and points of view. Participants also had to learn to identify with local elite, as they relied on their assistance. As a result, they acquired a huge capital of social knowledge and a greater appreciation of the need to restore local governance.

One attempt at launching a public campaign supporting local government is particularly noteworthy. In late June 1989, no one anticipated the formation of Tadeusz Mazowiecki's government within two months or that the opposition would be given the opportunity to implement the reforms it demanded. Rather, everyone thought Solidarity groups would remain in the opposition, albeit legally, and make only limited contributions to the work of Parliament.

If restoration of local government was to be seriously considered, it was necessary to recruit sound citizen participation and put appropriate pressure on the authorities to compel them to carry out systemic reforms. Four specific tasks were defined at that time:

- 1) Focus and integrate local communities around priority issues in a given city or *gmina*.
- 2) Combine the work of existing people's councils and their commissions, adhering to the agreements of the round table.
- 3) Support legislative work relating to local government for Parliament's forthcoming engagement.
- 4) Prepare local communities for the next fully democratic elections.

Unfortunately, this public campaign did not result in the adoption of idea of local governance as such. However, local committees became active again in the autumn of 1989 with the reported existence of more than 1,500 committees. Additionally, meetings were organized on the macro-regional level to discuss local government. The demand for information was large, but there was no way to target all *gminas*, as we lacked the appropriate resources. Moreover, it was important for people from different parts of the country to establish contacts. Information initiatives were coordinated by the Local Government Commission of the Citizens' Committee, which began publishing a special newsletter. However, proposals to launch grassroots action were not received well by Solidarity leaders. The prevailing view held that the Citizens' Committee should be superior to local committees, an attitude that was perceived in the provinces as an attack against local autonomy. Several months later the Citizens' Committee lost its momentum and the Solidarity camp split.



In July 1989 the political center of gravity shifted from the Citizens' Committee to Parliament. The official announcement of election results allowed Parliament to begin its work, among which was the implementation of reforms proposed in the election program. Soon after Parliament's formation, the country elected a president and the former Council of State was abolished. During a joint session of the two houses, Wojciech Jaruzelski, former prime minister and first secretary of the Polish United Workers' Party, won a mandate. The opposition did not yet feel strong enough to take power.

The overwhelming majority of Solidarity-held seats were in the Senate; their representation in the *Sejm* was much weaker. The continued political dominance of old political leaders in the *Sejm* determined the necessity of channeling all basic legislative initiatives from the opposition through the Senate first. For that reason, a decision was made during initial sessions of the Parliamentary Caucus to establish a local government commission in the Senate.⁵ On 29 July, a debate on local government reforms was held, at which I presented a draft on behalf of the Local Government Commission repeating the demands we had presented at the round table. During the election period, it had been practically impossible to develop those theses substantially.

The reluctance of former authorities to undertake local government reform stemmed from several barriers very different in nature. The first was an ideological barrier expressed in the principle of a unitary state authority. The second was a consequence of the manner of governance, which mandated the party's direct interference in local matters without local communities' involvement. The third barrier was fear of democracy, or rather fear of compromising their position during the impending rejection of the existing system. The fourth was the hegemony of the administration, which enjoyed status independent of elected bodies and did not want to give up its privileged position. And finally, the fifth barrier lay in local group interests, which generated Mafia-style networking. The existence of such phenomena reinforced the necessity of quick and fundamental changes.

The Senate's commission proposed to recognize the following:

- A *gmina* should be an association of individuals who live in a given area. But, the commission stressed, a *gmina* may be an association of free individuals only—not limited in their fundamental rights.
- Local governments in cities and villages must form independent units acting within the structures of the state but separate from state administration. In particular, local governments must have their own executive bodies, independent from state administration
- Political parties may not interfere in the work of local government in an authoritarian manner (as was the rule under the communist regime).
- Local governments as legal entities must possess their own property.
- Local governments must have a right to control the use of financial resources. As *gminas* should not be expected to be financially self-sufficient, a system of equalization transfers must be established.
- Local government should be guaranteed protection in courts and have the right to appeal administrative decisions. The court should have a right to settle disputes between the central administration and local governments.

At the same time, the commission sustained its previous position on voivodships, opposing the creation of what we feared would be inauthentic local governments at the voivodship level. At the initial stage, we wanted to concentrate our resources on establishing genuine local government at the *gmina* level.

Foremost on our agenda was careful definition of the scope of each authority's responsibilities. Taking education reform as an example, we wanted to ensure that primary education, as a responsibility of local governments, should be maintained as such, i.e., *gminas* should own school buildings and employ teachers. Superintendents, as state officials, should have the right to supervise—but only to the extent defined by law.

We also pointed to difficulties in the reform implementation process, proposing the establishment of an appropriate authority in the central government structure to address issues relating to cities and *gminas*. Our final conclusion was that “We do not want to invent a new system. The system will become what society is capable of creating. But it is necessary to give people an opportunity to act. Our task is to remove the barriers that, until now, have prevented such activity.”⁶

In debates held in the Senate forum, representatives of the opposition could be equal partners in discussion with representatives of the communist government for the first time. In the first of these talks, the government's representative focused on rebutting the opposition's demands for shortening the term of people's councils elected in 1988, yet another attempt to delay the reforms it viewed as endangering the system. The Senate adopted a resolution to take the legislative initiative to prepare new legal provisions relating to local government, and the Local Government Commission was obliged to perform the appropriate work. But before the Commission was able to make any progress in its work, new political events arose that would lead eventually to the formation of first non-communist government under Tadeusz Mazowiecki.

ENDNOTES

- ¹ The meetings were attended by: Stefan Bratkowski, chairman of the Polish Journalists' Association which had been dissolved earlier, Bronisław Geremek, leading Polish parliamentarian and later minister of foreign affairs, Bogdan Lewandowski, former UN deputy secretary, Tadeusz Mazowiecki, later prime minister and leader of the Freedom Union, Jerzy Reguński, Andrzej Siciński, later minister of culture, Stanisław Stomma, Catholic Opposition leader and later senator, Klemens Szaniawski, chairman of the illegal Alliance of Artists' and Scholars' Associations, Jan Strzelecki, Polish socialist ideologist later murdered, Jerzy Turowicz, editor of a leading catholic weekly and a moral authority, Andrzej Wielowieyski, later deputy senate speaker and parliamentarian, Magdalena Winiarska-Gotowska, wife of the late initiator of the meetings, who hosted us in her house, and others.
- ² *Reform 2000*, Documents 18 and 19.
- ³ The local government team was composed of the following members: Iwo Byczewski (secretary), Stefan Jurczak, Adam Kowalewski, Michał Kulesza, Walerian Pańko, Jerzy Reguński (chair), Zbigniew Rokicki, Jerzy Stępień, Henryk Janusz Stępiak and Jerzy Zdrada. The following individuals were invited to work with the team as experts: Marek Budzyński, Tomasz Dybowski, Maria Gintowt-Jankowicz and Andrzej Klasik. Andrzej Piekara also attended the first session. Mateusz Wyrwich was assistant to the team.
- ⁴ Wojciech Sokolewicz was the chairman. The members were: Waldemar Długołęcki, Maciej Graniecki, Ryszarda Kazimierska, Tomasz Langer, Janusz Łętowski, Kazimierz Małecki, Wacław Martyniuk, Maria Moskal, Józef Musioł, Antoni Paris, Stanisław Stolz, Mieczysław Szostek, Jan Szreniawski, Miłosz Wilkanowicz, Stanisław Zajfert and Barbara Zawadzka.
- ⁵ I was its first chairperson, and after I had assumed the function of the government plenipotentiary, Jerzy Stępień became the second chairperson of the commission.
- ⁶ Report of the 3rd Session of the Senate, 1989.

CHAPTER 3.

Toward the First Free Elections (September 1989–May 1990)

On September 19, 1989 the first non-communist government was formed with Tadeusz Mazowiecki as prime minister, initiating a new era in Polish history. It was a coalition government, based formally on an alliance between the Citizens' Parliamentary Caucus (formerly the Democratic Opposition), the Peasant Party (Stronnictwo Ludowe) and the Democratic Party (Stronnictwo Demokratyczne)—former PZPR satellites that had made efforts to become autonomous. However, several individuals clearly associated with the previous regime, such as the minister of interior, who controlled the police and security service were able to hold on to their positions in the new cabinet. Therefore the prime minister, having successfully formed a coalition government, still had only a limited autonomy.

The cabinet initiated the extremely challenging task of remodeling the state, which required legal, organizational and personal changes in all spheres of public life. Local government reform was undertaken as the first reform of the state system. At the beginning of 1990, a broad economic reform was implemented called "the Balcerowicz plan" after the deputy prime minister responsible for economic affairs. It was a form of shock therapy, introducing many revolutionary changes toward market economy very quickly.

At the same time, the first controversies emerged within the camp of the former democratic opposition. Lech Wałęsa kept the presidency of the trade union but had no position in Parliament or the government. In effect he was losing influence. His will to play a leading role in the state resulted in conflicts with the prime minister and the Parliamentary Caucus.



In late September 1989, Prime Minister Tadeusz Mazowiecki challenged me: "If you demand local government, why don't you establish it?" Rather than a proposition, it was the assignment of a task—presented in an extremely friendly and courteous way. I found myself in an exceptional situation, given the chance to accomplish the goal to which I had committed many years of my life. It was an opportunity coupled with enormous responsibility—I had the trust of political leaders while awareness of local government issues was still poor.

Upon assuming the prime minister's office, Tadeusz Mazowiecki confirmed in his inauguration address the need for implementing local government reform and announced the appointment of a government plenipotentiary endowed with appropriate powers—the culmination of all local government support up to this time. At the end of September, the Council of Ministers established the office of government plenipotentiary for local government reform,

assigning it the rank of under-secretary of state. I assumed that position upon appointment by the prime minister.

Prior to my nomination, I sent the prime minister a memorandum¹ outlining the main problems associated with the construction of local government. I emphasized in that memo that the reform would require simultaneous activity on three levels:

- legislative, as the legal system required reform
- social, as it was necessary to prepare society for new tasks and responsibilities
- institutional, as existing administrative and economic structures also required reform

I stated in that memo that changing the legal system called for the preparation of a number of new laws. As it would not be possible to adopt all of them in a short time, it was therefore necessary in the first stage to prepare only the fundamental legal acts required to announce elections, i.e., laws concerning the administration of *gminas*, municipal property, election procedures, local units of the central administration and financial issues. For this, we needed to amend the constitution and other fundamental pieces of legislation. The need for many other modifications would come after the elections, as local government reform infiltrated all areas of everyday life.

Simultaneously, we had to prepare the public for new tasks and responsibilities, mainly for the development and support of local governance and the launch of a comprehensive public education campaign. We wanted to reduce the number of local councilors, a position which had existed under the previous system, but we still needed 52,000 competent persons. In addition, some 100,000 employees of the former central administration were to become municipal employees. Adding the managers of municipal enterprises to that group brings the number of individuals directly involved in the work of local governments to up to 300,000. Moreover, it was not sufficient to educate only people directly involved in local management, as local governments should enjoy broad public support, which was not available at that time. Therefore, we had to develop that support through information dissemination and public education targeting hundreds of thousands of people. Our purpose required a huge effort and the commitment of the central authorities and other politically influential figures.

We concluded that a nongovernmental organization, independent politically of changing party coalitions and the administration, would be the most appropriate group to carry out this task. It was necessary to create a social partner to government and parliament that could share tasks related to building local democracy. Talks held in July and August 1989 had resulted in the establishment of the Foundation in Support of Local Democracy (*Fundacja Rozwoju Demokracji Lokalnej*),² a non-profit NGO with the mission of supporting local governments and citizens' local initiatives and first of all of educating administrative staff and local communities. I discuss the latter's activities at length in this book as the foundation has played an extremely important role in building local government and democracy.

In the said memo, I also pointed to the need to establish a public communication system, which included appointing a special editorial board to the existing Radio and Television Committee, transforming some central administration weeklies into publications supporting reform and launching relevant university programs in law/economics and law/administration.

The last important topic addressed in that memo was the remodeling of state institutional structures. The presence of local government significantly alters the structure and organization of the state, because it shifts authority away from the central government. The establishment of local government therefore requires transforming the public administration, supporting the formation of associations of *gminas*, initiating new administrative procedures, overseeing municipal property, restructuring financial systems, and promoting specialized research centers. We also anticipated the need to establish a central authority to support reform in addition to providing adequate local services to enable its implementation.



In Polish government, only members of the Council of Ministers appointed by the *Sejm* or president carry the title of minister. In the management of their respective ministries, ministers are supported by deputy ministers bearing the title of secretary or under-secretary of state, also appointed by the prime minister also appoint. For the performance of important tasks which overlap with the responsibilities of several ministries, government plenipotentiaries are appointed, also at the rank of secretary or under-secretary of state. Plenipotentiaries' tasks and the scope of their authority are defined by the Council of Ministers, although plenipotentiaries act on behalf of the entire government and may, in turn, encroach on the authority of any ministry.

Being appointed government plenipotentiary for local government reform, I reported directly to the prime minister. My office was located within the structure of the office of the Council of Ministers. The deputy head of that office supervised the central administration. As the purpose of local government reform was to reduce the authority of the central administration and enable local government to gradually take over the central government's powers, this situation created a clear conflict of interest. It resulted in many conflicts, particularly as the head of central administration was a high official from the previous system and had opposing views on state organization.

Organizing the office proved a rather difficult task for me. Knowing that the people selected to implement reforms were vital to its success, I was forced to look for new people not associated with the former regime. Good candidates were difficult to find, however, as people with experience in administration had ties to the former networks, and the extent to which they would collaborate loyally was hard to foresee. Consequently, I had to rely on academics that possessed substantial knowledge but only limited practical experience. Nevertheless, I managed to gather a team of individuals to complete an extremely complex task.³ I started with eight people; a year later, I had no more than twenty in the office.

The primary task in the reform preparation process was to develop relevant legislation.

An informal taskforce emerged linking people dedicated to building local democracy, having crucial positions in the government and Parliament. We resolved to establish fully democratic local governments with autonomy in addressing all local issues. We intended to transfer as broad a scope of tasks as possible, according to the program we presented at the round table talks and later accepted by the Senate (for a detailed description, see chapter 8).

Considering the multi-faceted nature of their task, we divided responsibilities between the government and Parliament. The Senate Commission was responsible for preparing basic legal acts:

the Local Government Act, a municipal employees act, an electoral act as well as amendments to the Constitution. The *Sejm* Local Government Commission⁴ was made responsible for facilitating agreement among political caucuses and preparing final drafts of laws.

The Government Plenipotentiary's Office, on the other hand, was to prepare the law dividing responsibilities and powers between the central administration and local government. We were also tasked with preparing a special act on the implementation of reform. This law was to fix rules, procedures and deadlines for all activities concerning the transfer of personnel, resources, documents, properties and responsibilities. These regulations inspired much controversy and debate. It is easier to outline a desirable model than to decide how to shift from the existing system to a new one and how to divide responsibilities, revenues and resources among stakeholder institutions. Our task called for endless effort, discussion and negotiation. We reviewed legislative amendments and progress made by various institutions. As it was the beginning of transformation in our country, each institution wanted to advance its position. The easiest solution seemed to involve compromising the *gminas*, which did not yet exist.

At that stage, we were compelled to postpone preparations for public finance reform for reasons relating to lack of necessary cooperation with the Ministry of Finance. During our years in the opposition, we had no access to data on the state budget. Without the engagement of experts from the Ministry of Finance, our limited resources precluded us from advancing basic principles into draft legislation. That institution's preoccupation with economic reforms, in addition to its overt reluctance to take up public finance reform, was a setback to our program. Therefore, we had to agree to maintain the existing system until the end of the fiscal year, accepting the ministry's promise that relevant legislation would be presented soon.

Strong resistance to change was characteristic of this period, as the whole administration was closely connected to the old system and almost all employees were communist party-members or allies. The Polish United Workers' Party still existed, and its Central Committee tried to maintain influence over the government's work. The party demanded that the communist-era regulations governing the draft law process under be kept in place; this meant the Central Committee had to approve drafts before they could be handed over to Parliament. This was unacceptable in a democratic state, of course.



The first decision we faced was critical to the success of the future reforms: whether to conduct elections first and then modify legislation, or to start with legislation and hold elections when the new system went into effect. I presented three options, the first of which was to conduct the election in the autumn of 1989, thereby changing the personal composition of people's councils without changing the legal system. Implementation of reforms would start only after the election, upon consulting the newly elected councils. The second option was to change existing legislation as quickly as possible, concentrating on systemic issues so that new councils could begin their work in the new system. As such urgency would allow only limited progress, detailed regulations could be developed gradually over time and the election held in mid-1990.

The final option called for unhurried legislative works and detailed evaluation of new legislation on the basis of in-depth studies. The election could then be conducted once the new model had been carefully reviewed and prepared for implementation, which was estimated to take at least a year and a half. But public opinion rejected the third option outright: demand for the removal of the existing administration was so strong that its retaining power for another year and a half was inconceivable.

The first option was also associated with a serious threat. Existing regulations concerning people's councils did not recognize the autonomy of local authorities; new council members would be practically unable to work. Choosing this option would have meant the neglect of one of the main goals of the reform—encouragement of citizen participation. There was the danger that the whole enthusiasm of the newly elected officials would wane in response to the general inability to carry out their jobs. Furthermore, newly elected council members, lacking experience and positive role models would merely be replicating the existing system. Hence, we pursued the second option. This decision was crucial to the success of Polish local government; only thanks to such an approach were such deep reforms possible in 1990.



Work on legislation progressed smoothly, and a local government act was prepared within a few months, thanks to research conducted years earlier. The primary model of local government and the scope of its responsibilities were based on studies from previous years and followed propositions of the Senate commission. We recognized that a *gmina* should be understood not only as a territory but also as an association of individuals who live in a given area. This association has to have constitutional rights to settle all local affairs on its own behalf and responsibility. In particular, responsibilities over the following issues:

- land use, physical planning and environmental protection;
- public infrastructure, such as water supply, sewage, public transportation, gas, electricity and heating services;
- public social services such as health care, primary education, social support as wells as culture, sports and leisure facilities;
- maintenance of streets, squares, markets, cemeteries, green and other public spaces;
- management of municipal housing, administrative buildings and public facilities;
- maintaining public order and safety.

The new legal act was to create conditions in which local government would be able to meet those tasks. Therefore local governments had to:

- possess its own administration, independent of the central administration;
- have unlimited property rights;
- be financially autonomous;
- be protected against illegal intervention by the central administration or political parties.

The main goal of legislative action was to change these general provisions into legal regulations. But the whole atmosphere was influenced by the former opposition's suspicion of state power in general. The state and its administration were still perceived as hostile forces that should be opposed and by no means trusted. The only power seen as capable of bringing political changes into effect was society and its dedication.

The manner in which the system was restructured also reflected that attitude. It was clear that the system had to be changed and equally as clear that the entire former political class would be resistant to it. For local government to be established, it was necessary to overcome that resistance, as local government posed a unique threat to the power and influence of local level political elite. Only committed and enthusiastic citizens could accomplish this. In this sense, implementation of local government reform was the local communities' crusade against local authorities. The reformers' role was not only to enable reforms, but to create conditions favorable to the reform's lasting success.

In our view, the central administration was the principal agent opposing reform, and we recognized the need to reduce the central administration's capacity to prevent transformation. In consequence, we lessened central administrative control over the new local government. We perceived citizen engagement as the main vehicle of restructuring the state and wanted to ensure the appropriate conditions to make fullest possible use of those means. The underlying element of the reform design was our faith in society's ability to manipulate the course of change to meet their own interests. The system of *gminas* established in Poland is in many ways the product of that view of society's power and ability coupled with our understanding of the public's fear of governmental and administrative interference in local issues. With that in mind, we made a clear distinction between the administration subject to the central government and the one subordinate to local authorities (elected by residents). The former would be referred to as the "central administration" and the latter as the "local government administration." The term "public administration" is also commonly used in Poland; it describes all administrative institutions, regardless of position in the power strata.

The establishment of self-governing local authorities required amending the Constitution, as until then the document had only provided for a model of people's councils. Furthermore, it was necessary to adopt a law defining the status of *gmina* employees, who ceased to be employees of the state. A new category of public sector employees was emerging, and legislation needed to reflect it. Finally, new election laws consistent with democratic standards were in order. The Senate prepared these basic acts, including revisions to the Constitution, and approved them on January 18, 1989. Following the Senate's motion, the *Sejm* adopted the fundamental Local Government Act and the laws describing the election of *gmina* councils on March 8, 1990. On the same day, the Constitution was amended to include a full new chapter on local government. It provided that "the Republic of Poland shall guarantee local governments' participation in the exercise of government."

Two weeks later, laws applying to local government employees and the central administration were passed, laying the groundwork for the new system. Afterwards, a detailed division of powers was elaborated, becoming the subject of a separate law passed in early May and causing revision to

nearly 100 previously effective laws. A separate act formulated interim provisions and described the procedure for implementing the reform. Regulations concerning the transfer of property to *gminas* were particularly difficult. Ownership of an adequate portion of state property had to be transferred to *gminas*; for this, it was necessary not only to work out the legal principles, but to organize that very complex action.

As explained earlier, the scope of reform extended only over the *gmina* level. Although we had postponed addressing local government at the voivodship and *powiat* levels until later, we believed it was important to establish a representation of *gminas* at the voivodship level. It was envisaged not as a governing body, but rather as a forum through which contacts could be established with the central administration and agreements could be arranged among *gminas* in areas such as the location of landfill sites or the organization of joint undertakings. Once established, assemblies of local governments (*sejmiki*) had no direct power. We were criticized later for this assumed oversight, but I have always believed that we were correct in our assessment and treatment of the situation. Assemblies of *gminas* were by nature temporary institutions: they were to disappear after the establishment of local authorities at higher levels.

As legislative work progressed, resistance and counter-activity sprang up from various corners in response to changes in the division of powers, access to funds, viability of influence and political standing. Many persons treated the departure from a centralized state model as a danger to the country and, more specifically, as a threat to their own position. Permanent tensions and confrontation took hold around the division of functions and responsibilities, meaning the division of funds and influence. Soon a group of local government reform opponents emerged. Although the individuals forming this group were motivated by differing political and personal interests, they were united in their attempts to limit and delay reform.

Serious conflicts arose around the decision to change the structure of the central administration. While no one disputed the general principle that *gminas* are to be responsible for all local functions and the central administration is to handle supra-local issues and those relating to the responsibility of the state, the anti-local government lobby, supported by all ministries and existing local agencies of the central administration, made efforts to reduce the powers devolved to *gminas*, retaining as many as possible for the local branches of the central administration. A number of powers formerly vested in *gminas* were taken over by the new central administrative districts, a move starkly opposing the spirit and objectives of local government reform. A new administrative level was created and *gminas'* powers unnecessarily circumscribed. These developments strengthened the former administration and its hostility toward both the new government and all reform proceedings. Districts employed all those whom *gminas* turned away, who for many years continued to work to the detriment of *gminas*. This unquestionable success for opponents of local government reform signified, once again, that the reform lacked strong political support and that the common perception of a centralized state and state structure remained. We found comfort only in interpreting the creation of districts as yielding us a better position in the fight for restoration of local government above the *gmina* level, which we anticipated within the following two years.

The decision to create administrative districts generated sizeable response from representatives of local communities. These were twofold: on the one hand, local communities protested against the creation of districts, which they perceived as a threat to the development of local governance. On the other hand, the new administration was seen as a development factor and an employment opportunity; for these reasons, local communities wanted to have district offices located in their own jurisdictions. Conflicts and protests dragged on throughout most of 1990.

This was not the only defeat. The issue of schools represented an equally unpleasant loss. The Senate, having prepared the relevant law, took it for granted that primary schools would be transferred to *gminas*. However, we encountered opposition from trade unions, as the transfer of schools to *gminas* threatened teachers who were guaranteed certain privileges under national legislation. It also jeopardized the unions themselves, as their role would diminish if issues of employment and work conditions were settled at the local level rather than at the central level, where they required negotiation between trade unions and the Ministry of Education. Resistance was so great and the ministry's attitude ambiguous enough that a compromise was reached, allowing *gminas* to take over schools but postponing addressing general regulations for two years.

Definition of *gmina* functions was the subject of legislative discussion and dispute. They were to be divided into obligatory functions and facultative functions, or those that may be exercised with discretion according to local need. The purpose of that division was to protect residents from excessive voluntarism of local authorities, and on the other hand, to ensure a minimum level of social justice. However, conflict plagued agreement on more specific issues. For example, if *gminas* are responsible for the management of kindergartens, does that mean *gminas* are supposed to maintain as many kindergartens as are necessary to meet the needs of all children, or as many kindergartens as *gminas* themselves consider necessary? Is water supply an obligatory or facultative function? Is the *gmina* obliged to supply every house with water regardless of location, or only those households within a radius the *gmina* considers appropriate? An infinite number of such questions could be asked. For that reason, we had to pass over this division in the fundamental law and refer to it instead in each specific law.

Those considerations developed in our pursuit of an answer to the question of to what extent the state is to protect citizen's rights from the monopoly of the *gmina*. Is a resident of a given town intended to accept decisions of local authorities even if they violate his rights and personal liberties? Or, for example, is it possible to deprive some residents of their right to organize public meetings or entertainment in the name of protecting other residents' right to peaceful living? Traditions inherited from the centralized past factored decidedly against *gminas*. Paradoxically, an officer of the central administration enjoyed more public trust in this regard than the local government employee representing the local community. Opponents of the reform always used this argument to support their contention that only the central administration could protect citizens' liberties from the bad intentions of town councils and mayors.

We were successful, however, in establishing two new institutions to protect *gminas* from the central administration's interference in local issues. First, local government appellate committees (*samorządowe kolegia odwoławcze*) were put into place, through which residents could appeal the

decisions of *gmina* authorities made within the scope of *gminas'* authority. Under this arrangement, the citizen's right to make appeals was maintained while voivodship authorities were eliminated from the procedure. Local government would have been endangered if residents, unhappy with decisions of *gmina* authorities, had been able to file their appeals with voivods, as this would have illegitimately extended voivod authority (descendant of central administrative authority) into the exclusive scope of a rural *gmina* or town.

Regional audit chambers were the other new institution introduced to combat the central interference problem, established to eliminate the possibility of the central administration meddling in *gminas'* finances. It would be extremely dangerous if voivods had the right to supervise the finances of local governments, as according to the law, *gminas'* finances could not come under central government regulation. Without financial autonomy, local government would exist in name only. The two institutions mentioned here played a key role in the evolution of Poland's local government system.



In addition to our legislative preparations, we were faced with the tasks of readying the public to accept the changes and transforming institutions to accommodate them. The program I submitted to the prime minister emphasized the need to prepare society for participation in government and the need to earn citizens' support. In order to achieve those objectives, our office recommended engaging the mass media, especially television, and organizing a relevant information and education campaign. Unfortunately, those efforts did not yield any substantial results. Initially, the board of directors of the public television network, who were still associated with the old political system, took the position of opposing reforms. Later, under new management, the board definitively refused to support the reform, arguing that public television should not be involved in promoting government programs and that, additionally, those issues were not of interest to viewers. Regretfully, that attitude still prevails in television today. Under the cover of non-involvement in political affairs, public television evades its educational role.

Local government issues were also of no interest to national newspapers. Local newspapers, however, proved to be great allies. They absorbed the news and promoted the idea of local governance. We managed to carry out our earlier intention of taking over weeklies formerly attributed to national councils and transforming them into an independent special interest weekly entitled "*Wspólnota*" (*The Community*), which has played a crucial role in supporting local government to date.

The legacy of communist propaganda yielded public misunderstanding of the differences between the new and old systems. The generation that could remember something from the Polish local government experience had already passed away. Young people were not even familiar with democratic rules of conduct, much less local government. This complete lack of knowledge and experience stood as a major obstacle in the road to restoring local government. One of the sources of serious difficulty in restructuring the state lay in the public's lack of awareness that an important political change had taken place. The differences between the old Polish People's Republic and the new democratic Republic were blurred by the evolutionary nature of the transformations.

To call the changes to public attention, we wanted to rename government institutions. The title of “head” (*naczelnik*), introduced in the 1950s to refer to *gmina* heads, was replaced with the traditional “rural *gmina* mayor” and “city mayor” (*wójt, burmistrz*). The representation of *gminas* at the voivodship level was assigned the traditional name “*sejmik*” (assembly) in order to eliminate the term “voivodship council” (*rada wojewódzka*), which would connote former voivodship people’s councils.

To prepare the necessary human resources remained the first priority. We left it in the hands of the Foundation to Support Local Democracy (FSLD) mentioned earlier. That institution constituted a national network of training and consultative centers, which even in the first year of operation conducted courses for nearly 20,000 people. Some 2,000 people took part in various internships and study tours abroad.

At that time, reform in Poland became extremely interesting to foreign countries, with many foreign governments and nongovernmental organizations declaring their readiness to provide assistance. Their proposals were mainly submitted to my office, as it was the only authority associated with the reform. I re-addressed them to the FSLD, for the obvious reason that the central government could not receive foreign aid. While local democracy would have developed much more slowly without that assistance, the local government reform, just like the economic reforms, was rated much more highly in the West than in Poland. Some things are more visible at a distance. Additionally, representatives of those countries where local governments are permanent elements of public life and have existed as such for centuries are better situated to appreciate the importance of restoring local government.

It is difficult to list all donors who were active during this period, as assistance came from so many sources. I will mention only some supporters whom I still keep in mind: the US Agency for International Development, the National Endowment for Democracy, the Foundation France-Pologne, the German Foundations of Adenauer and Ebert, the British Know-How Fund, direct assistance from the governments of Canada, Sweden, Denmark and Norway, the private foundations of Mellon, Ford and the Rockefeller Brothers. At this point, I must emphasize the tremendous technical assistance we received from the Council of Europe. The Charter on Local Government, developed by the council and based on the experiences of democratic countries, served as a model for new Polish legislation. The council provided continuous assistance to us in the form of teams of experts, who had a significant impact during the reform preparation phase.



The Senate’s proposition to the establishment of a legally obligatory national association of *gminas* caused an outbreak of controversy at that point in time. The need for a national organization to represent the interests of local governments was stressed in numerous studies, even in the early 1980s. The party and the government had vehemently opposed that demand, also raised at the round table discussion. The Senate proposed defining the association as obligatory in the relevant law in order to increase its political significance, but the *Sejm* rejected the Senate’s draft upon the motion of PZPR members. The *Sejm* accepted their argument that the association would be an enforced body controlling self-governing *gminas*, bearing in mind the role central unions had

played in the old system in allowing the Communist Party to control all initiatives. However, the decisive reasons were purely political: the move was rejected out of concern over the establishment of a national institution that could seriously influence the rule of the country.

Representatives of the PZPR caucus were correct in their assessment that local government would be anticommunist and right to anticipate that their national representation's view would be analogous and act as a force pressing for further changes. It is important to note that the Local Government Act was voted on in early March 1990—only a few weeks after the dissolution of PZPR and when the future model for the state remained quite uncertain.

In late 1990 the Local Government Commission at the *Sejm* once again attempted to pass a law establishing an association of *gminas*, as they recognized that only an assembly of local governments gathered at the national level could constitute the force necessary to complete the reforms. Again, the proposition did not receive sufficient support. Besides, in the meantime, local governments had formed several associations that tried to fill the existing gap.

Resistance to the establishment of genuine local government clearly reflected the conviction that the process undermined the foundation of the former system. As one leading opposition journalist wrote, the communist coalition drew its principal political base from the local administrative apparatus, which profited from the distribution of goods. Local government reform deprived those people of their power and ended their privileges.⁵

PZPR's defeats in 1989 did not change the party's attitude toward local government. After the *Sejm* adopted the Local Government Act, SdRP issued a statement on March 10 expressing its disappointment at the reforms' alleged lack of determination. At the *Sejm*, SdRP demanded that all changes be postponed until a new constitution could be adopted. The SdRP's concerns over *gminas'* insufficient autonomy were strange, given that representatives of SdRP in Parliament and in the administration tried strenuously to reduce that same local autonomy.

Although the PZPR Parliamentary Caucus did not formally oppose the reform, a hidden battle to weaken local governments was being fought all the time. Action lay in constant contradictions between spoken and written declarations, and strong propaganda addressed at both issues and people.⁶ Local governments were born in the midst of fierce political struggle.

In January 1990 the date for local elections was set for May 27. That decision had some political implications. The beginning of 1990 was a hard time, as the international situation was growing more complicated due to the fall of the communist system, and Poland was launching economic reforms that led to enormous inflation. It was clear that these hardships would strike citizens heavily in a few months' time; they would have to be strongly attached to the reform process to accept its continuation. Furthermore, we anticipated more serious economic difficulties to come, a factor that could create a very unfavorable atmosphere for future election campaigns. At the same time, we received reports of cases of national property being taken over by individuals from the communist party and existing administration. We also received information of partnerships within the *nomenklatura* established hastily and by misplaced authority to draw personal profits. We had to put an end to such activity.

With the exception of local government reform, the former democratic opposition did not have a clear program for systemic transformations. As local government had already reached a

very advanced stage of preparation, we decided to use the issue to increase society's involvement in transformations taking place all over the country. Three months after the local elections were held, a presidential campaign was launched with the then prime minister, Tadeusz Mazowiecki, and legendary workers' leader, Lech Wałęsa. The split of the Solidarity camp over the local government issue was a fact. Had local governments not existed yet, all preparations for their establishment would have probably been destroyed, as was the case with many other plans postponed from one election to another.

At this point I should mention the role of Wojciech Jaruzelski, who was president at the time. General Jaruzelski had been leading the country for the previous decade. It was he who had declared martial law the year before and stood at the head of the Military Council that took power. He had ascended to power by serving first as a defense minister, later being appointed prime minister and first secretary of the PZPR Central Committee. In 1985 he resigned from the prime minister's office and assumed leadership of the Council of the State, becoming a quasi-president. After the 1989 election and establishment of the President's office, the National Assembly elected him president with a majority of one vote.

The Council of the State was superior to all people's councils, the apex of the pyramid of local and regional authorities. Jaruzelski took a lot of interest in regional authorities and initiated the custom of meeting regularly with chairpersons of voivodship councils. I had the opportunity to attend several of those meetings as a representative of the government. The local government reform being carried out deprived the president of the supervisory powers he had taken over from the Council of the State. *Gminas* were becoming self-governing units, and General Jaruzelski accepted this important limitation of his power.

The announcement of elections made it necessary to create appropriate institutions for conducting fair elections. The law concerning local government elections provided for the establishment of the office of a General Election Commissioner, who would be appointed for a four-year term and be responsible for all matters relating to the election of *gmina* authorities, by-elections and referenda. The prime minister appointed Jerzy Stępień to this position, who designed a completely new, highly modern and computerized system.



The necessary institutional changes included strengthening the plenipotentiary's office and establishing appropriate executive agencies. The position of the deputy plenipotentiary was created in January, and the prime minister appointed Jan Król to fill it.

I informed the prime minister of the need for local delegations representing the plenipotentiary's office at the time the position was created, as it is impossible to transform local administration and the local system working from the country's capital. The office, which employed approximately ten people, was unable to consult and advise 2500 *gminas*. It was clear to me that the task of conducting institutional transformation in the existing administrative atmosphere would have been threatening to the very idea of reform. The administration opposed reform and would have used all its power to discredit the emerging *gminas* and prevent them from

making a good start. Additionally, the very essence of the reform was to reduce the authority of the central administration to the benefit of *gminas*, which were to profit from the transfer of the administration's staff and property. For *gminas* to have a relatively equal position during those changes, we needed to establish institutions independent of voivods, but my attempts to create regional plenipotentiary offices were blocked.

However, I did manage to bring existing voivodship offices for people's councils under my control, which would disappear with the introduction of new local governments. Those were small units employing between three and five staff members. They became the basis for actions taken by the plenipotentiary's delegates. Those delegates had specific tasks to organize preparatory works to establishment of local authorities and then to assist them. They had no administrative powers, as they were totally independent of voivods. In order to strengthen this independence, they were given good salaries, comparable to salaries paid to deputy voivods. The local extensions of my office became operational throughout the country in late March, which we owe to the extraordinary energy of my deputy Jan Król, who organized the network within two weeks. That first element of Solidarity's local administration became a critical element in the new infrastructure. Most voivods were from the system and opposed to the new government. Our delegates, on the other hand, constituted the first network of the 'new' administration.

The delegates were selected from among candidates proposed by citizens' committees. Our criteria were transparent and simple: we wanted people with some administrative knowledge and commitment to the reform process, but no affiliation with any local cliques that could reduce their freedom to act. We wanted individuals who were self-reliant, responsible and capable of negotiating with and persuading others. For that reason, we also used people from the former administration, although they were not in a majority. Most delegates were recruited from among former opposition members, academics, teachers, economists and lawyers.

The delegates' experience in administration was limited, and their mistakes not infrequent. Those mistakes were used in an extremely meticulous manner by the anti-local government lobby existing at the office of the Council of Ministers to counteract changes. It became very clear to me that the leaders of that office held a view completely different from my own concerning the future model of the state.

The delegates in voivodships performed their tasks very well. I cannot imagine how local government could have been organized without their participation. Their principal tasks were to prepare *gminas* for the establishment of local government, the election of authorities and the take-over of property. They were also to instruct *gminas* and moderate local governance. They worked on the front line to initiate the work in localities, support local undertakings and help the new *gmina* councils start their work. That very small team completed a huge amount of work. Considering that at that time *gminas* did not have any by-laws or official procedures for meetings, all actions were improvised but precisely that improvisation determined the direction of future local government development. The new *gminas* were assigned the immense tasks of not only taking over municipal property, but also defining in general what should belong to them. Therefore, an inventory of state property was necessary. Afterwards, we had to organize municipal enterprises, clean up the financial system and establish new institutions at the *gmina*

level. Finally, it was necessary to govern and meet local communities' everyday needs. Individual delegates undertook numerous initiatives, published their own materials, prepared instructions, but mainly traveled to *gminas* and talked to people, explained things and encouraged them. The *gminas* today owe so much to those people.

Conflicts surrounding the delegates' work mounted with time. Despite the fact that the administration had been changed and the people representing the former opposition had assumed positions in voivods, conflict escalated. The delegates formed a network performing some specific tasks, and their independent position was very inconvenient to the voivods. In consequence, the network was dissolved at the end of 1991.

ENDNOTES

¹ *Reform 2000*, Document 25.

² The founders were Senators Andrzej Celiński, Aleksander Paszyński, Jerzy Regulski and Jerzy Stępień and Walerian Pańko, MP. Professor Joanna Regulska of Rutgers University in the USA played a particularly important role. She was one of the initiators of the establishment of the foundation, and later created a program in the United States called "Local Democracy in Poland," which was one of the foundation's principal sources of funding.

³ Director—Piotr Kownacki, deputy director—Iwo Byczewski (until June 1990), Włodzimierz Kocon (from June 1990), chief specialist—Czesława Rudzka-Lorenz.

⁴ When the *Sejm* was formed, a local government commission was not appointed because it was not considered necessary. No one foresaw such a far-reaching reform. The commission was established only in January 1990 under chairmanship of Walerian Pańko.

⁵ Gebert, 1990.

⁶ The daily *Trybuna* (e.g., nos. 98, 145 and 204, from 1990) personally attacked me. In a few consecutive issues, I was presented as one who made naive declarations and failed to perform tasks.

CHAPTER 4.

First Steps, First Problems

(June 1990–June 1992)

Gmina council elections were held on May 27, 1990, marking the rebirth of local government in Poland. It opened a new period in the functioning of the state, in which local governments at the formerly unrecognized gmina level were introduced as an element of the system. Gminas fortified themselves successfully during the years that followed, despite circumstances unfavorable to the development of local government.

The second half of 1990 bore witness to a fierce battle for the president's office between two leaders of the former democratic opposition: Tadeusz Mazowiecki and Lech Wałęsa. Wałęsa won, and Mazowiecki resigned as prime minister. The temporary cabinet, led by Jan Krzysztof Bielecki (January–December 1991), lacked both innovative ideas and the time needed for taking action. It was dismissed after parliamentary elections held in November when the Sejm moved to dissolve and conduct a completely free and democratic election. It was necessary for Poland to take her deserved place in the family of democratic countries. The next cabinet under Jan Olszewski lasted for only six months, between December 1991 and June 1992.

The deep economic reforms initiated in early 1990 were continued. On April 16, 1991, the Warsaw Stock Exchange held its opening session. Workers' former self-management plans grew useless alongside the return of free market principles. Employees' councils were forced to relinquish control over enterprises to the principles of supply and demand.

Poland's economic situation in 1990–1991 (see Table 2.) was undeniably hard. The economy was burdened by a sizeable foreign debt, a legacy of the previous regime's economic policy. Per capita debt was nearly 1,300 US dollars. Recession was deepening, although the first signs of hope for overcoming the crisis were visible.

Table 2.
Poland's Economic Situation, 1989–1991

Index	Year		
	1989	1990	1991
Increase in retail prices of consumer goods and services [% of previous year]	351	686	170
Per capita Gross Domestic Product (GDP) [current prices in US dollars]	No data available	1,675	2,041
GDP pattern of change [% of previous year] ¹ (fixed prices)	100.2	88	93
Unemployment rate [%]	No data available	6.5	12.2
Wage changes [% of previous year]	109	76	100

SOURCE: A. Gójski, based on GUS statistics for 1990–1998.

Enacting such deep reforms inevitably produced protest from social groups enduring most of the costs of systemic transformation. Those protests increased gradually throughout 1991, resulting in social tension and obstructing further progress.



Local elections held in 1990 crowned ten years of work, but also initiated a new era in the reform of the state. Few people saw events in the proper light. Instead, they recognized the low voter turnout at 42.3%. However, the rules governing local elections were much more rigorous than those regulating parliamentary elections. Therefore, in-depth analyses yielded less pessimistic conclusions: attendance showed strong geographic variation, best in areas with a tradition of community work and worst in places where fractures within Solidarity caused sharp political conflict. Solidarity-supported candidates proved clear winners. Citizens' Committee candidates won 48.6% of the vote, a figure that grows more impressive when considering that nearly 38% of candidates ran independently and did not identify with a party. 40% of council members had joined Solidarity before December 13, 1981 (12% had been persecuted under martial law), 20% had once been PZPR members and 25% had served on councils in the previous system. Almost half of council members defined their views as centrist, most with a rightist inclination.²

That result meant the replacement of local elites in a real and revolutionary manner. The Social Democracy of the Republic of Poland (SdRP), which was the official heir to former communist party, received only 2.7% of the vote. Other formerly dominant parties did not fare much better. At first glance, it seemed that the strategy guiding democracy building in Poland

of involving citizens was working, because it was precisely an informal citizen movement, not a political party that took power at the local level. Upon closer examination, the process yields greater complexity. First, many candidates supported by local citizens' committees were members or supporters of varied political groups but all had their roots in the Solidarity movement. In addition, the communists' successors had not performed as dismally as official statistics had shown. A few days after the election, SdRP protested against the depreciation of its election result in official statistics. The party announced that many so-called independent candidates were actually SdRP members or supporters. SdRP claimed it had won at least 3,000 seats in local councils (out of which only 800 were formally members of that party).

For politicians, the committees' victory demonstrated their value as a political base. Solidarity groups allied with Tadeusz Mazowiecki, who supported the government and its policy, fought with Lech Wałęsa's supporters for control of these mechanisms. The conflict entered a critical phase in June 1990, when the Solidarity camp finally split in anticipation of the approaching presidential election, in which its two leaders were to run against each other.

There were other reasons for escalating conflict within the Solidarity camp, most important being the increasing fragmentation of political programs. The parliamentary membership of the former opposition was a product of decisions made and compromises reached by leaders of the Citizens' Committee affiliated with Lech Wałęsa. New parliamentarians represented very diverse political views. These differences would become manifest once the parliament embarked on the task of designing the new state system and defining the direction of its policy. A large number of political groups emerged in spring 1990; some of them registered as political parties.

That period was also a time of change within parties and political organizations that had existed under the previous system. SdRP replaced the dissolved PZPR, and the United Peasant Party (*Zjednoczone Stronnictwo Ludowe—ZSL*) was transformed into the Polish Peasant Party (*Polskie Stronnictwo Ludowe - PSL*), which absorbed members of former opposition groups. The Democratic Party (*Stronnictwo Demokratyczne—SD*) gradually lost its significance, and its members defected to new parties.

The factor dramatizing transformation in the political sphere was Lech Wałęsa's and Tadeusz Mazowiecki's fight for the presidency. It paralyzed decision-making, including that relating to local government. In the second half of 1990, the government had no further chance to embark on reforms. At the same time, a group of anti-reformers became active within the government. They endeavored to use the emerging political divisions to minimize the extent of decentralization in local government legislation. The activity of citizens' committees began to decline in the autumn. The movement described above divided in ways inconsistent with the order of liberal democracy, which is based on the idea that political parties operate so as to stress differences and the electoral system forces compromise between conflicting interests.

In the Polish context, however, the energy released by citizens' committees activated local communities to an amazing extent and enabled a great systemic transformation, embodied in the establishment of genuine local government. Looking back on it, it should be regarded as the biggest success in the transformation of the political system in the first half of the 1990s. The committees were effectively a school of local democracy. The involvement of thousands of

committed activists was, in fact, the *sine qua non* condition for the success of local government reform. Without those people, even the best legal solutions could not have succeeded.

Personally, I had a feeling of success at that time. Shortly after the election, I traveled to 10 *gminas* in my constituency, the Jelenia Góra voivodship. I attended the first sessions of *gmina* councils. It was an extraordinary experience. I met with various groups that the restoration of local government had activated within society. I met with wonderful people who had suddenly started to feel like local politicians (in the best sense of the term), who had never before had the chance to act. They were enthusiastic and filled with pride at being completely responsible for their communities. They represented varying occupations and had not been associated with the local administration before. There was immense potential and a powerful source of energy that could reform the system from its very foundations. The free parliamentary election was like sinking the top of an iceberg. The construction of local government, on the other hand, was like setting fire to the foot of that iceberg.

Local government contradicted the previous system in many ways. It was a foreign body that did not fit into existing structures inherited from the communist regime. Conflict and tension were inevitable—the symptoms of political and economic systems in healthy transition. Every time they strained existing connections, they ignited and accelerated further change. The establishment of local government became one of the main factors in disassembling the old system and accelerating the rise of a new one.



As *gminas* began operations, their presence forced the state to assume new responsibilities. On 15 June, just after the elections, I submitted a memorandum on the matter to the Council of Ministers.³ I stressed in that document that the restoration of local government was a meaningful achievement and that the election was only the beginning of reforms and that the process of systemic transformation would be long. Autonomous *gminas* were a new and significant political force that everyone would soon have to recognize. Their influence would shape the political system in the state. I recommended in my letter that it was necessary to work out new forms of cooperation with local authorities. The government had to complete the legislative work and transfer of ownership. It was necessary to support the establishment of local banks, the development of local finance, the principle of autonomy and the legitimacy and importance of citizen participation and education. I proposed creating a standing government agency to deal with local government.

The Council of Ministers reviewed the document but took no action. The group of local government opponents at the Office of the Council of Ministers (URM) was strong enough even then to resist it, and awareness of the extent and significance of local government reform at that time was simply poor.



Meanwhile, the new *gmina* authorities grappled with numerous difficulties. Everything was new and had to be organized from scratch. The first six months of local government at the *gmina* level were characterized by rising tension, which gradually spread to almost all areas of local government activity. At first, those tensions were associated with the election of local authorities and the organization of their offices. Councils had to be formed and executive boards elected without the benefit of by-laws or regulations governing the proceedings. Furthermore, council members had no experience. Delegates sent by the government plenipotentiary were extremely helpful in those situations.

The next step was for *gmina* councils to discuss and solve the day-to-day problems resulting from the assumption of new responsibilities. Finally, their attention turned increasingly to financial management. *Gminas* began to take over property. Contrary to expectation, this was a peaceful process that progressed without major tension. However, maintenance of public order, which had become unmanageable during the transformation period, remained a serious problem. In many cities, street vendors were particularly troublesome. Also, changes made to street names stirred a lot of emotion, as those actions were perceived as erasing traces of the previous system.

Given their plenitude of responsibilities, *gminas* made understandable efforts to form associations that would enable mutual assistance in overcoming similar difficulties. In July chairpersons of voivodship assemblies held a convention and established the National Assembly of Local Governments (*Krajowy Sejmik Samorządu Terytorialnego*) as an association of regional assemblies. It was formally registered in September. In August the founding congress of the Association of Polish Cities was held, following the protocol of a pre-war association—the principal traditional form of local government organization. The Association of Polish Cities was formally established in January 1991.

Behind those two organizations came the founding of the Union of Polish Towns (*Unia Miasteczek Polskich*) in April 1991. This association is distinctively Polish in nature. It is difficult even to find a foreign language equivalent of the Polish word *miasteczko* (small town). However, small towns are a characteristic element of the Polish settlement pattern and even of Polish culture. Their authorities wanted to stress their urban nature but were justifiably concerned that their voices may not be heard in a forum that associates all urban *gminas*, such as that which the Association of Polish Cities would represent. In March 1992 the Association of Polish Metropolitan Cities (*Unia Metropolii Polskich*) was founded and became a “club” of Poland’s largest cities, and in May 1993 the Association of Rural *Gminas* of the Republic of Poland (*Związek Gmin Wiejskich Rzeczypospolitej Polskiej*) was established.

Associations of *gminas* were also founded to perform specialized functions related to common interest, such as the Association of *Gminas* with [Health] Spas (*Związek Gmin Uzdrawiskowych*) or associations of coastal, forested or mountainous *gminas*, which worked with varying degrees of success. Regional associations of *gminas* started to appear a bit later.

These initiatives filled the gap remaining after the *Sejm*’s rejection of the idea of establishing an association of cities and *gminas* by law. However, a formal representation of *gminas* was necessary

to negotiate with the central government on budgetary issues and to organize regional audit chambers (*regionalne izby obrachunkowe*) to monitor local finance. Audit chambers were designed as joint central and local government institutions for the purpose of protecting *gminas* against the central administration's interference with their internal affairs. As a temporary solution, some powers were granted to the National Assembly of Local Governments, a move that was received with considerable objection from different sides, as it was an association of regional assemblies, not a representation of *gminas*.

For that reason, the need arose to create a permanent forum for cooperation between the central administration and *gminas*. Initially, only the Plenipotentiary's Office bridged these groups. To some extent, a model existed in the form of the U.S. Commission for Intergovernmental Relations, which is composed of representatives of federal, state and local governments. The commission had an independent office and published results of its analyses and comments on problems and conflicts among government actors. During a trip to the United States, I reviewed its activity carefully and discerned that we could use it as a model. However, it was too early to erect a similar institution in Poland.

We knew from the very beginning that restoration of local government was a gradual process. It became clear that legislation regulating the work of local government had to be adapted to the new problems. The first changes came a few weeks after the election, when minor errors became visible. In the following few years, those laws were amended several times, although the principles on which they were based did not change.

Once *gminas* became operational, confrontation between advocates and opponents of local government reform began to escalate. The Law on the Powers and Responsibilities of *Gminas* was the primary source of conflict. Voivodships and districts wanted to withhold powers that had been vested in *gminas* prior to their autonomous existence, that is, when they were a part of the central administration. The government plenipotentiary and representatives of parliamentary commissions expected the devolution of these powers to cover a wide range of functions, but the administrative lobby tried to limit the process as much as possible.

The executive arm of the office of the Council of Ministers, despite promises made earlier by the prime minister and parliamentary leaders, operated under a centralized vision of the state that provided only for limited *gmina* activity. The central administration, viewing *gminas* as a threat, adopted the attitude, "if *gminas* are self-governing, let them manage themselves" and blocked any support. As a result, the prime minister was accused of taking an anti-local government stance, but he also earned a reputation of lacking credibility, as his words were out of sync with the deeds of his administration. That sentiment obviously affected the approaching presidential election, where the majority of local leaders supported Lech Wałęsa and voted against the prime minister of the government that had established local government.

It is difficult today to rationalize the behavior of the group opposing local governance. I think their reasoning included a centralized vision of the state, but also calculated their interest in the preservation of the former administrative apparatus, which had been strictly connected to PZPR before and maintained without personnel changes for a long time. Thus, the central administration found it easy to communicate with local *nomenklatura* and acted to protect its

interests. Continuing backlash against reform in *Trybuna*—the principal newspaper of PZPR and SdRP—proved the source of anti-local government sentiment, the manifestation of which took various forms. Voivods and heads of special administrative units received instructions from individual ministries that were frequently at variance with the government's official policy. Actions were not coordinated, which often meant they were contradictory to one another.

In July I began to realize the decentralization process was not progressing in the way I had thought it would. While it was evident to me that conflicts around powers and responsibilities had to occur, I did not expect such strong resistance from the central bureaucracy or the absence of sufficient political support for the transition. The problem was growing increasingly difficult for me, as the public held me personally responsible for the central administration's position on *gminas*. Although the central government's activities were completely opposite to my views and demands, my sense of loyalty to Mr. Mazowiecki precluded me from criticizing them too publicly. As a result, many people interpreted this as tacit approval.

It was only in late August that I began to express my reservations about some decisions. A month later, I informed the prime minister of my decision to resign. Under those circumstances, I could not bear responsibility for the actions the government took against local governments. However, I would have been acting against my loyalties had I left office during the presidential campaign, in which the prime minister was a candidate. Therefore, I announced that I would leave after the election if local government opponents in the office of the Council of Ministers continued to obstruct implementation of the government's program.



Another frustrating area was the progress of *gmina* finance. The *Sejm* adopted a legislative package just before the election. Notably, it did not contain the *gmina* finance act. That law could only have been prepared by the Ministry of Finance, which possessed the relevant data and expertise. However, the ministry announced it could not prepare that law until some systemic issues were resolved, specifically the division of powers and responsibilities. Its position was understandable, but it also served as a pretext to delay designing the financing system, and the difficulty of the task only magnified the burden. We had no experience from which to create a totally new system. Regardless of the difficulties we faced, the ministry was hesitant to reduce its autonomous use of budgetary funds. A decision was made that in 1990 *gminas* were to manage their finances based on old budgets and that a new interim law would be presented to the *Sejm* after the May election. But again, the ministry did not meet its deadlines.

At the time, I thought the delay was due to problems relating to the law's content. Now I believe it was rather deliberate. It was clear the new system had to take effect on January 1. The logic is simple: if decisions are made very late, there is no time for discussion on the law's substance and it is adopted in the form proposed by the central administration. This is a typical strategy used by the bureaucracy—delay the presentation documents in order to avoid the discussion phase of decision-making.

The Local Government Act excluded the central administration at the voivodship level from the process of financing *gminas*. Subventions were to be transferred to *gminas* directly from the Ministry of Finance in amounts to be defined by law, so as to eliminate discretionary decisions, which could become a means of exerting pressure on local governments.

Ultimately, the government presented two draft laws: one on *gmina* revenues and subsidies, another on local taxes and charges. They were submitted to the *Sejm* only in late October 1990, which was literally the last moment. From January 1, 1991, *gminas* had to construct their budgets according to the new principles. Obviously, there was no more time for technical discussion on the new system's design. In addition, the political situation in the lead-up to the presidential election did not foster such discussion. The two laws were adopted as temporary legislation and analysis of their effects postponed. As usually happens in such cases, once the mechanisms were adopted, they acquired some permanent features despite their categorization as temporary. Although these laws have been changed many times, *gmina* financing principles have retained their basic character, which is unfortunate since these principles are not ideal for local governments.



The end of 1990 saw the change of cabinet. The Liberal-Democratic Congress (*Kongres Liberalno-Demokratyczny*) served as the principal political resource of the new cabinet headed by Jan Krzysztof Bielecki. In late 1990 Parliament proposed three changes in the area of local government: extension of the range of *gminas'* inherent responsibilities, assurance of a stable and adequate level of revenue and finally, replacement of districts with a second tier of local government. But the new prime minister brought about personal and organizational changes in managing local government issues. My deputy and I myself left the government. The duties of the government plenipotentiary for local government were entrusted to an under-secretary of state in the office of the Council of Ministers, as a he was to be supervised by the head of that office. Soon those functions were transferred to a person in charge of supervising the central administration. As a consequence, *gminas* lost their voice in the central administration because the spokesperson representing them naturally favored the interests of the central administration. That was very unfortunate for *gminas* because the new councils needed assistance at that time.

The demand to regionalize the country was put forward for the first time. The concept was a far-reaching vision of regions that included the introduction of legislative powers, bicameral assemblies, and regional governments. It drew upon the federal model of Germany.

From a historical perspective, regionalization was necessary. However, the concept itself, especially the manner in which it was presented, had an unquestionably negative impact. At that time, society was not ready to accept self-governing regions. The postulates, put forward without a preceding information campaign, raised fears and objections. In particular, references to the German model frightened Poles, who were subjected to propaganda suggesting that Poland faced a German threat at that time. Therefore, proposing a system patterned on the German model was interpreted as the first step towards subjecting us to domination by our German neighbors and

losing our newly recovered sovereignty. The ideas were firmly rejected by the public, and concerns over regionalization remained for many years, impeding reform efforts again in 1998.

Government teams began the design of 10 to 12 large voivodships, but their work was managed by the central administration. There were also proposals of the installation of the second level of local government, which would be created through the bottom-up process of *gminas* forming municipal associations. The date for establishing the second tier of local government would be determined based on how active *gminas* were; the central government could easily avoid updating its policy on backing *gminas*. Support for *gminas* began to weaken, and the network of the plenipotentiary's delegates in voivodships was eventually dissolved in late 1991. Bielecki's administration made no progress in legislative preparations. Its activity was limited to discussions and studies within teams of experts. Today we may say that the decentralization process was slowed down in 1991 by the political elite's shortness of vision and lack of courage to thoroughly reorganize and use the capacity of existing local authorities.

1991 was a year of growth for *gmina* councils in the sense that they developed budgets independently and converted employees inherited from the previous system into permanent, reliable personnel. Property transfer was well advanced, although all of the difficult and contentious issues surrounding it had not yet been resolved. The restructuring of enterprises taken over by *gminas* remained an unsolved problem, as well. The issues engaging the public's interest changed considerably. Changes in political power disappeared from the agenda, and the emotionally charged atmosphere surrounding changes to street names subsided. Instead, council members' decisions regarding property reallocation and personnel and financial issues became priorities. *Gminas* and their authorities reached the transformation stage in the sphere of ownership and organization. *Gminas'* struggle with the legacies of the past began to fade, and they were finally able to deal with matters of real importance to governance.



The next election took place a year and a half after the local election. *Gminas* existed by that time, and there were already 50,000 council members whose mandates had been derived from free local elections. Local governments were therefore a significant element in influencing voters. Also, political parties changed their attitude toward local governments. Whereas politicians had previously treated *gminas* in somewhat of an abstract way, by this point they were established and working through specific problems. This meant that politicians had to readjust their views, shifting away from theoretical perspectives of the principles according to which the system should be arranged to specific concerns relating to the existing institutions, their powers, their means of operation and the resources available to them. Their attitudes became less ideological and more pragmatic. Parties also started to look at local governments as a sphere of influence they had to win.

The parties' election platforms in 1991 expressed only general support for *gminas*, as weak party organization at the local level precluded them from formulating specific propositions for local governments. Parties understood that local governments had a future and the support of their local electorate. But at that time, council members had no dealings with parties, because the

latter had generally weak structures at the local level. For that reason, it was difficult for parties to perceive how the electorate would receive their proposals. Consequently, their election programs contained only very general statements. The parties acknowledged *gminas* as the foundation of civil society and demanded strong legal safeguards for their activity and protection from the central administration in the form of a reduction in its supervisory powers. They also demanded a clear definition of the principles governing *gmina* finances.

Political parties gradually developed an interest in local government issues. Shortly after the first local elections, once disputes over citizens' committees had been resolved and the Solidarity camp had split, problems of local government disappeared from ideological debates among the main political forces. The very idea of local government became established in political thinking and thus in parties' programs. The institution of local government did exist and could not be ignored. Everyone supported local governance, but differences appeared in the form of inconsistent emphasis placed on various points. These resulted more from the traditions of a given political group than from technical reasons. The July 1990 declaration of the Citizens' Movement—Democratic Action (*Ruch Obywatelski—Akcja Demokratyczna*) associating groups supporting Mazowiecki's government provides an example. The declaration reads, "We are aware that institutions of political democracy are not sustainable without being strongly embedded in an organized society. Therefore, we attach great importance to institutions, which promote citizen participation, such as political parties, associations, local governments, trade unions and citizens' committees. Communism has left a big gap between the state and individuals which we must fill together."⁴ This statement is laced with anti-political sentiment and treats local governments as a movement, rather than as public authorities.

Parties of the re-emerging right placed local government issues in a different ideological context. Documents of the National Christian Alliance (*Zjednoczenie Chrześcijańsko-Narodowe*) list the subsidiarity principle in addition to the common good, solidarity and social and individual liberties as among the founding principles of local government. The subsidiarity principle also leads to support for local governance in local communities.⁵

Parties defined as belonging to the conservative-liberal wing rose at that time expressing a much stronger interest in local governments. The subsequent fate of those groups varied—some joined the right wing and others the Democratic Union (*Unia Demokratyczna*), established after the election. One of those groups supported a "minimal state" model:

We support a state, which according to the subsidiarity principle reduces its activity only to those areas in which it is impossible or ineffective to replace it by other institutions or citizens. We believe a civil state needs democratic underpinning—it needs institutions, which disseminate the idea of citizens' participation in public life. Hence, we attach so much importance to local government issues.⁶

In addition, the document states that local government reform is a fundamental "systemic change in the state and as such should receive special protection and assistance." The authors of that document recommended that local government should develop toward large, historically justified regions.

Partisan agendas emphasized a few fundamental questions at that time, including, for example, *gminas'* right to participate in economic activity. Right-wing parties altogether opposed granting *gminas'* that right, stemming from their conviction that *gminas'* prosperity is achieved through supporting private entrepreneurship and not through a type of "*gmina* socialism." The documents of the Realpolitik Union (*Unia Polityki Realnej*) gave particular emphasis to this point. SdRP repeated the ideas of the former PZPR concerning the establishment of local government at the voivodship level (which in the existing situation meant restoration of national councils) and the extension of oversight privileges into *gminas'* activities, including that associated with the performance of *gminas'* inherent functions (which meant obstruction of local governance). SdRP also proposed that *gminas'* size be taken into account when defining powers and assigning rights through the legislative process. That idea may be evaluated positively as drawing attention to the need to find special solutions for cities and urban agglomerations, but it may be also judged in the light of the privileges it would grant residents of cities from which the SdRP electorate came. The party's propositions also included building local government capacity by establishing a national representation as well as a permanent government office for local government affairs. This proposition was clearly influenced by the dissolution of the government plenipotentiary's office under J.K. Bielecki. The development of local government was a secondary issue in the election campaign itself.



The parliamentary election on October 27, 1991 brought important changes to the political scene. Many small parties found themselves in parliament. Seventeen caucuses formed in the *Sejm*. Jan Olszewski's minority government formed on December 23, 1991 and, supported by rightist caucuses with the exception of the Democratic Union and Liberal–Democratic Congress, declared its intention to continue local government reform and decentralization. Working groups were established, but no unit was created in the government structure to carry out the decentralization process. The government's dismissal several months later terminated all those plans. Today it is difficult to say to what extent they were realistic.

No legislative progress was made during that period, either. Local governments prepared a draft law on *powiats*, which they submitted to the *Sejm* on January 29, 1992. The draft was signed primarily by *Sejm* members of the Democratic Union, and the first reading took place only a year thereafter.

In the meantime, day-to-day issues had to be resolved. In the absence of government initiatives, *Sejm* members themselves initiated debate on changing a few laws. Most of those changes were incorporated only later on. Only the act concerning in educational system was changed before the new government assumed office. The law, adopted in 1991 after being lobbied by the Teachers' Trade Union and education authorities, did not allow *gmina* representatives to participate in the process of appointing headmasters, despite that fact that as of 1994 schools were to be managed by local governments. This time, the *Sejm* approved an amendment that was consistent with the understandable interest of *gminas*.

That conflict was representative of the relationship between the central administration and local governments. The central administration tried to impede decentralization and deprive *gminas* of powers already granted. Sadly, at that time representatives of local governments did not sense the danger of their demonstrated weakness, as they did not employ legal staff with the relevant education.

Gminas were also still seeking new own-source revenues, as those defined by legislation were not satisfactory. Remembering that the legislation was prepared by the Ministry of Finance above the level of local governments, which were too weak to contribute to the contents of those laws, we recognize its deficiencies. Additional cases of conflict of interest among *gminas* arose around this issue. The controversy between the industrial and tourist areas of Katowice voivodship provides a glaring example. Representatives of *gminas* in the mountains of that voivodship claimed that the quality of the environment was the only good that could be offered to promote development. Therefore, they argued for the right to generate income from the sale of those assets by applying local charges to tourists who come to their *gminas* to rest. They claimed that forcing *gminas* to seek sources of revenue only in industrial and urban development would result in the waste of the unique environmental quality. Representatives of industrialized areas, on the other hand, were outraged by the very thought of having to pay for fresh air. The constitution guarantees citizens a right to recreation, and it is unjust to burden those who work in polluted areas with a cost. This was a typical conflict of interest arising out of differing living conditions. In that particular case, the *Sejm* did not agree to local charges, but the problem of conflicting interests itself remains unsolved.

ENDNOTES

- ¹ G. Kołodko, *Kwadratura pięciokąta* (The Squaring of the Pentagon), Warsaw 1993.
- ² According to a CBOS poll.
- ³ *Reform 2000*, Document 28.
- ⁴ Słodkowska 1995.
- ⁵ Słodkowska 1995.
- ⁶ Słodkowska 1995.

CHAPTER 5.

One Step Forward, Another Step Back

(July 1992–May 1994)

In July 1992, after the collapse of the minority government of Jan Olszewski, a new cabinet was formed under Hanna Suchocka based on a coalition of seven right wing parties.

This arrangement was particularly weak, because individual parties were interested in advancing very different programs and party leaders held very different views. The formation of Hanna Suchocka's cabinet coincided with the onset of the first positive effects netted from economic reform (see Table 3.). Bringing recession under control was the most positive effect of that reform. Prices stabilized and inflation was brought down to two digits and continued to fall. However, increasing unemployment and decreasing real wage values brought the reverse effect. Some social groups were paying a high price for change, which caused understandable protest and frequent strikes. As a result the Parliamentary Caucus of the Solidarity Trade Union, a member of the coalition, called for a confidence vote. The government lost by one vote.

The president could choose to dismiss the cabinet or dissolve parliament. He chose the later. New parliamentary elections were held in September 1993 and were taken by the left-wing opposition. This move to the left in Poland coincided with similar changes in many Eastern European countries, where post-communist parties regained power during the mid-1990s. Often they were victorious due to the population's feelings of threat and uncertainty, in some cases as a result of falling living standards caused by market reforms.

A new government was established by the Democratic Left Alliance (Sojusz Lewicy Demokratycznej), which combined more than 20 different political, social and professional organizations along with the Polish Peasants' Party (PSL) under Waldemar Pawlak, leader of the weaker partner.

PSL was against radical reforms and focused mainly on protecting the interests of farmers. As farms had not undergone any major structural change, the approach was clearly contradictory to local government development programs begun by Suchocka's government. PSL consequently delayed those programs. The government's opposition to reforms was fully revealed during the campaign preceding the second local government election in June 1994 – leading to a serious conflict between central and local governments.

Table 3.
Poland's Economic Situation in 1992–1993

Index	Year	
	1992	1993
Increase in retail prices of consumer goods and services [% of previous year]	143	135
Per capita Gross Domestic Product [in US dollars, current prices]	2,198	2,232
GDP pattern of change [% of previous year] ¹	103	104
Unemployment rate	14.3	16.4
Real wage increase, pattern of change [% of previous year]	97	97

SOURCE: A. Gójski, based on GUS statistics for 1990–1998.



The years 1992 and 1993 were a time of growing stability for *gminas*, as they had already overcome the main difficulties in the early stages of their existence. New social and intellectual elite groups, which supported state decentralization, were built around emerging unions and associations, such as the Association of Polish Cities, Association of Rural *Gminas*, Union of Polish Towns, Union of Metropolitan Cities and the National Assembly of Local Governments. The efficient work and commitment of many thousands of councilors, mayors, and local government employees resulted not only in public recognition of the development of local governance but also in the emergence of an important force favoring transformation in the country.

Local communities' attention became concentrated on issues linked to economic development, such as housing, environmental protection and unemployment. Local communities began to be involved in public life, demanding local referenda to measure public discontent. Conflicts arose between local governments and *gmina* residents, although these were mainly disputes involving retailers, the location of markets and market fees. There were also a growing number of issues arising from conflicting interpretations of laws. Administrative courts eventually examined many of these cases.

The laws on local government adopted in 1990 required some modification at this time. Since the 1990 reform had been based on studies conducted over many years but not on real experience, there was a need to rearrange various details, although the general premises of the laws were confirmed. It was Parliament that initiated these changes in early 1992.

On March 3, 1992 the Senate proposed some limited amendments which aroused discussion, and its scope, approved by the *Sejm* on November 6 was consequently extended. The amendments

significantly reduced *gminas'* rights to economic activity. Previously, *gminas* had the ability to undertake activities exceeding public utility functions as long as they satisfied public needs. That provision had been contested from the very beginning, out of fear that it would encourage the formation of local monopolies. *Gminas'* legal status changed radically upon incorporation of the new amendments. It was decided that *gminas* could no longer conduct activities extending beyond the sphere of public utility functions, although the provision took effect only from June 20, 1994. The time lapse between the law's passage and its enactment was a result of discussions on the terms "economic activity" and "public utility." A ruling by the Constitutional Tribunal settled the issue of *gmina* acquisition and possession of shares in various companies.

Additionally, because of numerous cases of hasty mayoral dismissals by councilors dissatisfied with even a single action or decision, the legislators moved to ensure that municipal executives were better protected against such occurrences. The previous situation had negatively affected *gminas'* stability, as the uncertain atmosphere did not allow for long-term development policy. According to the new regulations, the dismissal of a *gmina* board or any of its individual members required an absolute majority of votes in the council. The *gmina* council could vote on such a motion only after reviewing the report of the audit commission and not earlier than one session following the formal motion to recall the board. The audit commission established by virtue of this law strengthened the internal control structure of *gminas* and at the same time homogenized the control structures of *gminas* across the country. It also increased the rank of audit commission chairpersons.

Furthermore, *gminas* benefited from these legislative changes, as chairpersons of boards and village administrators (*sokty*s) were elevated to the rank at which they could enjoy protection by law as public officials. Through this legislation, the responsibilities of *gmina* boards were also substantially extended. Formerly, only *gmina* councils could make decisions regarding the acquisition, sale or encumbrance of *gmina* properties or their lease for periods longer than three years. Under these regulations, councils operated as collective bodies, and the implementation of economic projects was often delayed. The new legislation delegated most of these responsibilities to the boards, strengthening their position for the sake of efficient management. Simultaneously, however, it reduced the transparency of the decision-making process. In the following years, this became an increasingly serious social and political problem.

The other initiative taken by the Senate was the establishment of regional audit chambers (*regionalne izby obrachunkowe - RIO*). Audit chambers were important elements of the local government system, designed to protect *gminas* against the voivodship administration's interference with *gmina* finance. Until Parliament adopted this law defining the procedure for the establishment and operating principles of regional audit chambers, voivods exercised temporary supervision over *gminas'* finances. On numerous past occasions, local government lobbies had demanded that the central administration prepare legal instruments to enact the relevant law. The central administration was naturally resistant to any reduction of its authority. An earlier initiative by *Sejm* members had also been rejected, and appeals addressed to subsequent governments went unanswered. It was only this Senate's legislative proposal that succeeded.

The draft law presented on March 6, 1992 defined the general function and structure of regional audit chambers as well as the rules guiding their operation. These offices will be

discussed in greater detail in Chapter 8, although for now it is useful to note their establishment as completion of another stage in building the local government system.

The *Sejm* also initiated debates on legislation defining the precise financial situation of *gminas*, as interim laws were still effective. Two draft laws were submitted, one prepared by the Union of Metropolitan Cities and one by the government. The issues in contention were fundamental to reform, and even the intensive work undertaken by the *Sejm* commission could not lead to a compromise. As a result, the existing law only revised to make financing available to *gminas* in the following two years. Resolution of financial issues turned out to be one of the most difficult tasks of the reform.



From its very formation, Hanna Suchocka's government declared its unambiguous political will to carry out significant reforms, among which systemic reforms occupied a prominent place. This was a marked contrast to previous governments.

Even in her first address as prime minister, during a plenary session of the National Assembly of Local Governments in Poznań on September 11, 1992, Ms. Suchocka emphasized the tremendous importance of local government. She declared the government's will to restore *powiats* as the second tier of local government, and this task became crucial to the government's orientation. In October 1992 Michał Kulesza assumed the new office of government plenipotentiary for public administration reform. He presented a comprehensive program and a new administrative map of the country. Establishing a second tier of local government was a logical consequence of the creation of local government at the *gmina* level in 1990 and resulted from the necessity to dissolve administrative districts, which were an unfortunate solution adopted in 1990 that ran contrary to *gminas'* interests.

Restoration of *powiats* became an issue causing numerous controversies and disputes. *Powiats* existed as early as the Middle Ages and had since become a permanent element of the country's administrative system. The capitals of *powiats* constituted a network of mid-sized towns that extended quite evenly over the entire country. *Powiats* survived the partition of Poland in the 18th century. They were restored after the restitution of sovereignty in 1918 and functioned also in communist Poland until 1975, when they were dissolved in the name of party leaders' interests. The decision to dissolve *powiats* not only violated Polish tradition, but also brought chaos to the existing settlement pattern. Nearly 300 cities lost their function as local hub of economic and cultural development; 49 capitals of small voivodships took up this role. The latter grew considerably and took over available resources at the expense of cities, which were degraded to the level of *gminas*.

During the *gmina* reform of 1990 all groups of "reformers" agreed it was necessary to redesign the higher level of administration and restore *powiats*. For that reason, voivodships were declined legal status and property rights, as that would have made the existing structure even more rigid. However, the idea to restore *powiats* was not supported by all. A number of opponents either opposed local government development completely or pointed to other ways

of establishing it at upper levels. Replacing *powiats* with voluntary associations of *gminas* was one option proposed, although that option had been considered in earlier preparations and rejected as completely unrealistic for several reasons. First, an association can exercise only the powers delegated by its members. Therefore, if *powiats* were to act on behalf of their members, *gminas* would also have to be granted powers significantly exceeding the local level, only to enable the immediate transfer of those powers to associations.

Furthermore, such an arrangement raised many organizational questions. What would be necessary if some *gminas* did not form associations? Who would be responsible for administering functions above the *gmina* level, such as maintaining hospitals or secondary education? Would the central administration assume these responsibilities, or would *gminas* perhaps be forced to form associations? If obligatory associations were to be formed covering the territory of the whole country, how would they differ essentially from *powiats*?

The government submitted its draft *powiat* law to the *Sejm* in January 1993. At the same time, the Plenipotentiary's Office conducted a study of the *powiat* map. *Powiats* were to meet the criteria of containing 5 *gminas* and containing at least 10,000 residents in the capital city and 50,000 residents in the whole territory. *Gminas* were sent a survey, as they were themselves to decide to which *powiat* they would belong. A series of other surveys were conducted to eliminate conflicts, producing a jigsaw puzzle of *gminas* filling the map of the country. Looking back on it, we may say the map of *powiats* later introduced in 1998 was in fact prepared by *gminas* in 1993.

In parallel, an analysis of the map of voivodships was undertaken. Three versions were prepared, proposing 12, 17 and 25 voivodships respectively. At that point, voivodships fell only under central government jurisdiction. By previous design, according to which local government should be constructed in stages from the lowest level upwards, restoration of *powiats* was to succeed the establishment of *gminas*. However, the *Sejm* rejected the draft law on voivodships after its first reading on January 21, 1993.

Extensive work was also begun at this time to reform the scope of responsibilities assigned local and central governments. Special teams analyzed existing procedures and explored the possibility of simplifying them by decentralizing decision-making, operating on the assumption was that *powiat* authorities would be elected in the spring of 1993 along with *gmina* councils.

The *powiat* reform was to be implemented in two stages. First, big cities were to be transferred a number of new responsibilities that had been previously vested in the central government. Subsequently, *powiats* were to be established and old administrative districts dissolved. In December 1992 the government plenipotentiary sent a letter to the mayors of 44 cities with populations of more than 100,000, inviting them to participate in the program. Based on provisions contained in the 1993 Budget Law allowing the government to devolve the functions and responsibilities of the central government to local governments (Article 33), the Council of Ministers issued an executive order on July 13, 1993 defining the procedure for and range of responsibilities to be devolved to local authorities. 46 cities joined the program, as several slightly smaller cities situated in large urban agglomerations were also allowed to participate. Program implementation began immediately. However, two months later, after the parliamentary election, the government changed and so did its general policy.



Hanna Suchocka's government, in contrast to previous cabinets, understood that local government structures were necessary partners in accomplishing decentralization and the restructuring of public administration. The intentions of Suchocka's cabinet to carry out reforms were already supported by a competent and organized local government partner. Associations of local governments had already been formed and consolidated. However, no national representation of local governments had been defined in the legislation. At the time this was perceived as a serious shortcoming hindering the functioning of decentralized state structures. Therefore, the establishment of a forum for institutional cooperation between the central and local governments became a necessity.

The prime minister's order of May 21, 1993 called for the establishment of a Joint Commission of National and Local Governments. Once established, the commission was composed of representatives of five national associations on the local government side and representatives of the Ministries of Education, Finance, Physical Planning and Building, Transport and Marine Economy and Health and Social Welfare on the central government side. The head of office of the Council of Ministers and the mayor of Warsaw were appointed co-chairpersons of the commission.

Local government groups received the establishment of the joint commission with a feeling of anticipation for their responsibility for the future model of local government. The government's intention was to give the commission the status of a forum, so as to evaluate decisions and determine the direction of the state's policy towards local government. The prime minister's appointment of the commission and supervision of its work guaranteed that agreements made in that forum were binding. The commission was to become a place for the resolution of conflicts relating to the activities of local governments. The first months of the commission's work coincided with a particularly difficult time for the government, when it was dismissed and parliament dissolved.



The president's decision to dissolve the parliament opened a new election campaign. The parties' attitudes towards local government became an important factor in that campaign, significantly influencing public opinion. However, no party had yet articulated a clear position expressing a view of local governments as an element of the overall state system. Due to the absence of such vision, local governments offered opinions on only a few issues, frequently very distant from local government concerns.

All parties agreed the scope of *gminas'* responsibilities should be more extensive. The three years since their re-establishment had proven their utility and encouraged an expansion of their responsibilities. Interestingly, however, a few election committees were somewhat reserved on the matter. Solidarity's election committee was among them, reflecting the competition between local governments and trade unions. Some other minor parties, representing both right- and

left-wing interests, did not take any position on the matter and preferred rather to maintain extensive central intervention.

Gmina finance was another issue on the election agenda. An overwhelming majority of parties demanded the increase of *gminas'* share of national revenues, mainly in the interest of stabilizing local finance on the legislative level. Some even proposed giving *gminas* the authority to tax.

The third and more divisive issue was the proposed scope of *gminas'* economic activity. Parties that supported economic transformation in the direction of market economy were the only ones that wanted to reduce *gminas'* activities to only those involving public utilities. Peasant parties and the definitively leftist Labor Union wanted to grant *gminas* extensive economic rights. These were the groups striving to maintain broader state interference in economic affairs.

Proposals to enlarge the local government system and restore the two upper tiers were the most controversial issue of the day. Peasant parties, the Labor Union and extreme right parties firmly resisted plans to restore *powiats*. Although motivated by different factors, these groups jointly opposed the plans. As had grown to be characteristic, associations of trade unions did not take a position on the matter. In general, attitudes towards the establishment of local government at the regional level were cautious. Most parties proposed only a slight reduction in their number, stressing the need for balance between central and local authorities.



The general election was held on September 19 and the victorious left-wing coalition entrusted the mission of forming the new government to the PSL leader Waldemar Pawlak, who opposed radical reforms. The new government presented a new and dramatically different approach to issues of local government and decentralization. PSL exhibited an explicitly negative stance on the development of local governance in general and on the creation of *powiats* in particular. In consequence, the careful preparations for further decentralization and implementation of the *powiat* pilot program by local governments from January 1, 1994 were ignored.

The Draft Law on *Powiats*, which had been reviewed by the *Sejm* in its previous term, was delayed for five months by the office of the Council of Ministers. Freedom Union *Sejm* members, made impatient by that obstruction, submitted the draft law to the *Sejm* again, this time as their own initiative. But as the new *Sejm* majority opposed it, the draft did not even advance to a second reading during that *Sejm's* four-year term.

Naturally, the pilot program was also obstructed. It had been designed as a precursor to the establishment of *powiats*; the first decision made by Waldemar Pawlak's government was to halt that program. Considering, however, that its implementation had already advanced, the government had to accept its continuation, although to a limited extent. As a result of those actions, several cities lost confidence in the program and withdrew from it, fearing financial consequences. Another 11 cities did not take over primary schools as planned. Warsaw's withdrawal from the contract was perhaps the most significant. The blocking of the pilot program was perhaps the most visible, but it was only one of many steps the new government took to stop the decentralization process.

The time was also marked by the beginning of political appointments to the central administrations in voivodships. Positions were designated to individuals based on political affiliation, frequently regardless of qualifications.

Michał Kulesza remained the government plenipotentiary, believing that reforming the state stood above party divisions and that continuity of the process should be maintained. He was, however, gradually deprived of opportunities to work effectively and resigned in May 1994.



The 1993 crisis at the parliamentary and administrative levels impeded preparation of the Law on Local Government Finance. This problem demanded immediate attention because the law passed on December 14, 1990 was to remain effective for only three years. Two practically identical drafts of that law were submitted at the same time, one by the *Sejm* and one by the government. Both reflected the status of work completed by the previous *Sejm*.

The short time remaining before the expiration of the former law did not allow for in-depth debate. Finally, the law adopted on December 10, 1993 contained mechanisms identical to the ones presented in the two drafts to define the types of revenues, subsidies and terms according to which *gminas* could apply for loans and credits and issue bonds. Yet the local government system remained far from adequate.

The law concerning the education system was another, as it were, legacy of the previous *Sejm*. The Local Government Act of 1990 did not provide for the transfer of primary schools to *gminas* because of opposition from the Teachers' Union, but it set the deadline for *gminas'* assumption of that responsibility. Under the 1990 provision, *gminas* were allowed to take over that responsibility on a voluntary basis, but only a few *gminas* took that opportunity because of insecure financing and the education administration's blocking of the transfer of funds to *gminas*. As the deadline for the obligatory devolution of primary schools to *gminas* approached, the issue demanded resolution.

The new political arrangement gave the Polish Teachers' Union a strong position from which to resist the devolution of administrative responsibilities relating to education, as it was a partner of SLD. The government immediately proposed urgent new legislative changes postponing the deadline for the obligatory take-over of primary schools. It was also decided that once *gminas* took over public primary schools, they would also be obliged to subsidize private schools, creating additional negative incentive which discouraged *gminas* from voluntarily assuming the responsibility of managing schools.

Postponement of that deadline alone was not satisfactory to politicians of the SLD-PSL coalition. *Sejm* members representing PSL and aiming to maintain the central administration's authority over agricultural schools, one of the party's principal political bases, authorized the Council of Ministers to leave the financial and teaching administration of agricultural schools with voivods.

The recognition of *gminas* as locally governed bodies having the right to their own property resulted in the need to define the extent of those rights relative to natural resources. That issue

was resolved in the Geological and Mining Law adopted on February 4, 1994. Obviously, *gmina* interests were not the most important issues included within the scope of that law. To *gminas*, however, it was an important regulation. Its significance will be discussed later in this book.



In May 1994, *gmina* councils' first term expired. Six months earlier, on November 27, 1993, the office of the general election commissioner had been dissolved. At the conclusion of its first term, a decision was made to close that office and delegate its functions to the National Election Committee, already responsible for the election of national authorities, including parliament, the president and legislative referenda. Technical and economic reasons were given to justify the new combination of functions.

The authorities of unions and associations of local governments completed their terms in this time period, providing the chance to evaluate their progress as well. Chair of the National Assembly of Local Governments Piotr Buczkowski wrote, "Today we may say all parties concerned overestimated their capacities and did not realize the scale of effort to fulfill the enormous expectations they had... The extent of deprivation in the majority of *gminas* exceeded by far what candidates had taken into account before they were elected councilors... It turned out that the breach in the centralist system made by the restoration of local government caused centralization tendencies to resume very quickly."² Essentially, he was expressing confrontation with a huge task, much larger than anticipated, and a lack of assistance from the central government. The latter statement was repeated many times. In an article summing up the first term of local government, a journalist wrote straightforwardly in *Wspólnota*, "One may risk saying that all governments after Mazowiecki's were two-faced, hypocritical and cynical about local government, until Pawlak's government laid aside its two faces and hypocrisy." That account is perhaps too negative, but it demonstrates well the sentiment in the local government camp at that time. As Czarnota notes, governments did not show much interest in local problems, treating "local government patronizingly as a political child and looking down on its representatives as you look down on your younger brothers and cousins."³

Yet at the same time *gminas* enjoyed a good reputation. They not only did a great job in terms of building infrastructure, but they did so with 20 to 40% less cost. Altogether, there was a sense of accomplishment during this period.

ENDNOTES

¹ G. Kołodko, *Kwadratura pięciokąta* (The Squaring of the Pentagon), Warsaw 1993.

² Buczkowski 1994.

³ Czarnota 1994.

CHAPTER 6.

Stagnation Again (June 1994–October 1997)

The period discussed in this chapter begins with local elections of 1994 and the formation of new local authorities and ends with the parliamentary election of 1997. During these years the government was in the hands of the leftist coalition of the Left Democratic Alliance (SLD) and the Polish Peasant Party (PSL). However, the cabinets changed. The Waldemar Pawlak government lasted until March 1995, when internal tensions within the coalition resulted in the reconstruction of the cabinet under the leadership of Józef Oleksy (SLD). In February 1996 Oleksy was replaced by Włodzimierz Cimoszewicz, also from SLD.

The term of the presidency came to an end in 1995. In general elections Lech Walesa lost to Aleksander Kwaśniewski, the candidate from SLD. Now, the left controlled all four of the highest authorities in Poland—the presidency, the Sejm, the senate and the government.

Early in 1997 a new Constitution passed in a national referendum. It fixed the legal and political position of local government within the state system. In November of the same year parliamentary elections gave power to the right-oriented opposition.

All cabinets recognized further implementation of reforms as the main goal of its economic policy but wanted to reduce the social cost of those reforms. The attitudes of individual governments were different. The first, dominated by PSL, clearly delayed transformations in the interest of ensuring that reforms did not lessen the political power of the coalition or of the institutions and people it controlled. SLD-led governments, on the other hand, had a better understanding of the importance and need for reforms in the state. SLD made some initiatives to this end, but these were limited by their partner's firm anti-reform stance. The most significant reform implemented at that time was focused on transforming the government and its ministries, although this reform merely divided powers differently among individual agencies rather than change the way the government worked. Government procedures, developed in the communist period, were not suitable to the new conditions. Also, Poland was looking to potential membership in the EU and had to adjust its legislation and economy to conform to EU standards. Poland's membership was becoming realistic, but still, it was such a distant perspective that it had little influence on current affairs. The indices presented in Table 4. characterize the economic situation under SLD–PSL.

The data in Table 4. indicates some significant and positive changes. During the period of the coalition's rule, the economic situation unquestionably improved, but the government failed to carry out reforms necessary for the efficient operation of the state, mainly in the areas of health and social insurance. Despite promises made to the contrary by politicians affiliated with the ruling parties, it was not possible to introduce deeper changes in the area of local government, and centralization again increased. Transfer of ownership—mainly the privatization of state-owned property—was delayed, as was restitution of properties taken over by the communist government.

Table 4.
Poland's Economic Situation from 1994 to 1997

Index	Year			
	1994	1995	1996	1997
Increase in price of consumer goods and services [% of previous year]	132.2	127.8	119.9	114.9
Per capita Gross Domestic Product (GDP) [in US dollars, current prices]	No data available	3,057	3,484	3,702
Changes in GDP [% of previous year]	105	107	106	107
Unemployment rate	16.0	14.9	13.2	10.5
Changes in wages [% of previous year]	101	103	No data available	No data available

SOURCE: A. Gójski, based on GUS statistics for 1990–1999.



Local elections were held on June 19, 1994. Candidates ran for 52,173 seats in councils in 47,432 constituencies. As previously, in *gminas* with one-mandate constituencies or a population of up to 40,000, majority elections were held. In those *gminas*, 46,573 seats on councils were available. Proportional elections were held in larger *gminas*, where 5,532 seats were open. Interest in those elections varied. Voter turnout was even lower than during the first local elections. Average attendance was 30%, slightly higher in rural areas (38.5%) than in cities (29.2%). In four constituencies, no candidate was proposed; elections were also unnecessary in another 3,300 single-seat constituencies in which only one candidate sought the open seat. Attendance between regions also varied considerably, from 23 to 43%. On average, in single-seat constituencies 3 candidates competed for one seat, while in larger *gminas* an average of six candidates contended per seat.

The elections yielded no clear winner. In general, parties of the ruling coalition increased their representation in local authorities. In 1994, in contrast to 1990, people were not afraid to claim membership in parties having a communist past. PSL won in rural *gminas*, giving that party the chance to control most voivodship assemblies and guaranteeing small rural *gminas* a stronger representation than larger *gminas* of urban character. In effect, the National Assembly would be dominated by PSL.



Building further tiers of local and regional government was a central political issue during the whole period. Shortly after the local election, in July 1994, the leftist government launched a spectacular campaign to discredit the draft *powiat* reforms. They conducted a survey among chairpersons of *gmina* councils, formulating their questions in a way juxtaposing the creation of *powiats* with the extension of *gminas*' powers. For obvious reasons, *gminas* answered in favor of their powers being increased. Based on those results, the head of office of the Council of Ministers announced that special-purpose associations of *gminas*, not *powiats*, would serve as the second tier of local government. The survey, particularly the wording of questions, generated a lot of criticism, but it also provided the government a mandate for blocking reform.

The cabinet, headed by Józef Oleksy (SLD) continued its predecessor's policies, although PSL's influence became limited. The *powiat* reform was resumed. Simulation exercises were conducted in four voivodships to verify the cost of *powiat* restoration, the scope of functions and responsibilities that could be devolved to them, the scale of *powiat* budgets and the means of financing them. The simulations demonstrated that the restoration of *powiats* would not be too expensive because the *powiat* infrastructure still existed.

Yet PSL's resistance remained sufficient to repress changes it viewed unfavorably, mainly the creation of higher tiers of local government, which reflected PSL's fear of losing the influence it had effectively developed in small voivodships. The establishment of *powiats* and larger voivodships would increase the influence of urban populations, as cities would become *powiat* capitals, adding to the influence already levied by metropolitan areas as regional capitals. Electoral geography could play a critical role in changing the distribution of political influence.

Despite serious delay, the pilot program initiated by Hanna Suchocka's cabinet was continued, as it was strongly pushed forward by local governments. The obligation of big cities to fulfill the role of urban *powiats* was recognized legislatively. A new legislative construct was also introduced—the Public Service City Zone—representing a possibility for *gminas* to form voluntary associations in order to jointly exercise *powiat* functions, a privilege previously assigned to the central administration. The range of those functions was analogous to those taken over by big cities. In 1996 the law was changed: the zones obtained a stronger position in legislation, but the scope of functions devolved to local governments was restricted. The first zone began operating in Nowy Sącz on January 1, 1997. Another two were formally established that year. Fifty local governments declared their willingness to form other zones all over the country. The activity generated around zones provided important feedback about local communities' involvement and confirmed the need for the establishment of *powiats*. The experiences of zones, albeit short and thereby not very extensive, played a significant role in guiding reforms in 1998.



The important political events, which took place during the period in question, revealed the individual parties' attitudes toward systemic change, including the development of local government. The 1995 presidential election and associated campaign were the first of those

events. Local government issues did not play a major role in that campaign. At that time, however, local governments were already a serious political force. Hence, most candidates invited by the Conference of Mayors presented their views through representatives or in letters. All of them, including Aleksander Kwaśniewski, the candidate receiving the primary support of the left, and Lech Wałęsa, then president and Solidarity leader, recognized local government as a critical element of the system and stated that decentralization of the central administration was a primary task for the near future. Aleksander Kwaśniewski gave his unequivocal support to the idea of restoring *powiats* as well as establishing voivodships with elected governments. Waldemar Pawlak, on the other hand, leader of the Peasant Party and former prime minister, sustained his objection to the creation of *powiats* and stood by his proposition to transform the Senate into a House of Local Governments.



Ratification of the Constitution was another contentious event. Seven drafts were reviewed, all of them providing local government as the primary institution of the political system in the state and recognizing it as a legal entity having a right to its own property. Differences among the drafts referred to plans for further development. The drafts prepared by the Peasant Party (PSL) and by the leftist Labor Union (UP) were the most restrictive. According to them, local government could exist only at the level of *gminas*. The draft constitution submitted by the president's office under Lech Wałęsa was the most far-reaching, proposing that a three-tiered local government system be defined in the constitution. The other drafts' suggestions fell between the two extremes, some endorsing the existence of local government at the *gmina* level and authorizing the parliament to create higher tiers through legislation and others mentioning two tiers and providing for the possibility of creating local government at the regional level.

The adoption of the new constitution on April 2, 1997 was a milestone in the process of transforming the system, having been preceded by a national referendum in the midst of a strongly contested campaign conducted by the non-parliamentary opposition. The constitution stemmed from studies conducted over many years, during which there was always an insufficient majority in the parliament to pass such a measure. The numerous compromises and postponements characterizing that period applied also to local governments' general model. The constitution confirmed the existence and strengthened the position of *gminas* and the rights they had acquired, extending the role and responsibilities of local government. It did not, however, define a future model for local government; specifically, it did not contain a decisive position on the creation of higher levels of local government but rather referred the question to later laws.

Regulations concerning the local government system were incorporated into two chapters of the Constitution. Chapter 1, entitled "The Republic of Poland" (*Rzeczpospolita*), contains the basic principles of the state's political system and includes local government, defining its system as follows: "The local government community shall fulfill the functions assigned to it on its own behalf and shall bear responsibility for those functions itself."¹ The statement, "on its own behalf and shall bear responsibility for those functions itself," captures the essence of the Polish

concept of local government independence. Chapter 7 of the Constitution, on the other hand, upholds local governments' independence as one of the supreme standards of the state system and guarantees the following:

- Local governments possess legal status and the right to own property.²
- Autonomy is legally protected.³
- The authority to resolve legal controversies concerning the division of responsibilities between the local and central administration remains only with administrative courts.⁴
- Local governments' share of public revenue shall be proportionate to their responsibilities,⁵ and any changes to those responsibilities will be accompanied by an adjustment of the allocation of public revenues.⁶

The Constitution also provides for the “presumption of local government’s general competence,” which may be interpreted as meaning that local authorities have jurisdiction over all matters not reserved by law for other authorities. That provision is, however, an ideological declaration giving local government a high rank in the system, rather than connoting any practical importance. Public administration may act within limits clearly defined by law; otherwise they risk compromising or violating personal rights. Therefore, the legislator who grants some powers to the administration, defines not only the way in which those powers may be wielded but also the institutions entitled to use them. In short, there are no ‘free’ powers assigned to any institution.



Local government experiences accumulated gradually, and unsettled issues related to the development of local government required further amendment to the Local Government Act of 1990, which was itself a kind of local government constitution. The changes made did not affect the basic grounding of that law; on the contrary, its fundamental principles were confirmed by practical experience. *Gminas*' active management of local affairs, enriched by judicial verdicts, led to a proliferation of interpretations of the system. Unions and associations of local governments alike advocated legal refinement.

On January 5, 1995 the Local Government Commission of the *Sejm* proposed amendments to the Local Government Act. Initially, the extent of that initiative was very limited. It referred mainly to strengthening the internal system of *gminas*' executive bodies—both in view of the continually increasing public functions and bad experiences following the hasty dismissal of several mayors. Unstable executive boards were frequently incapable of implementing any long-term policy, which required at times some unpopular decisions.

Changes to the Local Government Act, adopted by the *Sejm* on September 26, 1995 followed the demands of local governments and were much deeper than the initial proposals. The main change was the added guarantee that *gminas* would receive the funds necessary to perform the new functions devolved to them. Unfortunately, that provision was notoriously violated, as on various occasions *gminas* were burdened with new truncations without receiving the appropriate adjustment in financing.

Additionally, the reform enacted so-called anti-corruption regulations, a result of common cases of executive boards employing councilors and thereby subjecting them to dependence on the executive bodies. Another important change was the extension of the powers of ancillary entities, such as village communities (*solectwo*), urban neighborhoods or city districts. The issue of those entities' rights surfaced and was addressed throughout the period. According to principles adopted in 1990, *gminas* were the primary units of local government and all smaller units had ancillary functions subordinate to *gmina* authorities. As time went by, however, many village representatives proved to be so active and successful that it became necessary to give them some legal autonomy, although without departing from the fundamental principle concerning *gminas'* primary role. It seems that step may be regarded as the expansion of local democracy.

Also, the issue of property belonging to village communities needed to be addressed at the legislative level. In the past, local communities had various property rights schemes, some with privileges dating back to the Middle Ages. In communist Poland, those rights were confiscated by the state. After the political transformation, former owners began to reclaim those rights. However, the Local Government Act of 1990 was based on the assumption that *gminas* were the primary level of local government and the smallest legal entities granted property rights. Yet individual villages that had owned properties or exercised other rights before did not want to share them now with the whole *gmina*. For that reason, legislative solutions were needed. The decision made was that the property or right was to remain in the hands of *gminas* but should be managed and used by its previous owners.

The position of voivodship assemblies was also strengthened. The assemblies received the right to express opinions on their draft budgets as well as to cooperate with the central administration in localities. As originally presumed, the assembly's function was only to facilitate cooperation among *gminas* and to represent them to the central administration at the regional level. It was not supposed to be an administrative authority. However, once established, each unit naturally attempts to extend its powers. The assemblies wanted to become administrative authorities and were constantly making efforts in that direction. Their efforts evidenced the idea that the system was slowly becoming mature enough to support higher tiers of local government.

As a consequence, numerous and significant amendments were introduced by the law, referenced as the "great amendment." The changes did not, however, solve all problems. Continuous development of local government needed still new legislative amendments as still new issues emerged.

In the next period, due largely to the disastrous flood of 1997, the *Sejm* made a number of changes in local government legislation. *Gminas* that had suffered from that disaster were given additional responsibilities, and the budgetary regulations concerning accounting for subsidies for those *gminas* were changed. The floods, which afflicted vast areas of the country, proved how dangerous a centralized system of administration can be. The dramatic lack of powers at the local level became visible in the crisis. Various units subordinate to individual ministries were not subject to city and regional authorities. In the flood situation, when effectiveness could be measured in hours, days were lost in Warsaw as ministries tried to reach agreement. The sad experiences became an important argument for further reform, and local governments' powers in times of crisis situations were written into new legal provisions.

At this point it is interesting to note that a presidential draft law was submitted to the *Sejm* in the spring of 1997 proposing change to the procedure of electing *gmina* and city mayors. The president proposed direct elections and far-reaching autonomy for *gmina* leaders, limiting their dependence on *gmina* councils. For the change to take effect, however, it would be necessary to thoroughly restructure the authority of *gminas*. Despite its support from *gmina* associations, that draft met only stormy discussion in the corridors of the *Sejm* in the context of approaching parliamentary elections. But the issue may not be considered closed: the problem will inevitably be addressed in the future as a result of the unfortunate lapse in definition of the relation between mayors and councils, or more specifically the role and nature of the mayor's function.⁷



Thus, *gminas* became a permanent element of public authorities. As local communities took administrative responsibilities, managed public finances and administered substantial wealth, it became necessary to ensure an appropriate mechanism of public control. Accountability was becoming particularly urgent, as some signs of corruption were being reported. The law adopted in 1990 had provided, in addition to voivods' supervision over the legality of *gminas'* actions, for the formation of two special bodies: appellate committees and regional audit chambers. Both institutions had been established by earlier legislation, but there was need for certain amendments. The relevant Law on Committees was passed on October 12, 1994 and changes to the law regarding regional audit chambers were adopted on 20 August 20, 1997, directly before the parliamentary election.



Confrontation between the increasingly influential local governments and the central administration, which opposed substantial extension of local powers, now grew more serious. The conflict was visible in changes made to laws, especially with respect to several basic issues. Changing the system of *gmina* finances was the first of those issues. Interim laws were adopted in 1990 and their effective dates extended several times with the incorporation of only minor changes. The Ministry of Finance still took a negative stance toward the more radical changes demanded by local governments. Local governments' reciprocal protest rendered any progress impossible.

An issue raised by SLD *Sejm*-members shortly before the 1997 election provides a typical example. They demanded a provision, according to which vendors having a fixed, developed stand in a market should pay a property tax rather than a market charge. That provision was the subject of permanent dispute between sellers, who preferred to pay the property tax, and *gminas*, which wanted all vendors to pay the market charge. The rates of property tax were designed for taxing buildings and were low for small structures in markets. By contrast, the market charge was based on anticipated profit. *Sejm* members who discussed the matter offered an off-the-record insight: there are more vendors than mayors, so we must protect the interests of vendors to win their votes. This is just an illustration of the battles fought in Parliament for the support of

various voter groups. *Sejm* members associated with very powerful pressure and interests groups often participated in those battles.

The need to establish a different system of financing was becoming increasingly urgent. Representatives of local governments presented their ideas and demanded that, in the future, *gminas* collect tax revenue and transfer a certain portion of that revenue to the state. In other words, they wanted to reverse the existing flow of budgetary funds. The Association of Polish Cities filed an appeal with the Constitutional Tribunal opposing both the Budget Law for 1997 and the Law on Public Utilities. The two laws contained regulations carrying a reduction in local finance below the constitutionally provided limits.

Despite the many legislative changes, attempts to establish a final model for local financing failed. Between 1994 and 1997 *gminas* underwent a clear process of incapacitation: they were assigned more functions without receiving corresponding funds.



Education management reforms were another area of confrontation. The absence of a viable solution caused continuous difficulties and required constant legislative change. There was a permanent conflict of interest between *gminas*, which had natural allies in parents' organizations interested in the quality of schools and their location, and representatives of education authorities, who had lost the influence and funding to manage schools directly. Decentralization of schools also posed a threat to trade unions, which preferred to define the rules governing employment and salaries at the central rather than the *gmina* level. Teachers confronted an uncertain situation: centralization guaranteed secure jobs and stability, but on the other hand, teaching in schools managed by *gminas* gave ambitious individuals greater opportunity to accomplish their own objectives and cooperate with local communities. Decentralization gave schools a better chance to become cultural hubs in rural areas, and experience showed that *gminas* paid more attention to ensuring adequate salaries for their teachers.

The issue erupted in the parliamentary forum, resulting from the contrast between the government's partiality to the Ministry of Education's tendency to centralize and the more observable influence of local communities in the parliament. Hence, a number of the government's propositions met with firm criticism from *Sejm* members, who even claimed it was against the Constitution to reduce, by apparently secondary regulations, the freedom of *gminas* guaranteed in that document.



In July 1994 the *Sejm* adopted a law on housing management, modernizing the former communist regulations that had grown incompatible with the evolving system. The new law abolished the old system of flat allocation⁸ and brought rent prices to a more realistic level. For social reasons, however, it was impossible to introduce free-market rules in the housing sector. That goal was rather to be achieved gradually. The new rent prices were much higher than they had previously been, making necessary the foundation of a system of housing allowances for lower-income

families. This provision caused massive protest: the Association of Polish Cities lodged an appeal against that law with the Constitutional Tribunal, which subsequently ruled that some of the articles in question did indeed violate the Constitution.

Another issue addressed at this time was the *gmina* responsibility for maintaining order; a duty endowed them without the necessarily corresponding regulatory capacity. *Gmina* representatives informed the government that they were indisposed to maintain tidiness and order. Although *gminas* proved very active in local initiatives, the absence of a legislative foundation prevented them from overcoming various forms of opposition.

The law of September 13, 1996 established legal mechanisms for *gminas* to perform that particular function. The law “maintenance of tidiness and order” called for *gminas* to regulate the neatness and hygienic conditions of the living environment and related also to the aesthetic appearance of properties, the maintenance of green spaces in properties, the raising of animals in urban environments, protection against stray animals and coordination of actions such as rat control and recycling. The adoption of a separate law addressing issues of tidiness and order did not mean that the law managed to clean up all relevant regulations in this area. Such regulations are contained in many other laws and further changes will be necessary during the reform of the entire legislative system.

The Local Government Act also obliged *gminas* to protect public order, which some cities carried out by establishing city guards. 1995 changes to the law concerning police handed down *gmina* rights and responsibilities in this area. When those changes were discussed, there emerged a clear need to prepare a separate law on *gmina* guards. It took two years to prepare the law, but its final version defined not only the goals of guards and their legal status, but also the whole array of tasks that wardens became authorized to perform and procedures for their implementation. Neighboring *gminas* obtained the right to form joint units, which made the task much easier for small *gminas*.

The final controversial area in which significant legislative solutions were introduced was the management of public utilities. Public utilities, handed over to *gminas* in 1990, had previously been operated by state-owned enterprises. No longer state-owned but rather the property of *gminas*, they required the legal form allowed by the Commercial Code. The transformation process proceeded extremely slowly and exceeded all deadlines outlined by law. There were several reasons for this, ranging from *gmina* boards’ lack of knowledge and strategy to opposition from directors of those enterprises, trade unions and other interest groups. Parliament resolved that if enterprises were not properly transformed or privatized by June 30, 1997, they would become by virtue of the Civil Code companies owned and governed by *gminas*.



Debate over regional government at the voivodship level continued simultaneously. The *Sejm* received a draft law on voivodships prepared by its members, but it met with strong criticism from both local government representatives and theoreticians. At the same time experts from an independent research center called Institute of Public Affairs, led by Jan Maria Rokita, began a study of the voivodship model.⁹ They concluded with a model of Poland as a unitary

rather than federal state, yet decentralized, having a three-tiered administrative system in which the subsidiarity principle would be applied. At the voivodship level, they proposed that local authorities be responsible for the economic and social development, while the central administration be engaged in supervisory and controlling functions at that level. Their work was completed in the middle of 1997, when specific laws were presented to the public for discussion. Those drafts formed the foundation of the reform implemented in 1998.



The parliamentary campaign in 1997 was the third opportunity for discussion of local government. This time, owing to the positive experience of *gminas*, their growing political importance and the conviction that it was necessary to decentralize government and reduce the central bureaucracy, local government issues took center stage in the political strife. Additionally, interest in reform efforts made some years earlier contributed to the attention given local government issues. The parties' political platforms included not only ideas about local government itself, but also many systemic reforms in which local authorities had to participate.

Except for the extremely liberal Real Politik Union (*Unia Polityki Realnej—UPR*) and the Peasant Party (PSL), all other groups supported the restoration of *powiats*. Even the leftist Labor Union, which had originally opposed *powiat* restoration, began reconsider its position. There was also more agreement on local government at the voivodship level. All parties, again with the exception of PSL, favored big voivodships, and therefore supported radical reduction in the existing number of voivodships. PSL, on the other hand, insisted on maintaining the existing administrative division, which was a two-tiered system with 49 voivodships.

Understanding of the need for more comprehensive systemic reform was also improving. Following the constitutional subsidiarity principle meant not only decentralizing funds and powers, but also adjusting many existing principles to new situations. The SLD-PSL coalition presented its program in a document published in July 1996, entitled “An Efficient, Friendly and Safe State: Objectives of the Program to Decentralize the Functions of the State and Develop Local Government” (*Państwo sprawne, przyjazne i bezpieczne. Założenia programu decentralizacji funkcji państwa i rozwoju samorządu terytorialnego*). The text articulates clearly the differences between the coalition parties' views. While SLD perceived the need for true decentralization through the creation of upper tiers of local government, including *powiats*, PSL opposed changes and wanted only to improve the existing two-tiered system.

Attempts to unite rightist parties emerged as a new factor on the political scene. After their defeat in the 1993 election, rightist parties understood they stood a chance only if they created an adequately strong coalition. Several attempts to form one failed, however, due to significant differences in their programs. The term “rightist” applied to groups of very different orientation. Those included parties of nationalistic type, radical Catholic groups and moderate Christian democratic parties. Additionally, conservative and liberal parties considered themselves “rightist”. Finally, the Solidarity trade union was considered a right-wing group. Upon the base formed by Solidarity and its structures at the local level, a coalition formed in 1996 under the name Solidarity Election Action (AWS), uniting more than 30 parties and other organizations.

As noted several times already in this book, trade unions were usually reserved about local government issues, and sometimes even hostile to them. Despite this, AWS' platform included a statement on the necessity of continuing local government reform and creating higher tiers, a factor of local politicians' involvement in the group. They formed the National League, an association whose mission was to support the development of local government using available political means.

As local governments evolved, they became a permanent element of Poland's political system, both in terms of legislation and public awareness of their existence. However, local governance fundamentally contradicted the too slowly changing centralized state management system. Consequently, an increasing number of questions arose that required political response. This trend found increasing reflection in the party platforms, as they could no longer evade taking a position on the issue.



The seven years after the birth of autonomous *gminas* in 1990 bore witness to critical changes in all areas of life. Alongside the political, social and economic transformations taking place within them, *gminas* increased in strength and were gradually recognized as a permanent element of the country's governance system. Having overcome the initial difficulties relating to the takeover of a major part of state property and responsibilities, *gminas* developed successful activities in many spheres and were applauded for these efforts by the public. Their transformation was accompanied by the transformation of the entire sector of public life, which encompassed institutions that provided direct services for *gminas* and many others that cooperated with them. Associations and unions of *gminas* were growing stronger and were more visibly demanding further changes, most notably resumption of the stalled decentralization processes.

Despite these obvious accomplishments, there were also a number of visible barriers impeding further reform. As the central bureaucracy was a natural opponent of change, it attempted to counteract each step toward decentralization. Ministries expanded their empires, creating their own overbuilt local and regional administrative units and, in an obvious manner, competed with *gminas* by restricting their freedom. Particularly painful conflicts arose around the issue of local finance.

Most politicians also supported the central administration over local governments, as the administration, in its subordination to ministers (i.e., leaders of political parties in power), was an easily manipulable tool used to achieve political objectives. Local governments were not such tools. Hence, it was in the parties and ministers' interest to maintain power over the central authorities by keeping them in control of financial resources. *Gminas* did not manage to develop a political force strong enough to lobby changes to their benefit. The absence of a strong national representation of *gminas* was an increasingly evident contributor to this problem. Another complication was caused by the National Assembly of Local Governments, which was dominated by PSL and effectively an instrument used to implement that party's policy. The two terms *gminas* had served confirmed that the systemic solutions adopted in 1990 had been done so with foresight.

The previously held expectation that local governments would become one of the primary tools in breaking the old centralized system was confirmed. Still, continuous conflict forced the government to consider further reform, the need for which was growing more and more apparent. Preparations for the restoration of *powiats*, initiated in 1993, had been stopped, but bottom-up pressure reinforcing the need for those reforms forced the government to extend the powers of large cities and create public service city zones. Simultaneously, ideas for establishing local government at the voivodship level were developed, marking maturation in the decentralization process. Only political will was lacking, although the new government coalition would soon supply that will.

ENDNOTES

- ¹ Article 16.
- ² Article 165, Paragraph 1.
- ³ Article 165, Paragraph 2.
- ⁴ Article 166, Paragraph 3.
- ⁵ Article 167, Paragraph 1.
- ⁶ Article 167, Paragraph 4.
- ⁷ The general election of mayors was eventually introduced in 2002.
- ⁸ In order to occupy any flat in the communist period, it was necessary to obtain permission from administrative authorities, the so-called 'allocation decision.' Only owners of private homes and tenants of cooperative flats were exempt from that duty, but even then the floor space of the house could not exceed 110 square meters.
- ⁹ Gilowska *et al.* 1997.

CHAPTER 7.

The Second Stage (November 1997–2000).

The 1997 election resulted in victory for a center-rightist coalition comprising AWS and UW—two parties with roots in the anti-communist opposition. After a period of stagnation, the new government emphasized the need for further reforms. Ambitious plans would undoubtedly affect the economic situation, which was quite problematic. Agriculture was deteriorating and the need to restructure the mining, metallurgical and weapons industries also increased tension in society. The circumstances were also influenced by external factors, such as slowed economic growth in EU member states and the economic crisis in Russia.

The restrictive financial policy implemented by the Minister of Finance, Leszek Balcerowicz, and President of the National Bank of Poland, Hanna Gronkiewicz-Waltz, enabled a considerable decrease in the inflation rate. According to many economists, this policy helped Poland avert the crises that afflicted a number of other countries. However, the negative effects of financial policy resulted in slower economic growth and higher unemployment rate. The opposition attacked the government fiercely for insufficient consideration of these social aspects of its economic policy.

Table 5.

Primary Macro-economic Indices in Poland in 1998–1999

Index	1998	1999	2000
Increase in prices of consumer goods and services [% of previous year]	111.8	107.3	110.1
Change in GDP (previous year = 100)	104.8	104.1	104.0
Unemployment rate [%]	10.4	13.0	15.0
Change in real wages [% of previous year]	103.3	104.7	102.6

SOURCE: A. Gójski, based on data available from the website of GUS at: <http://www.stat.gov.pl>.

Critical opinions on the economic policy mounted, weakening public support for the two coalition parties, mainly for AWS. Discord within the party and its ineffective exercise of government also eroded support. AWS' loose coalition of rightist parties united under the platform of accelerating reforms and reversing the previous leftist coalition's counterproductive programs. Although this agenda sufficed to consolidate the right wing and win the election, the coalition did not constitute a sufficient partnership when it came to implementation of those reforms. Particularly striking were the differences between

UW's liberal program, which focused on the development of market economy and economic stability, and the platforms of rightist parties, which strived to maintain the protective role of the state. Troubled times for these parties resulted in members leaving or being expelled from the AWS parliamentary caucus. UW abandoned the coalition in mid-2000. Since that time, Poland has had a minority government that relies on other caucuses for support on specific issues.

In October 2000 President Aleksander Kwaśniewski was reelected to a second term with 53% of votes. The leader of the ruling coalition had to settle for the third result of 14%. Despite these difficulties and weak public support, the government managed to implement reforms significant to the country's development. They ensured economic growth and a stable currency, while also achieving substantial success at the international level. Poland became a member of NATO in early 1999 and made considerable progress toward EU membership. However, the poor economic situation was used by the left opposition, who took the 2001 elections.



State structures were transformed significantly over nine years, and establishment of local government was acknowledged as a valid success. However several remnant communist-era structures still existed, and the administrative systems were so full of internal flaws and contradictions that radical reforms were necessary in order to avert a standstill in the country's development. The main obstacles were in the following areas:

- excessive centralization;
- overbuilt bureaucracy;
- lack of transparency in public finance;
- insufficient accountability on the part of the administration.

The purpose of reform was to transform the system to comply with the principles of:

- a civil state governed by the rule of law;
- subsidiarity;
- effectiveness;
- transparency and accountability;
- flexibility and openness to further evolution.

The government identified the following four as areas to be reformed:

- public administration;
- healthcare;
- the pension system;
- education.

Understanding of the need to resume reforms visibly increased in the second half of the eighties. The existing structures were inherited from an authoritarian and centralized state. Consequently, the government and central administration had to tackle an infinite number

of problems that should have been handled by other institutions. Due to the absence of upper levels of local government, special administrative units subordinate to individual ministries were developed. As a result, ministers became responsible for the operation of thousands of small institutions, and the huge potential of public activity and initiatives went untapped.

The management of public finance was insufficiently transparent and inaccessible to the public. The central bureaucracy still held too much influence over the use of funds, frequently beyond public or parliamentary supervision. This became particularly evident in the case of off-budget funds, when public funding was accumulated but out of parliamentary control.

The healthcare system was also in need of thorough reform. The existing system was based on the assumption of state financing for universal free healthcare, an arrangement that was impossible to sustain in practice. An increasing portion of the cost was shifted to the patient. Simultaneously, lack of respect for funds allocated as subsidies brought unjustified costs and corruption, while healthcare employees received very low wages.

Similarly, non-sustainability and demographic change necessitated reform of the pension system as well. When previously the average age of the Polish population was lower and the income from insurance rates considerably higher than the cost of pensions, the government seized the opportunity to transfer surpluses to the national budget. The Social Insurance Institute (*Zakład Ubezpieczeń Społecznych*—ZUS) at that time was an element of the central administration. Now, the amounts paid to pensioners now exceed revenues and are a heavy burden on the state budget. Additionally, the education system required transformation from its role in the totalitarian state, in which it was used to control the education of young people and reduce the role of the family as a politically insecure or rather hostile institution.

Reorganization of public administration was a particularly important concern in that set of reforms. Changes in other areas were not possible until appropriate changes were made in the area of public administration. The situation was favorable to reform, as self-governing *gminas* had educated a number of local politicians and qualified administrators. Those groups called for further decentralization and an extension of local powers. At the same time, the visible achievements of local governments confirmed the need for decentralization and made the process trustworthy.

Knowledge was also expanding, and programs outlining further changes were designed. Hanna Suchocka's government had drawn up plans for *powiat* restoration in 1992 and 1993. A pilot project was begun at that time, and large cities were temporarily delegated the future responsibilities of *powiats*. Those actions produced more specific *powiat* concepts, confirmed the need to restore *powiats* and generally promoted those ideas. In 1997—five years after the introduction of the pilot program—the details of the *powiat* restoration program were ready.

The Polish local government reform model informed the subsequent build-up of upper tiers of local government. *Gminas* became operational in 1990 based on studies initiated in 1981. In 1992 preparations were begun to establish *powiats*, but because of political flux, that intention could not be carried out according to the anticipated schedule. The work to prepare a model for regional government was begun only in 1995 but advanced quickly enough that before the 1997 election an outline with specific legislative propositions could be published. Hence, at the moment of the election, the information prerequisite to the legislative work already existed.



In his inaugural address to the *Sejm* on November 10, 1997, Prime Minister Jerzy Buzek stated, “We wanted authority for the people in order to give it to the people. So citizens and local communities took the part of authority that they can use better than the state,” and thereby signaled the new government’s willingness to take the next steps toward decentralization.

As the government surmised, local government reform was a foundation upon which transformation in other areas could be made possible. In order to decentralize state functions, it was first necessary to establish institutions capable of taking over these functions. The reform was thus intended to accomplish several primary objectives. First, in the political sphere, it was supposed to bring decision-making bodies closer to the people and enable citizen participation in government processes. Second, the reform was concerned with improving the efficiency of public administration. *Gminas*’ performance to date demonstrated that local government administration was more effective than central administration. Finally, the establishment of *powiats* and voivodships would facilitate implementation of reform in other sectors. It was particularly important to tidy up the public finance system and carry out the health, pension and education reforms mentioned earlier.

The reform of the administration was not, and could not be, a goal in itself. Rather, the administration’s structure, organization and operational procedures reflect the objectives it is supposed to serve and the nature of functions it is to exercise. For that reason, the reforms begun in 1998 were also tailored to emphasize the roles that administrative structures are intended to serve. This is the pillar of systemic transformation: the realization of an entirely changed state in contrast to its previous totalitarian characterization.

The establishment of local democracy began in 1990. Eight years later, the circumstances and political will were present to embark on the next step. The conceptual basis for expanding local government was the subsidiarity principle introduced in the preamble to the 1997 Constitution. At that point, a decision was made to supplement the system by creating local governments at higher levels and restoring the three-tiered system without infringing on *gminas*, which had demonstrated their effectiveness and usefulness to society. *Powiats* and voivodships, like *gminas*, were recognized as obligatory associations of residents of a given area exercising functions defined in legislation. They would act on their own and take responsibility for their actions. They were bestowed with legal status, the right to own property and court protection of their autonomy. In breaking with the past, hierarchically dependent arrangements were rejected outright.

Powiats were designed as the second tier of local government, supplementary to *gminas* in that they were assigned local functions that were beyond *gminas*’ scale of management capacity. Those functions included management of secondary schools, hospitals and public roads. The responsibilities of *powiats* also encompassed unemployment prevention and protection of consumer rights.

As the highest tier of local government, voivodships were assigned a different type of responsibility—they were to be accountable for the economic and general development of regional territories. Therefore, voivodships are not responsible for satisfying the direct needs of residents; rather, the two lower levels of local government should satisfy these.

The central administration was left intact only at the voivodship level. Voivods, as representatives of the central government, were granted mere supervisory powers over the management and development of their regions. They were to supervise the operation of all units that ensure that the law is observed and that the government's duties are exercised, such as those institutions responsible for building inspection, environmental control, or health and sanitary inspection. A full list of these units and a discussion of their functions may be found in the next chapter.

When the division of functions and responsibilities was detailed, there appeared to be concern over the organization of these units at the *powiat* level. Since voivodships are too large to deal with all matters of supervision and inspection from their level, it was necessary to establish inspection units at the *powiat* level. However, the installation of central administration units at that level would have contradicted the agreed model of state organization. A compromise solution was accepted. Such units as health and veterinary inspections, fire stations, police stations and building were established in *powiats*, became part of the *powiat* administration and subordinate to the *starosta*, head of the *powiat* local government. However, the *starosta*, as a local officer, exercised restricted authority over those services whose managers were legally justified to make decisions on their own behalf.

As a part of this reform, an effort was made to consolidate the public administration at the *powiat* and voivodship levels. But it was not completely possible. Some institutions subordinate to the central administration were left at the two levels, mainly institutions of the military, taxing, customs, marine, mining and statistical administrations. A complete list is detailed in the next chapter.



The government's declaration of will was accompanied by intensive preparatory legislative work and the creation of the government plenipotentiary for systemic reforms. Michał Kulesza was appointed to the post, and Jerzy Stepień was appointed a deputy minister responsible for public administration. The Council for Systemic Reforms of the State was also established as an advisory body to the prime minister, and I was appointed its chairman.

In contrast to the first stage of reform implemented in 1990, this time the central administration prepared all legislation and the government submitted it to the *Sejm*. The principal laws on *powiat* and voivodship governments¹ were adopted on June 5, and the law on the administrative division of the country was passed shortly thereafter. This is not to suggest that the process was straightforward or simple. The laws presented were accompanied by stormy discussion and a number of conflicts. The parliamentary opposition took a lot of effort to delay, if not derail, the reform. Such delay was believed to be to the advantage of the opposition, as it decreased the ruling coalition's chance of gaining electoral benefit from reforms completed before the next election. This assumption was based on the general pattern of the public's immediate criticism of reforms at the time of their implementation giving way to approval only after a few years, when it begins to feel their positive results.

The first conflict took place at the time of the reform's launch. The government proposed holding a joint election of local authorities at the three levels in late September 1998 and wanted the reform to take effect on January 1, 1998, which was intended to enable the formation and proper preparation of the new authorities for the take-over of property and responsibility. For that reason, it was not only necessary to adopt the laws in the first half of the year, but also to extend the term of *gmina* councils expiring in June. The opposition protested against those propositions and demanded that *gmina* elections be conducted according to existing regulations and the election of *powiat* and voivodship authorities be postponed until the following year. The *Sejm* accepted the government's proposition, however, and the president signed the law in spite of the opposition's protest.

Various conflicts occurred throughout the reform preparation and implementation periods, springing mainly from the fact that the reform shifted the existing distribution of influence and violated the interests of many individual and group stakeholders. In the first period they focused on two problems: the choice between a two- or three-tiered local government system and the number of regions into which the country should be divided. Tensions around the local government model (discussed earlier) escalated at the point when the main decisions were to be made. However, the majority of politicians and experts had already firmly stated their views on the matter, and even the vocal objections of some groups could not bring about the intended changes. Local elites supported the establishment of *powiats*, as did *gminas*, despite the alleged danger of *powiats'* influence reducing their freedom. *Gminas* perceived them as their future partners in disputes with the central administration.

The question of division into regions caused a larger debate, not only on the national stage, but also between the main political forces in the country. Since the administrative reform of 1975, experts had agreed that in order to exercise their responsibilities to economic and social development, regions had to be appropriately large and endowed with proper capacity. For that reason, they proposed reducing the number of voivodships from the 17 that had existed since before 1975 to 10 or, at the most, 12. The government followed the same argument and presented the *Sejm* with a map of 12 voivodships.

Naturally, elite groups and administrations of cities that were to lose their voivodship capital status protested. Opposition parties took advantage of those protests and assumed the role of defenders of those cities, demanding restoration of 17 voivodships. The left-wing president joined the dispute, travelling to cities that were to lose their regional capital status. Local elite groups launched various protests and lobbied intensely for their cities. The counteractions taken by the prime minister and politicians of the ruling coalition were too weak to counterbalance the opposition's campaign. Consequently, the president used his constitutional power and refused to sign the law on the administrative division of the country. The coalition did not have a sufficient majority of votes in the parliament to override the veto and was forced to start the entire legislative process again. Its prompt completion was required to implement the reform by the expected deadline. Eventually, a compromise was reached and a model with 16 voivodships was accepted.

Still, it was necessary to grant the 33 cities that lost their voivodship capital status some form of compensation. Loss of capital status carried a number of threats to those cities, the

most measurable of which was the issue of employment. Voivodship authorities with all their subordinate enterprises and institutions offered a significant number of jobs. To smaller voivodship capitals, the loss of those jobs in the context of the existing unemployment rate was a near disaster. Therefore, they demanded that some regional institutions be left or new jobs be created there instead.

Access to investment funds was another threat. Previously, voivodship capital cities had been privileged in obtaining funds for investment and held a major share of funds in voivodship budgets. They feared they would lose those privileges after the redistricting and also feared that they would cease to be attractive to investors, who generally sought contacts with administrative authorities and preferred to invest their money in cities where those authorities were located. Moreover, local elites were concerned their cities would lose prestige and correspondingly their chances for cultural development. The government launched a program to assist those cities, but the program had neither been properly designed nor had adequate funds been earmarked for its implementation, and it failed to produce the intended results.

Conflict around the administrative division of the country were not confined to the voivodship level, but also occurred at the level of *powiats*. The *powiat* map was created in 1993, at which time *gminas* were asked to choose the *powiat* to which they wanted to belong. But at the time of voivodship redistricting, final decisions were made without *gmina* consultation. The conflicts that arose may be categorized into several basic types. The simplest was that a given *gmina*, for such varying reasons as traditional local links, more convenient transportation, or better schools, wanted to be in a different *powiat* than was indicated on the government's proposed map. The issue became complicated when such a transfer questioned the maintenance of a *powiat*, which could become too small and weak to be sustainable. Another complicated situation occurred when a *gmina* wanted to belong to a *powiat* in a different voivodship. In one exceptionally complex case, one *gmina* wanted to join a *powiat* that it did not border and the *gmina* separating the former *gmina* from the *powiat* wanted to belong to a completely different *powiat*.

Competition between cities that wanted to become *powiat* capitals was another type of conflict. The government refused in most cases to divide a *powiat* into two, as it would lead to a dangerously fragmented administration. Although those conflicts were challenging, they provided positive evidence of strengthened local ties and patriotism.

There was also ongoing debate over *powiats'* size and, accordingly, their number. Many experts argued that the number of *powiats* should be drastically reduced describing 100 or 150 as optimal figures, in contrast to the 300 proposed in 1993. They claimed only that such a number of *powiats* could be effective without causing unnecessary overgrowth of the administration. On the other hand, however, local communities demanded an increased number of *powiats*, arguing that government should be closer to the people. This illustrates the perpetual dilemma of state organization—whether to favor small or large administrative units. In the case of the Polish reform, tradition prevailed. According to Polish practice, even the strongest economic arguments do not justify the creation of a territorial structure against the will of local communities. In the end, 308 *powiats* were created and 65 cities were granted the powers of *powiat* authorities.

The number of cities that would become *powiat* authorities was also the subject of discussion and compromise. Forty-four cities, which had earlier assumed *powiat* functions, participated in the pilot program launched in 1993. Now several other cities declared their will to take over *powiat* functions. During discussions at the *Sejm*, however, a group of members representing cities that were losing their voivodship capital status, proposed that all those cities be granted the status of urban *powiats* as compensation for their lost benefits. The *Sejm* agreed, but allowed the councils of interested cities to refuse that status should they consider it unfavorable. Of the 49 former voivodship capital cities, only 3 surrendered that status, leading to a sizeable increase of the number of urban *powiats* and additional problems. For example, it meant that all rural *gminas* surrounding a big city become a separate *powiat* without a capital of its own because the *powiat* office and the majority of *powiat* institutions are located in the city—not part of the *powiat*. It also meant residents of a rural *powiat* must use services located in the city and operated by a different *powiat*. That model makes sense only in the case of big cities that are surrounded by smaller cities and can play the role of *powiat* capitals. In the case of smaller cities, that model weakened the role and significance of rural *powiats* to the clear detriment of their residents.

Despite those numerous contradictions, the country was divided in a way that, in the vast majority of cases, was considerate to local interests and administratively effective. In the two years that followed, 24 applications to revise the administrative division were submitted. Ten *gminas* wanted to be in a different *powiat*, out of which four wanted to be transferred to a different voivodship. The creation of 13 new *powiats* was also requested.

Each application had to include the judgments of the councils of any entities that could suffer at loss in addition to that of the applicant council. No unanimously supported application was registered. As a rule, those councils whose administrative units were to be enlarged as a result of the proposed revision gave applications their backing. The councils of units that were losing something naturally opposed changes. In 2001 the Council of Ministers decided to establish 7 new *powiats* by dividing existing ones.



Systemic transformation in Poland after 1989 was focused primarily on political and economic issues, while the social sphere issues of healthcare, education and pensions remained basically unchanged. The absence of reforms in those areas did not allow for enhanced effectiveness of spending or improved public service delivery or management.

Healthcare reform was of particular importance because of the size of expenditures in healthcare and its social significance. The general direction of transformation in healthcare was defined by the universal health insurance law of February 6, 1997. The most important changes it initiated were a new way of financing healthcare and the transfer of responsibility for healthcare institutions to local governments.

Separate institutions to finance healthcare for the insured, called Sick Funds (*Kasy Chorych*), were established. In this way, institutions that finance medical care—in a sense, the purchasers of medical services and procedures—were separated from hospitals and other institutions that sell health services. This solution followed a pre-war tradition. It was a tremendous change from the

socialist arrangement, in which hospitals and other healthcare providers were financed directly by the state. Initially, 16 regional Sick Funds were established, each covering one voivodship and managed by a council appointed by the voivodship assembly. At the same time, the state gave up its monopoly over hospital and medical institution ownership. Only university hospitals remained in the hands of the state; the others were handed over to *powiats*. The new owners pay the cost of investment and maintenance of buildings from their own budgets. The reform also enabled the establishment of private hospitals and clinics as well as private medical practices.

The purpose of another reform was to change the educational system. The proposed changes included reorganizing its structure and supervision as well as reforming the teaching process and regulations concerning the terms and conditions of teachers' employment and professional promotion. As a result of the reform, institutions that manage schools were completely separated from the supervision of teaching. *Gminas* and *powiats* took over schools that were previously managed by the state. Churches, religious associations and private individuals, who in the absence of state monopoly over education were allowed to administer schools, generally maintained their institutions. The vast majority of schools, however, were taken over by local governments. The central administration, on the other hand, withheld the function referred to as teaching supervision in order to ensure a high standard of education in schools all over the country.

Another result of the reform was a fundamental change in the structure of the system. Under the new structure, pre-school education is provided for children aged 3–6. Primary education lasts 6 years and is available for children aged 7–13. The next stage is a three-year *gimnazjum* for pupils aged 13–16. *Gimnazjum* graduates can choose between attending a *lyceum* for three years (age 16–19) and a two-year vocational school (age 16–18). *Lyceums* offer diverse programs and prepare young people for higher education.

Decentralization of schools increases the importance of teaching supervision, which is exercised by education superintendents (*kurator*) situated in the structure of voivodship offices. Graduates of each type of school have to take a national exam, the results of which are graded by independent commissions. The results of these exams allow for the evaluation of the school's standard. In the event of a negative evaluation, the central administration maintains the right to far-reaching intervention.

Educational reform is directly associated with the administrative reform. Primary schools and *gimnazja* are managed by *gminas* and secondary schools by *powiats*. Hence, local authorities become responsible for fulfilling the constitutional duty of providing free education to all children. That requires fundamental changes in the education financing system. According to constitutional provisions, schools owned by various entities must enjoy equal rights. To guarantee these rights, it is necessary to do away with one of the very dangerous relics of the past. Under the communist system, national property was privileged over private property. To date, in many cases state institutions have maintained that privileged position. The so-called education voucher is being considered for use during the next few years. Public authorities will allocate a standard amount of money to educate an individual child, and these funds will be transferred to those particular schools the children attend. This means money will follow the child. All schools, private or public, will enjoy the same rights and parents will be able to freely choose the school for their children without paying any extra cost.

The pension reform is the last of social sector reforms. This reform has a relatively weak linkage to the administration reform. However, it is very important to the balance of the public finance system. The need to pay pensions using funds from the national budget threatens the balance of public finance and may thereby indirectly threaten the local finance system.

Despite the extent of social sector reforms, they did not satisfy all areas where change is needed. The judicial system, in particular the police and citizen safety system, is one area where, for several reasons, reform is still needed. As a result of changes to the administrative system, it is necessary to adjust the structure of the judiciary to the newly created jurisdictions. The structure of the courts must be adjusted to meet their changing responsibilities. It is necessary to develop courts of administration in the context of the extended powers of local and regional authorities. Moreover, it is necessary to adjust Polish legislation to the standards of the European Union.

The safety of individual citizens is endangered during the transformation period. Increasing crime, including organized crime, is a serious problem and necessary concern requiring modification to the structure of the police force and its operations. Under the previous system, the police were supposed to control citizens rather than protect them. However, in order to fight crime, the police and the citizen must work together. This cooperation will be possible only when the two sides trust each other. The police must therefore be decentralized for the sake of closer ties with local communities. Although the police as a national organization have preserved its uniformity, local authorities now participate more in monitoring the activities of local police units. The *starosta*, as head of the *powiat* administration, has influence not only over the appointment of the chief of *powiat* police and the right to inspect his work, but local police work is also financed through the *powiat* budget.

As a result of these reforms, new legal provisions defining procedures in crisis situations have been adopted. The experience of the 1997 floods demonstrates that the bureaucratized administration is incapable of effective crisis management. The new laws unequivocally define procedures for dealing with natural disasters. Representatives of local governments receive almost dictatorial powers in such situations, but are also held fully responsible for their actions.

In addition to the administrative reform, the government made an attempt at reforming the public finance system. On November 26, 1998 the *Sejm* passed the Public Finance Act, which defines the basic principles for that area. At the same time, the establishment of new levels of local and regional authorities resulted in the need for significant changes in budget and financial management. The management system of *powiats* and voivodships was based on principles similar to those developed by *gminas*. In the absence of experience on which to base any legal memorandum, they adopted a two-year interim law. Later, however, in a move criticized by local governments, Parliament merely extended the dates of the law's effectiveness and incorporated some minor modifications. Moreover, the law's shortcomings were proved in practice. This case demonstrates that when principles are defined before an administering authority is established, the interests of the authority are never properly secured and its needs are underestimated. The underestimation of *powiat* expenditures, *powiats'* excessive reliance on state financing and the shortage of funds for development in voivodship budgets were a major setback.



The adoption of new laws is only the beginning of reforming a state. The essence of reform is making appropriate institutional changes. Needless to say, the ultimate success of the reform will depend largely on the way in which the changes are implemented. The following figures demonstrate the extent of the task performed in 1998 and 1999:

- Units established
 - 16 new agencies of the central administration in voivodships
 - 16 agencies of regional administration
 - 308 new *powiat* offices
 - 64 city offices restructured to assume *powiat* functions

- Units abolished
 - 49 former voivodship offices
 - 287 former central administration district offices (*urzędy rejonowe*)

1,989 administrative units previously subordinate to individual ministries were transformed in the following manner: 392 became parts of voivodship offices and 1,597 were subordinated to *powiat* managers. Moreover, 7,478 public service units were transferred to voivodships and *powiats* (see Table 6.).

Table 6.
Units Taken over by *Powiat* and Voivodship Authorities

Type of unit	Units Taken over by <i>Powiats</i>	Units Taken over by Voivodships
Education	4207	445
Healthcare	477	476
Public welfare	718	0
Culture	166	201
Other	587	201
Total	6,155	1,323

SOURCE: "Poland's Public Administration after Reform" (*Polska administracja publiczna po reformie*), Ministry of Interior and Public Administration, Warsaw 1999.

The extent of these transformations called for a special organization, and the Council of Ministers responded by establishing a special ministerial team led by the minister of interior and public administration that was given extensive powers of attorney. The team was composed of representatives of all interested ministries. Its secretary, Deputy Minister of Interior and Public Administration Józef Płoskonka, upon special appointment, coordinated the team's work. Voivods

in the 16 new voivodships were assigned the task of implementing all reforms. The voivods were supervised by government plenipotentiaries appointed in each new voivodship—often deputy ministers from interested ministries—who also had the right to settle disputes. Their supervision was generally confined to intervention in crisis situations; the actual burden of performing the task fell on the voivodship administration.

As mentioned before, elections of new authorities were held in late September. In October the new governments of *powiats* and voivodships were formed and began the process of organizing and preparing for the acquisition of new staff, offices, units and property. A combined nearly one million people were employed in those institutions. Many of them had to be transferred to new institutions that were frequently located in other cities, causing serious social problems, especially given existing unemployment. Administrative restructuring posed a real threat of job cuts, on a personal as well as an institutional level. Yet it is precisely during the transition period that people must feel secure, as their work determines the success of the reform and the speed at which the difficult period of transformation in the country might be overcome. During the introduction of changes, administrative officers must not be preoccupied with their own job safety. To dissuade them from such anxiety, all employees were guaranteed employment for another six months after the reform. During that time, the new authorities decided whom they wanted to employ permanently. Those who lost their jobs were invited to participate in a special program to introduce them to new jobs and assist in finding employment.

The transformation period revealed all kinds of contradictions. One of the goals of reform was to improve administrative efficiency, reduce its cost and thereby reduce employment. Society expects the number of administration officers to shrink. If their number is not reduced, reforms are criticized. But layoffs cause increased unemployment and result in criticism that reforms contradict the public interest. Thus, the only solution is to implement reforms in an evolutionary manner, so as to allow the general public and individual citizens to grow slowly accustomed to the new conditions. However, systemic and institutional transformations are by nature not evolutionary. They have to be radical, one-time steps. Everyone must understand they are irreversible. Efforts should be focused on adjusting to the existing changes and not on slowing them down or attempting to restore former models to protect individual interests.



The establishment of autonomous local and regional public authorities not directly subordinate to the central government created a new situation that fundamentally changed the state. Local governments received their own functions and responsibilities not by consequence of deconcentration of the central government's powers, but as a result of constitutionally guaranteed decentralization. The government now has a limited capacity to issue instruction to them. Cooperation among various entities of public administration is based not on hierarchical dependence, but rather on negotiation and joint agreement on objectives and the best ways to achieve them.

The introduction of this completely new element deserves special attention because it reflects a final departure from the inherited centralized system. But full implementation of new rules requires a joint effort on the part of both the public and the administration. The situation calls not only for new procedures but also for a change in people's mentality. Local authorities, particularly voivodship authorities, are slowly becoming a significant political force. Sixteen voivodship executives (*marszałek*), despite the differing political views they represent as a result of their origins in different parties, will be worthy and certainly often challenging partners to the central government. If all sides learn how to apply effective policy to each other, the opportunities inherent in decentralization will be revealed.

Difficulties in establishing proper mutual relations occurred even during preparation phase of the law supporting regional development. The primary responsibility in this area is quite obviously assigned to the voivodship administration. However, a number of issues must be handled by the central government and its administration. Therefore, there is a possibility here for overlapping decisions and conflicting interests. For example, the need to synchronize the location of nationally significant motorways with regional roads, or the contradiction between the development of some areas according to regional authorities' interest and the central government's duty to protect natural resources by creating national parks or areas of protected landscape. There was a danger the central administration would interfere with local issues in the name of protecting some apparent national interest.

The need to harmonize development activities led the *Sejm* to adopt a law on support for regional development.² The law pledges government support for regional initiatives based in the principle of regional contracts, which in turn should be based on regional development strategies prepared by individual voivodships. On the basis of those strategies, the government will select projects considered important to the national interest and divide their cost. Voivodship authorities may implement other projects, but either using their own funds or funds from external (non-government or EU) sources.

The adopted legislative and institutional mechanisms consider the substantial EU pre-accession funds, which will shortly begin to strengthen the Polish economy. The newly appointed Minister of Regional Policy and Building has become coordinator for the programming and proper use of these funds. Distribution of these funds is based on six strategies relating to basic problems, the classification of which is required by the European Commission. Preparation of these documents and their later implementation has naturally been assigned to relevant ministries. However, this arrangement threatens the re-emergence of sectoral management of the economy, as each ministry strives to levy influence over how these funds are distributed.

I have mentioned several times in this book that sectoral management of the economy, on which the previous communist system was based, is one of the most difficult barriers to overcome in modernizing the state. The central bureaucracy wants to maintain this type of economic management. On the other hand, decentralization attaches more importance to regional economic management. Meanwhile, there is a danger that although the EU demands decentralization of government from its membership candidates, that very process will be hindered in those countries by the distribution and management of EU assistance.

The problems above present another argument in favor of the necessity of reforming the government and central administration. Currently, despite several changes made to it, we still have a model for central administration developed in communist Poland. This model is not adjusted to the needs of a decentralized state in which the government and its administration do not manage but rather implement policy in various areas of public life. After the *gmina* reform of 1990 and the second stage of reforms in 1998 when regional authorities were established, it is time for the third stage in which the central government will undergo reform. This is necessary for final departure from the past, despite that it is also extremely politically difficult because these changes must be made by actors—politicians and central administrators—fully aware that they act against their own interest.



The consolidation of local governments allows for the observation of a few dangerous processes, among which is the increasing influence of political parties on local authorities. After the last election, clear partisan divisions exist at the local level. The authorities of individual *gminas*, *powiats* and voivodships are controlled by parties and political groups and treated as their spoils. Power is used to fill positions in local government and to draw various profits. Many councilpersons have become dangerously convinced that their careers are not in the hands of voters but in those of party leaders. Councilors have started believing that by playing games behind closed doors they can achieve more than by effectively implementing programs and building the trust of local communities. This is also to some extent a carryover from the time of the almighty Polish United Workers' Party, when participation in government was synonymous with one's career and growing wealth.

Cases of corruption have also been revealed. *Gminas* manage a significant amount of property. It is undergoing privatization, and this kind of operation always creates opportunities for abuse. In addition, *gminas'* independent status gives them greater opportunity to act in ways that are not unrelated to the interests of individuals, parties, or other groups. In recent years the press has publicized a huge number of controversial cases. Obviously, we may guess that it is not corruption that has increased, but rather that more cases of corruption are now revealed owing to decentralization of the administration and development of the press, particularly local newspapers. However, the fact that public opinion is directly bombarded with various reports of corruption weakens public trust and thus deprives local authorities of the public support that has so far enabled their effective work and development. Concrete actions must be taken to combat this problem. Legislative constraints will not improve but only impede decentralization. It seems the road to improvement leads through increased transparency of public life and legislative guarantees that the public has access to information on the activities and decisions of local and regional authorities.

ENDOTES

- ¹ The Law on Local Government at the Voivodship Level, the Law on Central Administration in Voivodships and the Law on Local Government at the *Powiat* Level—Dz.U., 1998, no. 91, items 576, 577 and 578.
- ² The Law on the Principles for Supporting Regional Development, May 12, 2000 (DzU no. 48, item 550).

PART II

Issues, Solutions and Effects

Powers and Responsibilities

Municipal Property

Public Service Delivery

Local Finance

Staff, Councilors and Mayors

Municipal Associations and Supporting Institutions

Gminas and Local Communities

CHAPTER 8.

Powers and Responsibilities

The establishment of self-governing *gminas* in 1990 was a fundamental change in the organization of the state. Rejection of the principle of uniform state power led to *gminas'* receipt of the right and duty to exercise public functions. Clearly, local governance in the sense suggested here did not fit into the existing constitutional provisions of the Polish People's Republic. Hence, the establishment of local government demanded changes to the constitution. Such changes were made four times during the period discussed here. The constitution of 1976 was revised for the first time on December 29, 1989,¹ applying mainly to fundamental principles and symbolic elements. The new Article 5, which read, "The Republic of Poland guarantees local governments' participation in exercising governance and freedom for other forms of local governments' activity," opened the way for reform preparations.

The second revision was made on March 8, 1990, when the Local Government Act was adopted.² At that point, a completely new chapter was added to the constitution, replacing the one describing people's councils. That change brought division into constitutional sanction for local and central administration, as the legislation provided that the voivod was a central government authority and the representative of the central administration in its territory. In addition, the amended constitution also read that "local government shall be the basic form that organizes public life in the *gmina*"³ and that "the *gmina* shall be a legal entity and exercise public functions on its own behalf."⁴ The independent status of the *gmina* meant that it possessed the right to go to court when its rights were endangered. The constitutional revisions also vested legislative authority in the *gmina* in the council that elects the *gmina's* executive authorities. That provision clearly delineated the hierarchy of *gmina* authority.

The Local Government Act itself, adopted on March 8, 1990,⁵ elaborated on those decisions and in a sense became a local government constitution. In Article 1 the Local Government Act provided that *gmina* residents constitute a community and that the term "*gmina*" should be understood as consisting of two elements: the community of residents and the territory. Thus, the purpose of establishing *gminas* was not only to divide the administrative territory of the country, but also to develop local communities capable of resolving their local problems. *Gminas* were obliged to these duties in the next articles of that law.

The provisions of that law determined the nature of *gminas*, their functions and thereby also their size. According to one approach to the criteria guiding the determination of *gminas'* size, *gminas'* main task would be to organize local communities. Therefore, they should establish conditions for their residents' participation in government, that is, for direct democracy. In this view, *gminas* should be small because small jurisdictions promote strong local ties. However, small *gminas* are not able to resolve many economic issues on their own or to develop their own technical infrastructure. Inevitably, they will have to form associations or give away their own powers to larger administrative units.

The above reservations gave rise to another approach, according to which the size of *gminas* should be determined precisely by their ability to perform public functions. *Gminas* would have to be larger, but that would also mean an increase in the distance between the residents and local government and a diminished capacity for residents to participate directly in local government. Polish *gminas* had historically been developed according to the latter approach—on the basis of their ability to perform functions. In 1990 *gminas* already existed as territorial units; the purpose of the reform was to change the manner of exercising government.

The propriety of that approach was confirmed in the following years. In 1990 there were 2,383 *gmina* units in Poland. By 1998 their number reached 2,489, a mere 5% increase. The division of the country is stable, and there is no visible tendency that the approach to the allocation of *gmina* size on reflecting administrative capacity is changing.

The adoption of the Law on Mutual Relations between the Legislative and Executive Authorities, known as “the little Constitution,” was adopted on October 7, 1992,⁶ reflecting another constitutional change. That law elaborated on some previous regulations and more strongly emphasized the principles of local governance. It indicated the possibility of establishing other units of local government in addition to the *gmina*, an important new element. That signal opened the way for the restoration of *powiats*.

The constitution of April 2, 1997 confirmed the principles on which the Local Government Act of 1990 was based. It upheld the existence of local government as a permanent element of the state by introducing the following principles:

- decentralization of public authority in accordance with the principles of subsidiarity;
- participation of local authorities in exercising government on their own behalf and responsibility;
- independent status of local government units and their right to protection in the courts;
- presumption that *gminas'* jurisdiction extends to all matters not reserved for other institutions of the central administration.

At the same time, the Constitution extended the possibility of creating local government at higher levels through the normal legislative process.

Although the Constitution was changed several times during the period under discussion, the very principles assumed for the 1990 reform were by no means questioned. On the contrary, they were gradually developed to the benefit of local government. This was possible both because the idea of the system, as based on the decentralization principle, was maturing and also because civil society was developing and *gminas* had generally succeeded in satisfying public needs.



The powers and responsibilities of *gminas* were defined within the limits of the above constitutional provisions. The laws adopted in 1990 defined their original status, and the following regulations adopted determined the way in which the extent of these powers evolved. Chapter 2 of the Local Government Act defines the “Scope of Activity and Functions of *Gminas*.” Article 6 contains the

principle of so-called “general responsibility,” inferring that the scope of *gmina* activity extends to all public matters not reserved in laws for other entities.

Moreover, Article 7 provides that among their responsibilities in satisfying the collective needs of the *gmina* community, *gminas*’ own responsibilities include the following:

- 1) spatial order, land use and environmental protection;
- 2) local roads, streets, bridges, squares and organization of traffic;
- 3) water systems and water supply, sewage, removal and treatment of municipal sewage, waste removal, maintenance of dumps and recycling of municipal waste, supply of electricity and heating;
- 4) local public transport;
- 5) health care;
- 6) public welfare, including group homes and guardianship institutions;
- 7) municipal housing;
- 8) primary schools, kindergartens and other educational institutions;
- 9) culture, including municipal libraries and other cultural institutions;
- 10) physical culture, including recreational areas and sports facilities;
- 11) open-air and indoor markets;
- 12) green spaces and wooded areas;
- 13) municipal cemeteries;
- 14) public order and fire departments;
- 15) maintenance of municipal and administrative buildings and facilities used by the public.

Over time this preliminary scope of *gminas*’ functions was extended. The law provided also that *gminas* could be obliged by law to perform delegated functions falling within the responsibilities of the central administration. Regulations concerning those matters were to be provided in other laws. *Gminas* could also negotiate voluntary agreements to assume the functions of the central administration. The only change in this area was introduced by the law of September 29, 1995,⁷ which obliged *gminas* to prepare and conduct general elections and referenda.

The execution of delegated functions was subject to slightly different rigors. The distinction between *gminas*’ inherent and delegated functions was not always easy, but initially there were three distinctive features:

- Financial—the source of funding for delegated functions was only an earmarked grant.
- Appellate—decisions relating to *gminas*’ inherent responsibilities may be appealed to local government appellate committees and decisions relating to functions delegated to the *gmina* may be appealed only to the voivod.
- Supervisory—supervision over *gminas*’ performance of delegated functions is exercised based on the criteria of legality, justification, reliability and financial efficiency.

The first distinctive feature ceased to be straightforward after the changes introduced in 1995. Funding through earmarked grants was no longer an obligatory rule after that time. The changed formula enabled other forms of funding, for example, the extension of general subventions. This flexibility, although generally facilitating funding, also created a danger in

that *gminas* could assume responsibilities without correspondingly adequate financial security. The second feature also lost its validity once it was recognized that appeals against decisions by *gmina* authorities must be filed with appellate committees, whether the appeal was related to *gminas*' inherent or delegated functions.

The unequivocal nature of the third feature also weakens in light of the provision of the 1997 constitutions, which reads in Article 171, Paragraph 1 that "the activity of local government shall be supervised for its legality." This meant that the scope of supervision over delegated functions narrowed from that originally granted in the Local Government Act. This direction in the evolution is worth emphasizing. The constitution also makes clear that the functions of local governments are primarily their own (or inherent) functions, and that those functions devolved by the central administration are exceptions to general practice. In this sense, the constitution treats local government as a critical independent element of the state system. This should mean that even those functions so far understood as "falling within the scope of responsibility of the central administration" should become *gminas*' own functions if *gminas* are granted the authority to exercise them. At the same time, the central administration should maintain primary responsibility for supervision but should not direct activities or otherwise interfere with day-to-day affairs. Needless to say, developments in this direction were and will continue to be opposed by the central administration, as it loses influence in the course of this evolution.

Gminas' independent status was also reflected symbolically. The Local Government Act gave *gminas* the right to choose their coat-of-arms, name streets and squares, erect memorials and grant honorary *gmina* citizenship. In practice, *gminas* went far beyond those powers. In 1998 these original powers were extended, and, at the same time, certain formal rigors were established in order to eliminate mistakes.

From the very beginning, the Local Government Act granted *gminas* the right to establish regulations that would be effective throughout their territory. These were called *gmina* regulations, and the law outlined their scope. *Gminas* later obtained the right to issue regulations on order when necessary to protect the lives and health of residents as well as to ensure order, peace and public safety. It was not easy in practice to put the relatively broadly based *gminas*' powers as defined in the Local Government Act to use. Conflicts arose around differing visions of the future state as well as material conflicts of interest. Simultaneously, there was no understanding of the essence of local governance and no trust in *gminas*' future ability to deliver public services. In addition, the regulations on the division of powers were based on existing legislation, which had been designed for a totalitarian system of uniform authority and central administration. For that reason, the content of the law on *gminas*' powers did not reflect the assumptions of the Local Government Act, nor did it fit the framework created by the latter act. At that time, it was believed (as naïve as it turned out to be) that the central administration would want to devolve its functions to *gminas*. The *Sejm*'s appeal to delegate functions on account of "the residents' needs and the proximity and efficiency of administrative services" sounds idealistic today.

Countless new functions were devolved to *gminas* in laws adopted over the whole period discussed here. The scope of issues associated with the operation of *gminas* had broadened significantly by the end of local governments' second. However, in many cases, the extension of responsibilities was more a result of regulatory fragmentation than of conscious effort to build a

new system. Analysis of changes to *gminas'* responsibilities between 1990 and 2000, especially of the conditions under which those changes were made, reveals two apparently contradictory tendencies. On the one hand, *gminas* generally assumed new responsibilities upon their own request. On the other, those responsibilities were devolved usually without the accompaniment of adequate grants. The process of local governments' 'struggle' for new responsibilities characterized the entire period.

Some powers were devolved to local governments against their will—functions that were problematic or otherwise undesirable to the central administration. Again, adequate funding was not provided to *gminas* for the assumption of these functions, yet *gminas* often accepted such arrangements because they wanted to be perceived by local communities as governments with full powers. Thus, they accepted new tasks, being aware that they would have to subsidize their performance by cutting expenditures in other areas.

In July 1994 the prime minister sent a letter to all chairpersons of *gmina* councils with questions about the extension of *gmina* responsibilities. Although the government took no action to extend such powers, *gminas* indicated their interest for future expansion in the areas of: building regulations—87.5%, traffic laws—81.4%, land use and appropriation—73.3%, geodesic and cartographic laws—63.6%, legislation concerning the change of names and surnames—63.3%, the educational system—60.8%, public welfare—58.0%, environmental protection and development—55.0%, employment and unemployment—54.5%, water laws—54.0%, forestry laws—50.6%, regrouping and exchange of land—47.5%, public welfare institutions—45.3%, and inland fisheries—31.6%.⁸



As a result of pressure from local citizens' groups, education became one of the areas most affected by administrative changes. We already discussed the conflicts that arose around these changes during the adoption of legislation in 1990. Now we will conduct a more in-depth analysis of the transformation in education during the period in question. The figures in Table 7. reflect the magnitude of changes.

Table 7.
Changes in the Structure of Primary Education

Primary Schools Managed by	School Year				
	1989/90	1991/92	1994/95	1997/98	1999/00
Central administration	20,391	19,295	13,999	763	48
<i>Gminas</i>	—	986	5,779	18,173	17,314
Other entities	12	165	296	363	381
Total	20,403	20,446	20,074	19,299	17,743

SOURCE: "Education in the school year 1999/2000," *Statistical Information and Papers*. Warsaw: GUS, 2000.

The process of primary education reform seems to provide the best illustration of the difficulties associated with systemic transformation and the complexities stemming from its intertwining with the interests of individual social groups, each competing and lobbying politically to maintain its influence. Under the 1990 Local Government Act, preschool and primary education became the responsibility of local governments. This legal change was very important, particularly because schools are significant local cultural centers and the nuclei of public activity, especially in rural areas. On May 27, 1990 *gminas* officially assumed responsibility for kindergartens. Yet two fundamental issues remained unaddressed: the physical transfer of responsibility for primary education to *gminas* and the adjustment of the Teacher's Charter⁹ to reflect the new conditions. The resolution of these issues was largely omitted due to reluctance and counteractivity on the part of the school administration and the Polish Teachers' Union. The reasons for their opposition to *gmina* devolution may be generally described as follows:

- The ministry and education administration feared they would have limited influence over appointments, receive less funding and be forced to cut employment if their functions were reduced.
- Teachers feared they would become more dependent on local authorities and parents' committees, which would lead to increased threat of unemployment should they decide to change workplaces.
- The Teachers' Union, specifically its leaders, feared it would be less influential upon decentralization of management.

Consequently, the takeover of responsibilities described in the 1990 legislation was not completed during the terms of two local governments. At the same time, local authorities had to meet increasingly strict requirements during this period of reduced funding for education. Education expenditures comprise the greatest percentage of *gmina* budgets, so the delay in the transfer of schools to *gminas* caused significant deterioration in their financial situation.

In March 1990, when by virtue of the Local Government Act the management of primary schools was devolved to *gminas*, that transfer seemed to take place immediately. But as a result of staunch resistance by the Polish Teachers' Union and the reserved position of the ministry, the law on *gmina* responsibilities adopted in May of the same year successfully postponed the execution of that decision by two years. During the months between these legislative acts, sufficient forces were mobilized to block the original decision.

Although the law passed in May provided a possibility for the earlier transfer of schools to *gminas* upon their request, such an activity was associated with huge financial risk. The law did not guarantee provision of adequate funding—that was left to the discretion of the authority that handed over the school. Nevertheless, we received information about a campaign carried out by the school administration aimed clearly at discouraging *gminas*.

Changes incorporated into the law on the education system in September 1991 defined *gminas* as authorities managing kindergartens and schools in the future but maintained the existing interpretation of *gminas'* involvement as the exercise of a discretionary function. Reluctance from the anti-local government lobby led to another modification of the law on December 22, 1993,

this time initiated by Pawlak's government, whereby the deadline for obligatory assumption of responsibility for schools was postponed until January 1, 1996. In that manner, the discretionary financing system was extended and the government given an opportunity to take actions to dissuade *gminas*.

Other regulations defined the obligations of public authorities toward children and the education system, which were transferred to *gminas* as one element of the responsibilities for kindergartens and schools they took over. At the same time, however, no compensation was made available to *gminas*. On the contrary, the Ministry actually withheld the right to make certain decisions affecting expenditures in *gmina* budgets. For example, the Ministry still determined the size of financial assistance for pupils, although the cost of that assistance was borne by *gminas*.

Regulations concerning the procedures for appointing headmasters, dismissing teachers, closing schools or other education institutions, as well as the selection of the organizational and legal forms of education institutions managed by *gminas* and additional financial burdens associated with the provision of services in education, were designed with the protection of the central administration's interest in mind. This is confirmed by additional changes in the law in question made on September 7, 1991. Despite that *gminas* were to take over primary schools, the ministerial administration persistently opposed their participation in commissions evaluating candidates for headmasters' positions. *Gminas* were allowed to become members of such commissions only after intervention at Parliament, which led to the adoption of changes to the law in March 1992.

The same intervention enabled *gminas* to be at least partially involved in the establishment of new primary schools in their territories. Initially, it was possible to found a school without the approval of local authorities. Later, the education administration at the voivodship level had to consult the *gmina*, but the *gmina's* reticence brought it some financial obligations that were determined by the Ministry, above the heads of those who had to pay them. When it became clear in 1995 that the devolution of schools could not be postponed any longer, the law of July 21, 1995 was changed to guarantee the central administration a significant impact on decisions to be made by *gminas* as institutions managing schools and taking full responsibility for their operation.

Presenting a complete picture of financial burden shifted to *gminas* requires mentioning the provisions of the 1996 law on physical culture, which forced schools to teach extra hours of physical training without providing adequate funding from the central budget. Although the financial situation of schools under central management deteriorated steadily, both the school administration and the Polish Teachers' Union tried to maintain the arrangement so as to keep their influence. In this context, it is curious to note a provision effective from January 1, 1996, according to which *gminas* were allowed to increase funding for teacher salaries, but from their own revenues. The provision effectively confirmed *gminas'* role in subsidizing education and made the shortage of funding for education permanent. Despite campaigns against *gmina* administration and management, local governments demonstrated their commitment to teaching and the procurement of a good education for their children. In all those years, *gminas* were never late in paying teachers for their work, while this was a regular occurrence in state-run

schools. When central transfers for education were delayed, *gminas* found their own substitute sources of funding.

The primary goal of the Polish Teachers' Union during this period was to keep its exclusive right to negotiate agreements with the Ministry at the central level. This privilege, defined in the Teachers' Charter, had been binding in communist Poland. According to the revisions made in 1992, the Minister of Education was still authorized to conclude agreements with national teacher trade unions, and because of that arrangement, other authorities managing schools could be obliged to negotiate collective agreements with trade unions. The next version of the law, passed in 1994, provided that until such an agreement is signed, executive order issued by the Minister of Education in consultation with the Minister of Labor and Social Policy would determine teacher salaries. Subsequently, the 1996 law allowed *gminas*, as institutions managing schools, to conclude such agreements, but only if extending the content or entitlements of the central agreement. It was only in 1998 that those monopolist rules were broken and the law changed to state that collective agreements could be negotiated between the appropriate trade unions and the Minister of Education or other entities that managed schools. This example demonstrates that systemic transformation is influenced not only by the will of politicians, but also by the interests of individual *gminas* when threatened by approaching changes.



Silent adoption of the guideline that *gminas* are responsible for performing public functions necessitated that they be large enough to serve in this capacity. Yet there remained a question: how would smaller communities articulate their needs? Poland had a tradition of village communities (*sołectwo*) and village administrators (*sołtys*) in rural areas and committees of neighborhood residents in cities. However, continuation of this tradition and the creation of a separate level of local government would have split *gminas* and deprived them of the ability to perform functions for which they were established. The Local Government Act of 1990 was therefore based on the assumption that the *gmina* is the primary unit of local government. It is a legal entity and exercises the function of a public authority. At the same time, *gmina* authorities were authorized to create auxiliary units and to define their structure and responsibilities. These were supposed to act in accordance with the *gmina's* decision and within the scope of *gmina* authority. Over the years and as more experience accumulated, the following laws introduced more and more regulations:

- Changes introduced in 1993 enabled *gminas* to establish auxiliary units in various forms.
- Revisions in 1996 allowed entire towns located within a *gmina's* territory to be considered its auxiliary unit.

Those smallest “homelands” assembled claims that *gminas* did not want to recognize the traditional rights of village communities to property or local traditional rights. Consequently, amendments to the Local Government Act contained regulations on the structure of village authorities; legal protection granted the village administrator and villages' right to manage

their property, although by law, that right was vested in *gminas*. The development of village administration is an essential factor in building civil society.



Gminas, like any other public authority, must be accountable to the public that has given them the mandate to represent its interests. The Local Government Act designated two ways for residents to participate directly in *gmina* affairs: electing council members and participating in referenda. According to election laws passed in 1990, elections in *gminas* with a population under 40,000 were conducted as single-seat constituencies, and in larger *gminas* a proportional election system was adopted. That system remained unchanged until 1998, when the population threshold was reduced to 20,000.

The Local Government Act of 1990 also established the institution of referenda.¹⁰ It provided that a referendum had to be conducted on the issues of voluntary taxation for public purposes and dismissal of the council before the end of its term. Additionally, the law enabled referenda on any other matter important to the *gmina*. That general provision was expanded in a separate law on *gmina* referenda passed on October 11, 1991.¹¹ The motion to conduct a referendum has to be supported by 10% of eligible voters. The referendum is valid if at least 30% of voters attend.

Control by voters was deemed insufficient to ensure *gmina* accountability; therefore, appropriate institutions were authorized to supervise *gminas*. The Local Government Act obliged the prime minister and voivods to exercise supervision over *gminas*,¹² and the Regional Audit Chamber was made responsible for supervision relating to budgetary matters. Supervisory institutions were limited to exercising their influence in the legislative arena only, a limitation stemming from the fundamental principle that the *gmina*, as an independent institution, is subject only to laws. On behalf of the prime minister, *gminas* are supervised by the voivod. Every resolution of a *gmina* council is submitted to the voivod, which may suspend it within 30 days and declare its invalidity if it contradicts the existing law.

Appeals against voivod decisions may be filed with the Supreme Court of Administration. In 1999 voivods questioned 1681 decisions made by local authorities, including 1418 decisions by *gminas*, 232 by *powiats* and 31 by voivodships. The Supreme Court of Administration received 79 appeals against those decisions. These figures demonstrate that this form of administrative supervision is useful. If the law is persistently violated by a *gmina*, only the *Sejm* may dissolve the council upon a motion of the Council of Ministers. The prime minister may suspend the council temporarily and appointed a commissioner.

In 1994 auditing powers over local governments were granted to the Supreme Chamber of Audit (*Najwyższa Izba Kontroli*—NIK)¹³, a national body subordinated directly to Parliament, established to audit all state institutions. Initially, granting such rights to NIK was viewed as a threat to *gminas*' autonomy. Later, experience indicated it was necessary to enable audits by the specialized NIK. Because *gminas* manage public wealth, there are no grounds for their exclusion from audit obligations.

Local government appellate committees were unique Polish institutions established as a result of the local government reform. We will mention them briefly again in Chapter 14. In this chapter, we deal with fundamental legislative and organizational problems, and appellate committees were established as a solution giving every citizen the right to appeal. Neither the voivod nor another authority of the central administration could serve as such an appellate body, because in that way the voivod, or another central authority, would have interfered with matters falling within the scope of *gminas'* responsibility and could have played the role of arbitrator in disputes between local governments and residents. In order to protect the independence of local authorities, a separate institution was created—local government appellate committees situated at voivodship assemblies of local governments.

Like most local government institutions, these committees were established by the Local Government Act of 1990.¹⁴ That act did not, however, define the structure or the procedure for the committees' operation. It only established their existence, while leaving the necessary regulations to the future. No one knew at that time what functions have to be assigned to the committees or how they should operate. The chair of the local government appellate committee in Kraków initiated the establishment of the National Representation of Local Government Appellate Committees (KRKO), which worked out a proper model for the operation of appellate committees. KRKO began intensive work that led to the adoption of a separate law on local government appellate committees in 1994.¹⁵

The quality of administrative rulings and legal services in *gminas* was initially very poor, while the complexity of the law, the volume of decisions and frequent revision to the law particularly required legislative clarity. The shortages in this area were painful. During this period, local government appellate committees, in addition to their basic function, played an important role in raising the quality of *gmina* rulings, or improving the legislative culture of local authorities. As of January 1, 1995, the councils were transformed into independent entities funded by the state budget. They ceased to be elements of the structure of voivodship assemblies, although the latter maintained powers relating to the election and dismissal of the chairperson and members as well as the designation of their number.

The law introduced regulations making proceedings conducted by appellate committees specific, as compared with proceedings by other institutions of public administration. First, only legal provisions guide members of appellate committees. This regulation guarantees that they are independent in their rulings on administrative matters and eliminates interference from other authorities. As a result, the status of a member of a local government appellate committee is similar to that of a judge. The principle of collective decision-making, one of the primary rules in the Polish judicial system, also applies. Moreover, the principle of equal parties used in proceedings by appellate committees differs significantly from ordinary administrative proceedings in which administrative authorities usually occupy a privileged situation.

In the event of conspicuous irregularities in the work of a *gmina* authority, the chairperson of the local appellate committee may make the so-called "signal" decision, which is the basis for starting disciplinary proceedings against local government officials. The signal decision obliges *gmina* authorities to notify the appellate committee within 30 days of their position and possible

measures to improve the situation. The institution of appellate committees constitutes a specific form of supervision over the work of *gmina* authorities. Appellate committees also have the option of submitting legal queries to the Supreme Court of Administration and Constitutional Tribunal, an important measure in standardizing rulings on matters addressed by the councils. Most of those questions have traditionally concerned with financial law, problems of order and tidiness, liquor licenses, land use, local taxes and fees.

The competencies of local government appellate committees include a function that is quite unusual for a public authority—the resolution of disputes associated with changes in charges for perpetual use of land. Often, these charges are adjusted due to the changing value of land. If the user does not accept the new charge, he or she may appeal against the decision with the appellate committee, which serves in this situation as a quasi-conciliatory court and tries to resolve the dispute amicably.

Local government appellate committees became dynamic institutions growing out of local government reform. Practice confirmed the decision to establish them, as activity initiated not only the development of new institutions, but also of the whole area of legislation and administrative procedures.



The system of *powiats* established on January 1, 1999 was based on principles analogous to those of the *gmina* system. *Powiats* were considered obligatory associations of residents in a given area, formed to perform public functions on their own behalf and to bear sole responsibility for them. *Powiats* were granted legal status, so they were granted the right to own property and manage their own finances. Legal status also protects the law guaranteeing *powiats'* independence in the courts.

The law made *powiats* responsible for the delivery of public services to residents of more than one *gmina* in the following areas:

- education, particularly secondary schools and schools for the disabled;
- health care, including management of hospitals;
- public welfare and family support policy;
- management of public roads considered *powiat* roads;
- maintenance of cultural, sports and physical culture institutions;
- geodesy and cartography;
- building inspection;
- environmental protection as well as agriculture and forestry;
- public order and resident safety;
- protection against fire and flood;
- protection of consumer rights and others.

The *powiat* enjoys full autonomy in defining its organizational structures and means of delivering its services. It may also negotiate agreements with the central administration to

assume the latter's responsibilities or delegate *powiat* responsibilities to *gminas* through voluntary agreements.

The *starosta* supervises *ex officio* law-enforcement and inspection units, which exercise functions of the central administration in the absence of its representation at the *powiat* level. This is a noteworthy solution, as the *starosta* is the chairperson of the *powiat* executive board appointed by the *powiat* council, that is, by representatives of the local community. The *starosta*, while not a central government official, is given a mandate to exercise functions falling within the powers of the central administration. In each *powiat*, there are five such units: police station, fire department, health, veterinary and building inspections. The *starosta*, however, has limited powers to control these units. Their heads make decisions but are directly supervised by appropriate voivodship, or central, units. The *starosta* does, however, supervise their organization and financing, because funding for these units flows through the *powiat* budget.



Voivodships were also recognized as associations of residents forming to exercise appropriate functions. These functions differ essentially from the functions of *gmina* and *powiat* authorities in that they are regionally based. The primary function of local authorities is to satisfy the direct needs of residents. Regional authorities, on the other hand, are responsible for economic and cultural development and must concentrate their activities in four areas:

- promotion of economic development;
- management of public services of regional significance such as higher education, specialized health care providers and some cultural institutions;
- environmental protection and management of natural resources;
- development of regional infrastructure, including management of roads and regional transport and communications.

Voivodships are also legal entities; they have their own property and manage their own finances. Their autonomy is also protected in the courts. Each voivodship is responsible for preparing a long-term development strategy to form the basis from which it may receive support from the central administration and EU funds. The first versions of these strategies were prepared in 2000 and are now fundamental documents defining the mission and tasks of regional authorities in the near future.



The construction of local government institutions must not be considered in isolation from the processes the central administration was undergoing. *Gminas* were granted independent status but were still dependent on various administrative units, which they continuously contested for power. In communist Poland the structure of the state was based around ministries, and individual ministries were to a large extent independent empires implementing their own

policies. The purpose of the reforms launched in 1990 was to change that situation. It was mainly privatization, or the emerging independence of enterprises, that decreased the scope of the central administration's direct influence. That influence was also reduced by granting self-governing status to *gminas* and transferring a major part of national property to them.

Once again, the bureaucracy proved it was capable of regaining influence and overbuilding institutions. First, administrative districts were established, as apparently it was necessary to exercise the functions of the central administration at the local level and also because self-governing *gminas* could not assume those functions according to the principle of separating the responsibilities of the local and central administrations. A more wide-ranging and dangerous process occurred later. Individual ministries began to overbuild their administrative units at the local level. As a result, the level of employment rose violently. Between 1991 and 1996, the number of employees doubled in "units of special administration." Those overbuilt institutions struggled both for powers and for control over funding. They became one of the primary barriers to the development of local governance.

Those administrative structures subject to individual ministries were organized differently. Some of them were based on a division of the country into units completely different from the administrative division. In some cases it was geographically justified. However, in many situations, the differences in district maps obstructed management. Most of those institutions were completely separate from local administrative offices. Only units of the education trade inspection and historic preservation administrations worked in voivodship offices while reporting directly to ministries. In the late 1990s Poland had 24 types of special administration at the level above the voivodship, 13 types at the voivodship level and 9 types at the district level.

One of the objectives of reforms implemented in 1998 was to consolidate those administrations. A vast majority of those formerly independent units were subordinated to voivods and became parts of voivodship offices. The military and customs administration as well as some special administrations remained outside voivodship offices as autonomous units (Table 8).

Table 8.

Special Administrative Units after January 1, 1999 (Number of Units Countrywide in Parentheses)

Autonomous Administration			Consolidated Administration	
Supra-Regional Level	Voivodship Level	District Level	Voivodship Level	Powiat Level
1. Military (2)	1. Voivodship Military Staff (16)	1. Military Conscription Headquarters (140)	1. Health Inspection	1. Health and Epidemic Stations
2. District Mining Administrations (14)	2. Tax Chambers (16)	2. Tax Offices (355)	2. Veterinary Inspection	2. Veterinary Inspectorates
3. District Offices for Measures (9)	3. Tax Audit Offices (16)	3. Sub-district Offices for Measures (62)	3. Plant Protection Inspection	3. Regional State Fire Brigade Headquarters
4. District Conscription Offices (9)	4. Voivodship Employment Offices (16)	4. Forest Inspectorates (438)	4. Environmental Protection Inspection	4. Regional Police Headquarters
5. Regional Directorates of State Forests (17)		5. <i>Powiat</i> Employment Offices (322)	5. Trade Inspection	5. Building Inspectorates
6. Regional Water Management Boards (7)			6. Pharmaceutical Inspection	
7. Customs Offices (19)			7. Inspection over Purchase and Processing of Agricultural Produce	
8. Sea Administration Offices (3)			8. Seed Inspection	
9. Inspectors for Technical Supervision in Sea Navigation (3)			9. Historic Preservation	
10. Inland Shipping Inspection (8)			10. Education Superintendent	
11. Border Guard Squads (11)			11. Police	
12. Regional Customs Inspection (9)			12. State Fire Department	
			13. Building Inspection	

SOURCE: *Poland's Public Administration after Reform: System—Responsibilities—Figures*. Warsaw: MIAPA, December 1999.



Organizations of *gminas* in urban agglomeration were a specific issue. A uniform model was adopted for all *gminas* under the Local Government Act, which did not take account of the differences among *gminas* resulting from their size or location. Although Poland is a diverse country in many respects, it would not be acceptable to define a different legal status for individual *gminas* depending on factors, which, after all, evolve over time.

Nevertheless, *gminas* in urban agglomerations and big cities have a number of features that distinguish them from small or medium-sized jurisdictions. In urban agglomerations, there are various types of interrelations between cities. Therefore, it seemed necessary for the law to include regulations on obligatory associations of *gminas* that would otherwise limit the independence of individual *gminas*. The exclusion of these considerations from the legislative work proved to be a mistake when it was necessary to develop the administrative system of Warsaw.

In 1990 we inherited a system that did not designate Warsaw an administrative unit, although its seven boroughs individually constituted such units. The mayor of the city controlled not only those units, but also the whole agglomeration, in which there were many smaller cities and rural *gminas*. Due to pressure from local interest groups, the reform contained a provision authorizing the prime minister to grant *gmina* status to the hitherto existing boroughs, which then had to form an obligatory association. The prime minister did so, although no one was sure it was the right decision. Their doubts were soon confirmed. The elected councilpersons, though reaching a number of agreements, did not make any attempt to implement the necessary reforms.

The conflict between the mayor of Warsaw and the board of the city on the one hand, and mayors of individual *gminas* and their councilpersons on the other, deepened considerably. The conflict had originated as a consequence of the division of municipal property, especially land needed for the expansion of the city as a whole. Later, financial issues worsened it. Finally, there was practically no issue where agreement was possible.

The situation required radical change. On March 25, 1994, shortly before the next local elections, the *Sejm* approved a new law¹⁶ that completely changed the administrative system of Warsaw. Eleven *gminas* were established, of which 10 smaller *gminas* formed a doughnut around the central Warsaw *gmina* that covered the central parts of the city. The mayor of Centrum was made *ex officio* mayor of Warsaw, i.e. chairperson of the board of the obligatory association. The central Warsaw *gmina* was still divided into boroughs, which were supporting units having their own councils. In that way, a three-tiered system was created, with the Council of Warsaw, with layers comprising 11 *gmina* councils and 7 borough councils. In the central part, the number of councilors grew impressively but did not improve management.

The implementation of reforms in 1998 inspired an attempt to modify the city's administrative system to eliminate that problem. Furthermore, the establishment of *powiats* around this time necessitated administrative renegotiations. According to the revised law, councils of bigger cities, among which was Warsaw, were to assume the responsibilities of *powiats* in their territory. Unfortunately, the president refused to sign the law, and the Constitutional Tribunal partially supported his decision. The mayor of Warsaw was differentiated from the mayor of central Warsaw only by his function as head of the obligatory association of *gminas*. Additionally, there

arose a legal necessity to create a *powiat* composed of 11 *gminas*, which further complicated the city's administrative system.

There is on-going debate on this matter today, considering two options. The first treats all of Warsaw as one *gmina* and grants borough status to the 10 outer *gminas*. This arrangement would create one *gmina* with 17 auxiliary units. The other option maintains the existing *gminas* but grants strong powers to the mayor of the city, which would remain an obligatory association of *gminas*. The new law was passed by Parliament in 2001 and was once again vetoed by the president. Thus, the problem is still not resolved.¹⁷

ENDNOTES

¹ Dz.U. no.75, item 444.

² Dz.U. no. 16, item 94.

³ Article 43.1.

⁴ Article 44.1.

⁵ Dz.U. no. 16, item.95. The law was changed many times: in 1990 (DzU no. 34, item 199; no. 43, item 253; no. 79, item 467; no. 89, item 518); in 1991 (DzU 1991, no. 4, item 18; no. 110, item 473); in 1992 (DzU 1992, no. 85, item 428; no. 100, item 499); in 1993 (DzU 1993, no. 17, item 78; no. 109, item 488); in 1994 (DzU 1994, no. 86, item 397; no. 122, item 593); in 1995 (DzU 1995, no. 2, item 6; no. 74, item 368; no. 124, item 601); in 1996 (DzU 1996, no. 6, item 41; no. 58, item 261; no. 89, item 401; no. 106, item 496; no. 132, item 622); in 1997 (DzU 1997, no. 9, item 43; no. 106, item 679; no. 107, item 686; no. 113, item 734; no. 123, item 775); in 1998 (DzU 1998, no. 155, item 1014; no. 162 item 1126); and in 2000 (DzU 2000, no. 26, item 306; no. 48, item 552; no. 62, item 718; no. 88, item 985; no. 91, item 1009; no. 95, item 1041). Note: The law is now called “the Law on *Gmina* Government”—pursuant to Article 10 of the law of 29 December 1998 (DzU 1998, no. 162, item 1126).

⁶ Dz.U. no. 84, item 426.

⁷ Dz.U. of 1995, no. 124, item 601.

⁸ “The Government Page,” *Wspólnota* 1995.

⁹ The Teacher's Charter was a fundamental act adopted in the communist period. It defined teachers' privileges and the terms of their employment. It was based on the principles of a centralized system in which all of education was controlled by the central administration.

¹⁰ Article 12.

¹¹ The law was subsequently changed in 1995 (Dz. U. no. 124, item 601) and in 1996 (Dz. U. no. 37, item 159).

- ¹² Article 84.
- ¹³ Dz.U. no. 13, item 59.
- ¹⁴ Dz.U. no. 16, item 95.
- ¹⁵ Dz.U. no. 122, item 593 with changes incorporated later.
- ¹⁶ Dz.U. no. 48, item 195.
- ¹⁷ In 2002 Warsaw became one gmina with 17 auxiliary units.

CHAPTER 9.

Municipal Property

Owning property, particularly having the right to dispose of it freely, is one of the main elements of local government independence. Opposition groups seeking to restore local government understood this condition from the very beginning of their campaign, although the communist authorities at that time were prepared only to introduce this legal category without giving up their opposition to systemic reform. Consistent with this position, the authorities expressed their readiness to create a local government instrument but not to develop an entity for that instrument to serve. In the 1980s PZPR governments accepted the establishment of municipal property, believing the transfer of property to *gminas* could be a small concession made in exchange for keeping the systemic model unchanged. Transforming ownership schemes while maintaining uniform state authority was meaningless; only the political changes of 1989 allowed the transfer of property to *gminas* and a deep reform of municipal economy.

The Local Government Act of March 8, 1990 introduced the notion of municipal property and provided that municipal property should be owned by *gminas*, their associations and other municipal entities, including enterprises. According to that act, municipal property could be acquired through the legal transfer of national property or through *gminas*' own economic or legal activity. *Gminas* were granted full autonomy in using their property.

During the preparation of local government legislation in 1989, it was necessary to resolve a few basic issues relating to the categories of property to be transferred to *gminas* and how the process would be carried out. It was simply not possible to clearly define the notion of "municipal property" and its scope. The abolition of local government in the 1950s had been accompanied by the nationalization of municipal property. In 1990 it was difficult to define the scope of municipal property that was to be transferred to *gminas*, as the introduction of a municipal property category was not a goal in itself but was rather to serve as a tool enabling the expansion and effectiveness of local economy. Therefore, the scope of municipal property and its management were intertwined with the responsibilities of local governments and the conditions under which they carried out those tasks.

In practice, the process of property devolution to municipal authorities depended on the context in which the reform was prepared. We did not trust the former local administrations as they had worked to prevent change in the past; therefore we strived to resolve as many issues as possible in the prepared law rather than drawing the issues out to be decided individually. Our decision carried the unintended risk of numerous mistakes. The principle that property should be transferred by virtue of law meant it was necessary to follow generally accepted rules, despite that these could not be applied to every situation. In order to avoid such complexities, extensive studies were needed. Meanwhile we were pressed for time and possessed only limited data.

We adopted a few simple rules. First, the entire process of devolving properties to *gminas* was based on a legislative decision, the starting point of which was the pragmatic assumption that

all property managed by the existing people's councils was to become the property of *gminas*. The adoption of any other principle would have brought various conflicts. However, it remained impossible to transfer all the property of former councils automatically. In many cases, *gminas* managed buildings used for non-local needs. Hence, the law provided for numerous exceptions to property reassignment. Elements of national property did not become municipal property if:

- They served the delivery of public services assigned to authorities of the central administration, courts or authorities of the state.
- They belonged to state enterprises or organizational units exercising functions above the local level.
- They belonged to the National Land Fund, an entity that administered arable land owned by the state.
- They were used by diplomatic missions or consular offices of foreign countries and international institutions.
- They were used by the Catholic Church, other churches or religious organizations.

Even so, it was necessary to introduce a reverse mechanism extending the scope of properties subject to reallocation as many facilities that served individual *gminas* for local needs were frequently managed by voivodships. It came in the form of a provision stating that *gminas* were to receive those elements of national property which were managed by voivodship national councils, voivodship offices or enterprises subordinate to them if that property was necessary for the exercise of *gmina* functions. In addition, the law even provided for the possibility of extending the reach of municipalized property and stipulated that a *gmina* could receive national property other than that mentioned in the law upon request if that property was associated with the *gmina's* functions.

Reassignment was to affect millions of property fragments across the country. Therefore, it was necessary to establish a decentralized process of restructuring capable of conducting countless operations in a relatively short time. A flexible system would allow the resolution of unpredicted difficulties in specific cases while ensuring that uniform decisions are made on the national scale. *Gminas* were thus obliged to take inventory of the property they managed and aspired to own and present those data to voivods. The data were to be made available to the public; individuals and institutions could then present their claims and reservations. The voivod, as the state's representative, issued decisions transferring properties to *gminas*. The *gmina's* confirmation of the property acquisition served as the basis for entry in the land register and the takeover of that property. However, the voivod reserved the right to refuse to make such a decision in the event of any objects, in which case the property remained in the hands of the state. Under such circumstances, the *gmina* could file an appeal with the National Enfranchisement Commission, which was an authority appointed by the prime minister. Both parties were entitled to file an appeal against the commission's decision with the Supreme Court of Administration.

A similar procedure was applied to property transferred to *gminas* by request. In these cases, the *gmina* was the applicant and the voivod represented the state. Their negotiations led to the transfer of property based on an agreement, not by law. The voivod therefore was not obligated to transfer the property, but it could do so if it was justified.

The establishment of the National Enfranchisement Commission made the process of property devolution credible and fully democratic. Local and central administration authorities were treated equally. Decisions at the commission were generally made by teams of three persons, although particularly important matters were reserved for examination by the whole commission. Applications were highest in the years directly following transition, numbering about 1,400 in 1991 and approximately 2,000 in 1992. In the following years, when the number of applications decreased, the number of members sitting on the council was also reduced.



The practical application of broadly defined rules was not easy and gave rise to a number of doubts. For example, should a property be transferred to the *gmina* in whose territory it is located or to the *gmina* whose authorities actually manage that property? In many cases, *gminas* or their enterprises administered national property situated outside their boundaries. Water intakes, dumps or recreational facilities serve as illustrations of such properties. The Constitutional Tribunal's unequivocal ruling was that the location, not the administration, determined the right to ownership of a municipal property.

Incidentally, more such doubts were raised. Some referred to very sublime legal definitions. Besides rural and urban *gminas*, there existed rural communities (*sołectwa*) as well as separate boroughs in big cities, i.e. units smaller than *gminas*, which also administered certain elements of national property. Some rural communities possessed various types of additional privileges, part of which had been granted to them by royal charters as early as the Middle Ages. The best-known privilege is the right acquired by one village, now a borough of Kraków, to graze cows in green spaces located now in the center of the metropolis. This privilege is respected and applied to date.

The provisions of laws effective from 1990 made clear that *gminas* were recognized as primary units of local government and granted the exclusive right of property ownership. However, *sołectwa* and rural communities still laid claim to their rights. It was therefore decided that auxiliary units could use and manage *gmina* properties but only in accordance with the terms and conditions defined in *gmina* by-laws, which said that *gmina* councils could not reduce the existing rights of those units. This meant that although *gminas* had taken over national property, they were obliged to hand over some property to *sołectwa*. The growing independence of *sołectwa* progressed during the period discussed here and led to an extension of their rights with respect to the *gmina* properties they used.



Hundreds of thousands, perhaps even millions, of judicial decisions were issued relating to property reassignment. Appeals against several thousand of them were filed with the National Enfranchisement Commission. The reasons for those appeals were different. *Gminas* generally appealed when they and the voivod disputed whether a given property met the criteria defined

in the law. Other institutions and private individuals also filed protests, although for varying reasons.

The National Enfranchisement Commission allowed a broad definition of the term “party” to designate involvement in a dispute, stating that not only a *gmina* or voivod constituted parties in the procedure of appeals, but anyone whose interest could have been violated by property devolution procedures. The idea was that the process of transferring property was to be an occasion to clean up property ownership, as communist authorities had confiscated many properties from owners who now sought the reestablishment of their rights. Therefore, appeals made by individuals were also reviewed. In many cases, their concerns were unjustified because property devolution did not infringe upon the rights of its users. Frequently, a property also was not registered in the land and mortgage register or there were serious irregularities in the area of national property registration. Similar problems were encountered with land owned by housing cooperatives, which claimed that because they used the land and had financed the buildings and facilities situated on it, the land should not become *gmina* property. Other organizations or institutions that used the property filed similar appeals against the voivod decree. The rulings in this respect were clear: the land is subject to reassignment to *gminas* if, on May 27, 1990, the National Treasury owned it. However, buildings erected by cooperative members remained their property, and they obtained the right of perpetual usufruct.

The most spectacular conflict grew up around the rights to land used as allotments (the so-called workers’ gardens). The Association of Allotment Users’ acquisition of a desirable legal solution provides a perfect example of the use of political influence to take control over formerly nationalized property. For this reason, we give slightly more attention to this issue. In practice, similar situations have occurred more often but obviously to differing extent and in varying form. The problem has always been the same: how to take possession of national property?

Allotments are very popular in Poland. The law adopted in 1981 provided that national land could be used free of charge for that purpose. But according to laws passed in 1990, that land, being national property, was to be transferred to *gminas*. Decisions to reassign that land were questioned on mass scale by voivodship boards of the Association, which claimed that the law on allotments was a special law and, as such, precluded the application of the law on property devolution. It argued that the association was legally a user of land owned by the State Treasury, and, for that reason, the land could not be transferred to *gminas*.

However, neither the National Enfranchisement Commission, nor the Supreme Court of Administration shared that view and stated consistently in their rulings that the land used for employee allotments had become municipal property by virtue of law. Furthermore, the association had no reason to complain because the change of ownership did not violate users’ rights. When the Association lost its court battle, groups affiliated with the association suggested using political means. The wealth at stake was enormous, and groups politically connected both to the former Polish United Workers’ Party and the existing Democratic Left Alliance controlled the association.

A group of *Sejm* members from that wing submitted their drafted changes to the 1981 law, which was adopted on June 23, 1995. The Polish Association of Allotment Users was given the right to use or sell the land for 99 years in addition to a number of special privileges. If

development needs require that a *gmina* change the category of this land, it has to buy the land from the Association. In that way, a monopoly was established, as those rights were granted to a national association rather than to individuals or even their local associations. The law made it impossible to use an allotment outside the association and discouraged members from leaving the Association.

Local governments regarded their deprivation of the fundamental attributes of ownership as expropriation.¹ Owing to the legislation passed, the Polish Association of Allotment Users was becoming the biggest landowner in Poland. The association received the right to perpetual use of 420 square kilometers of land, free of charge. In the *gmina* of central Warsaw alone, market prices valued allotments at 2 billion dollars. The law generally resulted in a chaotic land use plan, as the Polish Association of Allotment Users was not able to hand over land to allotment users but could instead sell it for another purpose.

The Union of Polish Metropolitan Cities and some *gmina* councils filed an appeal against the law of June 23, 1995 with the Constitutional Tribunal. In its resolution of November 20, 1996,² the Tribunal stated that *gminas'* obligation to hand over land for perpetual use to a Polish national association was against the Constitution and the Local Government Act, because it gave an exclusive right to one organization of allotment users and deprived citizens of their right to freely associate and thereby violated the principles of a democratic state of law. In addition, the Tribunal concluded that by interfering with *gminas'* proprietary rights, which was not justified by reasons of public interest, the law under review led to a violation of the constitutional principle of protection of justly acquired rights as well as contradicted the principle of trust in the state and the law it makes. Despite the Tribunal's position, the *Sejm* rejected the ruling on April 25, 1997. At that time, the *Sejm* still had the right to do so. At present, a ruling by the Constitutional Tribunal is final. That decision of the parliament exemplified unscrupulous political struggle for control over former national property.



In addition to conflict surrounding the take-over of wealth, there were also disputes at the opposite extreme, in cases of unwanted property. These usually appeared when the property was indebted. In their appeals, *gminas* argued they did not agree to take over a property with accumulated debt, because debt had arisen when under different ownership. *Gminas* claimed that considering their very difficult financial condition, the take-over of those properties ran contrary to their interests and could have deepened their financial difficulties.

The National Enfranchisement Commission did not accept those arguments, saying that the law not only designated *gminas* the right to take over properties, but also defined an obligation for all property necessary for their functions to be handed over to them. *Gminas* could not choose, because they were obliged to take over the entire property, which meant both assets and liabilities. The exercise of choice would contradict the *gminas'* legal duty to perform its functions.

In addition to legally transferred wealth, *gminas* could obtain, upon request, an element of property if they needed it to exercise specific functions. Many such applications were submitted, and it was necessary to adopt certain principles to regulate the process. The primary aspects taken

into consideration in the processing of those applications were: 1) the relationship between the property and the *gmina's* functions and 2) whether any land was set aside in the land use plan for the purpose of *gmina* public service delivery. The reallocation of land and buildings by request was always the most difficult procedure, as it required a number of studies and expert analyses.



Although all legal provisions were self-explanatory, many conflicts arose in practice that required resolutions by the Constitutional Tribunal. They concerned, for example, the allotment of indivisible elements of property. In many cases, the same real estate served functions co-assigned to municipal and central authorities. The Tribunal decided that in such situations, real estate was by virtue of law co-owned in proportions relevant to the functions exercised.

Difficulties in this respect were the most serious in three big cities: Warsaw, Łódź and Kraków, which until 1990 were urban voivodships. Pursuant to the new law, the city became a locally governed entity and the function of the central administration was taken over by the voivod. The separation of functions required that wealth be divided accordingly. That task was problematic. For instance, in Warsaw it led to a long dispute about the building occupied by the former mayor, who was also head of the voivod. If the building was considered primarily the seat of the voivod—that is, the central administration—it was not to be transferred to *gminas*. In this case, the building was equally the office of the city's mayor, suggesting that it should become *gmina* property. The dispute was formally resolved by the ruling of the Constitutional Tribunal, an outcome that has always been regarded controversial.

The wealth of the National Land Fund also became the subject of debate. The fund administered the state's arable land. In places where separate plots constituted economically justified wholes, they were transferred to state farms. However, the fund kept scattered fragments of land that could neither be leased, nor attached to existing farms. Debate centered on whether that land should be transferred to rural *gminas*, which would certainly put it to good use, or left in the hands of the central administration. In this case, a compromise was reached: the fund remained, but *gminas* obtained the right to apply for ownership of specific plots of land.



Recognition of *gminas'* right to possess property reinforced their entitlement to natural resources. The Geology and Mining Act adopted on February 4, 1994 outlined *gmina* claims within the broader context of national management of natural resources. Given the scope of issues covered by that law, local governments' entitlements were but a minor consideration. Nevertheless, *gminas* viewed it with importance, as it reconciled the interests of the state in responsible usage of resources contained in the earth with the interests of local communities that are directly exposed to the effects of geological and mining activity. Although minerals remained the property of the state and the right to excavate them stayed with the central administration, the law considered local governments' position quite seriously. It demanded that the relevant local government's opinion

be taken into account in the process of issuing licenses for the search and identification of deposits and that consultations be arranged with local authorities before the excavation of minerals or similar activities. The *gmina* in whose territory licensed excavation and mining activities take place receives sixty percent of the charges imposed, while the National Environmental Protection and Water Management Fund receives the remaining 40%.



One of the goals of property reassignment was to transfer the primary mass of state-owned land to *gminas* in order to contribute to the development of cities and *gminas*. However, substantial urban lands were under the control of state-owned enterprises, which usually maintained more land than they actually needed by arguing that it was necessary for their future development. We wanted those so-called reserve resources to be owned by *gminas* rather than be frozen in the hands of enterprises. For that reason, the law contained a provision directing that property owned by state-owned enterprises but not used explicitly for their purposes be transferred to *gminas* on request.

Unfortunately, reality produced different outcomes. As early as September 5, 1990, the industrial lobby managed to reverse the laws, and on December 9 enterprises became legal owners of the land they managed and used. While that was justified with respect to property used for manufacturing purposes, it was completely inappropriate for enterprises to maintain national property that was considered theirs solely because someone had previously made them managers of that property. The general distribution of national property had a negative impact aside from local government ownership concerns. In many cases, nearly bankrupt state-owned enterprises covered their deficits by selling land instead of undertaking restructuring efforts.

Once the reversed law took effect, it became clear that property owned by enterprises would avoid reallocation. But another question was raised in a new debate: if an enterprise wants to transfer part of its property and a *gmina* is willing to take it over, could the voivod in such a case decide to reassign ownership by an administrative decision? This mainly concerned housing estates belonging to state companies which no longer formed the interest of the enterprise. After much debate, it was decided that the voivod could not make such a decision, because the State Treasury no longer owned or controlled those properties.

Finally, conflict relating to the forced transfer of municipal property remains unresolved today. In several cases, enterprises coerced *gminas* into surrendering municipal property rights. For example, Polish Telecom and several gas providers took advantage of their monopolist positions, demanding that *gminas* hand over to them those local networks and facilities that had been financed with local funds. *Gminas* had to satisfy those demands if they wanted to be connected to the monopolists' networks. The conflict of interest between *gminas* and monopoly enterprises acting in their territories will be a barrier to the development of market economy and a barrier to decentralization for years to come.



Property devolution was the first, and perhaps the only, operation to reduce national property on such a scale. The operation achieved a positive result only because the process was conducted in a comprehensive and radical manner. By employing legal principles and organizing a system of negotiations and appeals, decentralization's advocates limited informal influences, although they could not eliminate them entirely. The impact of that operation is evident when you travel across Poland and compare the condition villages and towns previously neglected by the state with the visible effects of an owner's care for tidiness and order.

The process of property transfer brought less visible but equally important results. When *gminas* began to feel like owners, they began to lease buildings at market prices. Under communism, retail trade was largely nationalized. Large, nationwide enterprises held the formal status of cooperatives, but in reality they were oases of party *nomenklatura*. Those enterprises had numerous privileges: for example, they used buildings at considerably reduced rents. Monopoly of state retail trade crumbled only when *gminas* took over buildings and introduced the principle of equal treatment for all tenants. As it turned out, state-owned enterprises were unable to pay the rent proposed by private tenants.

The positive experiences associated with the transfer of property to *gminas* established a model for reforms implemented in Poland in 1998, when *powiats* and voivodships became legal entities and obtained the right to possess their own wealth. However, in that reform the transfer of property was much simpler because the extent of the property subject to transfer was much narrower. *Powiats* received what the organizational units they took over had used. The transfer did not require any separate procedures. Hence, despite the fact that *powiats* took over 6,155 organizational units altogether, the transfer of property did not cause any major problems. Voivodships took over the property of 1,323 units. However, to voivodships the management of property is of marginal importance, because voivodships' concentration lies in planning and providing support for regional economic development.

ENDNOTES

- ¹ See: Position no. 93/95 of the Union of Polish Metropolitan Cities regarding the Draft Law on Changes to the Law of May 6, 1981 on Employee Allotments (document 859).
- ² Ruling by the Constitutional Tribunal, 1996, Sygn. K. 27/95, no. 6, item. 50.

CHAPTER 10.

Public Service Delivery

Local state-owned enterprises were an important element of economy in communist Poland. The designation of former people's councils' property to *gminas* raised the issue of whether all local enterprises should be municipalized alongside them. In the late 1980s the communist authorities began to implement a policy of decentralization, or rather deconcentration of management, by transferring an increasing number of state-owned enterprises to voivodship and local authorities' supervision. This process reached very different phases in individual parts of the country, and the number and character of state enterprises controlled by local administrations varied. Therefore it was necessary to establish an equalization mechanism.

We hoped to make the process more manageable by introducing an identification criterion, such as "public utility," by which we would municipalize only those enterprises belonging to that category. Unfortunately, it became clear in communist Poland that even such purely technical decisions were subject to various non-technical pressures, as authorities pushed to include unrelated enterprises in that category in order to offer them the associated privileges and benefits. No register of legitimate public utility enterprises was ever made. We were afraid to prepare a general statement on that matter, as we could not foresee its effects.

In the end, we chose the simplest solution, although it was a minor departure from the principle of property being transferred by virtue of law. The Council of Ministers was authorized to issue a relevant executive order excluding some enterprises from reassignment.¹ According to that order, 69 enterprises, including 42 in agriculture (state-owned farms and supporting units in agricultural schools), were not to be devolved to *gminas*.

On the other hand, we established the possibility for *gminas* to demand municipalization of enterprises controlled by voivods but serving local needs. One consequence of that solution was that a number of locally important enterprises were exempted from an automatic change in ownership. For example, one type of enterprise delivering a public service, health spas, did not automatically become the property of *gminas*. We assumed, however optimistically, that the devolution process would enjoy general support and the problem of public service delivery would be solved easily, based on the central administration's capacity for voluntary decision-making. However, the Ministry of Health did not want to give away its responsibility for spas because it would have had to close down overlapping departments and lay off employees. Directors of spas obviously opposed their devolution to *gmina* authority, because such a move would drastically reduce their power. Employee councils and trade unions were also opposed, because the dismantling of local monopolies would lessen their influence. Even physicians preferred to be appointed by the Minister of Health rather than contracting with mayors.



Prior to local government reform, municipal services were delivered in a way that can hardly be evaluated in terms of rational management. State-owned enterprises dependent on local authorities were to “satisfy needs,” which in practice translated into quite primitive provision of generally and continuously available services. Economic mechanisms to enforce the effectiveness and high quality of services did not exist. The compulsory system of political-administrative economic management brought devastating consequences in terms of service quality, technical infrastructure conditions and corruption. Consumers operated on the assumption that municipal services were not a paid commodity, but that everyone was entitled to use them for free.

The Law on State-Owned Enterprises guaranteed the authorities of the enterprise (mainly the employee council—a government of workers) a number of powers. That organizational form was not congruent with either market reforms or the *gmina* governments’ new management capacity. A special threat lay in the absence of control and ‘effectiveness assurance’ mechanisms, which is very dangerous in enterprises of a monopolist nature. The strength of employee councils, which subordinate the mission of the enterprise to the interests of employees rather than service recipients, added a further danger.

For many years, the problem of transformation in the public service sector was the subject of stormy debate. Dispute focused on the basic issue of the *gmina’s* role in the economy and, consequently, its exercise of its legal functions. The ‘liberals’ claimed *gminas* should only play the role of representative of their residents’ interests and confine their activity to strictly administrative functions. They argued that *gmina* property should be radically privatized, mainly because they feared that *gminas* could create local monopolies and restrict the development of private economy.

‘Local government advocates’ were of a different opinion. Their extreme view may be characterized as “local government socialism.” They believed the *gmina* had obligations to its residents that it could fulfil only if it has its own property and conducts economic activities that are not only municipal, but also commercial. Therefore, they opposed privatization of *gmina* property and strived to establish direct management of public utilities and circumscribe the transfer of property to enterprises. Their position was reminiscent of the experiences and mentality of housing co-operatives associated with leftist groups in the period between World Wars, which had wanted to solve social problems through local community activities. The mentality of those groups, which identified deeply with the ideals of local democracy, was not oriented toward market economy or private ownership.

The discussion during the period in question poses an interesting example of one challenge that confronts systemic transformation: the convergent development of political and academic elites’ view of the state’s future. Characteristically, politicians and business representatives supported economic liberalization and limitation of *gmina* activities, while advocates of ‘*gmina* socialism’ were recruited from among academics. *Gmina* representatives, who held the greatest stake in that issue, were characterized by pragmatism and moderation, concentrating their attention on overcoming everyday difficulties.



The Local Government Act of 1990, which defined the scope of *gminas'* responsibilities in public service delivery, gave *gminas* the freedom to choose the manner of providing these services. According to that act, *gminas* may either provide services directly or create organizational units, including establishing enterprises or negotiating contracts with other entities, to deliver them. That free choice had to be harmonized with the legal status and structure of enterprises taken over by *gminas*. When state-owned enterprises were taken over, their legal status also changed. The laws obliged *gminas* to make the necessary legal transformations. Generally speaking, the following solutions were possible:

- transformation of a state-owned enterprise into a company;
- direct engagement of the *gmina* in service delivery by its own budgetary establishments;
- contracting services to other entities according to civil law and privatization;
- liquidation of transferred enterprises.

Companies are separate legal entities—they act on their own behalf and bear the accompanying risk. The *gmina* is not liable for their obligations, nor are companies responsible for the obligations of the *gmina*. The *gmina*, being the owner or co-owner of the company, acts on its authority according to legally defined principles.

Budgetary establishment functions on the basis of budget law provisions but is itself not a legal entity. *Gmina* councils found these establishments, which manage finances with respect to transferring surpluses to the *gmina* budget or receiving subsidies. Their position leads to an amotivational situation, in which economic activity is conducted regardless of the results achieved. The *gmina* is thus fully responsible for the obligations of the budgetary establishment, as all capital expenditures are financed by the *gmina* budget.

The law allowed *gminas* to negotiate contracts for services with individuals or other enterprises. This particular provision is of fundamental importance to the introduction of market mechanisms into the municipal sector. Under this arrangement, the *gmina* withdraws from direct activity in the municipal service market, yet it retains responsibility for service provision. The law on public procurement defines the principles guiding the formation and use of such contracts.

The transformation of municipal enterprises, although necessary, progressed slowly. *Gminas* were extremely cautious in that respect. In their choice of municipal service structures *gminas* were aware that ill-prepared privatization may change municipal monopoly into private monopoly which is far more dangerous for local communities. Transformations were stoutly opposed. At the first phase of the transformation process the majority of *gminas* chose the form that seemed the safest—that of the budgetary establishment described earlier. That solution was, however, a step in transition towards commercial-law partnerships.

Fulfilling the legal obligation to transform enterprises was not the easiest of tasks. At the end of 1991, legislative standards for acceptable legal-organizational forms as well as the definition of public utility itself were still absent the legislative framework. Liberal views of the problem held that enterprises should function on a commercial basis form partnerships with *gminas* and

private capital, while conservatives felt that changes should be minimized and a special formula for municipal enterprise be introduced.

Table 9.
Structure of Legal and Organizational Forms and Employment
in a Representative Sample in 1993 and 1995 [%]

Types of Legal-Organizational Forms	1993		1995	
	Enterprises	Employment	Enterprises	Employment
Budgetary establishments	43	63	47	55
<i>Gmina</i> -controlled companies	22	16	28	32
Municipal enterprises acting based on the Law on State-Owned Enterprises	19	14	9	7
Private sector	16	7	16	6

SOURCE: T. Aziewicz, "Municipal Enterprises in the Process of Activating Local Government," typescript 1998, FSLD Archives.

Gminas were unable to adopt a solution, partially due to the reluctance of trade unions, which feared the loss of their electorate over the transfer of ownership. A hunger strike of drivers from a bus company in Białystok provides illustration of an outcry that took place precisely because of proposed property devolution. City transport services were envisaged as free, or available to passengers in exchange for a merely symbolic fare. Those services were subsidized by the central budget, and almost no one was concerned with their effectiveness. When the mayor stepped out and, as the owner of the company, claimed that the enterprise had to be transformed—that a part of it should be privatized and that people should work more effectively because the *gmina* would not subsidize the services—it was to everyone's surprise. The bus drivers' strike came in reaction to those words.

Gminas failed to meet the official deadline for completing ownership transformation. The *Sejm's* Ownership Transformation Commission extended this deadline several times. The temporary situation lasted until the adoption of the law on public utilities on December 20, 1996. At that point, a decision was reached to ultimately resolve the problem. The deadline for completion of transformations was extended once again, but at the same time the law contained a clause providing that if an enterprise is not appropriately transformed or privatized, it becomes a *gmina* partnership by virtue of law.

Thereby, the first stage of transformation was completed. Individual *gminas* today are still looking for the most adequate solution for their adaptation to the market economy. In 2000 the first municipal partnerships were quoted at the stock exchange, initiating a new stage in

the development of public utilities. Progress has varied by municipal sector, depending on the specific features of a given sector. In areas where service delivery relies on expensive infrastructure, or official prices were applied, transformation encountered serious difficulties. Conversely, the market for services in which private firms held an increasing share developed in areas that did not require extensive technical infrastructure and where prices were flexible.



Due to the specific type of functions assigned to public utilities, organizational units are used to provide services in some cases, specifically in areas that considerably exceed the territory of one *gmina*. Hence, there were many voivodship enterprises. According to laws adopted in 1990, their property was also to be transferred to *gminas*. If the activity of an enterprise was concentrated in one *gmina*, the task was simple: the enterprise was taken over by the given *gmina*. The problem was more complicated when the activities of the enterprise covered several *gminas*. Two means of proceeding were possible in that case: enterprises were either divided and their individual parts transferred to the appropriate *gminas*, or a decision was made that the property was indivisible and should be handed over to associations formed by interested *gminas*. Until one could be assembled, the enterprise and its wealth would remain under the management of the voivodship administration.

Forming associations of *gminas* is not easy. All interested *gminas* have to make concurring decisions. Initial negotiations are always long and difficult. While the establishment of an association of *gminas* is by nature a voluntary decision, legislators may oblige *gminas* to form a task-oriented association in order to exercise specific functions. Task-oriented associations of *gminas* are formed in order to deliver public services designated the specific responsibility of *gminas*. They may possess their own property and exist as legal entities. Like *gminas*, they exercise functions on their own behalf and assume singular responsibility for them. The Ministry of the Interior maintains a register of associations, which allows for the monitoring of their formation. The register does not include, however, agreements that do not officially form a separate legal entity but only provide for cooperation among *gminas*. In practice, the process of establishing cooperation among *gminas* is more commonly applied.

The first task-oriented association of *gminas* was registered on October 6, 1990. The next formed soon thereafter. The largest number of associations was registered in 1991; afterwards, the number of new registrations decreased. Functions requiring joint efforts had largely been exhausted. The associations are very different in terms of the number of member *gminas* (see Table 10.). Forty percent of them are rather small, with up to 5 members, and 22% are large associations, having more than 10 members.

Table 10.

Task-oriented Associations Registered in a Given Year and the Number of Members

Year	Number of Associations Registered	Number of <i>Gminas</i> and Cities in the Association		
		1-5	6-10	More than 10
1990	1	*	*	1
1991	43	14	17	12
1992	24	6	6	12
1993	19	12	5	2
1994	18	3	12	3
1995	13	9	3	1
1996	13	6	5	2
1997	15	8	6	1
1998	5	3	2	*
Total	151	61	56	34

SOURCE: Prepared by K. Bykowski, based on: *Wspólnota* 1998, no 32: 11-15.

Table 11.

Range of Activities by Task-oriented Associations of *Gminas*

Year Registered	Cooperation [Number of Areas of Cooperation]			
	1	2-3	4-5	More than 5
1990	1			
1991	26	16	1	
1992	10	13	1	
1993	5	9	4	1
1994	10	8		
1995	9	4		
1996	3	9		1
1997	3	11		1
1998	2	3		
Total	69	73	6	3

SOURCE: Prepared by K. Bykowski, based on: *Wspólnota* 1998, no 32: 11-15.

Table 12.
Number of Task-oriented Associations by Range of Activity

Year Registered	Range of the association's activity												
	Environmental Protection	Transport	Tele-communications	Waste and Dumps	Tourism	Physical Planning	Regional Economic Development	Water	Gas	Sewage	Heating	Development of Local Governance	Other
1990	*								1				
1991	12	5	4	2	4	2	4	13	2	10	4	4	1
1992	9	2	2	2	3		2	8	2	7	1	2	1
1993	9	3	6	6	6			9	3	4	1		
1994	8		1	2		1	2	4	4	3			1
1995	2	2		3	1			3	2	4			1
1996	8			3	8		1	3	3			1	
1997	8			4	8	2	1	6		2			3
1998	2	2		4									
Total	58	14	13	26	30	5	10	46	17	30	6	7	7

SOURCE: Prepared by: K. Bykowski, based on: *Wspólnota* 1998, no. 32: 11–15.

* No municipal associations cooperating in that activity in the given year.

Most associations strictly focused on a selected two or three areas of cooperation. Only 9 associations out of the 151 registered established

cooperative efforts in more than three areas (see Table 11.). Naturally, the importance and character of those areas were very different. The range of activity labeled “regional economic development” is so extensive that it could plausibly encompass any activity. A comparison of the objectives of the associations’ cooperation, such as the one presented in Table 12., demonstrates how much importance local governments attached to environmental protection and technical infrastructure. But there was absolutely no organized collaboration in the areas of culture or education. Development of local governance and physical planning were other unpopular areas. This comparison indicates the very practical focus of *gminas*’ activities and their effort to accomplish very specific and measurable results.



The housing sector was one important area that required the adoption of appropriate legislative standards. Various provisions from the communist period had accumulated in that sector that were completely unsuited to the developing model of the state and economy. The communist state was based on the principle that every individual had the right not only to housing, but to free housing. Housing was regarded as something the state was obliged to provide to its citizens rather than as the commodity it became in the market economy. Simultaneously, there remained “class struggle” regulations limiting rights to larger flats and restricting citizens from generating any income from leasing. The so-called special lease procedure meant that the administration distributed flats without the owners’ participation, as the latter had been deprived of the right to lease their property although they were still responsible for it. Proposed solutions to the situation brought opposition from tenants and individuals that drew profits or other benefits from the existing situation, who were interested in maintaining it.

As a result of the reassignment of property in 1990, *gminas* received the housing resources of the state. The administration of those resources became a serious problem for *gminas*.

Table 13.
Gminas’ Housing Resources

Type of Ownership	Number of Buildings [Thousand]	
	1996	1999
Exclusive property of <i>gminas</i>	136.6	109.3
Property shared by <i>gminas</i> and resident communities	69.3	85.0
Total	206.0	194.3

SOURCE: “Housing Management in 1999,” *Information and Statistical Papers*. Warsaw: GUS, 1999.

Table 13. contains figures that illustrate the extent of the problem. At the same time, it demonstrates the slow, yet continuous privatization process and *gminas'* gradual withdrawal from the administration of housing resources. Over three years, the number of buildings administered by *gminas* dropped by 5%, and the number of buildings that were *gminas'* exclusive property decreased by about 20% because individual flats were sold to their tenants.

Gminas took over housing resources before legislative standards had been formed to replace those that were completely unsuitable for the new conditions or obligations toward tenants. However, it was not possible to change the terms of lease quickly. That change was impeded by most lessees' inability to pay the amount of rent that would allow proper maintenance of buildings. Rent prices were fixed by executive order from the Council of Ministers.

The reform of housing management is a separate and so broad a subject that we will limit our discussion here to only a few issues directly associated with *gmina* economy. The first steps toward reform were made in December 1993, when the *Sejm* received the government's draft law that was eventually adopted on July 2, 1994.² The most important changes that law brought about were the following:

- elimination of the administrative way of flat allocation;
- establishment of real rents and charges for services;
- establishment of housing allowances for families in difficult financial situations;
- protection of tenants against dissolution of lease contacts by the lessor.

Although deeper reform was in order, this law only brought about partial changes, assuming that the transition to market economy in that area would take many years. The social effects that could have resulted from a departure from, for example, the establishment of rent prices at the central level stood as an insurmountable barrier.

The new rents necessitated the payment of housing allowances to families in difficult financial situations. The duty to pay those allowances was assigned to *gminas*; its obligation extended not only to tenants of *gmina* buildings, but also to residents occupying flats based on lease contracts if the average income per household member does not meet a given standard. Local governments protested fiercely against that provision because the law allocated compensation from the central budget for those allowances only during the transition period. Later, *gminas* were supposed to pay those allowances using their own funds, an extreme example of various responsibilities being shifted to *gminas* without being accompanied by adequate funding.

In addition to changing the rules of housing management, it was necessary to resolve the issue of so-called employee flats, i.e. properties owned by state enterprises. In communist Poland state-owned enterprises allocated flats to their employees. The tenants paid rent and charges that did not cover the actual cost of building maintenance. The employer paid the difference, but because that difference was not financed by the central government, it led to increased cost for enterprises and thereby to higher prices for their products. Deficit in the housing sector made privatization difficult. In many cases, tenants refused to buy their flats, although sometimes they were even available for free. It was simply because the operating costs tenants would have to cover considerably exceeded the actual rent they paid. In addition, as a result of migration

and changes in employment, flats in buildings owned by enterprises were occupied mostly by individuals who were not employed by those enterprises. Although the law provided for various ways for enterprises to dispose of those buildings, no one was interested in buying them.

The *Sejm* made an attempt to tackle this problem by adopting on October 12, 1994 a special law concerning the rules for the transfer of those buildings used by state-owned enterprises for housing purposes.³ Both of the laws mentioned above contributed significantly to the improvement of housing management.



Upon property reallocation, *gminas* became the administrators not only of public utility properties and enterprises, but of commercial companies and housing estates, too. Consequently, *gminas* began to conduct economic activity outside the sphere of public utility. The Local Government Act of 1990 justified such activity when social needs demanded it. According to the provisions of that law, *gminas* could form organizational units, including enterprises, and negotiate agreements with other entities. At the start of the transformation phase, the purpose of that legislative flexibility was to enable *gminas* to play the role of catalyst to economic change. *Gminas* were well-suited to perform that task, as they represented the opposite of the former system in an economic as well as a political sense.

The impact of local government activities was first noticeably in its effect on market economy. The so-called “small-scale” privatization of trade and services became an almost symbolic term, as the new reality it introduced completely replaced the familiar empty shelves and queues of customers. The legal basis for local governments’ economic activity was established at the same time that systemic legislative changes began redefining local government, giving rise to a principal debate over *gminas*’ right to perform economic activity. Several stormy discussions were held at the *Sejm* and Senate, during which two clear options were outlined. According to the one modeled after the example of other countries, *gminas* may not be involved in economic activity except when necessary for serving public utility. *Gmina* revenues should come from taxes. *Gminas* should support economic development by creating conditions facilitating business activity by private entities. If involved in activity for profit, *gminas* would compromise their interest in economic development, making it difficult for potential competitors to do business and possibly invoking monopolist measures.

The second option, and the one better suited to the country’s situation, advocated *gminas*’ economic activity precisely to counter the threat of continued state domination. Polish *gminas*, especially the wealthy ones, had previously been involved in economic activity and already owned many enterprises. The exclusion of those enterprises from *gmina* ownership would increase state control over the economy and thereby contradict the objective of the ownership reassignment policy. One of the ways in which the monopoly of the state could be broken was through the transfer of those enterprises to *gminas*, which would use or gradually privatize them. At that time the danger of local monopolies did not seem real, considering the insufficient supply on the market. The possibility of transferring for-profit activities to *gminas* would create incentive to take

local initiatives and overcome residents' passiveness. A legislative ban, on the other hand, could be interpreted by *gminas* as another attempt to restrict the activities of rising local governments. It would have been particularly dangerous in light of parallel limitations being made on local powers to the benefit of regional authorities. Additionally, *gminas* did not have money, as they were very heavily constrained by the budget. These arguments referred to the situation existing at that time; it was clear that economic activity would have to be limited in the future.

The revised Local Government Act approved by the *Sejm* on November 6, 1992 radically limited *gminas'* rights and stated that "*Gminas* and other municipal legal entities may not perform economic activity exceeding the functions of public utility."⁴ The provision was to take effect from June 30, 1994, giving *gminas* time to adjust to the new regulation. In addition, the terms "economic activity" and "public utility" were at the time not unambiguous. The varying interpretations generated serious doubts. For example, the issue of *gminas'* right to buy shares of various companies was finally resolved only by the ruling of the Constitutional Tribunal.

That rigorous limitation was strongly criticized by *gminas* and local government associations for contradicting the principle of economic freedom. These groups argued that *gminas'* activities extend beyond administrative functions, and they should therefore have the opportunity to take economic initiatives. Hence, Article 10 of the 1996 Law on Public Utilities broadened *gmina* economic activity and authorized *gminas* to form partnerships subject to commercial law and to merge them if the needs of the local market are not satisfied, unemployment threatens the living standards of the community, or other measures attempted do not stimulate economic activity. Furthermore, it allowed *gminas* to possess stocks or shares in partnerships in the sectors of banking, insurance, or consulting as well as those partnerships associated with promotional, educational, or publishing activities for local government and development.

Those important powers enabled *gminas* to manage their properties effectively and contribute meaningfully to local economic development. *Gminas* used various means to attract investors. Most commonly, they sent brochures or pieced together various offers. To promote themselves, *gminas* also participated in a range of domestic and international organizations and events. But many *gminas* believed advertising was not enough and proposed preparing land and improving infrastructure to attract investors. The results of those initiatives were mixed.



The infrastructure of many *gminas*, inherited by the new local authorities in 1990, was frequently in poor shape, making residents' lives difficult and restraining opportunities for economic development. Infrastructure development became a priority task. *Gminas* eliminated the previous bureaucratic system of investment and development and replaced it with market mechanisms supported by the residents, their initiatives and funds. Almost sensational results were achieved. Table 14. presents data describing water supply and sewage systems in Poland.⁵ Between 1990 and 1999, these systems grew many more times than in the previous decade, a result of the work performed by the *gminas* that owned more than 90% of the facilities.

Table 14.
Water Supply and Sewage Systems in Poland

Specification	Condition in Years			Extension in Years		Extension b : a [%]
	1980	1990	1999	1980–90 (a)	1990–99 (b)	
Water systems:						
• Water-main [thousand km]	6.1	8.3	41.8	2.2	33.5	1,522
• Distribution system [thousand km]	53.1	93.1	203.6	40.0	110.5	276
• Connections to houses [thousand]	1,203	1,531	3,723	328	2,192	668
Sewage systems:						
• Sewers [thousand km]	20.5	23.1	46.8	2.6	23.7	911
• Connections to houses [thousand]	460	511	1,035	51	524	1,027
Number of cities served by sewage treatment plants including:						
• mechanical	357	467	778	110	311	282
• biological—standard	158	165	67	7	-98	
• biological—upgraded	199	302	666	0	364	
	0	0	205	103	205	

SOURCE: *Gminas in 1990–1998; Municipal Infrastructure in 1999* (published 1999, results for 1990–99). Warsaw: Annual Statistics.

Table 15.
Paved Roads [Thousand km]

Public Road Category	Year		
	1993	1998	1999
National	45.6	45.6	18.1
Voivodship	110.1	111.8	28.3
<i>Powiat</i>	0	0	111.4
<i>Gmina</i>	76.1	87.0	90.9
Total	231.8	244.6	248.7

SOURCE: *Transportation in 1994* (1995); *Transportation in 1998* (1999); *Transportation in 1999* (2000). Warsaw: Annual Statistics

It should also be noted that the quality of the infrastructure improved. This is observable from the example of sewage treatment plants, where cities demanded a higher standard for those plants and replaced mechanical plants with modern technologies.

Road construction was another objective of infrastructure development (Table 15.). *Gminas* spent nearly 1.6 times more on it than they generated from the vehicle tax,⁶ which was the source of income earmarked for the extension of roads. Considerable growth was also achieved in this area. Between 1993 and 1999, the length of local paved roads increased by 15%. Because there are no statistics available for earlier years, it is difficult to compare these data with those from the past.

The activity of rural *gminas* deserves particular emphasis here. The economic structure in communist Poland gave definitive priority to industrialized areas, resulting in the impoverishment and stagnation of agricultural areas. After 1989, rural *gminas* were considerably handicapped by their poor infrastructure, lack of access to capital and shortage of technical staff and skills necessary for organizing public works. Still, the results achieved exceeded all expectations. The number of houses connected to water systems in rural areas in 1990-1998 increased five times, from 400 thousand to 2,082 thousand. The increase in connections to sewerage systems was also considerable—530%. In 1999, 71.7% of farms were connected to water systems, while in 1990, only 29% had been. These data indicate that a substantial increase in living standards took place in rural areas.

Considerable success was also accomplished in the development of telephone connections in rural areas (see Table 16.). Poland, particularly rural areas, lagged far behind other countries in this regard. Poland was among the lowest of European countries in its ratio of telephone users to entire population. Owing to the activities of *gminas*, the number of telephone users grew several times in the first decade of transition. We should also note the substantial development of mobile phone networks. The achievements in this area are particularly valuable, as they were accomplished despite the monopoly of Polish Telecommunications, which blocked the activity of new operators wherever possible.

Table 16.
Users of Stationary Phones [Thousand]

Users	Year		
	1980	1990	1999
In cities	1,727	2,902	7,872
In rural areas	216	391	2,204
Total	1,943	3,293	10,076

SOURCE: *Telecommunications in 1998* (1999); *Telecommunications in 1999* (2000); Warsaw: Annual Statistics.

Table 17.
Sources of Funding and Volume of Capital Expenditures [Rounded to Million *Zlotys*]

Source of Funding	Expenditures														
	Water Systems				Sewage Systems ⁷				Waste Dumps				Gmina Roads		
	1993	1995	1997	1999	1993	1995	1997	1999	1993	1995	1997	1999	1995	1997	1999
Gmina budgets	234	277	375	289	76	161	313	454	12	25	36	40	no data	293	354
State budget	68	93	107	40	9	32	62	59	1	2	4	3	no data	22	48
Residents	70	90	124	72	5	17	36	43	0.1	0.4	0.2	—	no data	26	14
Environmental Protection and Water Management Fund and voivodship funds	22	15	22	18	56	68	125	259	10	10	15	44	no data	—	—
Agency for Agricultural Restructuring and Modernization ⁸	—	63	95	40	—	41	119	72	—	—	—	—	no data	103	46
Other	—	10	21	28	1	15	57	73	—	1	3	11	no data	22	36
Total	394	548	744	487	147	334	712	960	23.1	38.4	58.2	98	no data	466	498

SOURCE: A. Śniadowski, *Infrastructure Development in Rural Areas in 1990–1998*. Warsaw: FSLD Archives, 1999.

The funding used to finance infrastructure development came from many different sources (see Table 17.). In addition to local budgets, revenues included grants from the central budget and residents' own contributions. The largest contributors were the National Environmental Protection Fund and voivodship environmental protection funds as well as the Agency for Agricultural Restructuring and Modernization. The latter had been since 1994 the administrator of the government's 300 million dollar loan from the World Bank, of which 250 million was intended for rural development.

We can draw several conclusions from Table 17. without delving deeply into analysis of the data it contains. First, it is striking that *gmina* budgets contributed about as much as all other sources combined. The constant increase of capital expenditures clearly exceeds the inflation rate. We should also note the continuously growing percentage of expenditures on sewage systems, sewage treatment plants and waste removal, which are strategic investments in environmental protection. In 1999 those expenditures represented 118% of the expenditure on water systems, while in 1993 the comparable figure was only 43%. Spending on extension of water systems has begun to drop, from which we may infer that needs in this respect have been satisfied. Table 18 on the following page supports these data with a breakdown by percentage of each source's expenditure for water and sewer systems.

Table 18.

The Structure of Expenditures on Water and Sewage Systems by Source of Funding

Source of Funding	Water Systems			Sewage Systems		
	1993	1997	1999	1993	1997	1999
<i>Gmina</i> budgets	59.4	50.4	59.4	51.7	44.0	47.4
State budget	17.3	14.4	8.2	6.1	8.7	6.2
Residents	17.8	16.6	4.8	3.4	5.1	4.5
NEPWMF	5.5.	3.0	3.7	38.1	17.5	26.9
AARM	—	12.8	8.2	—	16.7	7.5
Other	—	2.8	5.7	0.7	8.0	7.5

SOURCE: A. Śniadowski, *Infrastructure Development in Rural Areas in 1990–1999*. Warsaw: FSLD Archives, 1999.



Even economically successful *gminas* experience regression in some areas, often for reasons rooted in culture. First, they are challenged by shortage of funds, but they also suffer from lack of vision on how to support culture under the new systemic conditions and the corresponding absence of policy in this field both at the local and central levels.

Reforms implemented after 1990 resulted in decentralization of decision-making involving culture and decentralization of the funds used to support culture. The transfer of powers and funds to local governments was to enable the adjustment of cultural infrastructure and activities to local needs, since the management of cultural development is local government's inalienable attribute. But there was clearly no precedent or program guiding it, and the development of such a program was beyond the capacity of local activists. Because local governments did not really know how to support culture and their budgets were insufficient, they cut expenditures in that area. Protest was insignificant, because civic centers created under the previous system were not able to propose an alternative that the community found interesting. There were glorious exceptions but definitely too few of them. Quick reconstruction of the tradition of spontaneous local activity eliminated systematically under communism proved impossible. Moreover, there were no tools to support local culture by local sponsors, and there were no satisfactory legislative standards for the transfer of private subsidies for cultural development.

These factors led to stagnation of cultural activity and often to the disappearance of various cultural institutions (see Table 19.). The year the new law on financing culture took effect,⁹ the situation was as follows:

- Twice as many civic and culture centers were closed down than established.
- More than three times more clubs and activity centers were closed down than established.
- Four times more cinemas were closed down than opened (in rural areas in 1990 there were 231 cinemas and in 1993 only 57).
- Five times more museums were closed down than opened.

To date, it has generally not been possible to make up for those losses. Then again, more galleries and art exhibitions, bookshops and record and cassette selling points have been opened than closed.

The new conditions changed the situation of amateur artist groups.¹⁰ The most popular songs and music groups lost the least ground. In 1992 they were present in 72% of *gminas*, in 1996, 63%. The number of song and dance ensembles also dropped only slightly. The most serious regression was in the categories of amateur photography and filmmaking, that is, in areas requiring special rooms, expensive equipment and materials and highly qualified instructors. The closing of most community libraries had a definitely regressive impact. Out of more than 15,000 community libraries, only about 3,000 remained. Commercial institutions filled the gap left by the closed cultural institutions.

Finally, after a few months of transformation, the development of local infrastructure stabilized, but the debate on funding culture and the role of private funds as supplements to local budgets continued. The establishment of *powiats* and voivodships in 1999 brought sweeping structural changes. The jurisdiction of the central administration was restricted once again. 101 organizational units previously subordinate to the Ministry of Culture were handed over to voivodships and 166 to *powiats*. Only national institutions, including the most important museums, philharmonic halls and theatres, remained under the direct supervision of the Ministry of Culture.

Table 19.
Changes in the Number of Cultural Institutions in 1990, 1996 and 1999

Type	Year		
	1990	1996	1999
Civic and culture centers	2,343*	2,301	2,241
Clubs and activity centers	1,759*	1,374	1,344
Museums	563	604	623
Cinemas	1,318	706	682
Public libraries and their branches	10,269	9,342	9,046
Community libraries	17,565	3,938	2,870
Artistic groups	12,091*	13,721**	14,848

SOURCE: K.Milczarek, *The Role of Local Governments in the Development of Local Cultural Life: Barriers and Achievements*. Warsaw: FSLD Archives, 1998: 15. Also: *A Short Book of Polish Annual Statistics 2000*, Warsaw 2000 and *Annual Statistics of Poland, 2000*, Warsaw 2000.

* data for 1991

** data for 1995

ENDNOTES

¹ Dz.U. no. 51, item 301.

² Dz.U. no. 105, item 509.

³ Dz.U. no. 119, item 567.

⁴ Article 9, Paragraph 2.

⁵ A comparison of the development of *gmina* facilities is not possible, due tot of the absence of separate municipal ownership before 1990.

⁶ According to data from the Association of Polish Cities contained in *Gminas in 1990–1998*, Poznań 1998.

⁷ Expenditures related to the total cost of building the sewage system and sewage treatment plants.

⁸ Data from the Agency for Agricultural Restructuring and Modernization, updated based on the Agency's database.

⁹ Law on Liquidation of Some Funds (Dz. U. no 89/90, item 517).

¹⁰ Based on research conducted by the Culture Institute for 1992–1996.

CHAPTER 11.

Local Finance

Financial autonomy is the basis of local governance. *Gminas* are not able to use their autonomy if they do not have freedom in managing their funds that matches the extent of their responsibilities. The Local Government Act of 1990 emphasized this principle. Before 1990 local authorities were bodies of the central administration, acting on behalf of the state and financed through the state budget subject to approval by the *Sejm*.

Reform was initiated by relevant changes in the Constitution. The constitutional amendment of March 8, 1990 mentions *gminas'* private revenues and the possibility of state subsidy. The Local Government Act adopted on the same day clearly grants *gminas* autonomous financial management capacity. In that way, the state's monopoly in the area of public finance was breached, but the road stretching between general statements to concrete decisions to decentralize public finance was long. When laws on local government were passed, a detailed model proposing changes to municipal finance did not accompany them. The law adopted in December 1990 did not meet earlier expectations, because centralization mechanisms were maintained to an excessive extent, complicating the progress of reforms considerably.

The 1990 law was a temporary piece of legislation assumed to be effective only for two years until relevant practical experience could be accumulated. In reality, that period was extended and only minor changes were incorporated into that law. The new Law on *Gmina* Finance was not adopted until December 10, 1993. It was amended in 1995 as a result of related changes made to the educational system. Several other laws touched upon issues of *gmina* finance—for example, laws that contained regulations on local taxes and fees or public roads. We may say that after the initial period of stopgap solutions, some permanent mechanisms began to emerge after 1994. The local finance system evolved continuously and coincided with transformations in other areas of economy and public life. The process led to the adoption of the Law on Public Finance, which took place only in the *Sejm's* 1998 term.

The fundamental principles guiding *gmina* finance remained unchanged and are as follows:

- 1) *Gminas* have only a limited authority to tax. Their own revenue comes only from taxes and local fees, the rates of which are limited by law.
- 2) Basic taxes are national taxes. Their rates are defined by Parliament and central government offices collect the income. *Gminas* receive a guaranteed share of those taxes.
- 3) *Gminas* receive subventions from the central budget, which are calculated by means of a special algorithm. The amounts of subventions are not subject to administrative decisions. The subventions are paid directly to *gminas* by the ministry in order to eliminate indirect administrative units, and thereby prevent the exertion of pressure on *gminas*.
- 4) *Gminas* have freedom in the management of their finances, which means they may generate income from their own property, obtain loans and credits, issue bonds and so on. This

right is limited by laws and executive orders concerning maximum rates of rent that may be charged, the extent of economic activity, or the size of debt that may accumulate.

- 5) *Gminas* may receive earmarked grants from the central budget that are associated with functions the central administration assigns to them.
- 6) *Gminas* enjoy unrestricted autonomy in spending their funds according to need. This refers also to subventions. Earmarked grants are the only exception—they have to be used strictly according to their purpose.
- 7) *Gminas'* financial management requires appropriate supervision, as it concerns public finance. This supervision is not exercised by the central administration, as that would threaten *gminas'* independence. For that activity, regional audit chambers (*regionalne izby obrachunkowe* - RIO) were established as independent bodies with technical competence. RIOs may evaluate *gminas'* expenditures only in terms of their consistency with the law. Only the use of earmarked grants may be examined from the point of view of its justification.

Although this model guarantees *gminas* financial autonomy, it depends on the central budget in the sense that the range of local taxes is limited. Throughout the model's evolution, the central budget was in a constant state of difficulty, and *gminas* had to assume more and more functions without adequate increases in subventions.

Powiats and voivodships were established in 1999. They too became legal entities and obtained the right to manage their own finances. That management was based on rules analogous to those applied to *gminas'* financial management. The Law on Local Government Revenue adopted on November 28, 1998 was an interim law, effective only for the next two years for the purpose of allowing officials to gain relevant experience concerning the work of *powiats* and voivodships.



The following section presents an overview of *gminas'* revenues, which come from the following four primary sources:

- local taxes and *gminas'* own resources;
- shares in national taxes;
- subventions;
- earmarked grants.

However, the data presented here illustrates the processes of local finance reform. They should be treated as informational only. The presentation of fully comparable data is limited by factors such as: high inflation, devaluation of Polish currency and changes in legislation on *gmina* finance or laws on *gmina* responsibilities. For that reason, we use only data for a few selected years in order to illustrate three distinctive periods—1991-93, 1994-98 and after 1999—in which different laws were effective and differing arrangements of local governments were in operation. Data describing the activities of *gminas* in 1999 is not exactly comparable to those for earlier years. In 1999 a new category of *gmina* that exercised *powiat* functions was established. The 65 largest cities in Poland (excluding Warsaw), although representing only 2.1% of the country's

territory, have a combined population of 11,451,000 residents—almost 30% of the population of Poland. The budgets of those cities covered both *gmina* and *powiat* functions. Hence, it is necessary to distinguish this separate group.



According to the law approved in December 1990, *gminas*' private revenue comes from the following sources: various market, local and administrative fees, the property tax, vehicle tax and tax on dogs. Moreover, the following were defined as *gmina* revenues: the farm tax, inheritance and gift tax, the proposed forestry tax, which was to be levied on state forests, and tax on business conducted by individual persons paid on a lump-sum basis. The farm tax has always been problematic in that it is inherited from the communist period and based on Marxist principles according to which land has no value. Consequently, farmland was not taxed appropriately, and *gminas* did not generate adequate income from agriculture. The farmers' situation did not, however, allow any radical reforms—for understandable reasons, farmers firmly opposed reforms. This tax inequality caused wide gaps between the incomes of rural and urban *gminas*.

Gminas were also granted the right to make decisions concerning exemptions, abatements, postponements and remissions of the taxes that constitute *gmina* income. Abatements were granted by *gminas* on their own behalf and thereby the financial effects of those decisions were not subject to refund from the state budget. This problem seems important from the systemic point of view. When this regulation was constructed in 1990 and city and *gmina* mayors received the right to use abatements, it was because we believed that local authorities were entitled to freely use their revenues, meaning they could also withdraw from such decisions if justified by the interest of local communities. Over time, the rationale for that freedom was questioned. On one hand, the financial administration exerted pressure to restrict that freedom as it sought ways to increase public revenues, while on the other, local communities questioned whether it increased the temptation for corruption and privileges for some persons. As a result, those powers were gradually limited.

In 1991 the Law on Local Taxes and Fees took effect, and the restructuring of the tax system was set in motion. Under the previous system, various forms of property were taxed differently, stemming from the conviction that some forms of property were “more socialist” in nature and therefore subject to fewer taxes. The government rejected that communist legacy, and uniform rates of property tax were introduced so as to treat everyone equally. However, a list was made of entities exempt from that tax by virtue of law. The list included buildings used for social, educational and cultural services. The concern was that *gminas*, which were in a difficult financial situation, would not use their right to apply exemptions to buildings serving important public purposes. These concerns turned out to be unjustified. *Gminas*, acting in the name of local interests, reduced the tax rates levied on those institutions. The rates were, however, set by the Ministry of Finance, and *gminas* could only reduce them within the limited scope of authority offered them with respect to their own taxes.

Real estate market-values did not yet exist; therefore purely technical values of building and land areas were maintained as the basis for tax calculation. The issue of changing the rules of

taxation to a system of tax based on the value of the property was the subject of discussion but was not resolved during the period in question, as it was a socially sensitive topic. The increased property tax burden on centers of big cities would exceed many families' ability to pay. Enforced migration of residents seeking cheaper neighborhoods would be a natural consequence of that reform. This is a difficult operation, both for social reasons and because of the absence of sufficient housing resources.

Income from municipal budgetary units and from property was also considered *gminas'* own revenues. In the same period, *gminas* maintained a lot of freedom, as the central administration only capped the prices they could charge as rent. The size of those revenues was largely determined by changes in the regulation of economic activity that transformed *gmina* entitlements. Changes in *gminas'* financial situation were also a result of the adoption of legislation on new taxes and local fees. Taxes were levied gradually on various types of activity and elements of property that were not taxed in the previous system. The law of July 4, 1996 was an attempt to clean up the tax system. The idea was to find a way to apply uniform taxes to all entitles—regardless of the type of their activity—and a mechanism for taxing properties based on their value. Thus, it was an attempt to increase the role of market factors. But individual parties or groups of *Sejm* members strived to secure the interest of various social groups meaning protecting the welfare state model.

The proportion of *gminas'* privately accumulated revenues in their total budgets initially ranged from 45 to 47%. The difference in the situations of rural and urban *gminas* is best characterized by figures describing *gminas'* own revenues per resident, which in 1993 amounted to 813.3 *zlotys* in rural *gminas* and 1,307.¹ in the remaining *gminas*, yielding a national average of 1,166.2 *zlotys*.²

The situation changed when new regulations came into effect in 1994. The percentage of *gminas'* own revenues considerably decreased, initially to 40% and in 1996 to as little as 35%. The disparity between rural and urban *gminas* deepened over time. Rural *gminas'* own revenues in 1996 represented only 29% of its total revenue, while urban *gminas* maintained their own revenues at the level of 37%. The differences in *gminas'* own revenues per resident were still considerable. In 1996 revenues amounted to 201.2 *zlotys* in rural *gminas*, 309.3 *zlotys* in urban *gminas* and a national per capita average of 278.9 *zlotys*. In 1999 *gminas'* private revenues represented 54.8% of their total budgets. The gap between rural and other *gminas* was still sizeable. While in the former category, those revenues represented 42.1%, in the latter they constituted 62.1%. The difference was equalized through general subventions.



Gminas' revenues were supplemented with their shares of national taxes, but plans to establish local taxes to an extent that would fully satisfy *gminas'* needs faltered. Poland had neither such a tradition nor the experience to support it. At the same time, the debt inherited from the previous system combined with the cost of transformation was so high that it was necessary for the central government to maintain extensive control over public revenues. The issue proved to be a recurrent one. Among others, a group of *Sejm* members submitted a draft law that proposed

establishing local taxes in the form of supplements to national taxes. The main argument in favor of that tax was to protect local budgets from the effects of tax abatements granted at the central level, which reduced *gminas*' revenues to an appropriate percentage.

Should shares of national taxes be treated as *gminas*' own revenues or as funding from the outside? This question remains open-ended because the boundary between the two categories is unclear. The argument for treating these shares as *gminas*' own revenues is that *gminas* have complete freedom in spending these funds, while the argument for regarding them as funds from the outside contends that they are not associated with local budgets in a permanent manner, as they are allocated periodically and their amounts change frequently.

The legislative basis for the transfer of tax shares from the state budget to *gminas* is the law of December 14, 1990 on *gmina* revenues and rules for subsidizing them. Shares of the following taxes were included in the list of *gmina* revenues:

- 5% of income from the corporate income tax on legal entities situated in the *gmina*;
- 30% of income from the salary and wage tax and the equalization tax that existed at that time;
- 50% of income from the personal income tax, which was of little significance before the tax reform.

The issue of shares of national taxes aroused many controversies, even during the initial *Sejm* debates in 1990. The *Sejm*'s members were seemingly divided into two groups: some wanted to increase the share of the corporate income tax, others wanted to reduce it. The issue was really a dispute between urban and rural *gminas*. Since enterprises are located in cities, urban *gminas* favored withholding the total income from their taxes. On the other hand, representatives of rural *gminas* wanted redistribution of those revenues because most of those *gminas* had to make due with income from the low farm tax.

The issue of national tax shares was associated with the problem of payers' addresses. The state is not concerned with where the taxpayer actually lives, but the payers' address is of fundamental importance to the *gmina*, as *gmina* payouts are determined according to payers' addresses. As regards individuals, a basic question arose: which *gmina* is entitled to receive the money, the one in which the payer lives or the one, in which the payer works and uses numerous services? Similar problems concerned the corporate income tax. Enterprises often were headquartered in locations other than where people were employed. If tax shares were transferred to *gminas* where the enterprises kept their offices, the income of cities would be disproportionately high, while small *gminas* would not receive any benefits from local employment. The fact that the financial authorities had neither the experience nor the funding to start using new, more complicated accounting services was another challenge.

The end of 1991 was a time of significant changes in the methods used to calculate national tax shares—a product of the abolition of various taxes paid by individuals and the introduction of the general personal income tax (PIT) as their replacement. *Gminas* received 15% of the revenue collected from that tax. The “address issue” was solved in the following manner: the amount of income from that tax in a given voivodship was distributed to *gminas* in proportion to their populations.

Another change was the April 1, 1992 decision to reduce *gminas'* share of the corporate income tax from 5 to 2%. The purpose of that measure was to mend the state budget. The subsequent changes incorporated on November 27, 1992 restored the previous percentage. Thus, in 1993 local governments had shares of the following national taxes:

- 15% of income from the personal income tax paid by individuals residing in the *gmina*;
- 5% of income from the corporate income tax on legal entities and organizational units having their head offices in the *gmina*.

Details of share transfers were still a controversial matter. Representatives of cities suggested the shares should not be based on the population, but should be calculated as a proportion of the amount of tax paid by residents of individual *gminas*, while representatives of rural *gminas* protested against it because farmers, who constituted the largest group among their residents, paid the incomparably low farm tax in place of the personal income tax. For that reason, the changed manner in which transfers of shares were calculated would have affected rural *gminas* the most. The change was made only on December 22, 1993, once the Law on *Gmina* Finance had been amended. The *Sejm* recognized every *gmina's* right to a share of the actual taxes paid by its residents.

National tax shares represented 15% of rural *gmina* budgets and 27.6% of urban *gmina* budgets, with a national average of 24.5%. From these figures, we see the importance of the previously discussed issue of addresses. Income from the share of the personal income tax represented about 90% and the corporate income tax only 10% of the total. The importance of the way in which those revenues were distributed is clear when amounts of these shares are compared on a per capita basis. In 1992–1995 per capita revenues in urban *gminas* represented 140–150% of analogous income in rural areas. In 1996 the difference was more than 220%.

The law of December 5, 1996, which amended the 1993 law, increased *gminas'* share of the personal income tax to 16% in 1997 and to 17% in 1998. Cities that assumed new responsibilities under the pilot program and the country's large cities were treated separately.

The shares in question rose substantially as a result of the 1998 reform. In 1999–2000 they represented 27.6% of income from the personal income tax and 5% of income from the corporate income tax. These changes followed the devolution of new functions to *gminas* and changes in the calculation of the general subvention.



Gminas' own revenues supplemented with shares of national taxes are not sufficient to cover *gmina* operating expenditures and do not enable the equalization of geographical differences among sources of *gminas'* own revenues. The general subvention was established to address these problems. It can best be understood as a one-way, non-repayable transfer from the state budget, which does not cause any liability to the recipient *gmina*. Local governments at their own discretion and according to their needs may use the general subvention, in contrast to earmarked grants. The objective of the subvention is very different, which is why it is both a very difficult and demanding task to calculate subvention amounts for each *gmina*.

The adoption of rules for these calculations proved to be a political choice. According to one of the two conflicting views, *gminas* should generate the largest percent of their income, and subventions should be limited; in this way, the central authorities' interference in local governments' activities would be reduced. *Sejm* members in favor of that solution defended the interests of urban *gminas*. Representatives of rural *gminas* opposed them, arguing that reducing the general amount of subventions would especially weaken rural *gminas* and deepen the existing disparities between "town" and "country." They supported the idea of the state's participation in the redistribution of revenue to *gminas*. It was therefore a clash of two political options—supporters of economic liberalism and those who, in the name of social solidarity, demanded the maintenance of state interventionism.

The legal basis of subventions for *gminas* was established by the law of December 14, 1990, which divided the general subvention into four components:

- 1) *gminas*' basic current expenditures;
- 2) *gminas*' inherent functions relating to schools and other educational and tutorial institutions voluntarily taken over by *gminas*;
- 3) capital expenditures;
- 4) equalization component.

The first component was to cover each *gmina*'s basic obligatory expenditures in an amount calculated by the Ministry of Finance upon consulting the National Assembly of Local Governments—a representative body of *gminas*. The amount was then distributed in proportion to the population.

The calculation of the education transfer was based on the principle that the transfer should be equal to the cost that would be borne by the Ministry of Education if education were still subject to the central administration. The amount of subvention for local capital expenditure and the division of that amount into the part transferred to *gminas* and that earmarked for an investment reserve in the state budget was also determined by the Ministry of Finance after consulting a national representation of *gminas*. The amount of the general subvention could be increased by the amount of the equalization transfer if the *gmina*'s anticipated per capita revenue was less than 85 % of the average *gmina*'s per capita revenue. If the *gmina*'s revenue exceeded 150% of the national average, the general subvention was reduced.

The system of subventions for *gminas* was complicated and unclear. The law of December 1990 drew increasing condemnation, mostly due to the decisive role of the Ministry of Finance in the subvention determination process. The absence of standard procedure for the calculation of the universal amount and the manner in which that amount was defined was subjected to criticism. According to changes in the law made on December 10, 1993, the aggregate amount of the general subvention was to equal 0.9% of the planned national revenue. The general subvention was divided into three components:

- 1) reserve subvention (1% of the whole amount);
- 2) equalization transfer;
- 3) basic subvention distributed proportionally to the co-called conversion number of residents (their number adjusted by certain rules depending on the size of the *gmina*).

The Minister of Finance administers the subvention reserve in consultation with the national representation of *gminas*. A portion of that amount is set aside to provide assistance to *gminas* in emergency situations. The equalization transfer became due to *gminas* in which the index of basic tax revenues per resident was lower than 80% of the national average.

The education transfer was set aside from the amount of the general subvention, and the power to establish this transfer assigned to the Minister of National Education. The law underwent a number of changes, the first of which were incorporated in the law of December 22, 1995 in conjunction with *gminas'* obligatory assumption of responsibility for primary schools. The separate education transfer was done away with at that time and became again part of the general subvention. The amount of the general subvention was increased to 7.5% of the planned national revenue, including 6.6% as the education transfer and 0.9% as the basic subvention.

That law also changed the allocation of the equalization transfer. The right to receive this type of financial assistance was granted to *gminas* where the index of basic tax revenues per one resident is less than 85% of the national average and not 80% as previously. This form of outside assistance was extended therefore to a larger number of *gminas* but, because the global amount of the basic subvention was maintained at the level of 0.9% of the planned national revenue, the amount of the subvention per one resident decreased. Also a system for redistribution of revenues among wealthy and poor *gminas* was put in place. Payments from *gminas* where the basic tax revenues per one resident exceeded 150% of the national average increased the global amount of the subvention.

In 1997 a new type of subvention was introduced to compensate *gminas* for the income lost from the vehicle tax. That tax was replaced with the excise tax on fuel. Its rate was set as not smaller than 6.62% of the planned national revenues from this source. The law of 1998 also changed the subventions system. Currently the subvention is composed of three components: basic, education and compensation. The law guarantees that the general amount of the basic subvention equals 1% of the planned revenues of the state budget. This component is increased by payments from the wealthiest *gminas*, in which per capita revenues exceed 150% of the average *gmina* revenue.

The total amount of the basic subvention is divided by means of an algorithm defined in the law, so as to prevent any discretionary allocation. This distribution favors *gminas* where the per capita revenue is less than 85% of the national average. The purpose of the compensation component is to make up for income lost from the vehicle tax as well as abatements and exemptions from national taxes, in which *gminas* have a share. The amount allocated for this purpose in the state budget may not be less than 10.5% of the planned income from the tax on fuel; likewise, the education component may not be less than 12.8% of the planned national revenue. The Minister of Education upon consulting local and regional authorities defines the manner in which these funds are distributed among *gminas*, *powiats* and voivodships.

Although individual components of the subvention are calculated differently, the entire amount is used by *gminas* at their discretion, and in their spending they have no obligation to consider the criteria according to which the subvention was calculated. A comparison of the amounts of annual subventions is difficult for reasons mentioned earlier. However, it is possible to say that until 1993 their real values decreased as a result of a general reduction of expenditures

in the central budget. After 1994, amounts allocated for subventions increased in both nominal and real terms.

Until 1995, general subventions represented 12–15% of *gminas'* total revenue. In 1996 that proportion increased to as much as 25% because *gminas* were granted increased subventions to cover the cost of taking over the administration of schools. This proportion continued to increase in the years that followed. In 1999 general subventions represented about 33.6% of total revenues. Here, there is also a big difference between urban and rural *gminas*, but this time rural *gminas* occupy the more favorable situation. Until 1995, subventions represented 20% of rural *gminas'* budgets, in 1996 nearly 40% and in 1999—45.5%. To urban *gminas*, subventions were of less significance, representing only 10-14% in the mid-90s and increasing to 26.8% in 1999.



According to the Local Government Act, *gminas* could exercise functions falling within the scope of the central administration's authority. That required the transfer of adequate funds in the form of earmarked grants to *gminas*. In contrast to general subventions, earmarked grants are subject to all budgetary limitations. They may be used only for a specific purpose and that use is subject to supervision, not only in terms of consistency with the law, but also in terms of justification. This also makes *gminas* dependent on the central policy. Local governments must use earmarked funds for purposes defined by the central administration, and it is not possible to shift these funds to other functions that may be more important from the local community's point of view.

The central government may also subsidize *gminas'* inherent functions if they are deemed important to the public interest. In this way, a tool to implement national policy was created—financial incentive. Earmarked grants played a significant role in *gmina* budgets. They represented from 12 to 18% of those budgets, and in 1994 they contributed as much as 21.6%. In 1999 earmarked grants represented only 11.6%. Those fluctuations were a result of frequent changes in the *gmina* finance system.



The law in no way restricts the size and appropriation of *gmina* expenditures. However, the legislative requirement that expenditures may not exceed revenues led to the need for far-reaching limitations in many cases. Consequently, *gminas* often gave up expenditures in priority areas because of the need to spend money elsewhere. Unfortunately, there is no data from which to analyze those forced decisions to give up expenditures. Table 20. summarizes the distribution of *gmina* spending.

The data in Table 20. illustrates the national average. There are, however, big differences between individual *gmina* categories. Also, the structure of expenditures changed over time as the range of *gmina* functions and responsibilities was modified. The Table reflects the *gmina* take-over of schools and the transfer of responsibility for financing health care to “sick funds.” Furthermore, it is possible to identify here *gminas'* main priorities and the direction of their evolution. Priority areas were primarily public utilities and education.

Table 20.
Gmina Expenditures in Principal Sectors

Specification	Year					
	1991	1993	1994	1996	1998	1999
Total expenditures	100.0	100.0	100.0	100.0	100.0	100.0
Agriculture	3.1	2.8	2.3	2.3	2.0	2.3
Transportation	2.9	2.3	1.9	1.8	2.2	6.0
Public utilities	28.0	29.6	26.8	22.3	22.2	16.6
Housing	7.8	7.8	6.7	4.2	4.7	4.4
Education	16.0	20.1	25.5	37.4	36.7	39.6
Culture and arts	3.9	3.5	3.3	2.7	2.8	2.9
Health care	7.0	6.3	8.7	6.1	6.1	1.4
Public welfare	7.7	10.9	9.9	9.2	9.6	10.4
Administration	10.4	11.5	10.3	9.7	9.7	12.1
Subsidies	8.4	1.1	0.7	0.2	0.1	0.1
Other	4.8	4.1	3.9	4.1	3.9	4.2

SOURCE: Prepared by A. Gójski, based on budget implementation reports by the Ministry of Finance.

Local authorities concluded that their priority task was infrastructure improvement. Capital expenditures were a significant element of *gmina* budgets. Their percentage in *gminas'* budgets was consistently high. However, recently it has dropped, which many believe to be a consequence of *gminas'* poor financial condition forcing them to be very economical (see Table 21.).

Table 21.
Percentage of Capital Expenditures in the National and *Gmina* Budgets

Budget	Year		
	1991	1993	1996
State	6.45	4.81	5.49
Gmina	25.85	25.10	22.04

SOURCE: *Gminas in 1990–1998*. Poznań: Association of Polish Cities, 1998.

Public utilities have always comprised the largest part of capital expenditures. It confirms once again the importance local communities attached to the development of infrastructure that they inherited often in a disastrous state. In this area, Poland lagged far behind other countries—consequently, the population's living standards were lower and local development capacity was limited.



In the first years following their establishment, local governments could boast that their revenues exceeded their expenditures. In 1991 the surplus amounted to 10.5%. That seems to have been a result of a very cautious financial policy. In most cases, *gminas* did not spend the planned amounts.

While in 1991, only 2.7% of *gminas* had a budget deficit, in the next years the percentage increased to nearly 60%. This was mostly a consequence of the devolution of new responsibilities without adequate funding. *Gminas'* protests seem completely justified in light of these figures. One by one, central governments struggled to balance the state budget by, for example, shifting burdens to *gminas*. The percentage of *gminas* with a deficit (see Table 22.) was much higher in the group of rural *gminas* than in other *gmina* categories. This may indicate both the absence of qualified staff capable of conducting active development programming and the employment of a conservative budget policy.

Table 22.
Percentage of *Gminas* with a Budget Deficit

Year	<i>Gminas</i> with a Deficit		
	Total	Rural	Other
1991	2.7	2.0	4.1
1993	41.2	39.8	43.7
1994	48.7	47.2	51.6
1996	55.6	52.5	61.3
1998	59.6	58.4	61.8
1999	55.0	54.1	56.7

SOURCE: Prepared by A. Gójski, based on budget implementation reports by the Ministry of Finance

Gminas were obliged to finance their deficits. Data on how they did it is available only from 1993.

Table 23.
Sources of Financing *Gmina* Deficits [%]

Specification	1993			1996			1999		
	Total	Rural	Other	Total	Rural	Other	Total	Rural	Other
Total sources	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Bank credits	39.7	38.0	40.2	40.7	34.9	42.1	38.3	38.9	37.9
Loans	–	–	–	29.5	34.5	28.3	39.5	43.8	36.8
Budgetary surplus from previous years	43.3	57.8	39.1	24.6	29.0	23.5	17.1	16.0	17.6
Other	17.0	4.2	20.7	5.2	1.6	6.1	5.1	1.3	7.7

SOURCE: Based on budget implementation reports for 1994–99, Ministry of Finance.

In analyzing Table 23., we may observe that budgetary deficit was financed in an increasingly similar way, although initially conspicuous differences were visible. Rural *gminas* were more cautious and afraid to borrow money. Within a few years, however, their policies converged with others' that we may suspect resulted from *gminas*' closer cooperation with banks. It should also be noted that 'other' ways of financing deficits started to be used by *gminas* in that period—mainly through the issuance of their own securities. This proves that local governments' economic policy grew increasingly dynamic.



Powiaty began to operate on January 1, 1999. It was particularly difficult to define the rules governing their budgetary situation and financing for two reasons: first, a number of functions of the central administration were devolved to *powiaty*, and second, financing health care became the responsibility of "sick funds," while *powiaty* began to manage hospitals and other medical units above the *gmina* level. At the same time, it was not possible to anticipate expenditures because of lack of experience.

In the end, the following were defined as *powiat* revenues in 1999 and 2000:

- a 1% share of the national personal income tax on *powiat* residents;
- general subvention;
- income of *powiat* budgetary units and payments from budgetary establishments and support services of *powiat* budgetary units;
- earmarked grants from the state budget for inspections and guards ;
- earmarked grants from the state budget for functions of the central administration, performed by *powiaty* based on separate laws;
- earmarked grants from the state budget for *powiaty*' own functions;
- interest on *powiaty*' bank deposits;
- income from *powiat* property.

The general subvention for *powiats* consists of the following components: education, roads and equalization. The education component was discussed in the section on *gmina* budgets. The equalization component is transferred to *powiats* whose per capita revenue is less than 85% of the national average. However, in distinction to *gminas*, no minimum amount for this subvention was defined—it is determined in annual budget laws. The component for roads is allocated based on an executive order by the Council of Ministers that takes account of the functions and conditions of each *powiat*. Local governments received these principles as a highly unsatisfactory revenue structure, which is clearly reflected in Table 24. *Powiats* are excessively dependent on the central administration. Radical changes will be necessary in this area after gaining necessary experience.

Table 24.
The Structure of *Powiat* Revenues in 1999 [%]

Specification	1999
<i>Powiats</i> ' own revenues	6.2
Shares of the personal income tax	1.9
Income from <i>powiat</i> property	2.2
Other revenues	2.1
Earmarked grants	49.4
For functions of the central administration	28.5
For <i>powiats</i> ' own functions	19.9
Other	1.0
General subvention	44.4

SOURCE: http://www.mofnet.gov.pl/finanse_samorzadow/finanse.shtml, November 16, 2000.

Table 25.
The Structure of *Powiat* Expenditures in 1999 in Selected Sectors [%]

Specification	1999
Transportation	7.1
Education	42.8
Health care	5.5
Public welfare	14.8
Central and local administration	9
Public safety	18.4
Other	2.4

SOURCE: http://www.mofnet.gov.pl/finanse_samorzadow/finanse.shtml, November 16, 2000.



By virtue of law, 65 cities assumed *powiat* functions, which meant that their budgets include funding for functions of both levels of local government. Also, their financing is based on provisions concerning *gminas* and *powiats*. Tables 26., 27. and 28. present the figures.

Table 26.
Structure of Revenues of Cities with *Powiat* Status in 1999 [%]

Specification	1999
Revenues of the <i>gmina</i> component including:	67.4
Own revenues	47.3
Earmarked grants for <i>gmina</i> functions	5.6
General subvention for <i>gmina</i> functions	14.5
Revenues of the <i>powiat</i> component including:	32.6
<i>Powiats'</i> own functions	1.5
Earmarked grants for <i>powiat</i> functions	16.1
General subvention for <i>powiat</i> functions	15.0

SOURCE: http://www.mofnet.gov.pl/finanse_samorzadow/finanse.shtml, November 16, 2000.

Table 27.
Structure of Expenditures of Cities with *Powiat* Status in Selected Sectors [%]

Specification	1999
Transportation	8.7
Public utilities	14.3
Housing and non-material municipal services	4.8
Education	37.8
Culture and arts	3.0
Health care	2.7
Public welfare	9.8
Central and local administration	7.0
Public safety	8.2
Other	3.7

SOURCE: http://www.mofnet.gov.pl/finanse_samorzadow/finanse.shtml, November 16, 2000.

Table 28.
Sources of Financing the Deficit of Cities with a *Powiat* Status in 1999 [%]

Specification	1999
Credits	45.2
Loans	36.1
Securities	7.3
Budget surplus	9.5
Income from privatization	1.9

SOURCE: http://www.mofnet.gov.pl/finanse_samorzadow/finanse.shtml, November 16, 2000.



In 1999 voivodships were also granted independent budgets. Voivodship revenues are composed of the following:

- shares of national taxes: 1.5% of income from the personal income tax and 0.5% of income from the corporate income tax;
- general subvention;
- income generated by budgetary units and voivodship enterprises;
- earmarked grants from the state budget for functions of the central administration;
- earmarked grants from the state budget for the voivodship's own functions;
- interest on the voivodship's funds;
- income from voivodship property.

The general subvention for the voivodship is also composed of transfers for education, roads and equalization. The amounts of these subventions are calculated in a manner similar to subventions for *gminas* and *powiats*.

Table 29.
Structure of Revenues of Self-governing Voivodships in 1999 [%]

Specification	1999
Own revenues	18.0
Earmarked grants	47.3
General subvention	34.7

SOURCE: http://www.mofnet.gov.pl/finanse_samorzadow/finanse.shtml, November 16, 2000.

Table 30.
Structure of Expenditures of Self-governing Voivodships in Selected Sectors [%]

Specification	1999
Agriculture	16.4
Transportation	20.8
Public utilities	4.1
Housing and non-material municipal services	1.2
Education	14.1
Culture and arts	15.3
Health care	15.8
Physical culture and sports	1.6
Central and local administration	5.3
Grants for business activity	4.5
Other	0.9

SOURCE: http://www.mofnet.gov.pl/finanse_samorzadow/finanse.shtml, November 16, 2000.

In 1999 fourteen out of the existing 16 self-governing voivodships noted a budgetary surplus. Only two recorded a deficit, and these deficits were financed through loans from Polish banks.



The development of municipal financial management enabled the emergence of a local finance market. *Gminas* managed significant amounts of money, and various banks found the provision of financial services for those *gminas* more and more attractive. In the previous system, small, mostly cooperative banks administered accounts of the former local administration. The consolidation of the banking system changed that situation, and *gmina* finance became interesting to larger banks. This was visible in various promotional campaigns.

Current accounts were not the only type of services banks provided to *gminas*. We already mentioned some substantial loans, the purpose of which was not only to strengthen *gmina* budgets, but also to conduct business directly or through other units. The arrangement was particularly attractive because banks perceive *gminas*, being subject to quite rigorous legal provisions, as very safe borrowers.

New tasks and opportunities in the banking sector appeared when *gminas* began to issue their securities. The issues require cooperation from serious banks with capital. Initially, the

issues were incidental, but there were clear signs that new forms of financial activity had been launched. For this reason, we may say the local government reform influenced the development of the local finance market and the growth of associated banking institutions.



The establishment of independent authorities to audit the *gminas'* financial management was one of the main outcomes of the Local Government Act. *Gminas* manage public money and therefore must be appropriately audited. The exclusion of *gmina* budgets from the state budget enforced the establishment of a separate auditing authority. *Gminas'* management could not be audited as the activity of other public administration units, i.e. by their superior authorities, as *gminas* had no superiors and could not be subjected to comprehensive audits by the central administration without the threat of losing their independence.

Regional Audit Chambers (RIO) were established to supervise the financial management of not only *gminas* and their associations, but also of other municipal legal entities and assemblies of local governments. RIOs are budgetary units of the state that conduct audits based on the criteria of legality and consistency of documents with the actual state of affairs. On the other hand, the financial audit of the *gminas'* performance of their delegated central administration functions is conducted on the criteria of justification, adequacy and effectiveness. In addition, RIOs conduct audits of the use of subsidies from *gmina* budgets by all entities.

Particularly important powers were granted to RIOs in the area of *gminas* budgets. RIOs analyze resolutions prepared by *gmina* councils that do not receive a vote of acceptance from the *gmina* board. If the *gmina* council does not approve the budget within the time limit defined in the law, RIOs construct the *gmina's* budget for obligatory and delegated functions. In addition, RIOs were granted extensive powers in opinion-making: if requested by a bank, they provide information on the *gmina's* ability to pay off a loan, evaluate the *gmina's* intention to issue bonds and assess *gmina* boards' reports on budget implementation. RIOs were also obliged to conduct training for *gminas* and other local government institutions. Councils and commissions that adjudicate on violation of budgetary discipline are authorities of RIOs. The prime minister appoints the chairperson of the RIO after consultation with the Assembly. The prime minister and appropriate voivodship assemblies appoint members of the council in equal number.

ENDNOTES

- ¹ Dz.U. 1990, no. 16, item 94.
- ² Rural *gminas* include *gminas* in whose territories there is no city. Other *gminas* are completely urbanized areas, or *gminas* covering both urban areas and the surrounding rural areas.

CHAPTER 12.

Staff, Councilors and Mayors

Reform of the state and its institutions creates only a new framework within which people can work more effectively and usefully. The success of the Polish reform depended on the people involved in local government, both those elected and employed by *gminas*. The reform could not have succeeded without their active involvement and commitment. Hence, local government staff and the conditions under which they are to work were from the very start a focal point of legislative interest. Legislative work proceeded in two directions. The first one dealt with *gmina* employees. In the previous system, they had been employed by the state, a condition that had to be changed if *gminas* were to be able to work independently. Precisely for that reason, the first package of local government laws contained a Law on Local Government Staff. The second direction of legislative work referred to the internal structure of *gmina* authorities. For *gminas* to function efficiently and cooperatively, it was necessary to appropriately define the powers, responsibilities and mutual controlling mechanisms of all their bodies.



“Authorities of the central administration at the primary level in localities”—the name of the *gmina* administration before 1990—comprised a significant administrative and economic sector. The need to ensure continuity in administrative and municipal services was the reason that fundamental changes were made by virtue of law rather than through negotiations or individual decisions. The decision regarding future *gmina* personnel was urgent: the whole local administration would be threatened by stagnation if forced to wait for a decision or made to feel insecure about its outcome. Moreover, clear and thorough definition of the rules and decisions according to which employees are to be transferred is required. Inevitable conflict may be minimized only when such rules are applied.

The Law on Local Government Staff was prepared in the first package and adopted by the *Sejm* on March 22, 1990, shortly after the basic Law on *Gmina* Government was adopted. The law introduced a new category of employees—local government employees—including the staff of *gmina* offices and their auxiliary units, employees of associations of *gminas* and personnel of local government assembly offices. The local government employee was an employee of public administration but not a state officer, giving the group a special position. Those employees entered public service and were to bear responsibility for serving society and enforcing the legal order. They were required to take a pledge, just like central administration officers. The law defined both the scope of their responsibility for order and violation of discipline. The law did not affect employees of municipal enterprises who still worked according to the general rules.

Four categories of employees were distinguished according to their type of employment—by election, nomination, appointment or employment contract. The first category included *gmina*

mayors, chairpersons and members of assemblies and boards of associations. The nominated employees were individuals who occupied managerial positions in *gminas* defined in *gmina* by-laws. Appointment was the basis for employment of *gmina* secretaries and treasurers. Finally, the remaining staff had employment contracts. Special regulations were prepared for employment and dismissal in each category.

Regulations concerning the manner of transformation were of particular importance. On the day after the May 27, 1990 election, all local employees would become *gmina* employees. Their employment was guaranteed until the end of 1991, that is, for another 7 months. After that date, their employment was terminated, although the new *gmina* board could retain a given employee. That rule reflected a compromise between employee and *gmina* interests in that the new authorities now had several months to restructure their offices and evaluate the usefulness of their staff. The dismissal of all employees by virtue of law eliminated the unpleasant task of informing individual employees of their dismissal. Owing to that, *gmina* boards could offer employment to selected staff. At the same time, the period of seven months' time offered employees the opportunity to search for a new place of employment slowly and conscientiously. The new *gminas* offered employment to slightly more than 80,000 employees in local offices. In the following years that number increased alongside *gminas'* growing responsibilities.

Table 31.

Employment in Local and Regional Administration

Office	Year	Number of Employees [Thousands]
Gminas	1991	77.0
	1994	96.8
	1997	112.8
<i>Gminas</i> (except cities with <i>powiat</i> status)	1999	103.5
Cities with <i>powiat</i> status	1999	27.2
Powiats	1999	19.6
Voivodships	1999	2.7

SOURCE: For 1991–1993—data from the Association of Polish Cities; for 1994–2000—*Annual Statistics*.



When the local government reform was implemented, administrative personnel were left largely unprepared to fulfill their new functions. Even in the first half of 1990, before the local elections, varied actions were taken to make it easier to overcome that barrier. Owing to assistance from the France-Pologne Foundation, 500 local activists were sent to France for a week. Organizations

from the USA, Sweden and Denmark also offered their assistance. The Foundation in Support of Local Democracy organized various courses and training sessions, which were attended by several thousands of people. Citizens' committees were also active. Training was addressed mainly to local activists and chiefly those from the democratic opposition. At that time, there was no access to the staff of people's councils, as they were still in the hands of the previous administration.

Retaining staff with relevant qualifications became one of the most important challenges to the new *gminas*. They made efforts to raise the qualifications of their employees and seem to have achieved substantial results in these efforts. A study of Wielkopolska *gminas* revealed a significant increase in the number of employees with university education. In those 60 *gminas* in 1990, 240 individuals held a degree, in 1994 as many as 308 and in 1998—405. This increase of almost 70% is truly impressive.

Raising the quality of their staff was certainly one of *gminas'* priority objectives. According to the above studies, in the first term only 9 out of the 60 *gminas* analyzed modernized their office facilities, investing instead in the professional development of their staff. In 1990–1994 87% of employees participated in some form of training and in the second term—125%, which means that some employees attended several courses. These figures indicate a significant and growing desire for knowledge and the need for such training activity. The reports of the Foundation in Support of Local Democracy,¹ which created the largest network of training centers in Poland, also reflect this positive trend. The number of courses offered continued to increase and the number of participants began to grow again after a decline in 1991–1993.

Table 32. illustrates some interesting processes. The year 1990 was a time of euphoria and enthusiasm for the approaching transformation. Everyone wanted knowledge, as it had previously been in short supply. Due to the absence of specialized training institutions, each course was attended by numbers of participants that could be hardly accommodated in quite accidentally chosen rooms. Nearly 30,000 individuals were trained nationwide—a huge number. In the following years, the number of trainees decreased despite an increase in the number of training courses offered, probably due to the fact that local government staff had too much day-to-day work and no time for learning. But I believe self-confidence was another factor at work. Councilors and local government employees who encountered and solved more and more new problems in their work became confident in their abilities, which often led to presumptuousness. Only a few years later, they started to realize what they did not know, and their interest in training courses began to increase considerably. Recent years have brought a sharp increase in the number of trainees. In 2000 the number of individuals trained by the Foundation in Support of Local Democracy exceeded 70,000.

The demand for training was an impulse for the establishment of training institutions, emergence of trainers and development of teaching methods to meet the increasing quality standards set by the participants. It was quite characteristic that in consequence the average number of trainees in a single course stabilized to meet the requirements of interactive teaching. Obviously, other factors also influenced the development of the training market. The importance of foreign assistance has to be emphasized here first of all. Large programs, funded mainly by the United States Agency for International Development and the European Union's PHARE program, as well as many other programs offered by agencies of individual countries such as

France-Pologne, the British Know-How Fund, Adenauer and Ebert Foundation and many private foundations enabled the organization of free training, which encouraged people to participate. Over time, when training needs increased and foreign assistance diminished, it was necessary to rotate participants. Also, fully commercial for-profit training institutions began to emerge. When people recognized the need to be trained and the benefits of accumulating relevant knowledge and access to information, the demand for training increased automatically, and the training market began to grow. According to research conducted in 1999, local government training in previous years training had attracted about 100,000 individuals a year, of which 80% were local government officers and 20% councilors.

Table 32.
Training Activity of the FSLD

Year	Number of Training Events	Number of Participants	Average Number of Trainees per Course
1990	548	29,683	54
1991	737	19,636	27
1992	628	15,604	25
1993	958	16,613	17
1994	1,323	32,015	24
1995	1,713	41,838	24
1996	1,930	43,811	23
1997	1,898	41,970	22
1998	2,172	50,433	23
1999	2,664	61,520	23
2000	2,733	73,653	27
Total	17,304	426,776	25

SOURCE: K. Bykowski, *A Review of Local Government Needs Assessments Based on the Activity of the Foundation in Support of Local Democracy*. Warsaw: FSLD Archives 1998. Also: *Annual Reports on FSLD Activity 1999–2000*. Warsaw: FSLD Archives 2001.

The rise of the training market reflected existing needs. The same pertains to the subjects of training: they mirrored the needs and problems that councilors and local government staff had to tackle. The evolution of topics was influenced by three primary factors, the first of which was cyclical interest in certain issues. This may be observed in the example of interest in budgetary issues, which always increased in the latter half of the year when *gmina* councils approve their

budgets. Elections determine a different cycle. New councilors want to learn everything about the work of *gmina* councils, including their proper structure, the rights and duties of *gmina* councils and relations between the council and board as well as other fundamental legal provisions.

The second factor is interest in new legislation or institutional mechanisms. These were ad-hoc interests, which disappeared once *gmina* authorities had overcome the difficulties at hand. This is best illustrated by the large number of training sessions held in 1994 on the topic of public procurement, or the numerous training sessions on the management of education conducted in 1996.

The final factor is the general tendency to follow local government development. In the initial period, most training was concerned with basic elements, such as the essence of local government, its legal foundations and forms of activity. Over time, the needs grew more complicated, and the requirements for training institutions much higher. To meet that demand, training institutions offered courses in conflict resolution, modern municipal management methods, or computer usage. Participants sought training on modern information policy in public relations, client services and the *gmina*. There was also an increasing interest in development strategy and economic policy, proving that local governments were maturing and assuming more and more complex tasks.

In general, however, it seems local governments perceived their training needs as relating to the resolution of day-to-day problems. They wanted to draw quick profits and acquire specific knowledge of detailed subjects, but no system of permanent knowledge improvement was ever created despite that the conscious creation of professional local government staff was the subject of broad debate in many countries. It was becoming more and more clear that the future of local government and its evaluation by the public would depend to an increasing extent on professionalism and reliability in the satisfaction of local communities' needs.



Besides those different types of training for local government employees, there was a clear need to recruit and prepare new young staff for work. That challenge was taken up in the development of public administration schools. The former system of education in the field was completely unsuited to the new needs.

As early as 1990, the Foundation in Support of Local Democracy opened the first public administration schools in Białystok, Kielce, Szczecin and Łódź. Initially, they were post-secondary two-year schools. As the years went by, those schools were transformed into institutions of higher education conferring the degree of *licencjat* (equivalent to a bachelor's degree). That was possible owing to legislative changes that enabled the establishment of private schools. The schools became popular due to the rising interest in higher education and the growing prestige of work for *gmina* offices. Schools of public administration offered training in a much broader range of knowledge and skills than studies in administrative law and gave their graduates a better chance of employment.

Schools of public administration continued to develop in the 1990s. The most prestigious such school in Poland is the National School of Public Administration, which trains administrative

officials. Their 20-month post-graduate programs are offered to individuals with master's degrees upon their passing some difficult tests, and graduates typically apply for high posts in the administration. The government's basic administrative staff, on the other hand, is trained in universities and colleges. Out of the existing 13 Polish universities, 11 offer administration as a discipline in the Faculty of Law, and in six universities students in the Faculty of Political Science may specialize in social and systemic affairs or in local government. Public administration is also taught in many other state institutions of higher education, such as technical universities, schools of economics or teacher training colleges, but the field is growing most rapidly in private schools. Twenty-five of them have programs in public administration.

A proper curriculum model has not, however, been developed to date. An international program, begun in 1996 by Rutgers University in the United States, resulted in the 1999 establishment of the Association for Education in Public Administration in Poland, whose mission is to develop a modern curriculum that is fully compatible with international standards.



The staff is not the only factor that determines the efficiency of local governments. Councilors who set a *gmina's* policy also play a leading role. The law passed in 1990 reduced the number of councilors in Poland by a half, as their excessive number stood as a barrier to efficient management. In May 1990 147,000 candidates were running for the 52,037 seats available in *gmina* councils, meaning that nearly three candidates competed for each seat. In 1994 the number of seats was 51,926 and the number of candidates 181,900. Table 33 presents the structure of councilors by sex, age and occupation. Although we will not attempt to conduct a more detailed analysis of this structure, some characteristic elements must be pointed out specifically, the under-representation of women and youth. The outcome of the first local election gave women only a little more than 10% of the seats. In the second local election, that percentage rose to 13 but was still very low. In the previous period, when seats in councils were distributed according to a fixed party procedure, women claimed about 25% of seats. Thus, the free election proved to be unfavorable to women.

The number of young members of *gmina* councils was also small and particularly troublesome because their representation reflected their diminishing participation in local elections. In 1990 individuals aged below 30 represented 7.5% of all councilors, in 1994—3.8% and in 1998 only 2.8%. Some additional changes in the representation of councilpersons by occupation may be observed in Table 33. The number of farmers, engineers, physicians and other specialists decreased, but teachers, administrative staff, economists and lawyers expanded their presence among councilors. Naturally, there were conspicuous differences among regions and types of *gminas*. Statistical inequalities make it difficult to evaluate the trends in that evolution unequivocally, but that evolution was visible and reflective of changes in the public atmosphere. The 1990 election was held in an atmosphere of enthusiasm, regained sovereignty and faith in the prospect for quick changes. The hard work councilors had to perform and the difficulties they faced checked that enthusiasm, and it became clear that councilors should possess relevant qualifications and education in addition to boundless energy and commitment.

Table 33.
Councilors Elected in 1990 and 1994

Specification	1990 elections			1994 elections			
	Total	Cities [%]	Rural areas [%]	Total	More than 40,000 [%]	10,000–40,000 [%]	Up to 10,000 [%]
Total Including women	51,987 5,654	100 16.3	100 9.8	51,919 6,846	100 16.7	100 13.5	100 12.4
<i>By age group</i>							
29 years and younger	3,923	5.4	8.0	1,987	3.0	3.2	4.4
30–39	19,694	35.0	38.5	15,890	21.0	29.3	33.1
40–59	25,342	53.8	47.7	30,503	66.8	60.6	56.2
60 years and older	3,028	5.8	5.8	3,539	9.2	6.9	6.3
<i>By occupation group</i>							
Engineers in technology, agriculture and similar fields	6,372	24.4	10.0	6,032	22.7	15.4	7.5
Economists, lawyers and similar fields	2,092	10.7	2.7	2,370	12.7	6.2	2.2
Teachers, teaching advisers and similar occupations	5,119	13.4	9.2	6,583	17.6	15.4	10.2
Other specialists	3,014	17.5	3.5	2,809	22.0	6.3	2.0
Technicians and similar occupations	6,682	14.8	12.6	8,345	1.1	18.8	15.5
Economic, financial, administrative staff, hotel managers, salespersons and similar occupations	1,972	4.8	3.6	2,451	4.8	5.5	4.3
Workers	6,556	8.5	13.4	6,250	4.7	12.0	13.3
Craftsmen	675	2.2	1.1	413	1.1	0.9	0.7
Farmers	18,135	1.7	41.2	14,327	0.8	14.8	39.6
Other	1,370	2.0	2.7	2,339	2.6	4.7	4.7

SOURCE: Prepared by Krzysztof Bykowski based on: *Annual Statistics* 1991 and 1995.

Table 33A.
Councilors Elected in 1998

Specification	1998 Election				
	Total	<i>Gminas</i> [%]	Cities with <i>Powiat</i> Status [%]	<i>Powiats</i> [%]	Voivodship Assemblies [%]
Total	63,559	100	100	100	100
Including women	9,943	15.6	20.1	14.8	11.0
<i>By age group</i>					
29 years and younger	1,784	3.0	4.4	1.4	1.6
30–39	12,254	20.5	14.4	15.7	10.2
40–59	43,529	67.3	68.2	73.4	77.3
60 years and older	5,992	9.2	13.0	9.5	10.9
<i>By occupation group</i>					
Parliamentarians, high-level officials and managers	8,584	8.3	24.2	32.0	52.8
Specialists	5,415	20.3	46.5	36.4	33.5
Technicians and other mid-level staff	10,314	17.4	15.4	11.7	5.2
Office staff	3,688	5.8	6.5	5.9	2.6
Personal service staff and salespersons	3,205	5.8	2.7	2.5	1.0
Farmers, gardeners, foresters and fishermen	15,161	28.7	0.6	8.6	4.2
Factory workers	4,387	8.4	1.9	1.7	0.4
Operators and mechanics	1,534	3.0	0.6	0.5	0.1
Manual laborers	920	1.8	0.2	0.2	—
Armed forces	351	0.5	1.4	0.5	0.2

SOURCE: Prepared by Krzysztof Bykowski based on Annual Statistics of 2000.

Because of the changed rules of statistical classification, it is not possible to directly compare the elections held across this range of years. Comparisons among councils of various levels of local governments sufficiently indicate their very different compositions. Generally, elites were engaged at higher levels.



In 1989 prototypes from western countries were particularly useful in developing a model for Polish *gmina* authorities. The council became a legislative body that also appointed mayors and other board members. The definition of proper relations between those bodies was obviously of key importance. The board was to emanate from the council, although individuals from outside the councils were also allowed to be appointed as board members. The idea was to give councils the chance to involve individuals with necessary qualifications who might not be council members. The original draft law submitted to the Senate provided that the chairperson of the council would at the same time exercise the function of city or rural *gmina* mayor. During a plenary session, a senator proposed separating these functions, arguing that the council was intended to supervise the mayor. Most senators supported that motion, and we proceeded in that direction. It was a poor decision, but renouncing it now serves no constructive purpose. Institutional evolution is governed by its own rules, in which inertia plays a more important role than political argumentation.

Direct elections for mayors were also considered at that time. Local communities were concerned that the *gmina* or city mayor they elected should be, like any other councilperson, a resident of that given *gmina*. We opposed the idea of “carpetbag” candidates, but small rural *gminas* often encountered difficulty in finding good mayoral candidates among their residents. Yet if mayors had to be sought in neighboring cities, they could not become councilors. Practice confirmed that these concerns were justified. At the end of 1993, out of the existing 2,465 *gmina* councils, mayors were also council members in only 1,351, or 55%, of them. In the remaining 45%, mayors were without electoral mandate.

At the same time, we wanted to ensure that mayors, as representatives of entire councils had adequate strength with which to operate. We wanted to make their election more ceremonial. A compromise came in the form of a provision that we prepared to elect mayors in a separate vote with the obligatory presence of two-thirds of council members. Even during their first sessions, the provision became a hassle for many *gminas*. Representatives of minority opinions could block elections by leaving the room, as a result of which the necessary number of council members was not present. They demanded various privileges in exchange for their presence during the vote. It took months to elect *gmina* mayors in a few jurisdictions.

The absence of practical experience from which to build in 1990 resulted understandably in numerous mistakes during the reform’s implementation phase. One of those mistakes was the inattention paid to the stability of *gmina* executive bodies. City and rural *gmina* mayors were unable to apply long-term development policies—which often required temporary sacrifice—as they were always uncertain about their own circumstances. *Gmina* boards were dismissed too frequently for trivial reasons or as a result of personal conflicts, and correcting this situation became a priority.

The first attempt at improvement was made in the law of September 29, 1995, which defined the conditions under which a mayor or board could be dismissed. That law also defined procedures that eliminated temporary emotions' contaminant role in the decision-making process. However, mayors found those regulations insufficient, and the issue of direct elections remained under continuous discussion. In the spring of 1997 the president proposed changes to election laws that would result in the direct election of mayors and grant them extensive autonomy from *gmina* councils. Associations of *gminas* in which *gmina* mayors were not council members supported the proposed changes. The timing of that draft law—a few months before the parliamentary elections—suggested political overtone. For that reason, opposition parties made a successful attempt to postpone its adoption until the next term of the *Sejm*, in which, as expected, the then-opposition had a majority vote. No changes were made in this legislation until 2002, when direct election of mayors was introduced. *Powiat* and voivodship boards and their chairpersons were and still are appointed by councils.



Definition of the relationship between the mayor and the council, or rather the role and nature of the mayor's function, requires more discussion. Numerous problems were revealed in the nineties that impeded the efficiency of *gmina* councils and boards. Although only a definite minority of councils encountered those problems, their appearance nevertheless inspired reflection. Dysfunctionality may not be analyzed in isolation from general problems of political culture. For fifty years, Poles had been denied participation in democratic institutions. Councilors' mentality and behavior had their origin in totalitarian state models, and inability to understand the essence of political accountability to voters was common. Very few of them considered the impact of their decisions in the context of future elections. The changeability of the system forced them to think about current issues instead of about *if* or *how* they will be held responsible for their behavior. The increasing dependence of local governments on political parties produced even greater disrespect for the electorate. Why should councilors try to win their voters' support if their election depended less on them and more on the party?

Under communism, each position in the state administration was associated with access to money and personal benefits. There was no understanding of how interests conflict and can limit individuals' fair work in public structures. That mentality reinforced fractious and self-interested behavior. Drawing profits was quite common, but not universal. Often, mayors employed individual councilors as their advisers, or even as *gmina* employees. When law banned those practices in 1995, councilors began to be appointed to boards of directors of enterprises owned by *gminas*, through which they were able to draw quite substantial income. There was also no moderation in per diems and other privileges. Although people were critical, councils generally ignored public opinion.

Due to those factors, councils were sometimes more forums for personal conflict than for discussion on development strategies and programs. Too often, one could observe a programmatic and political incoherence of coalitions formed hastily for the sole purpose of electing a mayor.

Usually the opposition was strong enough to block the actions of the board but too weak to respond productively. Such phenomena were not widespread, but too common to be ignored.

Conflict between councils and executive bodies came to light as a product of the internal problems discussed above. The structural conflict between the chairperson of the council and the mayor, also mentioned previously, meant that the former had the voters' mandate and was supported by most councilors representing the local community, while the latter was elected by the council and had to implement its program. Yet the mayor was the *gmina's* ceremonial authority and the final authority for managing the *gmina's* wealth and administrative decisions. Significantly, the mayor is the number one official in a *gmina*, although it is not the mayor who has the strongest support among voters.

The suggestion of direct election of *gmina* and city mayors was an attempt to remedy that situation. These plans were supported by local communities, which, tired of or often disgusted by various disputes within councils, saw a strong mayor as a source of stability and therefore wanted to extend the powers of the executive authority. But in order to answer the question of how to elect mayors, it is first necessary to determine who mayors are supposed to be. The manner in which one is elected depends, after all, on the role the elected person is supposed to play and the type of knowledge and skills he or she is expected to possess. Changing electoral provisions would result in having a different type of people filling those positions and could require redefinition of the relationship between *gmina* authorities.

The mayor's role may be perceived as twofold: a politician and a manager. In the former case, the mayor's task is to implement a local policy, i.e. play a leading role in setting development objectives and solving unavoidable conflicts—consequently, in the definition of the tasks of executive authorities. In the latter case, the mayor's principal task is to manage the *gmina* and exercise its public authority function. The mayor should be then either the “brightest person in the village,” i.e. a local leader whom people trust, or an efficient manager. It goes without saying that individuals capable of exercising the two functions simultaneously are rare.

Yet both functions are necessary, and neither may be ignored if a *gmina* is to work effectively and meet its residents' expectations. The problem of election is how to ensure that these criteria be met, or how to divide the responsibilities between the mayor and the council. It is worth the reminder at this point that the mayor's image had been inherited from the communist system, under which secretaries of local communist party committees were local leaders, or at least wanted to be perceived as such. The head of the local authority was then an administrator responsible for implementation of a policy established outside the local government. A mayor was seen as an effective manager. That role was taken over by *gmina* mayors, but party committees disappeared with the onset of reforms, and there emerged a gap in political leadership. Initially, citizens' committees (or local Solidarity commissions) wanted to fill it; local organizations of various parties got involved later. But no place for a political leader was created in the structure of local authorities.

In general, mayors assumed the role of political leaders, however contradicting the *gmina* system, which assigned the leading role to the council. According to one view on the matter, if a mayor is to be the leading politician, it leaves no role for the chairperson of the council and then

the mayor is to lead the council and implement local policy in association with the council. In that case, an efficient professional—a director or *gmina* secretary—should be involved in policy implementation, day-to-day management and all official functions. Needless to say, the mayor should be elected directly in that event, as his mandate has to be based on public trust.

Adoption of that arrangement would require the *gmina* secretary's position to be changed, as today the secretary is appointed by the council, but upon the mayor's motion. Therefore, the secretary is vulnerable to dismissal by the mayor at any time. Incidentally, legislative revisions since 1990 have increased the secretary's role in comparison to the original regulation. Mayors have been influential enough to maintain this, while secretaries have no support in Parliament. If a mayor is to be a politician, the secretary's position should be strong enough that he can refuse the mayor's political intentions. Otherwise, we will end up with local dictators.

The arrangement will be different if we want the mayor to be an efficient manager. A manager may not be sought in a general election, but has to be employed like any other professional. If this is to be the case, the requirement of residency in the *gmina* must not be applied to the position of mayor. The council must keep the right to appoint the mayor and also maintain responsibility for the implementation of local policy. The function of the chairperson of the council should be preserved under these circumstances, whereby the person will obviously play an important role as a local political leader.

Certainly there is no clear answer to the question of which system is better. Both may be satisfactory, but only when logically constructed and implemented. Changing the manner in which the mayor is elected is not a minor change in election laws, but rather modifies the entire *gmina* system. As election laws are derivatives of the system, it is first necessary to determine what kind of system is desirable, and the election procedure should be defined only afterwards. The experience of nearly three terms of office confirms that changes are necessary. It seems our system is going to evolve toward the direct election of mayors, but the *gmina* system should be simultaneously transformed in such a way that the mayor becomes the chairperson of the council but his executive powers circumscribed in favor of a professional *gmina* secretary with an appropriate scope of authority.

The threat of corruption was another problem revealed in the nineties. During the second term of local government presence, the public began to take note of negative developments. *Gminas* had taken over a substantial quantity of property, which was either privatized or used for a different purpose. Those activities of the local administration created great potential for abuse, but no determined actions were taken besides the previously mentioned changes to the law, which for example, reduced the councilors' right to work in the office.

The problem addressing corruption escalated. Particularly in recent years, a national debate on this subject has become very intensive. The press disclosed more and more cases of officials taking advantage of their positions and otherwise abusing citizens' trust. The reliance of local governments on political parties became particularly dangerous, as local positions of authority were offered to individuals based on their party affiliation and contracts were concluded with friendly firms. The Law on Public Procurement adopted in 1994 reduced lawlessness in the latter area and obliged local governments to follow public procurement procedures. The public

is still, however, alarmed by the proven potential for abuse. But the press plays a very positive role, especially local newspapers. In order to facilitate its work, the *Sejm* adopted a Law on Access to Information. Only transparency in public life, especially in the area of finance, ensures real protection against corruption.

ENDNOTE

- ¹ Information on the goals and establishment of the Foundation in Support of Local Democracy may be found in Chapter 3.

CHAPTER 13.

Municipal Associations and Supporting Institutions

Freedom of association is one of the foundations of a democratic state, and it was accordingly granted to local governments as communities of residents. The need to form associations of cities and *gminas* was raised even in the first documents on local government¹ in 1981, and the demand was also emphasized at the round table held by the Solidarity and opposition delegation. The 1990 law gave *gminas* the right to form associations voluntarily, and *gminas* used that opportunity extensively. A number of associations were established—national groups, groups organized by *gminas* sharing specific features or problems, or groups based on the geographic criterion. The law defined two more categories of associations. The first was task-oriented associations to enable joint delivery of public services. We discussed this category in Chapter 10. The other was voivodship assemblies, which were representations of *gminas* from individual voivodships. Their status was described in detail in Chapter 8.

The establishment of self-governing *gminas* led not only to the rise of numerous associations and partnerships of *gminas*, but also stimulated the development of public life, in which various types of organizations could exist. This process is an important result of the reform. We will not discuss all types of local organizations here; instead, we concentrate on those established as a direct product of local government restoration.



The first association of local governments was the Association of Polish Cities, which followed a pre-war tradition. At a congress of city mayors held in Elbląg in early August 1990, participants decided to establish a new association. The preparations were quite long, as it was necessary to draft the by-laws and pass resolutions in the councils of individual cities. Consequently, the association was officially registered only on July 25, 1993 with its headquarters based in Poznań.

According to its by-laws, the mission of the association is to support the idea of local government as well as promote the cities' cultural and economic development. The association represents cities in matters of common interest, initiates and evaluates draft legislation, organizes exchanges of experiences, inspires joint economic and cultural ventures and helps its members to establish international contacts as well as enable scientific and cultural exchanges with foreign partners. The association also carries out information, publishing, training and promotion activities for its member cities if they so request.

The General Assembly is the supreme authority of the association, and each city has one vote in the assembly. The only exception comes when the authorities of the association are elected or

its budget is approved, when each city has between 1 and 4 votes depending on its population. All urban *gminas*, of which there are more than 800 in the country, may become members of the association. The number of members is, however, much smaller, although it is growing systematically (see Table 34). Its expansion is of tremendous importance to the association's political power and its capacity for effective lobbying.

Table 34.
Membership of the Association of Polish Cities

Year/Month	Number of Cities
1991 December	64
1992 December	101
1994 December	159
1996 December	221
1997 December	232
1999 December	257
2001 July	265

SOURCE: K. Bykowski, "Selection and Analysis of Materials on Local Government Associations and Organizations in Poland in 1990–1998," Warsaw: FSLD Archives, 2000.

The Association of Polish Cities is the strongest and most stable national association of *gminas*. On October 11, 1990 mayors of Poland's biggest cities at a gathering in Krakow moved to establish the Union of Polish Metropolitan Cities. The union was to operate as a foundation—the deed was signed on March 4, 1992 in Katowice. The court registered the union on May 4, 1993. Eligibility requirements stipulate that member cities have a population of at least 300,000 and be a capital of a clearly distinguishable region. The union presently has 11 members.

The introduction of local government in big cities was much more difficult than in smaller ones. Hence, direct cooperation between heads of relevant units and departments developed within this type of organization. Owing to that, the union played a critical role in local government development. On the one hand, it presented many ideas that later appeared in legislation; on the other one, it contributed to the rise of many specialized groups of outstanding local experts.

On November 10, 1990 17 mayors gathered in Kazimierz Dolny signed the deed of foundation of the Union of Polish Towns to represent the interests of small urban settlements. Any *gmina* that identifies its interests with this group of towns may become a member of the union. In 1994 the union had 76 members. The union's primary goal is to support small towns in their search for development opportunities. Unfortunately, such programs were unable to assist small towns in locating income and did not produce any substantial results.

The establishment of the Association of Rural *Gminas* was a natural outgrowth of the establishment of the Association of Polish Cities, in which there was no place for rural *gminas*. Although the initiative to establish the Association of Rural *Gminas* was born in 1991, the association was only formally registered on May 31, 1993. The Association of Rural *Gminas* is an organization of *gminas* from all over the country. Mixed rural-urban *gminas* may also become members. In 1994 the association had 161 members, today 290, while almost 2,000 *gminas* are entitled to membership. The Association of Rural *Gminas* has reached neither the size, nor the strength of associations of urban *gminas*. In many ways, this suggests a parallel to the unequal development of society.



Another type of local government association—the National Assembly of Local Governments—originated completely differently. Chairpersons of voivodship assemblies founded the assembly, soon after the formation of those assemblies in July 1990. It is important to remember that voivodship assemblies were the only institutions above the *gmina* level created pursuant to the law of 1990. Their responsibilities included representing *gminas'* interests at the voivodship level, facilitating cooperation among *gminas* and bridging contacts with the central administration. The *Sejm*'s rejection of the idea of forming a national representation of *gminas* resulted in an opening that it seemed natural for voivodship assembly chairpersons to want to fill.

The National Assembly existed for two local government terms. The 1998 reform changed the character of voivodship assemblies fundamentally; transforming them into directly elected councils. Therefore, they could no longer form an association of assemblies, but only an association of voivodships. During its first term, the assembly was composed of representatives of *gmina* councils elected at a time of great enthusiasm for reform and the restructuring of the state. The assembly was very active and tried to support the local governance development process in addition to securing its own role in it.

In the second term, the local government situation differed significantly. PSL members won the majority of seats in voivodship assemblies and dominated the National Assembly. The Senate speaker at that time was elected to chair it, as a result of which the National Assembly lost its credibility and became a tool of the Peasant Party's manipulation. The use of the assembly to further that Party's position of obstructing reforms, especially the restoration of *powiats*, resulted in deep conflict with other associations of local governments. As a result, the assembly was completely marginalized. The 1998 reform, which established local authorities at the voivodship level, changed the role and nature of assemblies. The National Assembly lost its *raison d'être*.

The pursuit of strong national representation for *gminas* as well as other local and regional associations resulted in the establishment of the Federation of Unions and Associations of Polish *Gminas*. The federation was established in 1993 as an association of professional and local organizations, but its importance declined to a large extent when the Association of Polish Cities and the Association of Rural *Gminas* withdrew from the federation in 1996. At that point, regional organizations took up a dominant position in the federation. In the late 1990s

the federation had 20 members. Its new mission emerged in a quite natural way—it was to work at the grassroots level to activate local communities.

Another organization established was the Association of Village Administrators (*Stowarzyszenie Sołtysów*). Self-governance of village communities has a long tradition in Poland. The role of an elected village administrator is important, mainly because he is the public official closest to the people, but he requires assistance in exercising his duties. The primary goal of the association is to organize and coordinate such assistance.

The establishment of *powiats* in 1999 was promptly followed by the founding of the Association of Polish *Powiats*, which was to represent the interests of the 315 newly-established *powiats* and those cities with *powiat* status that chose to join the association. Voivodships were also given the right to associate, but because the establishment of an Association of Voivodships is a very complicated process requiring many agreements, it was formed only in 2002. Initially a Conference of Voivodship Marshals (*Konwent Marszałków*), provided a forum for cooperation and coordination of activities undertaken by local authorities and acts as a temporary representative of voivodship interests.

At this point, we should take note of one other attempt at creating an organization representing local government issues—this time a quasi-party organization supporting reform through political actions. The League of Cities² and the League of Rural *Gminas*, which served to connect local politicians, merged to form the National League. Before the parliamentary election in 1997, it joined the Solidarity Election Action (AWS) and became in it an important group representing *gminas* and promoting decentralization.

The Joint Commission of the Central and Local Governments was established under Hanna Suchocka's administration, which as we may recall, was a strong supporter of local government. The commission was to be a forum for discussion, negotiation and agreement on joint activities of the central government and a representative body of local governments. The commission did not play the role it was intended to, but instead worked only temporarily and in response to the interest of the ruling coalition. Yet despite that they did not accelerate systemic transformation, their sessions were useful in generating solutions to current problems.

Membership in international organizations of local and regional governments is open to Polish *gminas*, *powiats* and voivodships, and they exploit this opportunity frequently. Decisions regarding membership in such organizations are to be taken by councils of interested governments. The most important international forum is the European Congress of Local and Regional Authorities at the Council of Europe, where Poland holds 12 seats. As there is no national representation of local and regional government in Poland to delegate these seats, they were granted through negotiation. The representatives of voivodships represent Poland in the Chamber of Regions. Our representation in the Local Authorities Chamber is composed of representatives of the Association of Polish Cities, Union of Metropolitan Cities, Union of Towns, Association of Rural *Gminas*, Federation of Unions and Associations of Local Governments and the Association of Polish *Powiats*.



Local authorities also sought to create associations of *gminas* and *powiats* sharing similar interests. Some associations conjoin governments of similar character or with similar issues, such as the Association of *Gminas* with Spas, which joined efforts in breaking local monopolies and entice the *Sejm* into approving a special law regarding such *gminas*. There were other attempts to form associations of *gminas* with forests, lakes and so on. An Association of Coastal *Gminas* was successfully established.

Regional associations are another form of local government cooperation. There are many, and they differ in their quality and activities. However, spontaneous development of local government associations is characteristic of Polish local government.



The “Euro-regions,” whose mission is to develop cross-border cooperation, are a separate category of *gmina* associations. The legal basis for their existence is the framework Convention on Cross-Border Cooperation, known as the Madrid Convention of May 21, 1980, prepared by the Council of Europe and signed and ratified by Poland. The convention devised rules for cooperation among countries, while allowing each to retain full sovereignty. In cross-border cooperation, residents and local governments of cities in adjacent areas of two or more countries collaborate across shared borders. This collaboration may lead to the establishment of joint institutions whose existence become necessary as mutual contacts intensify and joint projects are developed. This establishes a Euro-region. Euro-regional cooperation is thus an institutionalized form of cross-border cooperation.

The development of cross-border cooperation is of tremendous importance to European integration and political stability in Central Europe. In the period of political division in Europe, the borders of individual countries were closed and contacts even with a country’s closest neighbors were not possible. In official propaganda, neighbors were presented as enemies who threatened the security of the country and its citizens by coveting its territory, endangering its borders and aspiring to buy or steal all of its available commodities. The negative stereotypes that resulted now stand as serious barriers to integration. Somewhat ironically, cross-border cooperation is currently considered the most effective way in which these prejudices may be overcome. Since the breakthrough in 1989, the government of Poland has attached great importance to the pursuit of appropriate relations with its neighbors, as Poland was the only country in Europe to undergo change of neighbors on all sides. Before 1990, we bordered three countries: USSR, Czechoslovakia and GDR. Each of these countries has since ceased to exist. Now we have seven new neighbors: Germany, the Czech Republic, Slovakia, Ukraine, Belarus, Lithuania and the District of Kaliningrad, which belongs to the Russian Federation. The government of Poland has concluded agreements on cross-border cooperation with all of these countries, creating an appropriate legal foundation for regional agreements.

Poland has taken clear advantage of the opportunities of presented by cross-border cooperation. The first Euro-region, called “Nysa,” after the name of the river which forms a

border between Poland, Germany and the Czech Republic, was created as early as 1991. More Euro-regions were created in subsequent years and eventually included all Polish borders.

Table 35.
Euro-regions

Name	Date established	Countries Composing the Euro-region	Number of Polish <i>Gminas</i> in the Euro-region
"Nysa"	December 21, 1991	Czech Republic, Poland, Germany	43
"Karpacki"	February 14, 1993	Poland, Slovakia, Ukraine, Hungary, Romania	180
"Sprewa-Nysa-Bóbr"	September 21, 1993	Poland, Germany	51
"Pro Europa Viadrina"	December 21, 1993	Poland, Germany	33
"Tatry"	August 26, 1994	Poland, Slovakia	18
"Bug"	September 29, 1995	Poland, Ukraine, Belarus	251
"Pomerania"	December 15, 1995	Poland, Germany, Sweden	47
"Glacensis"	December 5, 1996	Poland, Czech Republic	17
"Niemen"	June 6, 1997	Poland, Belarus, Lithuania	103
"Pradziad"	July 2, 1997	Poland, Czech Republic	12
"Bałtyk"	February 22, 1998	Poland, Denmark, Lithuania, Latvia, Russia, Sweden	68
"Śląsk Cieszyński"	April 22, 1998	Poland, Czech Republic	15
"Silesia"	September 20, 1998	Poland, Czech Republic	14
"Beskidy"	June 9, 2000	Poland, Czech Republic, Slovakia	23

SOURCE: Prepared by Krzysztof Bykowski based on: *Euro-regions in Poland's New Administrative System*, Warsaw—Wrocław 1999, pp.46, 47, 84, 85 and 279 and the Internet: <http://wwzz.katowice.uw.gov.pl/wspolpraca/Euro-regiony.htm>

In the creation of each Euro-region, three stages may be distinguished. The first is a stage of establishing contacts and overcoming legal and psychological barriers. Assistance from the central

and local authorities is necessary during this phase. The second stage is a time of negotiating to overcome institutional and financial barriers. Assistance from the central administration is still required at this stage. Direct cooperation between local authorities is fully launched only at the third stage, when interference from upper level authorities should be limited.

The map of Euro-regions shows enormous differences between regions in the west and east of the country. These differences reflect the conditions under which Euro-regions were created and the problems they encountered along the way. Along the western and southern borders, cooperation was established at the local level. Because it was initiated by *gminas*, the size and shape of Euro-regions reflect the needs of local interests. Generally, these regions are small and do not automatically encompass all *gminas*, but only those that signed the agreement. In some cases, *gminas* joined two Euro-regions, in others—none. Some *gminas* situated some distance from the border joined the cooperation, while others lying just on the border declined to become members. The map is a visible reflection of diverse local objectives and varied perceptions of success in accomplishing them.

The map of the eastern and northern borders looks entirely different: it shows large areas covering between 3 and 5 countries. One can instantly see that the mechanism that established Euro-regions here was different. The former Soviet border was not only a boundary between countries, but also a division in terms of culture, tradition and mainly extent of citizen liberties. It was not possible for cross-border cooperation to develop according to ‘bottom-up’ mechanisms in these regions, because there were no local authorities in the neighboring countries independent enough to be partners in organizing cooperation. Therefore, the initiative had to come from political groups and the central government. Our partners in neighboring countries to the east are regional authorities; consequently, Poland is represented by voivodships. *Gminas* were quite mechanically incorporated into co-operating associations, which is why the role and nature of those Euro-regions are different. It appears they are much more focused on overarching political and economic objectives rather than strictly local ones.



Parallel to the various local government associations, several nongovernmental organizations were established to support self-governance. The largest is the Foundation in Support of Local Democracy, established in 1989—nearly a year before the first local elections—as a social partner to the government. Its goal is to assist *gminas* through training and counsel. Within a few years, the foundation created a network of 17 regional training centers, which organized courses and provided technical assistance. In 2002 the foundation celebrated having trained a half million participants. This organization had no independent funding to support its establishment. Initially, it used grants from assistance programs, and today it relies increasingly on income from training exercises. The foundation is one of the few institutions whose establishment reflected anticipation of local governments’ future needs.

The Foundation in Support of Local Government provided a forum for various initiatives involving groups associated with local government and building civil society. It initiated periodic meetings of *gmina* mayors, secretaries, treasurers and other specialists employed in

local government structures. Over time, specialized forums were established that enabled the exchange of experience and promoted cooperation. Recently, the foundation has established the Polish Institute of Local Democracy to organize assistance to other countries in the region by sharing Polish experiences with them. The institute participates in several projects in the Balkans, the Baltic Republics and in post-Soviet states like Ukraine, Belarus and Kazakhstan, among others.

The establishment of FSLD in Poland coincided with the establishment of a unit called “Local Democracy in Poland”³ at Rutgers University in the United States. That academic organization not only raised funds from various sources, but also organized internships in the U.S. for Polish local government officials and excursions of American experts to Poland. LDP played a tremendous role and constitutes a rare example of a standing nongovernmental organization abroad that has worked for Poland for many years and continues to cooperate with Polish partners.

The Inter-municipal Partnership (MUNICIPIUM), a journalists’ forum, is another important organization supporting local reforms. Under this partnership, the press started publishing the local government weekly *Wspólnota*, which was already discussed as a product of our efforts to transform the previously existing people’s council weeklies.

The Municipal Development Agency, founded in 1994, represents the final type of organization that emerged in support of local government. It is a government agency funded by the state budget. Its task is to reinforce *gminas* with studies and provide financial assistance for municipal infrastructure projects.

There is a whole sector of institutional support surrounding local authorities. Some are established by NGOs, but the majority are embedded in commercial institutions. Despite the broad support sector, there are no specialized research institutions working for local governments. A number of universities conduct research in these subjects, and many have separately organized research units. New and old research institutions alike took up examination of local government issues. The new responsibilities assigned to *gminas* and their role in the system made it necessary to extend traditional subject areas, which attracted a group of researchers, including renowned experts representing various disciplines to the area of local government reform.



Local government reform contributed significantly to Poland’s increased receipt of foreign assistance. *Gminas* became major beneficiaries of that assistance, although it is difficult to assess the scale of their foreign revenue. Assistance to *gminas* was most intensive between 1992 and 1996.

In the latter half of the 1990s foreign assistance was slowly directed to other countries. Poland was more and more often perceived as a stable and democratic country as compared with the other countries of Central and Eastern Europe. Substantial assistance was also provided to Poland directly by the European Union. Coordination of that assistance also evolved significantly. Initially, it was provided via different channels, both to the central government and to NGOs. Later, it was concentrated to an increasing extent in central government agencies.

Poland's success in building local democracy and government is valued highly by international organizations because of the extent of experiences it accumulated that may be useful to other countries. In response to a 1999 request, the Government of Poland launched a training program for representatives of local authorities from several Balkan countries. The program was implemented by the Foundation in Support of Local Democracy and was Poland's first public government assistance program. Polish partners had previously established cooperation with Ukraine, Belarus and other neighboring countries to exchange experiences and deliver training, but that collaboration was not government-sponsored.

ENDNOTES

- ¹ *Reform 2000*, Document 16.
- ² The League of Cities was an initiative by Tadeusz Wrona, mayor of Czestochowa at that time and the League's elected chairman; later chairman of the National League.
- ³ Led by Joanna Regulska, one of the initiators of FSLD in Poland.

CHAPTER 14.

Gminas and Local Communities

Government reform is built on the assumption that communities will be able to govern themselves upon learning to use local democracy and its institutions. This “maturation” toward democracy is a long process. Western European societies spent centuries developing their institutions. Central Europe’s situation was far less fortunate, as the natural processes of social development and institution building were repeatedly interrupted and delayed by wars, foreign occupations and interventions. As a result, the development of civil society was much delayed in these countries. This raises the question of whether we can say it is appropriate or even possible to create local government institutions in the example of countries whose societies have reached that higher stage in their civil development.

Maintaining a permanent balance between the development of the community and local government institutions, in keeping with the intended purpose of granting local communities the capacity to effectively self-govern, is a particularly challenging aspect of the reform process. When institutional development advances ahead of public awareness, institutions are not put to proper use, as communities cannot take full advantage of the opportunities they offer. The reverse development pattern results in frustration on society’s part, when it is restrained in its aspirations by the lack of institutional outlet.

Participation in local government or cooperation with local authorities represents particularly valuable learning opportunity for citizens. Thus, in order to evaluate societal process of ‘learning’ democracy, we have to find answers to the following four questions:

- To what extent has the establishment of local government influenced the development of civil society?
- How did society learn about local government and evaluate its activity?
- How did local governments develop their contacts with society?
- To what extent did local communities participate in the exercise of government?

The answers to these questions are neither plain nor simple. The complicated process of creating civil society varies by level. There is no appropriate methodology yet available for study of this process. Typical sociological studies, which we will discuss here, seem insufficient. First, we will look at the activity of NGOs and the mass media, both at the national and local level. The development of the media, primarily local newspapers, is directly associated with the development of local government and communities. Next, we will focus our attention on citizen participation in public actions, i.e. in referenda and individual disputes with *gminas* as measured by the number and outcome of appeals against administrative decisions by *gmina* and city mayors. However, these analyses are incomplete and rather accidental.



Political change in Poland in 1989 resulted in dynamic growth in NGO activity. According to laws adopted in 1984 and 1989, NGOs in Poland may take two basic organizational forms: foundations and associations. Many other systemic and legislative changes were also very important to the development of this sector in Poland. For example, transformations in the areas of free market mechanisms, independent management, public procurement, local administration, public welfare, education and culture policy opened up numerous new areas of activity to NGOs. In 1989 only 277 foundations were registered, in 1990—597, in 1991—1078 and in 1992—1332. This growth pattern continued, with around 5,900 foundations registering in 1996–1997. All of these were not foundations starting with their own capital, but NGOs capable of raising funds from various sources.

It is difficult to estimate the number of NGOs presently active in Poland. At the beginning of 1997 some 48,000 NGOs were functioning. This number included 5,230 foundations and nearly 42,000 associations. Voluntary Fire Brigades (as many as 18,800) and sports clubs are special classifications, although in many cases they do not meet the criterion of being 'nongovernmental.' General assumption counts more than 20,000 active NGOs in Poland. Of their 28 million formal members, approximately one million are actively involved.

The specific sources of funding for NGOs reflect the political and systemic transformations taking place throughout the country over the past decade. In 1993–1997 as many as 60–70% of organizations drew their income primarily from membership fees, about 60–65% from donations by private individuals and firms and about 25–30% from government grants. Only about 16% of Polish NGOs receive direct funding from foreign NGOs. In 1993–1997 the number of organizations receiving funds from *gmina* budgets almost doubled, increasing from 15.7 to 29%.

The development of civil society is reflected essentially not only in the number of NGOs, but also in the extent to which citizens participate in the activity of those organizations. Although a vast majority of Poles (77%) are not involved in any organization, there is a group of individuals (23% of the sample analyzed) who commit time to public activity of varied nature. Poles most frequently join educational—4.5% of the entire population is a member—and religious (3.6%) organizations, trade unions (3.2%) and rescue organizations (3%). On the other hand, very few are involved in the work of *gmina* institutions (1.1%) or borough and neighborhood organizations (1.0%), and there is negligible involvement in political parties and associations (0.3%).¹ These studies also demonstrate that citizen participation in organizations other than trade unions and political parties showed the tendency to rise over the decade.

In communist Poland NGOs were mainly opposition groups managing only the simplest interventions and protest actions. Immediately following the round table talks, NGOs began to substitute for political institutions that had not yet been developed. Permanent improvisation and increasing organization of protest actions characterized their activities. Over time, they began to undertake actions typical of citizen organizations, such as supervision of the government's work and initiation of their own programs, many of which were for charity. The state withdrew form

various areas of social activity, but society's needs continued to grow. NGOs were maturing—a result of the self-education enabled by foreign assistance, which allowed them to build off the experiences of 'old' democracies.

Transformation in the NGO sector was gradual, as it was required overcoming two types of barriers. First, it is not easy to break the habit of using simple protest and opposition methods. Change in the general political and social context allowed immediately for freedom of action, but cooperation with the government and opposition groups, who largely perceived NGOs in a negative light, developed slowly. Second, during the transition period characterized by weak democratic institutions, subtle forms of activity are ineffective. Populist and somewhat primitive protest methods are more effective. Consequently, NGOs focused on the comparatively easier task of mobilizing people to protest against factors in their environment than to contribute to constructive tasks. However, a positive evolution is growing more visible in the slow but determined maturation of the NGO sector.



The peaceful revolution of 1989 introduced several new concepts, processes and institutions that differed completely from the familiar ones of the previous system. The idea of local government was among these difficult-to-grasp concepts. Despite that *gminas* were established in 1990, even 1996 surveys show that only half of the population could define the term "local government."² Other respondents said they had never heard this term before or could not explain it. The better-informed among them gave several definitions for the term, confusing institutions, procedures, names of groups and sometimes-even mechanisms for public participation. They used the term to describe the name of a local government institution, its responsibilities and individuals associated with it.

Most Poles were familiar with at least some local government concepts. Frequently, however, their knowledge was partial to the extent they were not able to arrange the information they had collected into a logical whole. For the majority of citizens, the essence of local government remains conceptually unavailable, although we may observe persistent and progressive changes in this area. The totalitarian state model that conditioned the public's mentality for nearly 50 years excluded all forms of local governance. To the general public, the term was completely new and inapplicable to familiar forms of government. Therefore, it was necessary to transform the public's mentality, which was perhaps a more difficult task than presenting notions relating to property and market economy.

We can also observe here the remnants of the conviction that all things central are better, wiser and more important. At the same time, people believe in the importance of executives, rather than in the work of whole institutional systems. By extension of this belief, the *gmina* mayor is more important than the council.

Participants in a 1993 poll communicated their belief that there were no invisible forces or cliques steering local government institutions. When asked whose interest councilors represent, only 15% of respondents replied: "the interest of their political parties."³ 19% said "their own

interests,” and the largest group of respondents (25%) said councilors represented the “interest of all residents of the city and *gmina*.” Reborn freedom created an ethos of faith in the honesty of the local elite but soon gave way to a more negative outlook. Local governments’ growing reliance on political parties and press publicity of various scandals changed that picture for the worse.

People perceive local authorities in two ways. The first may be described as a community model, in which you look at democratically elected councilpersons as representatives of the interests of all residents of a given jurisdiction. This perception is more characteristic of farmers and residents of rural areas, in which people are more likely to meet with representatives of local authorities every day, owing to which the latter are treated more as “natives.” In 1996 more than two-thirds of rural *gmina* residents knew at least one councilperson, while in cities only 24% did.⁴ The second model of perception may be described as “politicized.” In cities, for example, councilors are viewed as allowing party interests to guide their work. Today a general conviction persists that councilors view parties, and chiefly local interest groups, as decisively important.



Despite lacking understanding of the essence of local governance, the majority of our society evaluated local authorities positively. After the initial reform implemented in 1990, support for local authorities increased significantly. At that time, the question, “Does the national council elected in 1988 perform its work well?” met with affirmation from only 26% of respondents.⁵ Two years later, a similar question replacing the term national council with new *gmina* and borough councils was answered positively by 45% of respondents.⁶ In 1992–1995 the ratings of local governments continued to rise systematically, yet slowly, leveling off at a positive response rate of 60%. Moreover, support for local authorities did not demonstrate short-term fluctuation, proving that people distinguish and may even exempt local authorities from responsibility for national crises.

Although people may have little knowledge about local government, they trust local authorities. People are little informed about *gmina* initiatives, yet they often have firm opinions about them. We may therefore suspect that opinions about local governments are frequently not reactions to specific decisions made by councilors, but rather reflect the residents’ general view of local authorities. It seems this high support for local governments should be interpreted, at least partially, not only as a sign of satisfaction with their performance, but also as an expression of the generally positive connotation of this institution in society.

Unfortunately, in the past year this positive opinion has been slightly weakened, mainly due to the publication of newspaper articles revealing the very high salaries many local government officials receive and attributing them to decisions made by *gmina* and city councils. The parliament took legislative action to reduce local government officials’ salaries.

Another interesting note is that in the 1990s the high level of public support for local governments could be observed across all social categories, meaning that local authorities were not blamed for negative consequences associated with the social and economic transformation.

Respondents' political orientation did not influence their opinions about local governments, either. Individuals with leftist, rightist and centrist views expressed positive opinions. The level of approval did, however, correlate with respondents' place of residence. Local authorities scored their highest ratings in rural areas and their lowest in big cities. Residents of rural areas viewed local authorities positively out of their perception of local governments as institutions above political division and representing the interests of all residents, an image that fosters public support.



Overcoming insufficient public knowledge of local governance is a serious obstacle. Without such knowledge, it is hard to succeed in building a civil state, which is based on the conscious and free activity of individuals and groups in institutional and legislative structures of the state. For these activities to be effective from the point of view of social development, citizens must understand how the law and public authorities work. Citizens felt the effects of the fifty-year interruption in the natural and free development of knowledge in these areas.

The necessary citizen education program was never launched, neither during implementation of reforms in 1990, nor in 1998. Political elites at that time did not understand the social significance of systemic transformations and the importance of society's support to their success. Another reason was the reluctance, or inability, to organize education programs. Because of the legacy of fighting censorship, elites could not or did not want to influence the mass media, even when this was justified in accordance with the public good. Finally, during martial law most independent journalists were fired, leaving behind only bureaucrats unwilling to support reforms. Purely political factors, particularly in 1998, played a role as well. Opposition parties, which were against reforms, had a powerful influence on public radio and television and tried to increase their electorate by means of drawing public attention to the hardships of the reform process.

The press expressed a similar attitude. Between 1989 and 1997, the political agendas of individual governments determined the aspects of local government that would be discussed.⁷ The presence or absence of these subjects in the press was a consequence of that factor combined with the resultant acceleration or deceleration of reforms. An analysis of newspaper coverage during this period indicates that local government was treated as a secondary topic. The discussion of these issues grew more intense when it was politically profitable but calmed when no political interest was at stake. The newspapers showed constant interest, however, in criticism of the reforms' effects. They gave readers the impression that reforms brought about chaos, trouble and scandals, that they were hasty, ill-designed and received insufficient funding. Unfortunately, materials that explained the purpose of reforms and described the effort and achievements of individual people were rare. Naturally, there was and still remains a group of journalists who understand the meaning of decentralization and local democratic development. Local governments owe a great debt to their publications. Yet the general attitude of the mass media produced in society the dearth of knowledge of the essence and rules of local democracy. Changes in the legislative system in Poland proceeded much quicker than changes in public mentality.



The construction of civil society is inseparably linked to the development of local press. Correspondingly, there is a close relation between local press and local government. The activity of local communities inspires the appearance of local newspapers, while they in turn support the restoration of residents' local identity and stimulate their activity. We will focus here only on newspapers that circulate in and cover one or a few *gminas*. In these newspapers, local issues dominate. This type of newspaper has a long tradition, although one broken by the communist period in Poland, during which all local newspapers served as the official newspapers of local party committees.

The political breakthrough in 1989 led to the spontaneous development of the local press. Political changes removed legislative barriers, including the censorship office, and privatized those publications controlled by the communist party, which had held a monopoly over newspaper publication. Changes to the Press Act, approved in June 1989, allowed any citizen to found a magazine and facilitated the registration of new titles. At the same time, local government reform created conditions favorable to increased local community activity, which led to the appearance of new newspapers on a mass scale. During that period, publishing initiatives may be counted in the thousands and not only on the market of local newspapers. But not all of them had a chance to survive—for example; no local daily has survived until the present.

The publications that survived on the market were of differing origin. Most titles had their beginnings in the underground press created before the first election in 1989. Associations and societies of “little homeland” aficionados founded other magazines. Some newsletters previously published by state enterprises were transformed into local newspapers. The following figures illustrate the pace of growth: in 1988 six new titles appeared, in 1989—73, in 1990—314 and in 1991—200.

The front page of almost every local newspaper bears the name of the *gmina*, several *gminas* or *powiat* they cover and in which the particular newspaper is distributed. Not all *gminas* have their own newspapers, but local governments have expressed a lot of interest in publishing them. *Gminas* took over several titles that could not function on the free market without permanent subsidy, while some local authorities decided to establish their own new newspapers.

The early 1990s witnessed the beginning of the existing division of the Polish media into the so-called independent press—encompassing private publishers, associations and foundations—and local government press, including *gmina* publishers and publishing partnerships with *gmina* shareholders or subsidized by local governments. Out of the 1,700 local periodicals existing in Poland in 1996, local government press represented 41%, private publishers 30%, magazines of foundations and associations 14%, parish magazines and newsletters 13% and periodicals of political parties and trade unions 2%. Local press publications consisted mostly of monthlies (40%), followed by bi-weeklies (more than 20%) and weeklies (about 18%).

By 1995 we could observe the tendency to extend the circulation of local press magazines into adjacent *gminas*. The awareness of the approaching second stage of reforms and restoration of *powiats* played a significant role in that process. Even in the mid-nineties, some publications covered more than ten neighboring *gminas*, taking names such as *The Powiat Gazette*. The fact

that potential readers were identified as residents of a new local government entity allowed for an increase in circulation and attracted new advertisements. Competition for markets between neighboring publishers was a natural consequence of that process and frequently led to the consolidation and rise of presses that grouped several local newspapers. Completely new periodicals, distributed in neighborhoods and parishes, were also published. They are often free publications funded by income from advertising.

Big Polish publishing houses demonstrated their understanding of the significance of local press when they began to buy local newspapers. Sometimes the features of those publications were changed in consequence. Since they were edited in larger cities, they often lost their local focus. In extreme situations, they were even replaced by supplements to national newspapers.

In contrast, the development of local radio stations was motivated principally by their aspiration to win a position on the market. The local radio and television stations that emerged at that time were not legal: only in 1994 did the government introduce the licensing process. The estimated 1,600 radio stations existing in 1991–1992 was much reduced in the following years, due to strict licensing procedures. The advertising market and local demand validated the existence of local radio stations, although the poor professionalism with which they were run did not contribute to their development.

Yet some local radio stations survived on the market and began to compete successfully both with public radio and national commercial radio stations. They became increasingly professional, and local issues became the subjects of frequent discussion on air. Exclusive coverage of these topics allowed small radio stations to compete with national giants and thereby to generate substantial income from advertising.

The television market grew differently, mainly because local networks cannot compete with the film and entertainment offerings of national television stations. Cable television networks play the role of local television provider. Some broadcast local news programs, place local advertisements and post local information. Soon cable television in cities began to cover local political, cultural and sporting events. Local governments generally express no interest in funding local electronic media. On a national scale, there are only a few exceptions. While a local newspaper is necessary to publish all sorts of information or articles, funding a radio or television station is often beyond the financial capacity and interest of local authorities.

Local press does not develop without conflict. Frequently, conflicts of interest arise between local press and private publishers. As is usually the case, these conflicts have two dimensions: of ideology and of finance. Ideologically, local press is blamed for lacking the independence to exercise supervision over local authorities. If local authorities decide to publish a newspaper or provide substantial subsidies for it, they often expect the paper to refrain from criticizing it. There is also a question of whether local government is justified in using public money to publish a newspaper that essentially prevents the development of other newspapers. Unfair competition represents a strong argument against local press. In individual locations, the concerns are even more complex. Most local government newspapers are published in places where conditions are unfavorable to the establishment of a private newspaper and where local communities would not have a newspaper if local government did not publish its own. We have nearly 100 professional local newspapers, and not all of them compete with local government publications.

By nature, the development of local media takes time. It requires not only a stable press market, but also a society that identifies itself with a certain locality and is interested in the events taking place in its closest surroundings. This process continues in Poland, and its impact on the development of civil society is obvious. Its close relation to the strengthening of local governance is obvious as well.



Local governments receive most of their social support from *gmina* residents. Most Poles declare their willingness to cooperate with local authorities in making decisions that affect the communities in which they live. Approximately 8 out of 10 respondents would like to influence the management of their own *gmina* or borough.⁸ Residents' willingness to participate in local community decision-making is universally accompanied by a feeling that the average resident's influence over the management of local issues is substantially lacking. This pattern reflects the fact residents now have a stronger feeling of being the subjects of governance, which means there is growing conviction that they can influence what is happening in their country and community.

A citizen's strengthened awareness of being a subject, which may be quite commonly observable, is not usually reflected in the direct activity of participating in the management of local issues. Despite declarations of interest in taking part in local government activities, the vast majority of citizens remain passive. Both in 1990 and 1994, about 50% of respondents considered local elections worthy of attention. The percentage of these respondents who actually turned out to vote proved even lower: in 1990, 42.3% of respondents voted, in 1994—only 33.8% and in 1998—46.2 %. Local election attendance was, on average, 20 percentage points lower than participation in the parliamentary election. It is difficult, however, to evaluate the extent to which that resulted from differences in election laws, or to what extent it reflected the degree of interest in local issues. Nearly 3/4 of citizens stated they would not run in local elections (Table 36.).

Table 36.

“Would You Ever Agree to Be a Candidate in Local Elections (e.g. run for the *gmina* council)?”

Answer	Percentage of Respondents (1996)
Yes, definitely.	9
Yes, I probably would, but on some conditions.	16
No, I probably wouldn't. I don't think I'd ever agree.	26
Definitely not. I'd never agree.	45
Hard to say. I've never thought about it.	4

SOURCE: K. Pełczyńska-Nałęcz, “Public Opinion on Local Government in Poland in 1989–1997.” Warsaw: FSLD Archives, 1998.

We can distinguish two principal reasons for citizens' passivity. First, they did not believe that the outcome of the election was really important, i.e. that a change in the composition of their *gmina* council would have any impact on their lives. In addition, they had no interest in politics. Their apathy originates at least partly from their perception of local authorities as having narrow powers as compared with central institutions, i.e. as institutions having no real authority in crucial matters. Another reason contributing to poor election attendance is the lack of knowledge of the role of local authorities and their everyday work. The lack of this information's availability bears two types of consequences. First, people very weakly identify with council candidates. In 1994 only 19% of respondents said they were ready to support the candidate they voted for in the previous election.⁹ Second, 'hot' issues that grab the public's attention and involve people emotionally appear very seldom at the local level. The increasing dependence of local governments on political parties contributes to their negative image.



This slow, but steadily growing public activity also provided a background for the development of new relations between local governments and communities. The freedom of action granted *gminas* and residents drew attention to the inapplicability of existing models of these relationships to the present reality. Councilpersons quickly understood that the public's evaluation of their performance, and by consequence, the result of the next election would largely depend on a proper system of communication and means of consulting with residents on important decisions. We have no national data measuring how *gminas* are tackling this problem. Hence, we will quote only the results of a case study in Wielkopolska (see Table 37.).

The survey mentions 12 potential means of communication, and every *gmina* obviously makes use of several of them. Almost all *gminas* use local and regional means simultaneously. Regional television is rare, although there are considerable differences here: almost 85% of larger *gminas* and only 30% of smaller *gminas* uses this means of communication. Regional radio is generally popular, as only one *gmina* has its own radio station. 23% of *gminas* send printed materials to their residents—this channel of communication is used most frequently by medium-sized jurisdictions (5,000–20,000 residents). Leaflets are distributed by over half of the *gminas*, and all *gminas*, except larger cities, have their own information showcases.

One-third of *gminas* make use of the courtesy of parish priests and disseminate information to residents from church pulpits. Almost 50% of small *gminas* use this means of communication, and another one-fourth conduct surveys among their residents. Surveys are not used by small *gminas*, where they are unnecessary due to the ease of soliciting opinions through direct contact. One *gmina* held a quasi-referendum, in which residents voted on a specific decision made by the local authorities. Full referenda were conducted in four *gminas*—one on the dismissal of the council and three on voluntary taxation (two of those concerned voluntary taxes for waste removal services and one for a gas pipeline). Needless to say, the results of the survey under analysis here should be treated as mere examples of general trends, as the data represents only one *gmina's* information strategy.

Table 37.
Means of Communication

Means of Communication	% of <i>Gminas</i>
Local press	80
Regional press	78
Regional television	38
Regional radio	56
Local government radio	2
Brochures	23
Leaflets	52
Information kiosks	92
Church	32
Surveys	25
Quasi referendum	2
Referendum	7

SOURCE: M. Kozik and M. Walny, "Changes in the Structure and Form of Local Government Activities in Wielkopolska in 1990–1998," based on results of a survey on organizational improvements by *gminas* in the past two terms of their office. Warsaw: FSLD Archives, 1999.

Collaboration with NGOs was in its inaugural phase during the period in question and took organized form only in a few *gminas*. Today it continues to develop, including a multiplying number of organizations and receiving increasingly positive evaluations from them. Between 1993 and 1996, the number of organizations using financial assistance from local governments increased by nearly 100% (from 16 to 29%), but this percentage still represents less than a third of all organizations, and *gmina* funding still represents only 7.6% of NGOs' income. Their cooperation continues to encounter numerous setbacks,¹⁰ including: assessment of local community needs, absence of procedures for cooperation and funding, legislative problems, psychological and institutional issues and problems relating to knowledge and education.

The majority of Polish local governments are not yet able to identify, measure, or prioritize community needs. Usually, there are also no forums for consultation with residents, which frequently leads to disputes between NGOs and *gminas* over local governments' support for NGO objectives, as well as the forms that support should take. The absence of procedures outlining the funding of NGO and citizen initiatives was another serious constraint, as these matters tended to be settled unofficially and arbitrarily. There were also no procedures in place describing the objective evaluation of NGOs and their activities by local communities and authorities. These

problems are a direct consequence of another category of barriers: namely, the lack of appropriate regulations in the entire NGO sphere.

The lack of mutual trust between representatives of NGOs and local governments presented yet another obstacle. Councilpersons and *gmina* officials opposed reduction of their spending authority and role in accomplishing public goals. The legacy of the former regime's treatment of public activity as a threat to the state was another factor contributing to the lack of trust, although it also resulted from the partners' stereotypical images of one another. NGO activists generally perceived *gmina* representatives as bureaucrats who followed the vague priorities of their institutions. Conversely, *gmina* representatives viewed NGOs as organizations of irresponsible activists who did not understand anything except abstract ideas.

According to the existing legislation, *gmina* residents are allowed to reach important decisions by way of referenda. The first referenda on the dismissal of *gmina* councils were held in various municipalities in early 1992. The residents demanded dismissal of their councils for various reasons: in some cases, the *gmina* mayor was charged with mismanagement, in others the council was accused of being irresponsible to the voters, and still others were accused of ineffective property management. More than 20 referenda were held in Poland in 1992, but none of them achieved a binding result due to insufficient attendance—below the obligatory 30%. Referenda were ineffective everywhere. In the second term, 104 referenda on the dismissal of *gmina* councils were conducted. Out of that number, only nine were effective. In the remaining 95 cases, the required number of voters did not participate.¹¹ These experiences indicate that criticism of local authorities rarely mobilizes local communities strongly enough to dismiss these authorities.

Voluntary taxation is another fundamental issue designated to referendum. The residents of Pobiedziska made such decision the first; a *gmina* near Poznań, which was experiencing difficulty in mandating usage of local dumping sites. The local dump was used for only a very small part of the total municipal waste. During meetings in villages and with voters, people demanded that illegal dumps be closed and those who dumped their waste in forests and lakes be prosecuted. The frustrated residents organized a referendum on an obligatory local tax that would generate income to allow the *gmina* council to fund the removal of waste. This referendum was a success. 55.8% of voters attended, and 76.12% of them voted in favor of introducing the tax. Other *gminas* followed Pobiedziska's example and held their own "waste" referenda.



In 1990 *gminas* were given the responsibility of making some administrative decisions on their own behalf. In order to eliminate the central administration from the sphere of public affairs, which was excluded from the latter's scope of authority, special local government appellate committees were established. Their legal status and evolution were discussed in Chapter 8. Here, we will review the councils' decisions relating to disputes between residents and *gmina* authorities. Local government appellate committees examined individual cases in which residents considered the decisions of *gminas* unjust.

In 1991—the first year following the establishment of *gminas*—appellate committees received 26,800 appeals. The number increased steadily, to 65,300 in 1995 and too as many as 72,500

in 1997. Initially, the appeals were mainly concerned with housing, a topic that prevailed until 1994. In order to illustrate the subjects of appeals, Table 39 presents data for 1995–1997.

Local government appellate committees divided the cases they dealt with statistically into the following subject groups (see Table 38.):

- Housing regulations and housing allowances—those cases related to the lease of flats in municipal buildings and the allocation of allowances for poorer residents.
- Land use—those concerned with development requirements and increases in property value brought about by changing purpose of land.
- Public welfare—those regarding decisions to grant or refuse benefits.
- Local taxes and fees—although evolving with the tax system, those concerned with all types of fees and taxes administered by *gminas*, including the property tax, vehicle tax, tax on dogs, market fees as well as the farm and forestry taxes.
- Environmental protection—those involving logging permits, establishment of fees or penalties for logging.
- Licenses for the sale of alcoholic beverages.
- Real estate management—those regarding earlier dissolution of perpetual usufruct contracts and fees.
- Adjustment of fees for perpetual usufruct—the separate category in which appellate committees played the role of “mediator” in disputes between a piece of land’s owner and its perpetual user brought about by the owner’s changing the annual charge for the use of land. The councils did not issue administrative decisions on those matters but only ruled on how to resolve the disputes.
- Other—for example, cases relating to public roads, protection of animals, safety during mass events, etc.

Table 38. shows some critical change patterns for a few subject groups within the overall increase in the number of appeals. First, we may observe a dramatic decline in the number of appeals concerning housing, which was evidently a result of the new law on the lease of flats and presumably the progressing improvement of regulations on perpetual usufruct fees. Those improvements were made possible by *gminas*’ efforts to adjust various fees for inflation and to seek additional income to supplement their budgets. In general, disputes between citizens and *gminas* were involved various types of fees.

Cases relating to building permits and land use were a permanent and significant category of appeals. They constituted just one-sixth of the total number of appeals, but their significance to the public is much greater than this figure reflects. The emotional nature of building or extending houses means that they are often the source of unusually complex conflict. Moreover, the emotionality tied into the decision suggests that its outcome is apt to influence the public’s attitude toward the authorities. Such decisions also frequently generate suspicions of corruption. The problem of building permits is directly associated with proper land use planning, which was a major emphasis of *gmina* reform. Yet neither the enactment of the law, nor the devolution of the planning process to *gminas*, led to the conception of plans and procedures that would allow for effective and conflict-free administration of building processes.

Table 38.
Subject Structure of Appeals Filed in 1995–1997

Year Filed, number and % of Cases	Subject									
	Land Use	Public Welfare	Local Taxes & Fees	Housing Regulations	Environmental Protection	Liquor License	Real Estate Mgmt.	Perpetual Usufruct Fees	Other	Total
1995	8,973	9,703	14,288	18,018	1,642	2,942	4,116	3,507	2,126	65,315
%	13.73	14.85	21.87	27.58	2.51	4.50	6.30	5.37	3.25	100
1996	10,080	9,415	14,420	7,192	1,282	2,882	3,372	10,968	1,451	61,062
%	16.50	15.41	23.61	11.77	2.09	4.71	5.52	17.96	2.37	100
1997	11,335	10,852	21,475	5,153	1,604	4,821	3,698	11,687	1,969	72,594
%	15.61	14.94	29.58	7.09	2.21	6.64	5.09	16.09	2.71	100

SOURCE: G. Zalas, “Analysis of the Number and Type of Appeals Filed with 49 Local Government Appellate Committees in 1990–98.” Warsaw: FSLD Archives, 1999.

ENDNOTES

- ¹ *Community Participation ...* 1998.
- ² Demoskop 1996.
- ³ CBOS 1993.
- ⁴ Demoskop 1996.
- ⁵ CBOS 1992.
- ⁶ CBOS 1992.
- ⁷ Palska 1998
- ⁸ Demoskop 1996.
- ⁹ CBOS, March 1994.
- ¹⁰ Gliński 1998.
- ¹¹ According to data from the National Election Commission.

PART III

Some Conclusions

Decentralization: What Happened in Poland?

Reforms and Their Mechanism

CHAPTER 15.

Decentralization: What Happened in Poland?

The subsidiarity principle, considered one of the foundations of a democratic system, was written into the preamble of the Polish Constitution. Thus, the *gmina* is to deal with matters an individual is not capable of handling. The *powiat*, as follows, acts as a subsidiary to the *gmina*; the voivodship, to the *powiat*. The state should become subsidiary to all institutions and organizations which are active in state territory and serve its citizens.

What we have defined here is therefore a kind of reverse hierarchy. ‘Superstructures’ are added to institutions in those places where smaller organizations, situated closer to citizens, are not able to perform more complex tasks. The subsidiarity principle denies hierarchical dependence. How can a ‘lower’ unit be required to be subordinated to a ‘higher’ one if the latter’s only function is to aid and support the former? This principle is of fundamental importance. But it was, and still is, very difficult to introduce into practice. Transition from authoritarian rule to a democratic system demands overstepping several barriers.

In 1989 Poland inherited a centralized system suitable to the functions of a totalitarian state. In order to establish standards of a democratic state, it was necessary to make crucial changes, mainly to reduce the powers of the administration. The reduction process progressed in two directions. The state’s scope of authority was reduced through privatization and deregulation while the state was decentralized through the transfer of numerous powers to local and regional governments. It goes without saying that these processes have not been completed.

The decentralization concept, although commonly used, is not always unequivocally understood. What we want to discuss here is real decentralization (Hudson and Plum 1986) which means the transfer of authority and resources among autonomous units, not deconcentration which is a top-down transfer of powers within the same management system. In the case of deconcentration, responsibility remains with the central entity which delegates certain functions to a subordinate unit only to increase effectiveness. Decentralization is different. Powers are delegated along with the responsibility for specific functions. Obviously it is decentralization, not deconcentration, which is the appropriate goal of local government reforms. The former changes the state’s institutional system, the latter changes only the manner in which functions are exercised.

It is generally assumed that decentralization is only a transfer of power and resources from the central to the local government. However, the degree of decentralization in a state may be also increased by changing the relations between the central and local authorities (Regulska and Lake 1987). Relations between two partners may change when one becomes stronger not

by taking away from the other partner, but by taking over resources and increasing its own work. This distinction is of crucial importance for further considerations. Increased economic potential and trust in local government in Poland was not only a result of devolution of powers from the central level. The activity of local governments themselves was a major source of that increase. Thus local government became stronger and more important not only because powers and funds were devolved, but also because they were able to use that opportunity and augment it through their own efforts.



Evaluation of local government reforms requires development of a method to describe the achieved degree of decentralization. This is an extremely difficult task as it is associated with many incomparable, and in most cases also immeasurable processes. However, without an attempt at evaluation of these reforms, it would not be possible to even state if decentralization is underway in Poland. Attempts made so far have been methodologically insufficient. The yardstick most frequently proposed is local governments' share of public revenues and expenditures. This measure narrows considerably the essence of transformations. After all, it is not only a question of spending money. It is also unclear if the measure refers only to amounts of money local governments can actually use or, for example, their freedom in using those funds. Can we call the previous system in Poland decentralized if people's councils that existed in that system did have substantial amounts of money available in their budgets, but could not make decisions about how to spend those funds? In the present system the amount of funding available to gminas is smaller, but they have much more freedom in spending this money.

Research conducted so far has therefore attempted to extend the evaluation criteria. Wolman (1988) proposed the following four measures:

- 1) the scope and significance of public functions exercised by local governments;
- 2) the scope of autonomy granted to local governments by the laws defining intergovernmental relations;
- 3) the extent to which local governments may obtain public monies;
- 4) the extent to which local authorities depend financially on the central government.

These measures do not seem, however, satisfactory to characterize the decentralization process in Poland, as the barriers encountered in our country were different.

Another approach was applied by Rhodes (1980), who proposed to characterize the extent of decentralization by evaluating the resources available to local authorities in five areas mentioned below:

- legal/constitutional;
- political;
- financial;
- hierarchical;
- professional.

The notion of “hierarchical resources” needs clarification. Rhodes understands it as the scope of freedom within limits resulting from supervisory powers of the central government. However, it seems unjustified to define these limits as a separate resource area. They should rather be considered within the framework of each of the above-mentioned fields.

In order to find a more comprehensive approach, more adjusted to the specific characteristics of a country undergoing systemic transformations, it is necessary to refer to the essence of the local government reform, which was initiated in Poland in 1990. The reform broke five big monopolies of the communist state (Regulski, Kocon 1994).

The first was a political monopoly. Local elections in 1999 were the first fully democratic local elections. They proved the ruling party’s monopoly had been broken.

The second was a monopoly of public authority. Local authorities were granted a constitutional right to exercise a number of public functions on their own behalf. Thus, the principle of a unitary state authority was rejected. The area of public affairs, excluded from the central government’s responsibility, was created.

The third was a monopoly of public property. In the past local authorities were only units of the state administration, they were not legal entities and therefore had no right to possess their own property. They only administered selected elements of the state property. In 1990 *gminas* were granted legal status and took over a major part of the state property.

The fourth was a monopoly of public finance. In the previous system *gmina* budgets were constituents of the state budget. In 1990 *gmina* budgets were separated from the state budget. Establishment of local revenue sources, for example local taxes, was also initiated.

The fifth was a monopoly of public administration. In the past *gmina* employees were employees of the state. In May 1990 a new professional group was established—local government employees distinct from the central administration.

This approach identifies five spheres that underwent decentralization:

- the political sphere;
- the sphere of functions of public authority;
- the sphere of property and local economy;
- the sphere of public finance;
- the sphere of administration and administrative personnel.

Our further discussion will be based on the above distinctions. In comparison with Rhodes’ approach, this classification includes one addition—the sphere of municipal property and local economy. This sphere contains one of the fundamental problems encountered in the systemic transformation process. The reason why Rhodes skips this sphere is that countries of the West have achieved full stability in this area and that the scope of public authorities’ economic activity is considerably limited. Meanwhile in post-communist countries decentralization of property is a key element in the development of local governments.

We will attempt to define the extent of decentralization and its evolution by describing the nature and scope of resources available to local governments in individual spheres. It is however, impossible to define objectively the extent of decentralization, not only due to the complexity

of the process, but because of the diverse interests of individuals and communities resulting in different, sometimes contradictory assessments of the same processes. This chapter attempts to present only facts: what really happened in Poland? In the next chapter we will consider mechanisms of transformation processes to explain why the situation is as it is.



Let us start with political resources. How did local governments' role change and to what extent has it been strengthened over the past decade? Are local governments stronger now than in 1990? What was the nature of the increase? Answers to these questions are very difficult. Political processes can only be described, not measured. Then it is hard to avoid subjective evaluation. The political strength of any entity can be measured only through an analysis of relations between this entity and other entities. Any absolute "measurement" is not possible. The same resources, valuable in some conditions, may be of no value in another context. This is why methods developed in western countries are not suitable for our context. In those countries local authorities exist—the systems are stable.

On the other hand, in countries under transformation everything is fluid. Local governments' positions are changing, but this occurs as part of general systemic changes. The economy and structure of property are changing. Society itself and people's mentality are changing as well. Is it possible to define changes in *gminas'* situation in this sea of transformations if there are no stable points of reference? All to which we would like to relate is also in motion. The situation resembles a boat on a rough sea; as the boat is far from shore, we must define its position in relation to the waves, which are in continuous motion.

Yet this attempt is necessary even if its results are limited. The increase of local governments' political power is a key element in evaluation of the extent to which the country has been decentralized. Devolution of money, property or powers to *gminas* will bring only very poor results if *gminas* do not have a proper political position which would allow them to use these resources. Transformations in this sphere are also of fundamental importance to the reform process in the state and they condition changes in the other spheres. Processes in the sphere of politics and citizens' behavior predetermine the existence of political will and social consent for transformation of the country.

There is another danger in trying to generalize certain processes. We must use average figures, or descriptions of the most frequently occurring phenomena. This may not be consistent with the feelings of an individual, or with specific events. In Poland there are 2,500 *gminas*. Therefore it is practically impossible to find an example which proves every thesis. Especially because local government in Poland did not develop in the same way throughout. In large cities economic and social transformations were faster than in smaller cities and rural areas. At the same time it was precisely in smaller *gminas* where residents could more quickly observe the effects of local governments' activity as the authorities there were much closer to citizens and easier to monitor.

The development of local government was strictly connected with the growth of civil society. Free from constraints of the totalitarian system, people sought various ways to organize

themselves. This is evidenced best in the development of nongovernmental organizations, local newspapers and radio stations. That process generated a natural interest, and often involvement, in handling local public affairs. Therefore it promoted the reinforcement of local governments as representatives of local communities and at the same time supported the development of civil society. The fact that the public has a positive opinion about local governments' work confirms this correlation. Increased social support was directly related to greater understanding of the idea of local government. There were, however, some limitations to this increase. Local communities were not completely free from the habits and mentality inherited from the previous system. Because they faced economic difficulties, they were also forced to concentrate on current issues as a result which their involvement in resolving community problems was of secondary importance.

Given the above it is not surprising that election attendance decreased. Researchers of transformations analyzed this problem in many studies. The fact that people are passive during elections proves they do not believe their attendance may in any way influence social, economic and political decisions, or change their life situations. This may mean society got tired of and disappointed with the changes in progress which is confirmed by an analysis of referenda conducted in Poland. Only in a few cases attendance was satisfactory.

Changes which occurred at that time led to erosion of former behavioral patterns. New mechanisms and role models have not been developed yet. People frequently think about their own particular interests and perceive others' behavior as mere imitation of their own motivation and actions. They do not try to enquire into the real reasons for other people's behavior. The resulting tensions and conflicts among groups of local activists as well as between local communities and local governments, demonstrate people are still unable to work together and have no sense of common goals. However, the general positive opinion about local governments' work supported the increase of social trust and thereby consolidation of local governments. Hence, despite all difficulties, local governments grew stronger and stronger.

In this context we must not ignore the problem of local politicians' awareness. In the past their situation was clear: their careers depended on a single party. They were reliant on the party and subjected local interests to those of the party. A new generation of politicians emerged during local elections in 1990. Parties were weak at that time and the vast majority of new council members treated their work with missionary zeal. Local interests were therefore of utmost importance. The political situation changed over time. On one hand, national parties became stronger, on the other, interest in and support for local governments by local communities was insufficient. Local politicians were clearly subordinating themselves to national parties which resulted in a clear increase of party influence on local governments and local policy. Also the increased importance of local governments supported party influence on local authorities. This is visible in parties' political platforms. While local problems were practically unnoticed in the first years, over time their significance increased and they became top priorities. It both helped systemic reforms and subjected local authorities to the influence of parties and their programs. Increased party control over local authorities caused a threat to the very essence of local government. Consequently there was a danger of losing the trust of society which is the basic strength to which local authorities owed their success.

Local governments became an important area of public life. Subsequent parliaments had an increasing number of parliamentarians with a local mandate. One hundred-and-twenty or so parliamentarians elected in 1997 held a such a mandate. This strong representation confirms the immense importance of local government to politicians and may considerably influence parliament's attitude toward local reforms. However, a question arises whether these parliamentarians feel they represent local or national interests. Are they still local politicians acting on the national forum, or do they become national politicians who only seek support at the local level? In 2002 new legislation made impossible to held local and parliamentary mandate.

The development of local government contributed to the emergence of local elites. The political monopoly of a single party that existed at the beginning of the local government reconstruction process has been completely eliminated, but the process of creating new local political elites has merely been initiated.

It was stated several times in the preceding chapters that in the previous system society was organized around places of employment. There were no forms of public organization around places of residence. The emergence of local elites is a signal of changes in the organization of society which begins to understand the value of problems concerning not the category of employees or employer, but the conditions of life and development in a given area. Residents' struggle to maintain a *gmina* boundary, or locate a public authority in this *gmina*, are examples of identification of precisely such common local interests. The establishment of *powiats* and voivodships creates new opportunities in this respect. However, building a sense of belonging in these entities and an ability to use them to accomplish the goals of their residents is yet to fully happen. Social changes take time to take hold—it is not simply a matter of introducing of legislative changes or transforming institutions.

The emergence of associations of *gminas* and the whole sector of institutions cooperating with and supporting local governments as well as the establishment of various associations connected to local governance were important elements in the processes underway in Poland. Associations of *gminas* may become a political forum in which local governments' political power can be revealed. Unfortunately, these voluntary associations have limited membership. That means a considerable number of *gminas* do not see the benefits from membership in such associations, even though they have done a huge amount of work. Associations of *gminas* have not gained political power proportionate to the local governments they represent or on a scale to take influence from other interest groups.

The relations between *gminas* and the central administration evolved differently. The central administration by nature was not friendly to local government. Initially it treated local governments as entities clearly dependent on and subordinate to it. The strengthening of *gmina* governments forced the central administration, however, to acknowledge their existence and more and more seriously treat their interests and opinions. However, conflicts of interest were and still are essential barriers to decentralization.

The development of local government was followed by the establishment of new institutions whose activity was focused on delivery of services for local governments. Many other institutions which existed before began close cooperation with local governments and became an important

political support for *gminas*. The creation of local government gave rise to the whole sector which benefited directly or indirectly from that fact. The sector's obvious interest was and still is in strengthening *gminas* and their autonomy.

In summing up, we may say that local governments became much stronger in the political sphere, although the position they have achieved is far from what they could achieve—allowing systemic changes important to local interests and decentralization. Increased political power enabled the introduction of further administrative reforms in 1998. This would not have been possible had *gminas* not gained such considerable social support earlier. On the other hand, the establishment of voivodships and *powiats* created new opportunities for local and regional authorities to increase their political influence. It will be possible, however, to use these opportunities fully only once the new authorities have worked out new procedures and proved their usefulness in action.



The scope of public authority vested in local and regional governments is another area in which to consider decentralization processes. The 1990 reforms included several milestone decisions in this respect, by rejecting the principle of a unitary state authority which was a foundation of the communist system. That meant the state was responsible for all public affairs and consequently all public institutions embedded in the bureaucratic administrative pyramids were subject to the central authorities.

As a result of the 1990 reform, public authority at the local level was devolved to elected entities. Consequently, the sphere of public affairs was created outside the scope of authority of the government and the central administration. The significance of that change has to be given particular emphasis as it is precisely the breaking of uniformity in state authority, along with political freedom, which is the key to understanding the importance of local government restoration. Western researchers, however, do not generally appreciate the significance of this and frequently do not understand its essence at all. On the other hand, representatives from our part of Europe relatively easily forget the past and concentrate on current affairs.

Local government reform required changes in the Constitution. These changes were made upon adoption of local government laws in 1990. The relevant constitutional provision was not, however, particularly effective. Only later, as *gminas* grew stronger and systemic transformations progressed, did local governments achieve a sufficiently strong constitutional position and became a permanent element in the development of the system. The model adopted in 1990 proved essentially correct; amendments introduced later modified only certain regulations.

The powers of the central and local governments were divided anew by the 1990 law. The scope of authority of public administration as a whole was not considerably narrowed at that time, however. Only the limitations on citizens' liberties were removed. Local government reform, on the other hand, decentralized powers, and special legal provisions were created to protect against interference by the central administration. But in 1990 many tasks were regarded as falling within the powers of the state and were withheld by the central administration. The scope of *gminas'* activity was therefore reduced. Consequently, locally-governed *gminas* were responsible for fewer

tasks than *gminas* in the previous system. The major difference, however, was the fact that local governments acted on their own behalf and were responsible for their actions while *gminas* in the old system were only units of the centralized state administration.

In evaluating changes during that period we must draw our attention to the fact that *gminas* did not exist yet when legislative work was in progress and their powers were defined. Therefore no one had any mandate to represent their interests. The central administration, which was supposed to give away its powers, not only existed, but was also well-organized and aware of the dangers of decentralization it faced. As a result, numerous anti-decentralizing actions were taken, examples of which were quoted earlier.

As *gminas* became stronger, they strove to broaden their powers to make up for the losses they suffered initially. The most important changes were the take-over of primary schools by *gminas* and the granting of extensive powers to big cities with urban *powiat* status. Central authorities gradually delegated many other powers to local government, but one might have an impression the basic motivation was to avoid responsibility for difficult and expensive tasks. Simultaneously, however, individual ministries expanded their local agencies. That reduced the possibility of extending *gmina* powers and was even a potential threat to their autonomy. As a result, the effects of the former monopoly of power were not totally eliminated during the period in question. There are still functions formally within the scope of the central administration that are being devolved to *gminas*. This allows the central administration to directly interfere with some matters relating to the functions of local authorities.

The division of powers between the central and local authorities is a result of the struggle for authority. Changes in that division cause changes in spheres of influence and thereby affect the political strength of individual political groups.

The principle of a unitary state authority and the associated hierarchical subordination of local authorities has been taken out of the law, but it has left a permanent mark on people's mentality. Local authorities are still perceived as an element of the national system of administration subject to higher authorities, although they are not really subject to them. Hence, people often trust central government officials more than *gmina* officials. This also accounts for the fact that decisions of the central administration are considered more prestigious than decisions of the local administration. It is easier to change the law than people's mentality.

Using their liberty, *gminas* started to develop not only public functions defined in laws, but various other activities. International cooperation, in particular cross-border cooperation, should be noted. This cooperation is very important to European integration and the process of opening local communities to foreign experiences.



Clearly-defined ownership rights form the foundations of the rule of law and market economy. In order to adjust the former communist systems to the new situation, it was necessary to carry out significant ownership transformations. In the previous system, local authorities were not legal entities and thus had no right to possess their own property. They administered selected elements of state property and were subject to various bureaucratic limitations. The effects of

that situation were so disastrous that, even in the eighties, the communist government of the Polish People's Republic recognized the necessity to restore municipal property.

That objective was achieved, with all the consequences thereof, as a result of the reform implemented in 1990. *Gminas* acquired a significant portion of state property, mainly land, buildings and technical infrastructure; many small commercial enterprises were also handed over to *gminas*. An entire institutional mechanism was established to accomplish the goal of enfranchising *gminas*. It was the first ownership transformation action on such a scale. Municipal property became the basis of very effective *gmina* economy.

The transfer of property enabled transactions with huge property resources which had been formerly blocked by the state. This resulted in the emergence of a real-estate market necessary for a correct investment process. The transfer of national property to *gminas* caused a number of secondary changes. The overall result, however, was very positive—the process encouraged not only economic, but also social transformations. But many conflicts arose around ownership transformations, too. Various interest groups linked to particular industries or enterprises were resistant to the transfer, and there were problems with corruption as well.

With the take-over of property, *gminas* faced the need to transform enterprises which they took over. Although those transformations lingered for years, no satisfactory outcome was achieved; changes encountered serious resistance from directors, trade unions and employees who feared they would lose their privileges. However, the effectiveness of municipal enterprises and the level of public services they provided improved considerably. The new autonomy allowed *gminas* to conduct extensive investment activity. The expansion of technical infrastructure reached an extensive level and enhanced development especially in rural areas.



In the previous system, *gmina* budgets were an element of the state budget and were completely subordinate to the principles of budgetary management and control by the central administration. In 1990 *gmina* budgets were separated from the state budget. They ceased to be approved by parliament as part of the national budget law as had been the case before. *Gminas* were granted freedom to construct their budgets and make decisions about their expenditures. *Gmina* financial management was brought under the control of newly-created audit chambers composed of representatives from the government, the ministry of finance and associations of local governments. As a result state authorities were deprived of their earlier supervisory rights. Also, the process of creating *gminas'* own-source revenues, such as local taxes, began. Finally, a very important step deprived local agencies of the central administration of their influence over the amounts of subsidies from the central budget. Funds were to be transferred by the ministry of finance directly to *gminas* according to an algorithm defined in the law and thus without governmental discretion.

Unfortunately in 1990 the public finance system was not restructured to an extent proportionate to the functions and powers of local governments. Own-source revenues to satisfy *gminas'* needs were not expanded, although the system of subventions, which gave *gminas* full autonomy in spending funds, was a source of *gminas'* quasi-own-source revenues. However, local

communities required influence over the definition of their own tax burdens and to be aware of relations between costs incurred and results achieved, because that is what leads to development of local ties and reasonable control over the authorities. The maintenance of a high proportion of delegated functions financed through targeted grants in many cases resulted in excessive influence of state administration. The degree of centralization in finances is incomparably higher than in other spheres.

Local budgets were also not accordingly increased following devolution of new functions. That forced *gminas* to spend their own money to cover the cost of new responsibilities, and not to satisfy the preferred needs of local communities. Such actions undermined people's trust in the idea of local government and thereby maintenance of central bureaucracy received more support from the public. We may suspect that many political parties and politicians are interested in maintaining such a state of affairs.

Given the above, *gminas* sought their own sources of funding. They started to take out loans, issue bonds and join various types of partnerships and agreements in order to carry out profitable investments. This pertains mainly to large cities which have a lot of valuable land. However, the very fact that this process occurs means local governments are acquiring new skills and becoming independent in their actions. This was followed by the rise of a local finance market. The development of banks specializing in services for *gminas* as well as various other financial and consulting institutions is a secondary effect of local government reconstruction.

Evaluation of local governments' performance clearly indicates that the effectiveness of their financial management is much higher than the effectiveness of financial management by the former state administration. The size of *gminas'* investments, completed despite constant financial shortages, is impressive. It is also important that these expenditures serve local needs which considerably enhance their social effectiveness.



The package of basic local government laws passed under the 1990 reform included a law on municipal employees whose status was defined as distinct from that of state employees. On the day following the 1990 election, nearly 90,000 employees were transferred, by virtue of the law, from the centralized administration to the administrations of individual *gminas*. Employment and dismissal of employees became an internal matter for *gminas*, upon which the central administration ceased to have any influence whatsoever.

Reforming this area is a fundamental element of decentralization. *Gminas* would not be autonomous entities if they were managed by state officials. The very distinction of local administration was the first step in the process of creating a professional local government staff. *Gminas* have done a lot of work to raise their employees' qualifications. The number of various types of training available is continuously growing and the qualifications of local government staff are becoming increasingly higher. Demand for graduates of schools of administration is also rising. This means the staff will be gradually replaced and their qualifications consistently raised. In response to this demand many institutions that provide services for *gminas* have been created.

There is an increasingly recognizable need to establish a local government civil service—a counterpart to state civil service—and to introduce regulations which would ensure professional stability. Local administration should be protected from dangers associated with changing governments. It is necessary to ensure continuity of office and to protect public interests from violations by local politicians. No major progress has been observed in this area.

The development of autonomy at the *gmina* level has significantly improved the performance of *gmina* offices. They have been computerized and are better equipped. It is of benefit not only to *gminas*, but also their residents. Very serious centers for public education in modern technologies and organization of labor have been established.

In this generally positive picture there are clearly two problems to be resolved. The first one concerns the *gmina* government model. The initial weak position of heads of *gmina* executive boards paralyzed their activity. Amendments to the law improved the situation slightly. However, the constantly repeated propositions concerning changes in the procedures for electing village and city mayors indicate this issue will have to be addressed in the future. The other is a problem of corruption. Many people treat authority as a source of profit. If it is not direct profit, they treat their position as way of extending their influences through granting various benefits to others. To date there no satisfactory legal provisions on transparency of decisions and use of funds. There is no sufficiently strong public opinion which could compel local government officials to observe ethical standards. It is also a communist legacy which seriously paralyses the reconstruction of a civil state.



The above analysis is obviously oversimplified and condensed. It leads, however, to a few comments. The political breakthrough of 1989 followed by local elections in 1990 allowed local governments to appear on the political stage. It was clear they were weak at that time. The newly-elected council members were enthusiastic, but they lacked skills and political knowledge. Eight years later the political, social and economic position of local governments became many times stronger, especially after establishment of higher levels of local and regional governments. However, the strength of those authorities could not be a result of mere legislative or financial changes. It is not possible to guarantee a political position by means of decrees. It is primarily a result of strengthening local governments themselves, i.e. it is not a result of simple decentralization understood as a transfer of powers from the central level. Decentralization was not only an effect of the transfer of powers but also of considerable reinforcement of local governments by to their own work and social support.

The other comment refers to transformation processes in individual spheres. One can observe significant differences between them. In some cases, notable progress has been achieved and the problem at the moment is not to increase resources but to properly use those already existing. This pertains, for example, to the areas of ownership and administrative staff. Other spheres have been decentralized to a lesser extent, particularly the area of public finance. A question arises: why is that so? It appears to be a consequence of the manner in which transformations were made in these spheres. Radical solutions were introduced in the former two spheres by virtue of

laws passed in 1990. Employees were transferred automatically from the central administration to local governments. Property was also transferred to local governments by law. In both cases a boundary was crossed beyond which there is no return to the previous situation. Everybody, including those who were against changes, concentrated on adjustment to the new system. The radicalism of the changes undermined all attempts at opposition.

The situation was different in areas in which such critical changes were not one-time occurrences but evolutionary processes. That was the case with finance as well as some changes of powers. Because the early changes were not deep enough, their opponents made efforts to restore the original status. This means there was a pendulum that did not move far enough and tended to return to the previous position. Institutional structures proved extremely inert. Hence, decentralization progressed much more slowly in spheres which evolutionary changes were to occur. This conclusion creates an important premise for evaluation of all reforms in Poland and the manner in which they were implemented.

Finally, we must consider relations between processes occurring in different spheres. No doubt processes in the sphere of political relations play a fundamental role. Decentralization of powers, municipal property or finances was decided by politicians dependent on various political agreements, on their party positions and on their voters' support. When such decisions are made, the stronger wins. Thus, the stronger *gminas* are politically, the more support they receive from politicians and the easier it is for them to induce beneficial changes in other spheres. This truth is confirmed by examples discussed in previous chapters.

Transformation of the whole administrative system, including restoration of local government, is a highly political matter. It is a mistake to perceive it only as a technical procedure.

CHAPTER 16.

Reforms and Their Mechanisms

The purpose of restructuring our country's system, which began in 1990, was to adjust its institutional and legal structures to the new responsibilities of a civil state under the rule of law. Therefore, in order to identify these structures, it is necessary to redefine the role of the state, mainly its administration. The change of roles is of an importance not always appreciated by analysts and the public. The totalitarian communist system was organized in a way so as to control all public affairs even if the public opposed it. The role of the state understood in this way conflicts with the subsidiarity principle. The state has to be construed as a common good of all citizens and its function is not to 'manage' but to create a stable and safe framework for unconstrained activity by individuals, enterprises or citizens' groups. Development is not a result of the activity of the state and its administration, but an aggregate outcome of the activities of individuals and organizations. The state may facilitate or hamper this development. It may contribute to the multiplication or waste of results achieved. But it certainly cannot substitute the activities of independent entities. The experiences of past decades clearly demonstrate the effects of such substitution.

We inherited a system designed for other functions. It was therefore necessary to transform it thoroughly. The previous structures were, however, strong and hard to restructure. The whole period discussed here has been a time of struggle. Nobody wants to give away authority and power. No one wants to accept changes that may jeopardize one's position. We may say Poland, as other post-communist countries, has not yet overcome the consequences of monopolized public life, economy and administration, although considerable progress has been made, particularly in our country.

The problems of decentralization and proper definition of relations between the central and local governments in countries undergoing systemic transformation are quite different than problems encountered in stable countries. The problem in the latter is not to improve the existing structures, but to establish completely new relations between institutions which did not exist some time ago.

In the communist system there was no place for democratic local authority. Those existing now have a history of a few years only. That is why in speaking of local authorities one must bear in mind that they may be considered in the context of a short period of time full of substantial changes. Some western experts are trying to explain their nature by comparing various systemic models, wondering what model we adopted in 1990 and where we sought ideas for it. Some think at that time we inherited a systemic vacuum which we filled by making free choices. This way of thinking is very far from reality. In 1989 we inherited a functional state—its institutions were active, people were working and there were strong interest groups. Any attempt to make

changes had to be made after recognizing this fact. Therefore the problem was how to change the system and how to overcome possible reluctance. In order to understand what happened in Poland over these years, it is necessary to look at these diverse barriers and consider what forces supported changes and what wanted to hamper them.

This chapter is an attempt at answering these questions.



To discuss reforms and their mechanisms, it is necessary first to define what we understand as 'reform.' We do not need a dictionary definition. Everyone knows that reforms are transformations. A systemic reform is a transformation of a system, a restructuring of existing institutions according to changed laws. Such reform cannot be implemented with the stroke of a pen. The view that reform means the adoption of new laws is completely erroneous. Certainly, new laws are necessary, but implementation of a reform begins only when those laws take effect. Generally, true difficulties appear only at that point. Experience proves it is easier to change the law than to transform institutions, and most difficult are changes in public mentality and habits.

To change a law, it suffices to persuade a sufficient number of parliamentarians. In order to transform institutions, it is necessary to break the resistance of thousands of directors and managers. For the reform to achieve its assumed objectives, it is necessary to change the mentality of hundreds of thousands, even millions of citizens.

Today, from the perspective of our experiences, I can say that for a reform to succeed, four concurrent elements are needed:

- political will of the leadership
- public support, at least consent
- knowledgeable specialists
- human resources i.e. trained personnel capable to implement the reform

In 1989–1990 the four elements coincided. It was a big opportunity we managed to capitalize on. The feeling of the necessity to transform the state our political leaders had at that time generated the political will to carry out reforms, even though the leaders were not fully aware of the nature of local government, its scale and the effects of reforms. But because there was a group of people with knowledge acquired through studies conducted for many years which, additionally, enjoyed the trust of leaders, actions were taken to fulfill postulates presented even earlier. Those postulates, defined over a ten-year period of studies, after the round table talks in 1989, became an element of the Citizens' Committee's election program. At that time there was not only public support for reforms, but even huge pressure to change the whole system of the state; however, people didn't know what had to be changed and how. Finally, local citizens' committees prepared throngs of people who committed themselves very enthusiastically to the reform implementation process. Specialist knowledge enabled the preparation and adoption of laws that changed the system radically enough to prevent turning back to the old system. That is why all the energy was used to implement the new system, not to defend the old one.

The situation changed, however. The split of the Solidarity camp hampered the earlier impetus of transformations. The political will for further changes burnt out. The knowledge gained earlier was exhausted. Public support and the commitment of a great number of council members did not suffice to move the transformation process forward because local governments were weak and council members did not have the necessary knowledge to propose further reforms. The years 1991 and 1992 were a time of a standstill.

When Hanna Suchocka's government was formed in 1992, political will to reform the state reappeared. However, there was a shortage of knowledge to proceed. The work performed by teams of government specialists could not replace the acquisition of experience by functional local governments or in-depth analyses of the future system. The new government could only launch the process of building knowledge and constructing specific programs. In 1993 the four factors of reform occurred simultaneously again. There was not enough time to use that opportunity because the government was dismissed following parliamentary conflicts.

The SLD-PSL coalition which came to power in 1993 restrained reform processes. There was no more political will. The transformation process begun earlier had already gained some momentum. First of all, the need for further transformations became obvious to groups of intellectuals who started to conduct studies and research outside the government. Those studies were based on experience already acquired by local authorities. At the same time, the growing and increasingly strong local governments produced competent groups of local politicians and local government staff who demanded further changes. When political will was restored after the 1998 election, the four factors reappeared and enabled the next step – establishment of elected *powiat* and voivodship authorities.

If we compare the contexts of the two reforms in 1990 and 1998, we can observe some similarities, with all the differences resulting from the political, economic and social transformation completed over those eight years. In both cases, reforms were preceded by long studies conducted by people in opposition to the government at that time. Both reforms were radical and implemented relatively quickly once there was political will, using the historical only chance. The experiences of Suchocka's government clearly indicate if there is no earlier knowledge, reformers may lack time to implement reforms.

One more similarity—a bitter one this time. In both cases there was significant public support for reforms. However, the governments did not use it to a sufficient extent, did not develop appropriate dialogue and cooperation with society. The governments were not aware of the importance of public support for and understanding of the significance of reforms. In both cases no necessary effort was made to inform the public of what the government intended, to explain the need for reforms, notify people of difficulties and indicate future benefits. The general enthusiasm in 1990 made up for the absence of such an information campaign. In 1998 this absence caused serious problems for the government and hard-to-anticipate political consequences. A positive example in this context is provided by the nation-wide campaign for constructing a *powiat* map with *gminas* in 1993.

These experiences lead to one more fundamental conclusion: probably no major reform would be implemented to date if the government had followed the advice of those who favored slow, cautious and gradual changes. It is worth recalling here that there were many such 'reasonable' advisers. In the whole period, mainly during intensified reformatory efforts, many individuals argued that local communities were not prepared and had first to be educated to accept new conditions. I was always displeased by the patronizing tone of those appeals. Such individuals considered themselves to be more knowledgeable and wanted to teach others, but at the same time demonstrated an extreme lack of confidence in the public, who by definition were incapable of independent and effective work in the new reality. Even today, it is possible to say with satisfaction once again how wrong those 'cautious' advisers were and how able Poles were to take initiative and adjust themselves.



Let us consider the most important sources of resistance to reforms. In the preceding chapters we discussed many examples of various conflicts. The Teachers' Union protested against reforms when the transfer of schools to *gminas* began. Bus drivers in Białystok called a hunger strike in the autumn of 1990 against the transfer of their company to the *gmina*. The Ministry of Health, trade unions and managers of health resorts blocked their municipalization process. The Association of Allotment Users took over municipalized land against the obvious interest of cities, allotment users and contrary to the verdict of the Tribunal. Employment offices responsible for prevention of unemployment at precisely the local level were caught within the scope of authority of the central administration. Such examples are numerous.

There is one common and obvious motive here—struggle for wealth and influence. Such phenomena may be considered normal and disregarded, but the basic fact is that such motivated conflicts were the most serious source of opposition against transformations. The forces behind that opposition either sought to hold back changes in the name of their particular interests or usurped some part of state property. Such groups were numerous and diverse. Let us try to name a few of key importance to the transformation process.

It is evident that bureaucracy is resistant to change. Decentralization means limitation of state officials' power, reduction of employment and relinquishment of state of control over finances and the economy. Institutional changes require changes in work habits, force employees to acquire new skills and create a danger that employees may lose their jobs if they cannot take up new challenges. Every time local authorities are strengthened, a fragment of power is either directly or potentially taken away from the central government.

The communist state was organized in hierarchical pyramids subordinate to individual ministries. This ministerial organization of administration does not correspond to the new needs but is deeply rooted in the mentality and consistent with the interests of bureaucracy. The establishment of *gminas* was the first breach in that structure. As a result, *gminas* were bound to become targets of concentrated attack. Counteraction was triggered by resistance from the central administration and politicians' fear of losing their power. That counter-reaction took and

still takes various forms. It caused overgrowth of various types of special administrations which were extensions of individual ministries' power. There was also constant defiance of deregulation, which deprived government officials of their power to grant permits and licenses.

The first confrontation occurred within the government itself during the stage of preparation for the *gmina* reform in 1989. It must be recalled that Tadeusz Mazowiecki's government represented a political coalition and included supporters of various options, e.g. representatives of the former administration. 'Old' views were strong in the state administration, especially in the office of the Council of Ministers which supervises public administration agencies. These views were totally different from those of the 'reformers,' resulting not only in a serious clash of interests, but in contradictory decisions as well. On one hand, efforts were made to build strong and maximally autonomous *gminas*. On the other, the central administration was overbuilt and the government tried to maintain its dominant position. It was at that time that central administration districts were established. They were technically irrational and unnecessary levels of administration. Opponents of local governments wanted to create authorities blocking local governance.

The Ministry of Finance deserves special attention. Regardless of the political affiliation of subsequent governments, the ministry was firmly opposed to all major attempts to decentralize public finance. It is hard to define the reasons for such a position at this point. The most obvious reason seems to be the fact that the ministry's primary concern was to balance the budget in a situation of permanent financial shortages. That is why, when possible, the ministry tried to economize. It was relatively easy to cut subventions and subsidies for local government. However, it seems the cause of that approach was deeper and stemmed from a different vision of the state, from a deep conviction that it was possible to overcome the difficulties of transition only through central administration of funds. This brings, however, some ugly associations from the past – it was also believed then that development could be accomplished only through central planning.

Many politicians were also against decentralization. They had been raised in a totalitarian system and often were only beginning to learn how to function in democratic and decentralized structures. Many thought it was easier to rule by decree than through negotiations with autonomous local bodies. Also, many political parties, despite their official declarations, were not prepared to govern a decentralized state and hindered the transformation process. Limitation of the power of the central government means also limitation of the power of ruling parties. But the state may be restructured only by the ruling party. Thus, in the name of achieving strategic objectives, the ruling party would have to make some difficult decisions and sacrifice its own interests. This line of action is obvious in stable systems where a party's success depends on its long-term strategy. But post-communist countries lack this stability. The political scene is changeable. Parties are undergoing reforms; they split and merge. It is therefore hard to expect them to carry out a long-term policy if in many cases it is not clear if the existing party arrangement will last until the next election.

I have already mentioned several times that the Polish state under communist rule was organized according to economic sectors. Departing from that model was not a simple task. The sectoral mentality still prevails in internal policy. Coalitions of parties which have ruled

Poland in recent years simply divided up individual sectors. It was understandable that partners strove to strengthen their respective ministries and opposed decentralization which would reduce their power. In effect the anti-reformers were all in privileged situations. Only decisions by the Council of Ministers or its legislative initiatives could determine the path to decentralization. But every minister was also head of his ministry. By supporting decentralization, the ministers' own authorities and influence were reduced. That forced ministers to act not only against their own interests, but also against the interest of officials who report to them. One must possess a deep sense of duty and be resistant to all pressures in order to support decentralization in such conditions.

A new issue emerged with the establishment of regional authorities in 1998 and the approaching Polish membership in the European Union. Voivodship governments are responsible for the economic development of their regions, and EU funds will play an important role in their actions. But those funds are offered according to six major strategies linked to crucial problems in development. For each area, a ministry is responsible. Therefore funds will be transferred through those ministries and, consequently, sectoral management will be strengthened as regional authorities will be forced to negotiate particular strategies with several central agencies individually. Our experience demonstrates that sectoral structures are always opposed to decentralization. Therefore there is a danger that the way in which EU funds are managed will support centralization, even though the EU expects and encourages decentralization in candidate countries.

It was obvious that heads of interested enterprises would oppose municipalization. A change of ownership, or rather appointment of an owner after a period of anonymous state ownership, carried some serious threats. In a state-owned enterprise, especially one receiving subsidies from the central budget, practically nobody was interested in working efficiently. For example, city transportation was by principle a deficit-bringing service. Mismanagement was easy to cover up and mend with central subsidies. Meanwhile, local authorities as new owners had to decide where to find money to cover deficiencies. The need for restructuring and improving efficiency was obvious. And that threatened managers of those enterprises. The reason to oppose was therefore evident.

It was not only municipalized enterprises that did not like *gminas*. *Gminas* were a menace to others as well. It suffices to mention here a provision of the law adopted in 1990 which gave *gminas* a right to take over land owned by enterprises and not used according to its purpose. The counterattack was immediate. Several months later a law was passed according to which enterprises became owners of their present properties. That resulted in a completely unjustified situation: individual enterprises became owners of land which they sold to cover their deficits although that land was frequently indispensable for the city's proper development. That was one of the missteps on the way to privatization.

Decentralization was also opposed by various government and semi-governmental agencies. Parties supported establishment of even new decentralized and monopolist institutions if they were 'friendly' to them.

The relationship between trade unions and local governments is also worth discussing. Trade unions played an important role in Poland's political life, especially given the role of Solidarity in overthrowing the communist system. However, trade unions are by nature against local government and thus against decentralization. Trade unions are organized according to economic sectors. The development of local government results in a transformation of the social structure in a direction unfavorable to the power and importance of trade unions. It was not by accident that after the general election in 1989 Lech Wałęsa called citizens' committees to dissolve themselves—they were competitive with regional executive boards of Solidarity. Also a comparison of election programs of various parties and groups which took part in the parliamentary election clearly shows that Solidarity was the least interested in supporting local government. Other unions also reacted negatively to the municipalization of enterprises or decentralization of functions and were always adverse to local governments.

The political power of a trade union relies primarily on employees of big enterprises. If employees are dispersed among many entities, it is much harder for those employees to form a political base. To a trade union, the most favorable situation exists when decisions are centralized at the national level. Then the trade union's headquarters may negotiate national agreements with the central administration. When functions are decentralized, trade unions' headquarters lose their adversaries. The burden of negotiations shifts to lower union levels and the national authorities of the union become less important. Organizers of strikes and protests always demand a meeting with the relevant minister, and they have a reason to do so. Thus, there is a conflict of interest between trade unions and local governments which is, incidentally, sharper in all post-communist countries, as both trade unions and the structure of the state have been very much centralized in the past. As administration is decentralized, trade unions are forced to seek new forms of organization and activity. No transformation is easy, and every organization tries to avoid it.

It is noteworthy that the broadest systemic reform was launched in 1998 by a coalition in which trade unions played a key role. That reform strengthened considerably the state's territorial system which will inevitably lead to the weakening of the trade union system. Obviously, it is too early now to judge whether it is precisely an attempt to change the ways trade unions work, a failure to identify certain regularities governing the functions of the state and society, or finally, if it is a sacrifice in the name of general public interests. The future will tell. But even the relatively short life of the new local government has demonstrated how many conflicts occur between local authorities and trade unions.

This overview leads to some pessimistic conclusions. The number of opponents to decentralization is substantial. It is understandable that reforms have progressed slowly and encountered difficulties. One may even wonder why decentralization processes began at all. The answer to this question is not simple. I will try to find it in the following section of this chapter.



First, let us consider the public and its attitude towards local government. It is hard to define it concisely. It is once again necessary to look to history, as history largely determines the contemporary mentality. The long absence of a sovereign Polish state, especially the sham carried out over the past fifty years, have begotten anti-state attitudes in Polish society. Ideas of citizens' movements, developed by opposition groups in the seventies and eighties, were based on such attitudes. Local government reform in its earliest stage was also perceived as a weapon used against the state and its administration. This anti-state spirit weighed over the activity of citizens' committees for a long time.

It took people quite a while to recognize local governments as agencies of public administration. But that recognition in many cases obliterated the difference between the new system and the communist people's councils. Today not many people can say what the difference is between the present local government and the former system that included an appearance of local government? Local governments at the *gmina* level have been recognized as something permanent and so obvious that the majority of people believe it has always been like that. *Gminas* appear to have been accepted faster than the effects of other reforms in this country. Perhaps this is other evidence local government reforms have been successful.

The development of local government was concurrent with transformations in other areas of life. Parliament adopted and amended impressive numbers of laws. People had to get used to more and more changes. The law and institutions changed; public mentalities and habits evolved. At this point the following question arises: what was and what should be the relation between these processes? Without a doubt, there is a relation between the law and people's mentality. The law creates a framework within which people function. But in order to adjust themselves to this framework, they have to accept it. And in order to accept it, they first have to understand it and confirm that it makes sense.

It seems we may distinguish precisely these three stages: understanding, acceptance and compliance with the law. When people do not understand a new law, there is no point in debating on the reform, and the reform itself is doomed to failure. People may understand the law, but it does not mean they will accept it. It may violate their habits or interests to a degree that will cause conscious rejection or boycotting of the law by the public. Finally, people may accept the law, but various circumstances may prevent its application. These may be barriers when compliance with the law requires excessive cost and effort. These barriers may also be associated with habits or customs. Everyone understands and accepts speed limits for vehicles but very few drivers actually observe them.

These comments are particularly important during the time of systemic transformations when, as already mentioned, many factors are in flux simultaneously, including the law and public mentality. When legislative changes are too fast, they are not understood or accepted, let alone complied with. When they are made too slowly, they impede progress and lead to frustration. People feel restrained in their need to act. Finding appropriate relations between the pace of transformations in various areas of life determines the success of reforms.

In the case of local government reforms, these relations varied. At the end of 1989 the pressure for changes clearly indicated public expectations had exceeded the pace of reforms. The restoration of *gminas* not only satisfied those expectations but surpassed them. Society needed several years to fill the framework with activity. But as early as in the mid-nineties the need for reform rose again. Legislative changes lagged behind. Therefore there was more and more pressure for reforms. Again, reforms carried out in 1989 met those expectations. But people will again need a few years to fully benefit from these reforms. In several years there will be a need for further changes.

Vast social, political or economic systems can never become completely stable. They must continually develop in order to survive. Development, however, is possible only if there are contradictions. When everybody accepts the existing conditions, there is no need to change them and no incentive for development. The above refers also to the administrative system of a country, especially to the local government system. The structure and operation of local governments are direct reflections of people's consciousnesses, their traditions and skills, role models, the state of the economy, available technologies, the natural environment and many other factors. They are all continuously evolving. Hence, the local government system also has to evolve in turn. And this is actually happening.

Every reform must be thus treated as a link in the chain of systemic transformations. There is no 'final' systemic model. Every state of this model reflects only a step in the transition process, linked to the current needs and resources of society. It is therefore evident that in the next few years Poland will make further changes in the existing laws and regulations as both economy and society develop. There will be both new needs and more possibilities of satisfying these needs. This process of continuous evolution must not be identified with a negative assessment of current reforms. The functioning of the state depends on people's behavior. The legislator only creates a framework for people to fill with activity. Laws are made in anticipation of behavior, but it is not possible to foresee this behavior perfectly, or anticipate correctly all circumstances that will accompany implementation of reforms.



If, however, the decentralization process progressed, in spite of so many unfriendly institutions and groups, we must consider why it happened. It is much simpler to identify those who oppose than those who support reforms. I believe the types of mechanisms causing changes were different at different stages.

From 1989 to 1990 the universal demand to make changes and deprive the unwanted administration of its power, generated a sufficient force to launch reforms. Political leaders must be credited for enabling reform; specialists must be given credit for defining the right direction for reform. The reforms succeeded precisely because there was enough will and knowledge to enable development of a proper systemic framework to take advantage of the enthusiasm and zeal of Polish society. If that zeal had been suppressed at that time, or directed towards something else, *gminas* would not be what they are today.

When the reform was launched, the vast majority of society, including many political leaders, did not quite realize what these new *gminas* were. But new council members, city and *gmina* mayors and various active local groups became the driving force that enabled not only the establishment of *gminas*, but also their strengthening and development. The reform crossed a boundary beyond which there was no return to the old system. As development progressed, new allies appeared. A self-supporting mechanism was created. The more successful *gminas* were, the greater the number of friendly individuals and institutions ready to support *gminas*.

It is hard to enumerate all these groups. The first were local communities themselves. The opportunity to participate in government and the later visible effects of local economy increased social support for *gminas*. The chance for personal success encouraged people to make further efforts. Experiences shared by various assistance programs and observations from study tours to foreign countries showed the directions and prospects for possible achievements. Local elites transformed themselves and gathered around elected councils. New associations were established at the local level to promote cooperation. Various types of institutions cooperating with or providing services for local governments were formed. Their fate was obviously dependent on the development of *gminas*. *Gmina* economic activity, particularly in the area of municipal investments and construction, caused the rise of big business groups interested in cooperation with local governments. The power of local government did not depend only on the *gmina's* responsibilities and budget, but to a large extent also on the power and organizational state of municipal associations and many other institutions which support or cooperate with *gminas*, such as municipal banks, training centers, consulting companies, urban planning agencies or various enterprises that deliver public services. The entire sector, including local authorities, generates both wealth and public goods. Precisely these factors, besides decentralization, determined the growth of the authority and property of local governments.

The number of individuals and institutions interested in the development of *gminas* increased over time. Consequently the number and influence of *gminas'* allies rose. In the following period *gminas* were 'noticed' by political parties which took an interest in their activities. Local leaders began to assume important positions in party structures which caused a negative process of *gminas* and cities' excessive dependence on parties. But even that factor fostered development. *Gminas* became stronger not so much because of the new responsibilities and funds they were taking over, but rather owing to the success of their own activities at various levels—from economic to cultural and educational.

Naturally, the positive process was supported by some political forces which sought the quickest possible transformations of the system, economy and society to enable integration with Europe. Therefore those forces promoted processes which brought us closer to models developed by democratic countries. Decentralization and development of local government were crucial elements of that process.

Local government developed like an avalanche. It started after the reform in 1990 and made its way into more and more areas—leading to economic as well as social transformations. It is best illustrated in the review of institutions, presented in the previous chapters, which radically changed their activity because of the rebirth of local governments.

Thus, the development of local government is a historical process. In Poland it progresses as in western democracies. The difference is that in Poland this process is accelerated, as it was blocked for many decades. Lessons learned by western countries clearly indicate that decentralization and institutional development processes are final and irreversible. They cannot be stopped by any resistance. The only problem is whether reforms will progress harmoniously with the participation of reformers and the central administration, or in continuous confrontation with reactionary forces. There is no need to prove which scenario is better.



The years 1990-2000 discussed here were the first stage of the strengthening of restored local government at the local and regional levels. During that time *gminas* proved their existence makes sense and assumed a permanent place both in the administrative system of the country and in public awareness. They also confirmed their key role in dismantling old, centralized structures and became a crucial political and social force that stimulates continuation of reforms. It is precisely those years that laid the foundation for the deep systemic reforms implemented in 1998-1999 by the victorious coalition formed after the 1997 election. Reconstruction of two higher tiers of local government at the *powiat* and regional level was possible only because *gminas* had been so successful earlier. That success produced knowledge and experience and enabled education of local politicians and officials.

But this is, obviously, not the end of reforms. Opponents of decentralization have not surrendered. Various actions are still taken to stop and even reverse the process of devolving functions to local governments. No doubt the struggle will continue until the system becomes stable. It is still necessary to reform the central administration and the way it works. That reform, after the *gmina* reform, establishment of *powiats* and the voivodship reform, should be the third stage in the restructuring of the state.

However, it is also necessary to eliminate negative phenomena which have occurred and threaten public support for local and regional authorities. Without public support, local government loses its meaning and ceases to differ from nominated administration. Much remains to be done in the areas of labor and public service organization. It is necessary to improve methods of cooperation with society and work out new methods for economic programming. There is a lot of work ahead of us and the improvement process will never be complete. But much has already been achieved. Local government exists; it is operational and developing, transforming the state at the same time.

Appendices

Calendar of Important Events

Glossary of Polish Terms

General Information on Poland

Bodies Responsible for Local Government
and Its Reform within the Central Administration

Bibliography

Calendar of Important Events

1981

June 12—Presentation at an opposition forum of the first document containing guidelines for the restoration of local government in Poland—“Local Government in the Reformed Economic System of the Polish People’s Republic” (*Samorząd terytorialny w zreformowanym ustroju gospodarczym PRL*), by J. Regulski in association with: P. Bury, A. Jewtuchowicz, T. Markowski.

July 9—Establishment of the Voluntary Team for Local Governments and Physical Planning Policy, led by J. Regulski. Its membership is later enlarged by representatives of the Voluntary Committee for Economic Reform of the Polish Economic Society.

September—The 1st National Convention of the Solidarity Trade Union delegates passes a resolution on its program which contains demands for the restoration of employee self-governments and local governments.

September—November—A series of meetings and discussions on reform, including establishment of local democratic government, organized by the opposition.

December—Establishment of the Department of Regional Economy at the Institute of Economic Science of the Polish Academy of Sciences, headed by J. Regulski. The department was in the following years a center of research on local government.

December 13—Introduction of martial law to protect the existing political system.

1982–1988

Joint research conducted by the Department of Regional Economy of the Polish Academy of Sciences, the Department of Economics of Urban Development of Łódź University and M. Kulesza’s team from the Law Faculty at Warsaw University.

1987

May—Lech Wałęsa initiates the first meeting of a group of intellectuals from the democratic opposition.

1988

December 15—Foundation of Lech Wałęsa’s Citizens’ Committee and establishment of the Local Government Commission led by J. Regulski.

1989

- January 25—The Local Government Commission approves guidelines for its program called “Directions for the Development of Local Government in Poland” as a basis for negotiations with leaders of the party and state at the round table.
- February 21—The first round table of the sub-group for associations and local governments. Selection of a separate Working Group for Local Government, led by J. Regulski (Democratic opposition) and W. Sokolewicz (Communist Party and Government).
- March 4—The last session of the working group—a signed document records the two parties’ divergent positions.
- April—The demand for local government restoration is incorporated into the election program of Solidarity’s Citizens’ Committee.
- June 4—Solidarity’s first victory in parliamentary elections.
- July 29—Establishment of the Local Government Commission in the Senate, led by J. Regulski. The Senate resolves to take a legislative initiative to restore local government.
- September 12—Formation of the government led by the first Polish non-communist Prime Minister, Tadeusz Mazowiecki.
- September 18—Establishment of the Foundation in Support of Local Democracy—an initiative of senators A. Celiński, A. Paszyński, J. Regulski, J. Stępień and W. Pańko, M.P., assisted by J. Regulska (Rutgers University).
- September 25—Establishment of the Office of Government Plenipotentiary for Local Government Reform. J. Regulski appointed Government Plenipotentiary. J. Stępień becomes chairman of the Senate Commission.
- December 29—The Polish Constitution is changed. Among others, the following provision is added: “The Polish state guarantees local government’s participation in the exercise of government.”

1990

- January 19—The Senate approves draft legislation on restoration of local government and hands it over to the Sejm.
- March 8—The *Sejm* approves changes in the Constitution and votes the local government act and election laws for *gmina* authorities.
- March 17—Publication of the first issue of the local government weekly *Wspólnota*, edited by M. Kulesza.
- March 22—The *Sejm* adopts legislation on local government employees and on the authorities of the central general administration at the local level.
- April 1—Creation of a network of voivodship delegates to the Government Plenipotentiary for Local Government Reform, led by the Deputy Government Plenipotentiary, J. Król.

May 10—The *Sejm* adopts implementation laws for the Local Government Act and the Law on Local Government Employees.

May 17—The *Sejm* adopts the law on the division of responsibilities and functions defined in specific laws between *gminas* and authorities of the central administration.

May 27—The first free election of *gmina* councils.

July 25-26—Chairpersons of voivodship assemblies of local governments form the National Assembly of Local Governments.

August 3-4—Sixty city presidents gathered in Elbląg to found the Association of Polish Cities.

August 20—Representatives from 25 cities in 7 voivodships gathered in Poznań to establish the Club of Wielkopolska City Presidents and Mayors, which initiates the foundation of regional associations of *gminas*.

September 29—The Union of Polish Towns is established in Kazimierz Dolny.

December—Following his defeat in the presidential election, T. Mazowiecki announces the resignation of his government.

December 14—The *Sejm* approves the Law on the *Gminas* Revenue and Subsidization.

1991

January 12—The *Sejm* adopts the Law on Local Taxes and Fees.

January 14—The Association of Mazovian *Gminas* is established.

January 21—J. Regulski is recalled from the position of Government Plenipotentiary and J. Król from the function of his deputy.

August 28—The National Assembly of Local Governments decides to initiate the design of legislation to establish *powiat* governments.

September 7—The *Sejm* passes the Law on the Education System which confirms the importance of local government to national education.

1992

March 4—The Team for Restructuring Public Administration announces the draft guidelines for remodeling public administration.

March 24-27—The first meeting of local government representatives from countries of Eastern and Central Europe, held in Kraków, organized by the Foundation in Support of Local Democracy and Rutgers University.

June 5—The *Sejm* passes the Law on the Limitations of Economic Activity by Individuals Who Exercise Public Functions.

September 11-13—The 1st National Conference of City Presidents and Mayors.

October 7—The *Sejm* adopts the Law on Regional Audit Offices (RIO).

October 13—The Government Plenipotentiary's Office for Public Administration Reform is established. Michał Kulesza is appointed Government Plenipotentiary.

October 17—The *Sejm* adopts the Law on Mutual Relations between Executive and Legislative Authorities of the Republic of Poland and on Local Government (so-called Short Constitution)

1993

January 27—The Government Plenipotentiary for Public Administration Reform sends a survey to *gminas* asking to which *powiat* they want to belong. The first *powiat* map of the country is created.

February 19—A convention of delegates of the Association of Rural *Gminas* in Poznań.

J. Regulski, as Poland's ambassador to the Council of Europe, signs the European Charter on Local Government on behalf of the Republic of Poland.

April 27—The Council of Ministers approves the guidelines of the public administration reform.

May 21—Prime Minister, Hanna Suchocka, appoints the Joint Commission of the National and Municipal Governments.

June 16—The 1st National Local Government Congress.

July 26—The Voivodship Court in Poznań registers the Association of Polish Cities as an association of *gminas*.

October 27—Prime Minister Waldemar Pawlak halts the pilot program in which more responsibilities are devolved to big cities. The Presidium of the National Assembly of Local Governments draws the public's attention to stagnation in reforms.

November 22—The European Charter on Local Government goes into effect in Poland.

November 30—The government unblocks the pilot program for cities, stopped a month earlier, but it is implemented only to a limited extent.

1994

February—Beginning of the preparation of the Law on Voivodships by an independent team of experts from the Institute of Public Affairs, led by J. M. Rokita.

February 24—The Convention of Presidents of 46 pilot cities criticizes the restrictions to implementation of the program, enforced by the government.

April 18—The *Sejm* receives the Democratic Union's draft law on *powiats*.

May 15—The 4th National Conference of City Presidents and Mayors and the 16th Session of the National Assembly of Local Governments demand rejection of the Law on the Education System.

M. Kulesza, Government Plenipotentiary for Public Administration Reform resigns in protest of the government's policy.

June 2—A conference on citizens' rights to local government initiates the work of parliamentarians from the Freedom Union, the Democratic Left Alliance and the Polish Peasant Party to prepare a draft chapter on local government in the constitution.

June 19—The second free local elections.

August 22—The Council of Ministers issues an executive order which abolishes the position of Government Plenipotentiary for Public Administration Reform and dissolves the existing office.

September 2—The *Sejm* adopts the Law on Local Government Appellate Committees.

November 25-27—The 5th National Conference of City Presidents and Mayors during which participants discuss draft constitutional provisions on local government.

December 14—Some 400 city presidents, mayors and councilors demonstrate against the government's policy in front of the *Sejm* and Office of the Council of Ministers.

1995

May 19—The Law on Bonds, approved by the *Sejm*, allows *gminas* to issue bonds.

August 30—The *Sejm* passes amendments to the Local Government Act.

November 8—The *Sejm* passes the Law on the Scope of Responsibilities of Major Cities and Urban Public Service Zones.

1996

January 1—*Gminas* take over responsibility for primary schools.

November 20—The *Sejm* passes the Law on Public Utilities.

1997

January 1—The newly-created Ministry of Interior and Administration takes over responsibilities for public administration and local government. The Office of the Council of Ministers is abolished.

The Nowy Sącz Urban Public Service Zone starts to operate as an experimental *powiat*.

March 10—The president proposes a draft law which introduces direct elections of mayors.

April 2—The National Assembly passes the new Constitution.

April 25—The new Constitution is approved in a general referendum.

June 17—A team from the Institute of Public Affairs, led by J. M. Rokita, presents a draft law on local government at the voivodship level and on central administration in voivodships.

July—Disastrous floods in Silesia demonstrate the central administration's inability to manage crises effectively.

September 21—The Solidarity Election Action (AWS) wins the parliamentary election and forms a coalition government with the Freedom Union. Jerzy Buzek becomes Prime Minister.

December 9—Appointment of M. Kulesza as Government Plenipotentiary for Systemic Reforms of the State.

1998

January 27—Establishment of an Advisory Council to the Prime Minister on Systemic Reforms of the State, under chairmanship of J. Regulski.

June 5—The *Sejm* passes laws on *powiats*, voivodships and central administration in voivodships.

July 24—The *Sejm* passes the Law on the Establishment of the Three-level Administrative System of the Public Administration.

October—The first election of *gmina*, *powiat* and voivodship councils in the new administrative system.

October—The *Sejm* passes implementing regulations for the law which reforms public administration.

1999

January 1—Effective date of laws that reform the system of local and regional authorities in the country. *Powiat* and voivodships authorities begin their work.

2000

January 21—The *Sejm* amends laws associated with the functions of public administration.

May—Celebrations of the 10th anniversary of local governance in Poland.

May 12—The *Sejm* passes a law on the rules of supporting regional development.

Glossary of Polish Terms

Akcja Wyborcza Solidarność (AWS) (Solidarity Election Action)—election coalition of many rightist organizations, formed by the Solidarity Trade Union. AWS was the winner of the 1997 election with 33.8% of the vote. AWS and the Freedom Union (UW) formed a coalition government led by Jerzy Buzek. As a result of internal tensions caused by differences in the platforms of the trade union, national-Catholic and liberal parties, AWS slowly lost its political importance following numerous fractures and recessions. It was dissolved after losing the parliamentary elections in 2001.

Burmistrz—the mayor of an urban *gmina*, is authorized to represent it. Until 2002 the mayor was appointed by the local council. Now he or she is elected in a general vote.

Gmina—the smallest entity in the administrative division of the country. Since 1990 also a community of residents having the constitutional right to local government, property ownership and management of local public affairs. Poland has about 2,500 rural and urban *gminas*.

Komitet Obywatelski (the Citizens' Committee)—a political group formed upon an initiative of Lech Wałęsa in 1988 to represent the democratic opposition at that time. It was a party in the round table talks with the communist authorities of Poland. Later it was an election committee and winner of the 1989 elections. Its creation was followed by a spontaneous rise of more than 1,000 local committees nationwide which constituted a foundation of the election campaign in 1989 and played a critical role in local elections in 1990.

Kongres Liberalno-Demokratyczny (KLD) (Liberal-Democratic Congress)—a small party, based on a liberal opposition group in Gdańsk. It played an important role in 1991, when its chairman, J. K. Bielecki, was appointed prime minister. In the 1993 election, the party earned less than the minimum 5%, and was therefore excluded from parliament. Later it united with the Democratic Union (UD).

Marszałek województwa (voivodship marshal)—chairperson of the executive board of the voivodship, appointed by a voivodship assembly composed of members elected in a general election. Marshals of all 16 voivodships form a *Konwent Marszałków* (Conference of Marshals), representing regional authorities.

Obywatelski Klub Parlamentarny (OKP) (Citizens' Parliamentary Caucus)—a caucus formed by the members of the *Sejm* and Senate elected from among candidates proposed by Lech Wałęsa's Citizens' Committee. Since political parties did not exist in 1989 and 1990, it was a political representation of the whole former democratic opposition. OKP was led by Bronisław Geremek.

Pełnomocnik rządu (government plenipotentiary)—secretary or undersecretary of state authorized by the Council of Ministers to perform specific tasks which encroach on the responsibilities of several ministers. The government plenipotentiary acting on behalf of the Council of Ministers and reports directly to the prime minister.

Polska Rzeczpospolita Ludowa (PRL) (Polish People's Republic)—official name of the state until 1989 when it was returned to the traditional *Rzeczpospolita Polska* (Republic of Poland). It is often used now to refer to the period of communist rule in Poland.

Polska Zjednoczona Partia Robotnicza (PZPR) (Polish United Workers' Party)—the communist party which ruled in Poland until 1989. Its leadership, after an unsuccessful attempt to break up independent opposition groups in Poland by means of martial law in 1981, began a dialogue with the democratic opposition in 1998. The party allowed semi-free parliamentary elections in June 1989 and was defeated. In 1989, parliament elected the party's leader, General Wojciech Jaruzelski, president, with support from some members of the former democratic opposition, in order to enable peaceful transformations in Poland. In January 1990, the party was transformed into the Social Democracy of the Republic of Poland (Socjaldemokracja Rzeczpospolitej Polskiej—SdRP).

Polskie Stronnictwo Ludowe (PSL) (Polish Peasant Party)—a peasant party established in 1990, following a union of the United Peasant Party (*Zjednoczone Stronnictwo Ludowe*) and smaller groups from the illegal opposition. Its name refers to the rightist peasant party existing in Poland between the two world wars. It is a conservative party focused on representing the interest of small farmers. In 1993, the party earned 19.3% of the vote and formed a government coalition with SdRP, which remained in power until 1997. PSL leader Waldemar Pawlak served as prime minister in 1993–1995. In the 1997 elections, PSL won 7.3% of the vote and joined the opposition.

Powiat—intermediate level in the administrative division of the state, reestablished in 1999. The *powiat* is also a community of residents with the constitutional right to local government, property ownership and management of public affairs within the scope defined by law. In Poland there are 315 *powiats*; 65 cities have *powiat* status as well.

Prezydent miasta - Mayor of a major city.

Rzeczpospolita Polska (Republic of Poland)—the official, traditional name of the state, the use of which was re-introduced in 1989. The word *rzeczpospolita* is an old Polish direct translation of the Latin *res publica*.

Ruch Odbudowy Polski (ROP) (Movement for the Restoration of Poland)—an extreme rightist and nationalist party, based on the electorate that supported Jan Olszewski in the presidential election of 1995. In 1997, it took 5% of the vote and 4 seats in the *Sejm*. It is in opposition to the AWS government.

The Sejm—the lower house of the parliament, composed of 460 members elected according to a proportional system. The speaker of the *Sejm* bears the traditional title of *Marszałek Sejmu*.

Sejmik wojewódzki (voivodship assembly or, literally, the little *Sejm* of the voivodship)—an assembly of *gmina* representatives, authorized in 1990–98 to make decisions on matters of common interest to *gminas* in a given voivodship and to represent them in contacts with the central administration. Since 1999, a representation of residents of a voivodship. Elected by general election, the assembly is the resolution-making authority for the voivodship.

The Senate—the upper house of the parliament, restored in 1989, composed of 100 senators elected in multi-seat constituencies according to a majority system. The legislative powers of the Senate are limited to the right to propose new legislation to the *Sejm* and changes to laws approved by the *Sejm*. The speaker of the Senate bears the traditional title of *Marszałek Senatu*.

Socjaldemokracja Rzeczypospolitej Polskiej (SdRP) (Social Democracy of the Republic of Poland)—a party established on the basis of the former communist Polish United Workers' Party. It has gradually regained influence. Before the 1993 election it formed a broad alliance of more than 30 leftist organizations called the Democratic Left Alliance (*Sojusz Lewicy Demokratycznej*—SLD). It was dissolved in 2000 when SLD became a political party.

Sojusz Lewicy Demokratycznej (SLD) (Democratic Left Alliance)—leftist coalition formed before the 1993 election by SdRP and more than 30 organizations. It won the election with 28.1% of the vote and formed a government coalition with PSL. In 1995 its leader, Aleksander Kwaśniewski, was elected president of Poland with a narrow margin of victory. In the election held in 1997, SLD won 27.1% of the vote and became the largest opposition party. In 2000 SLD was transformed into a single party. Most member organizations of the former federation became members of the new party. SLD is now the strongest leftist party in Poland.

Solidarność, Niezależny, Samodzielny Związek Zawodowy (NSZZ Solidarność) (Solidarity, Free Independent Trade Union)—trade union created and legalized in 1980 as a result of strikes in the Gdańsk shipyard. Solidarity turned into a powerful citizen movement for change in the government system, with about 10 million members. It was dissolved after the declaration of martial law in 1981 but continued to exist in underground structures and became a powerful political force. It was legalized again in 1989 and formed the political basis for the democratic movement. Its political significance declined as political parties developed, but in May 1997 it created a basis for AWS and enabled its victory in the election.

Starosta (chief *powiat* official)—chairperson of the *powiat* executive board, appointed by the *powiat* council, represents the *powiat* government.

Stronnictwo Demokratyczne (SD) (Democratic Party)—a satellite of the Communist Workers' Party in the communist period, designed for the intelligentsia and craftsmen. During the breakthrough in 1989 its leaders supported the formation of the government led by Tadeusz Mazowiecki which opened the door to political and systemic changes. Currently it is a small party with no seats in parliament.

Unia Demokratyczna (UD) (Democratic Union)—a party that existed from 1991 to 1994. It united the former opposition, including the former KOR (*Komitet Obrony Robotników*—Committee for Defense of Workers, established in 1976 to protect individuals persecuted after anti-government actions in that year). UD associated many intellectuals with a wide spectrum of center-leftist and center-rightist views who wanted to build a legal state based on citizen liberties and a free market; it also included a strong movement for social justice. Its leaders were: Tadeusz Mazowiecki, Bronisław Geremek, Hanna Suchocka and others. In 1993 it won 20.62% of the vote. In 1994 it created the Freedom Union together with the Liberal Democratic Congress.

Unia Polityki Realnej (UPR) (Realpolitik Union)—an extreme liberal party. Since 1993 in the opposition outside parliament.

Unia Wolności (UW) (Freedom Union)—a party formed from the union of the Democratic Union (UD) with the Liberal-Democratic Congress. Led by Leszek Balcerowicz (1994–2000) and Bronisław Geremek (2000–2002) and Władysław Frasyniuk (2002–). In the 1997 election it won 13.4% of the vote and formed a government coalition with AWS. In 2000 it left the coalition and joined the constructive opposition, supporting the minority government. In early 2000 a significant number of its members, mainly those from the former KLD, left the party and initiated a movement called the Citizens' Platform (*Platforma Obywatelska*).

Wojewoda (voivod)—head of the central administration in a voivodship, appointed by the prime minister. After the reforms of 1998, voivods have mainly supervisory and controlling powers. Functions relating to the management of the voivodship were delegated to the marshal and board of the voivodship.

Województwo (voivodship)—administrative-territorial entity at the regional level. From 1975 to 1998 there were 49 voivodships. In 1999 voivodships also became communities of residents with the constitutional right to local government, property ownership and management of public affairs. Currently Poland has 16 voivodships.

Wójt—Mayor of a rural *gmina*. Till 2002 he or she was appointed by the local council. Now he/she is elected in general vote.

Chrześcijańsko-Narodowe (ZChN) (National Christian Alliance)—rightist party established in 1991. In 1993 it did not win any seats in parliament. In 1997 it became one of the major groups that formed AWS.

Zjednoczone Stronnictwo Ludowe (ZSL) (United Peasant Party)—a peasant party and a satellite of the communist party in pre-1989 Poland. In 1989 it supported the formation of the government led by Tadeusz Mazowiecki which enabled political and economic reforms in the country. Soon after, several peasant leaders from the illegal opposition joined ZSL and the party's name was changed to the Polish Peasant Party (PSL).

General Information on Poland

Population and Area

Population (January 2000):	38,653,600
Urban population :	23,894,100
Area:	312,685 sq. km.
Density:	123 persons per sq. km.
Capital:	Warszawa
Capital's population:	1,628,500

Length of Borders

Before 1990		After 1992	
Country	[km]	Country	[km]
USSR	1,258	Russia	210
		Lithuania	103
		Belarus	416
		Ukraine	529
Czechoslovakia	1,329	Slovakia	539
		Czech Republic	790
GDR	467	Germany	467
Sea	528	Sea	528
Total length	3,582	Total length	3,582

Administrative Divisions

Gminas (since 1990)

Rural <i>gminas</i>	1,611
Urban/rural <i>gminas</i> (having a town within their boundaries)	556
Urban <i>gminas</i>	322
Urban <i>gminas</i> with a <i>powiat</i> status	65
Total	2,554

The most populous *gmina* is Warszawa (1,628,500 inhabitants). The least populous is Krynica Morska (1,300 inhabitants). Most *gminas* have 5 to 10 thousand inhabitants.

The majority of *gminas* cover an area between 100 and 150 sq. km. The largest *gmina* occupies 635 sq. km. There are seven *gminas* smaller than five sq. km.

Powiats (since 1999)

There are 315 *powiats* in Poland. The population of most *powiats* ranges from 80 to 100 thousand.

Voivodships (since 1999)

Voivodship	Capital City	Area [km ²]	Population [Millions]
Dolnośląskie	Wrocław	19,948	2,985,381
Kujawsko-Pomorskie	Bydgoszcz; Toruń	17,970	2,098,018
Lubelskie	Lublin	25,115	2,241,952
Lubuskie	Zielona Góra; Gorzów Wielkopolski	13,984	1,020,345
Łódzkie	Łódź	18,219	2,672,823
Małopolskie	Kraków	15,144	3,206,630
Mazowieckie	Warszawa	35,597	5,064,950
Opolskie	Opole	9,412	1,091,077
Podkarpackie	Rzeszów	17,926	2,117,341
Podlaskie	Białystok	20,180	1,223,944
Pomorskie	Gdańsk	18,293	2,179,104
Śląskie	Katowice	12,294	4,894,230
Świętokrzyskie	Kielce	11,672	1,327,859
Warmińsko-Mazurskie	Olsztyn	24,203	1,460,432
Wielkopolskie	Poznań	29,826	3,346,045
Zachodniopomorskie	Szczecin	22,902	1,729,848

Employment

Agriculture, hunting and forestry	27.4%
Fishing	0.1%
Industry	22.1%
mining and quarrying	1.6%
manufacturing	18.9%
electricity, gas and water supply	1.6%
Construction	5.9 %
Trade and retail	13.6%
Hotels and restaurants	1.4%
Transport, storage and communication	5.3%
Financial services	2.5%
Real estate and business activities	4.9%
Public administration and defence	2.8%
Education	5.7%
Health and social work	6.1%
Other community, social and personal service activities	2.2%

In January 2001, 2,830 million people were registered as unemployed—15.6% of the population.

Economy

Major industries include: mining, fuel, automotive, shipyards, steel, construction machines, agricultural machines, electric technologies, electronic, chemical, textile and food-processing.

Ownership of farmed land:

state-owned farms	13.9%
cooperative farms	3.3%
private farms	78.3%

An average private farm occupies an area of 7.6 hectares

Foreign Trade

Poland exports mainly appliances and machines (22.4%), metallurgical products (15.9%), chemical products (11.6%), and imports appliances and machines (18.8%), energy and fuel (18.8%) and chemical products (11.5%).

Figure A1
The Sixteen Voivodships of Poland



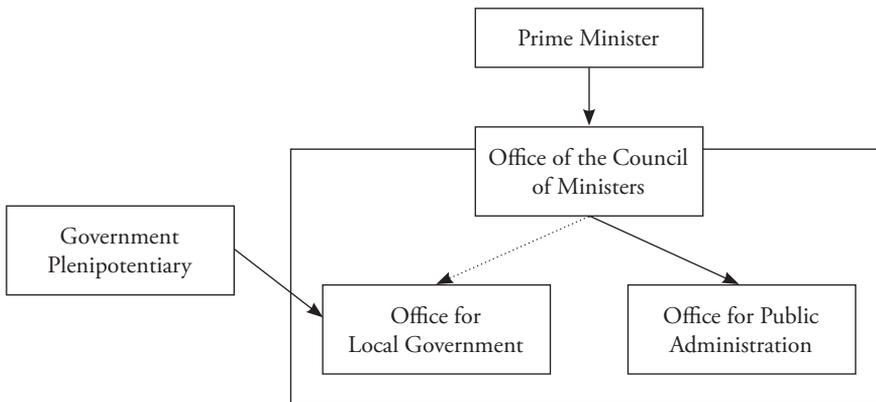
Figure A2
Euroregions in Poland



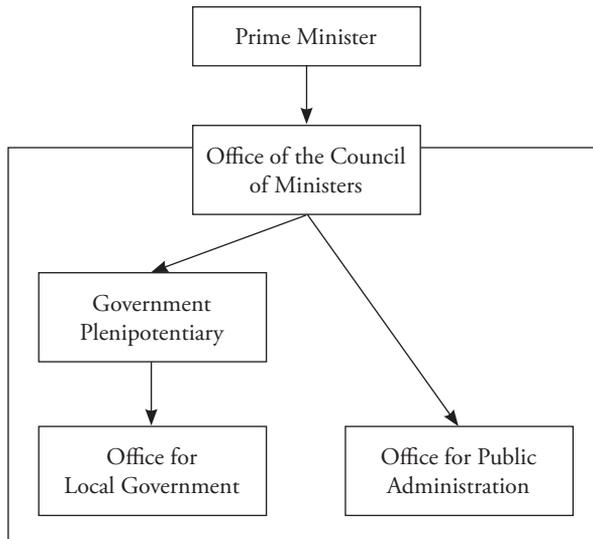
1. Bałtyk
2. Niemen
3. Bug
4. Karpaty
5. Tatry
6. Beskidy
7. Śląsk Cieszyński
8. Silesia
9. Pradziad
10. Glacensis
11. Dobrava
12. Nysa
13. Sprewa–Nysa–Bóbr
14. Viadrina
16. Pomerania

Bodies Responsible for Local Government and Its Reform within the Central Administration

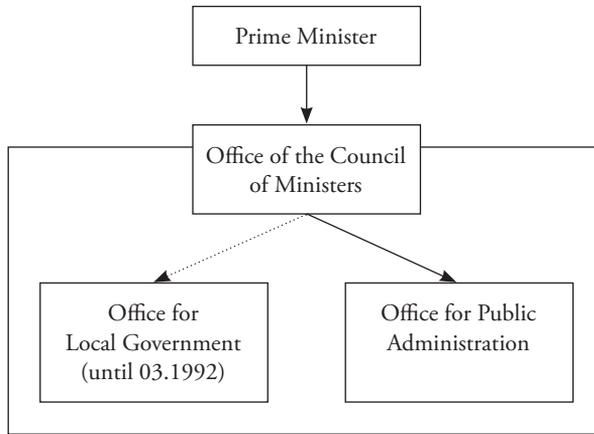
September 1989–December 1990



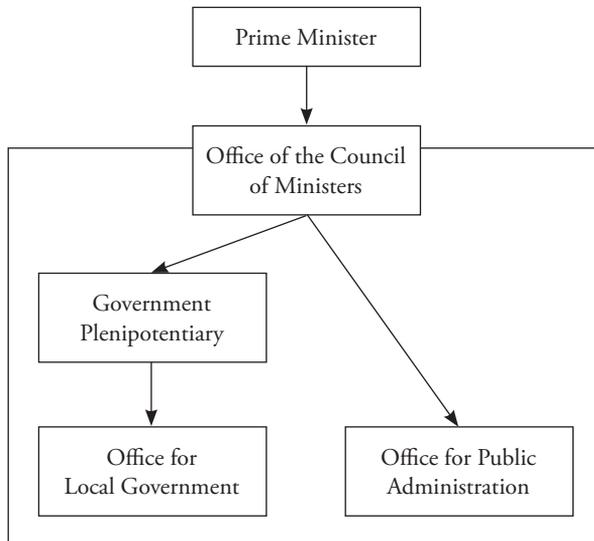
January–December 1991



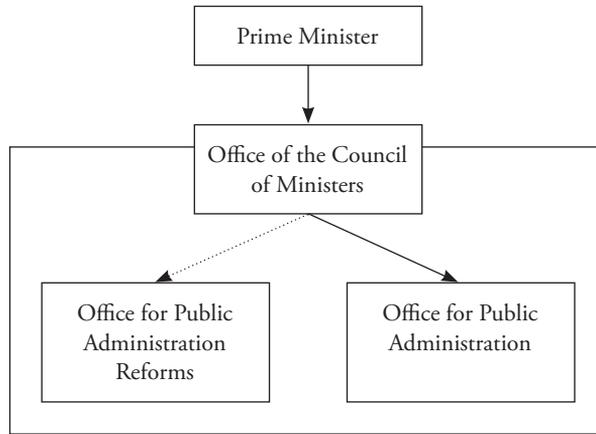
January–June 1992



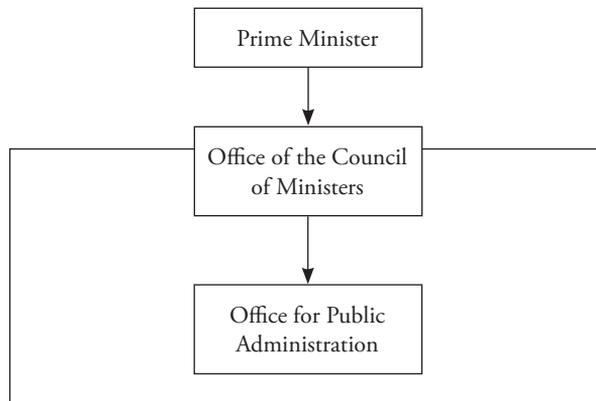
July 1992–mid-1993



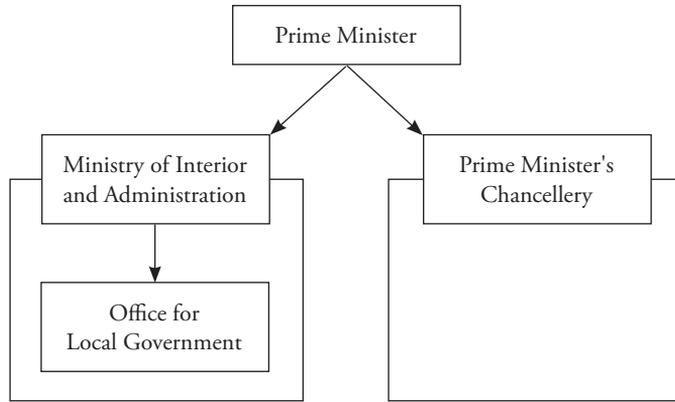
mid-1993–February 1996



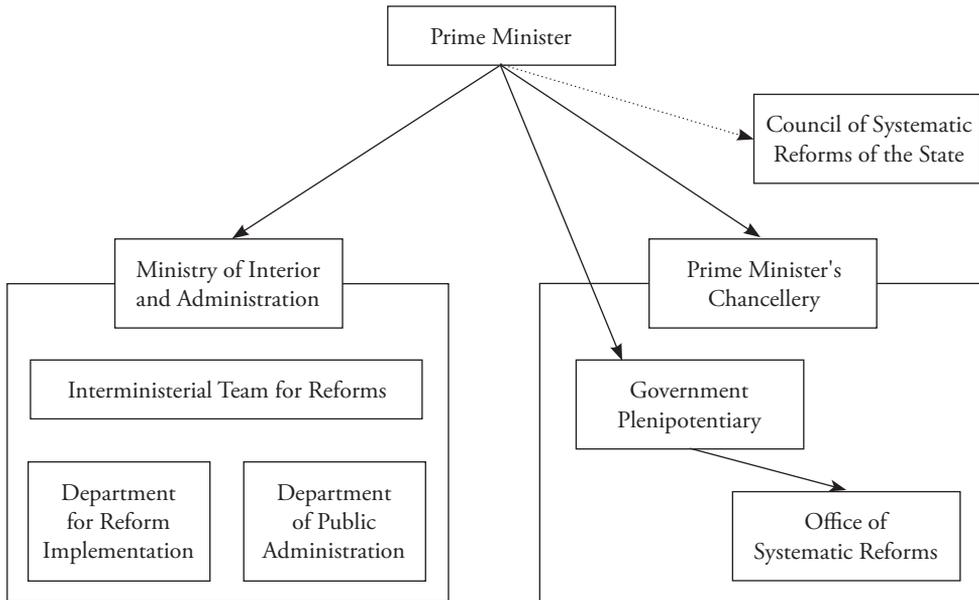
February 1996–December 1996



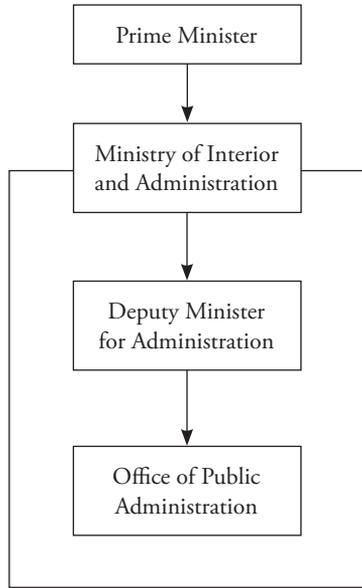
January 1997–October 1997



November 1997–March 1999



Since March 1999



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ENDNOTES

- ¹ The bibliography contains published material cited or used for research purposes. It does not list unpublished materials, studies of polling agencies OBOP, CBOS and GUS, nor newspaper articles mentioned in the footnotes. Articles from principal specialized periodicals such as *Wspólnota* (Local Government) as well as some daily newspapers may be found in the FSLD Archives.
- ² This law is now titled the Law on *Gmina* Governments (*O samorządzie gminnym*), pursuant to Article 10 of a law passed December 29, 1998 (DzU 1998, no. 162, item 1126).
- ³ These materials are available at the FSLD Archives of Materials on Building Local Government.

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