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DEBT OF MUNICIPAL COMPANIES IN POLAND IN THE LIGHT OF RESEARCH¹

ZADŁUŻENIE SPÓŁEK KOMUNALNYCH W ŚWIETLE BADAŃ

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Summary: Local self-government units establish diverse kinds of organizational units in order to perform their tasks. One of their forms can be represented by commercial companies which, if taken advantage of in the processes of local and regional development, can become a source of numerous benefits for the local community which, however, is also accompanied by various threats. The most important ones are associated with the risk of uncontrolled debt expansion of these companies. Although this is not subject to statutory limitations, still the financial situation of local self-government units can be strongly affected.

Keywords: municipal finance, public debt.

Streszczenie: W celu wykonywania swoich zadań jednostki samorządu terytorialnego tworzą różnego rodzaju jednostki organizacyjne. Jedną z ich form mogą być spółki prawa handlowego. Ich wykorzystanie w procesach rozwoju lokalnego oraz regionalnego może być źródłem wielu korzyści dla wspólnoty samorządowej, niesie jednak także wiele zagrożeń. Najważniejsze wiążą się z ryzykiem niekontrolowanej ekspansji zadłużenia tych spółek. Nie podlega ono wprawdzie ograniczeniom ustawowym, jednak może istotnie rzutować na sytuację finansową jednostek samorządu terytorialnego.

Słowa kluczowe: finanse samorządu terytorialnego, dług publiczny.

1. Introduction

In order to execute their duties local self-government units can establish diverse kinds of organizational units. One of their forms can be represented by commercial companies which, if taken advantage of in the processes of local and regional

¹ The views discussed in the present study do not reflect the position represented by any institution of author's employment or cooperation; the study is a part of a monograph entitled *Mechanisms Countering Insolvency of Local Government Units* prepared by the author.

development, can become a source of numerous benefits for the local community which, however, is also accompanied by various threats. The most important ones are associated with the risk of uncontrolled debt expansion of these companies.

In the current state of law, it is not possible to determine the value of Polish municipal companies debt directly from the official reports on the status of commitments by debt titles and bank guaranties of local self-government units. The main subject of this article is assessment of the debt scale of municipal companies in Poland. The main research method used in this article is a descriptive method enriched by empirical data analysis. Due to a limited size of this paper, the explanation of economic, legal and political reasons for observed dynamic and structure changes of municipal debt is the subject of the future article.

2. Systemic status and duties of local self-government

The basis of the territorial system in the Republic of Poland as well as the organization and place of local authorities in the system of public administration were provided for in the Constitution of The Republic of Poland dated 2 April 1997 (Journal of Laws from 1997, no. 78, item 483, as amended) (Art. 3, 15–16, 163–172). The European Charter of Local Self-Government is also considered an important element of the Polish legal system (Journal of Laws from 1994, no. 124, item 607, from 2006, no. 154, item 1107) defining the rules to be met by the regulations referring to the functioning of local self-government.

In accordance with Art. 3 of the Constitution, The Republic of Poland represents a uniform state. Its territorial system, however, ensures decentralization of public authority (Art. 15, par. 1 of the Constitution). The role of local self-government in the state consists in executing, on its own behalf and responsibility, the substantial part of public duties (Art. 16, par. 2 of the Constitution). The scope of public duties to be executed by local authorities was provided for in Art. 163 of the Constitution according to which they are responsible for carrying out “public duties not reserved by the Constitution or Acts providing for the bodies of other public authorities.”

A commune is a basic unit of local self-government (Art. 164, par. 1 of the Constitution). Ordinary legislation defines other units of regional or local and regional authorities (Art. 164, par. 2 of the Constitution). As a result of the above-mentioned regulation a county self-government was established by the legislator (local self-government appointed to execute duties of supra-municipal nature) and also a regional self-government.² A commune holds a specific position in the system of local self-government in the Republic of Poland, since in accordance with

² The status of some urban municipalities was regulated by granting them the right to execute also the duties of county authorities. Therefore, a separate category of local self-government units was created in the form of cities with county rights. The nature of the local self-government system of the capital city of Warsaw was also changed comparing to other municipalities.

Art. 164, par. 3 of the Constitution this type of local self-government community “executes all duties of a local self-government which are not reserved for other units of a local self-government.” Therefore, the constitutional legislator established the rule of presumption in terms of municipal competencies.

The duties assigned to particular types of local self-government units were provided for in constitutional laws, i.e. in Art. 6 and 7 of the Act dated 8 March 1990 on municipal self-government (i.e. Journal of Laws from 2001, no. 142, item 1591, as amended), Art. 4 of the Act dated 5 June 1998 on county self-government (i.e. Journal of Laws from 2001, no. 142, item 1592, as amended) and Art. 14 of the Act dated 5 June 1998 on regional self-government (i.e. Journal of Laws from 2001, no. 142, item 1590, as amended). In the case of county and regional authorities their catalog is closed. Both the Act dated 5 June 1998 on county self-government and the Act dated 5 June 1998 on regional self-government provide that particular duties assigned to these types of local self-government units were defined in specific acts.

In the case of municipal self-government the legislator created an open catalog of duties assigned to these self-government communities in Art. 7, par. 1 of the Act dated 8 March 1990. Both the doctrine and the case-law, however, lack consensus in terms of the above-mentioned regulation consequences. In the case-law of administrative courts as well as regional chambers of audit the prevailing view is as follows: “Art. 7 of the Local Government Act does not provide for any specific competencies held by municipal authorities as a local self-government unit in terms of executing public duties of local nature with reference to other public authority entities” (the decision of Regional Administrative Court in Wrocław dated 15 April 2008, ref. file III SA/Wr 691/07, published LEX no. 506860), concurrently “the legislator’s indication of a particular municipal duty is not identical with granting (...) competencies for specifying the form of this duty execution” (the decision of Regional Administrative Court in Rzeszów dated 27 February 2008, ref. file II SA/Rz 706/07, “Nowe Zeszyty Samorządowe” (“New Local Self-Government Bulletins”) 2008 no. 3, item 53). Consequently, the specific legal basis provided by the specific law regulating a particular area of socio-economic reality is required for the execution and financing of municipal duties. It is also the dominating standpoint in terms of administrative and finance law.

Some decisions of administrative courts, however, present a different approach to the content of Art. 6 and 7 of the Act dated 8 March 1990 on a municipal self-government, holding admissible some activities executed by municipalities despite the absence of a detailed legal basis provided for in the substantive law act, having considered only the above-mentioned regulations of the state law. Such judgements are mainly passed with reference to municipal tasks which are not covered by regulations included in specific laws (promotion of municipalities) and regarding duties not listed in the catalog included in Art. 7 of the Act dated 8 March 1990 on municipal self-government, but related to the realization of local interests and meeting collective needs of the local community. It should be noticed that such

a standpoint is accepted by some representatives of the discussed doctrine, e.g. M. Kulesza, T. Dębowska-Romanowska and J. Salachna.³

Having adopted the rationality presumption principle of the legislator as a starting point, in the author's opinion one should accept that in the areas not covered by the

³ For more see: Borodo [2011, pp. 28–34]; Cilak [2011, pp. 72–76]; Dębowska-Romanowska [2010]; Izdebski, Kulesza [2004]; Jastrzębska [2011, pp. 35–42]; Jyż, Pławecki, Szewc [2010]; Chmielnicki (ed.) [2007]; Kulesza [2009; 2012, pp. 8–10]; Paczocha [2011, pp. 52–60]; Salachna [2011, pp. 20–27]; Dolnicki B. (ed.) [2007; 2010]; Decision of the Supreme Administrative Court (till 2003.12.31) in Warsaw dated 14 March 2003 ref. file II SA 3748/02, publ. LEX no. 126790; Decision of the Supreme Administrative Court dated 19 October 1999, ref. file III CZ 112/99, publ. "Case-law of the Supreme Court Civil Chamber" 2000, no. 4, item 78; Decision of the Supreme Court dated 21 July 2011, ref. file V CZ 49/11, publ. LEX no. 898283; Resolution of the Supreme Court dated 13 January 2006, ref. file III CZP 124/05, publ. "Case-law of the Supreme Court Civil Chamber" 2006, no. 12, item 201, Resolution of the Constitutional Court dated 27 September 1994, ref. file K. 10/93, publ. "Case-law of the Constitutional Court" 1994, part 2, item 46; Judgement of the Supreme Administrative Court (External Division in Lublin) dated 17 March 1995, ref. file SA/Lu 2302/94, publ. „Samorząd Terytorialny” (“Local Self-Government”) 1995 no. 5, item 69; Judgement of the Supreme Administrative Court (External Division in Rzeszów) dated 21 May 1997, ref. file SA/Rz 139/97, publ. "Case-law in Self-Government Affairs" 1998 no. 1, item 9; Judgement of the Supreme Administrative Court (External Division in Lublin) dated 17 March 2000, ref. file I SA/Lu 31/00, publ. "Case-law in Self-Government Affairs" 2001 no. 1, item 30; Judgement of the Supreme Administrative Court (External Division in Gdańsk) dated 6 December 2000, ref. file I SA/Gd 2028/99, publ. "Case-law in Self-Government Affairs" 2001 no. 3, item 104; Judgement of the Supreme Administrative Court dated 3 January 2002, ref. file I SA/Ka 631/02, publ. "Case-law of the Supreme Administrative Court" 2003, no. 4, item 133; Judgement of the Supreme Administrative Court dated 17 May 2006, ref. file II OSK 287/06, publ. "Case-law in Self-Government Affairs" 2006 no. 4, item 105; Judgement of the Supreme Administrative Court dated 12 October 2007, ref. file I OSK 1237/07, publ. LEX no. 519140; Judgement of the Supreme Administrative Court dated 28 October 2008, ref. file II OSK 1381/08, publ. LEX no. 511463; Judgement of the Supreme Administrative Court dated 20 March 2009, ref. file II OSK 1477/08, publ. LEX no. 525883; Judgement of the Supreme Administrative Court dated 24 August 2011, ref. file I OSK 1423/10, unpubl.; Judgement of the Supreme Administrative Court dated 20 October 2011, ref. file II GSK 1055/10, unpubl.; Judgement of the Supreme Administrative Court dated 24 November 2011, ref. file II GSK 1239/10, unpubl. Judgement of the Regional Administrative Court in Cracow dated 17 January 2006, ref. file III SA/Kr 995/05, „Nowe Zeszyty Samorządowe” (“New Self-Government Bulletins”) 2006 no. 3, item 52; Judgement of the Regional Administrative Court in Poznań dated 15 April 2008, ref. file III SA/Wr 691/07, publ. LEX no. 506860; Judgement of the Regional Administrative Court in Poznań dated 12 June 2008, ref. file IV SA/Po 146/08, publ. LEX no. 566760; Judgement of the Regional Administrative Court in Rzeszów dated 27 February 2008, ref. file II SA/Rz 706/07, „Nowe Zeszyty Samorządowe” (“New Self-Government Bulletins”) 2008 no. 3, item 53; Judgement of the Regional Administrative Court in Rzeszów dated 17 August 2009, ref. file I SA/Rz 629/09, unpubl.; Judgement of the Regional Administrative Court in Wrocław dated 15 November 2007, ref. file I SA/Wr 1279/07, publ. "Case-law in Self-Government Affairs" 2008 no. 2, item 50; Judgement of the Regional Administrative Court in Wrocław dated 15 April 2008, ref. file III SA/Wr 691/07, publ. LEX no. 506860; Judgement of the Regional Administrative Court in Wrocław dated 27 May 2008, ref. file III SA/Wr 126/08, publ. LEX no. 506848; Judgement of the Regional Administrative Court in Wrocław dated 26 June 2008, ref. file III SA/Wr 201/08, publ. LEX no. 554326; Judgement of the Regional Administrative Court in Wrocław dated 10 October 2008, ref. file III SA/Wr 302/08, publ. LEX no. 519140.

specific legislation and in terms of non-authoritative actions (i.e. actions other than passing local laws and taking care of individual administrative affairs) a commune should be granted the freedom of its own tasks execution, exclusively provided for in Art. 7 in relation to Art. 6 of the Act dated 8 March 1990 on municipal self-government.

In order to authorize local self-government units to execute their public duties (their own and the commissioned ones), the legislator decided to provide them with an adequate share in public the funds taking the form of their own income, general subsidy and designated subsidy from the state budget (Art. 167, par. 1–2 of the Constitution). The legislator also granted local self-government units legal personality status and property (property right and other proprietary interests) as well as the judicial powers to protect their independence (Art. 165 of the Constitution).

3. Municipal companies as local self-government organizational units

In order to execute their duties, local self-government units can establish organizational units and also enter into agreements with other entities. This is determined by an unequivocal wording of relevant provisions in constitutional legislation, namely Art. 9, par. 1 of the Act dated 8 March 1990 on municipal self-government, Art. 6, par. 1 of the Act dated 5 June 1998 on county self-government, Art. 8, par.1 of the Act dated 5 June 1998 on regional self-government. The significant part of tasks executed by local self-government units is performed by local self-government organizational units. The majority of them function within the framework of a legal personality as part of a local self-government unit (*statio municipi*) – state-financed units and local self-government administrative entities [Chmielnicki 1999, p. 46]. The group of local self-government organizational units, however, also covers the ones with legal personality, i.e. independent public health care facilities and cultural institutions functioning based on the Act dated 15 April 2011 on therapeutic activities (Journal of Laws no. 112, item 654, as amended) and the Act dated 25 October 1991 on organizing and performing cultural activities (i.e. Journal of Laws from 2001, no. 13, item 123, as amended) [Niewiadomski, Grzelczak 1990, p. 14]. Moreover, the group of regional organizational units includes “other local self-government legal persons established based on separate laws in order to execute public duties” and not representing enterprises, research institutions, banks or commercial companies provided for in Art. 9, pt. 14 of the Act dated 27 August 2009 on public finance (Journal of Laws, no. 157, item 1240, as amended). This category is currently represented by regional road and traffic centers. In order to execute their tasks local self-government units set up commercial companies and water law companies or join them. They can also join cooperatives. The subject literature is not consistent with respect assigning categories to local self-government organizational units.

Admissibility for business operations to be performed by local self-government units and local self-government legal persons is specified in local self-government constitutional laws as well as in the Act dated 20 December 1996 on municipal economy (i.e. Journal of Laws from 2011, no. 45, item 236). Moreover, the Act dated 20 December 1996 on municipal economy in its Art. 9 specifies a catalog of standard types covering commercial companies which can be set up or joined by local self-government units. They mainly represent limited liability companies and joint-stock companies as well as limited partnerships and limited joint-stock partnerships provided for in Art. 14, par. 1 of the Act dated 19 December 2008 on public-private partnership (Journal of Laws from 2009, no. 19, item 100, as amended), i.e. companies incorporated for the purposes of contract execution on public-private partnership.⁴

In accordance with Art. 9, par. 2 of the Act dated 8 March 1990 on municipal self-government, municipalities and municipal legal persons can run a business extending public utility tasks only in the cases provided for by the Act dated 20 December 1996 on municipal economy.⁵ In accordance with Art. 10, par. 1 of the Act dated 20 December 1996 on municipal economy, apart from its public utility sphere, a commune can also establish commercial companies and join them if the following conditions are jointly met:

1) unsatisfied needs of a local self-government community occur on the local market;

2) unemployment rate in a commune has a significant negative impact on the living standards of a municipal community and the implementation of other activities and legislative measures, resulting from the regulations in force, did not cause economic activation and, in particular, did not bring about any significant local market revival or permanent unemployment rate reduction.

Moreover, in accordance with par. 2 of the above-mentioned Article, a commune can establish commercial companies acting outside public utility sphere as well as join such companies when the disposal of municipal property component, which could constitute a contribution in kind made by a commune to a company or also its disposal, in other way, can cause a significant loss in commune assets.

In accordance with par. 3 of this Article, the discussed reservations do not apply if a commune owns shares or shares of companies engaged in banking, insurance or consultancy, promotion, education, publishing for the benefit of local self-government, as well as other companies important for the development of a commune, including sport clubs operating as a limited liability company. It should be noticed that an extremely ambiguous phrasing used by the legislator: “the companies important

⁴ It should be noted that in such a company a public entity cannot take the role of a general partner.

⁵ As it is provided for in Art. 1, par. 2 of the Act dated 20 December 1996 on municipal economy, public utility tasks consist in current and continuous satisfaction of collective needs of a population by providing generally available services.

for municipal development” makes municipal freedom limitations, in terms of establishing commercial companies and joining them, provided for in Art. 10, par. 1 and 2 of the Act dated 20 December 1996 on municipal economy, illusive in their nature. In the author’s opinion, the importance of particular commercial companies for municipal development can be subject to assessment only by the municipal authorities.

The powers to establish commercial companies, as well as join them by counties, were quite differently specified. In accordance with Art. 6, par 2 of the Act dated 5 June 1998 on county self-government, a county cannot run a business extending public utility duties. Regulations in this matter should be regarded as clear and unquestionable, which was confirmed by the case-law (e.g. Resolution no. 310/02 by the Regional Chamber of Audit Council in Gdańsk dated 5 August 2002, publ. “Case-law in Self-Government Affairs” 2003 np. 1, item 25; Judgment of the Supreme Administrative Court in Warsaw dated 16 May 2006, ref. file II OSK 288/06, publ. LEX no. 271344).⁶

A greater scope of freedom in setting up and joining commercial companies was offered by the legislator to regional self-government units. In accordance with Art. 13, par. 1 of the Act dated 5 June 1998 on regional self-government regarding public utility, a region was granted powers to set up limited liability companies, joint-stock companies or cooperatives and also to join such companies or cooperatives. As par. 2 of the discussed Article indicates, a region – apart from public utility sphere – can set up limited liability companies and joint-stock companies as well as join them if these companies are engaged in promotional, educational and publishing activities and also in the area of telecommunications aimed at regional development.

4. The assessment method of municipal companies’ debt level

In the current state of the law, it is not possible to determine the value of Polish municipal companies debt in any other way than by collection and direct aggregation of data covering all individual municipal companies published in the Court and Economic Monitor. This solution, however, is both laborious and time-consuming, thus very expensive.

In order to evaluate the scale of municipal companies indebtedness based on the existing reporting documents, other than individual financial reports published by these companies, consolidated balance sheets and Rb-Z reports on the status of commitments by debt titles and bank guaranties of local self-government units, independent public health care facilities and self-government cultural institutions

⁶ A different approach to the matter in question was presented by the Supreme Administrative Court in Gdańsk in its judgements dated 9 January 2003 (ref. file I SA/Gd 1968/02, publ. LEX no. 682122) and 6 December 2000 (ref. file I SA/Gd 1977/99, publ. “Case-law in Self-Government Affairs” 2000 no. 2, item 63).

were used. An obligation to prepare consolidated balance sheets by a local self-government unit, presenting e.g. its consolidated liabilities (as a dominating unit) and self-government legal persons, also including municipal companies (as dependent and codependent units), results from Art. 40 of the Act dated 27 August 2009 on public finance (i.e. Journal of Laws from 2013, item 885, as amended) (referred to as Public Finance Act) and §21 of the Regulation by the Minister of Finance dated 5 July 2010 on specific accounting principles and charts of accounts for the state budget, local self-government units' budgets, self-government public sector entities, state earmarked funds and state budget units officially registered outside the territory of the Republic of Poland.⁷ The obligation to prepare Rb-Z quarterly reports presenting liabilities by debt titles and bank guarantees of local self-government units, independent public health care facilities and self-government cultural institutions results from Art. 41 of the Public Finance Act and the Regulation by the Minister of Finance dated 4 March 2010 on reports prepared by public finance sector units regarding their financial operations.⁸

The due calculations were carried out in the following way. Firstly, the data presented in consolidated balance sheet items B.I. *Long-term financial liabilities* as well as C.I. *Short-term financial liabilities* for each local self-government unit were summed up. This provided information about the total consolidated financial liabilities of a local self-government unit as well as subsidiaries and joint subsidiaries. They do not cover payables, e.g. referring to the supply of goods or services, which are qualified as C.II. *Other short-term financial liabilities*. Consolidation should eliminate only the information referring to the value of loans granted to each other by the particular related parties, which is fully justified since it represents a specific internal debt within the framework of the reconstructed "local self-government capital group." Secondly, the debt of a local self-government unit, independent public health care facilities, cultural institutions and the other self-government legal persons less payables (specified in Rb-Z report) was subtracted from consolidated values in financial liabilities for each local self-government unit as well as subsidiaries and joint subsidiaries. In the case of a negative result, which may indicate an extensive scale of loans subject to intercompany inclusions or the occurrence of substantive errors in a consolidated balance sheet structure, the calculated amount was replaced by zero.⁹

⁷ Regulation by the Minister of Finance dated 5 July 2010 on specific accounting principles and charts of accounts for the state budget, local self-government units' budgets, self-government public sector entities, state earmarked funds and state budget units officially registered outside the territory of the Republic of Poland (i.e. Journal of Laws from 2013, item 289).

⁸ Regulation by the Minister of Finance dated 4 March 2010 on the reports prepared by public finance sector units regarding financial operations (Journal of Laws, no. 43, item 247, as amended).

⁹ In the case of a local self-government unit consolidated balance sheet no official instructions, guidelines or at least principles of good practice, specifying how to prepare them, were developed.

5. Debt scale assessment of municipal companies in Poland

The research covered all the local self-government units in Poland. A very high proportion of units characterized by negative debt value assessments for municipal companies should be noticed. The share of such entities representing local self-government units, in the period under analysis, showed the range from 11.56% (in 2009) to 16.22% (in 2010) (see Table 1). The highest percentage of units taking negative debt value assessments for municipal companies occurred in self-government regions (from 50.0% to 62.5%), counties (from 19.75% to 28.98%) and urban municipalities (from 26.56% to 40.25%). The lowest percentage of units characterized by negative debt value assessments of municipal companies was calculated in the group of rural communes (from 6.17% to 11.12%). Therefore, a sample of 14 local self-government units was covered by an assessment for which the presented results were obtained. In all cases the errors made in the process of consolidated balance sheet preparation were responsible for a negative result. Thus, municipal companies' debt scale estimations presented in the present study are significantly underestimated which, however, does not deprive the obtained results of their important cognitive value.

In the period 2009–2013 the debt of municipal companies increased from PLN 11,299,466.9 thous. up to PLN 20,636,758.1 thous. (see Appendixes 1–5). The discussed indebtedness remains particularly large in cities with county rights (PLN 9,966,643.3 thous. as at 31 December 2013) and in Warsaw (PLN 2,899,784.8 as at 31 December 2013). In the group of cities with county rights the highest level of estimated debt incurred by municipal companies was recorded in Wrocław (PLN 1,560,304.5 as at 31 December 2013), in Gdańsk (PLN 1,207,862.6 as at 31 December 2013) and Łódź (PLN 1,080,694.0 thous. as at 31 December 2013). It should be noticed that due to the reasons indicated in the previous point of the present article such estimations were not possible for Poznań.

It is worth approaching the problem of municipal companies' indebtedness in the context of total debt held by self-government communities, i.e. the debt as the burden of a local self-government unit, the debt of self-government independent health care facilities, the debt of self-government cultural institutions and the debt of other self-government legal persons covered by the sector of public finance. Appendixes 6–11 present the structure of self-government subsector indebtedness extended by the debt of municipal companies. In 2009 such debt constituted 20.15% of self-government subsector indebtedness, extended by the debt of municipal companies. The highest level of this share was recorded for urban municipalities (32.81%) and cities with county rights (28.33%), especially in the case of Łódź (40.81%). In 2013 the debt of municipal companies amounted to 21.90% of local self-government units' debt,

These balance sheets, contrary to budget reporting, are not subject to audits by regional chambers of audit – they are only transferred to the Ministry of Finance by these chambers.

Table 1. Local self-government units characterized by a negative debt value of municipal companies in the consolidated balance sheet

Specification	Number of local self-government units	Number of units with the presented negative debt value of municipal companies					Share of units with the presented negative debt value of municipal companies (%)				
		2009	2010	2011	2012	2013	2009	2010	2011	2012	2013
Self-government regions	16	10	10	8	9	8	62.50	62.50	50.00	56.25	50.00
Warszawa	1	0	0	0	0	0	0.00	0.00	0.00	0.00	0.00
Cities with country rights	64	9	11	6	6	3	14.06	17.19	9.38	9.38	4.69
Counties	314	91	89	80	62	75	28.98	28.34	25.48	19.75	23.89
Municipalities total	2426	216	342	328	298	269	8.90	14.22	13.52	12.28	11.09
Urban municipalities	241	64	95	91	83	80	26.56	40.25	37.76	34.44	33.20
Urban-rural municipalities	597	54	72	72	69	63	9.05	12.10	12.06	11.56	10.55
Rural municipalities	1588	98	175	165	146	126	6.17	11.12	10.39	9.19	7.93
Local self-government units total	2821	326	452	422	375	355	11.56	16.22	14.96	13.29	12.58

Source: author's calculations.

extended by the debt of self-government independent health care facilities, the debt of self-government cultural institutions, the debt of other self-government legal persons covered by the sector of public finance and the debt of municipal companies. This share presented the highest level in the case of Warszawa (32.63%), cities with county rights (27.99%), including especially the case of Gdańsk (47.54%), Wrocław (42.55%), Łódź (33.58%) and urban municipalities (30.74%).

Therefore, the debt of municipal companies is not a marginal one and can significantly (even though indirectly) influence the financial situation of local self-government communities. At the same time, it remains much higher than the debt of other self-government types represented by legal persons. Moreover, the debt of municipal companies is neither subject to any statutory limitations nor ongoing monitoring.

The vast majority of municipal companies' debt occurs in cities with county rights and in Warszawa (see Appendix 12). In 2009 it amounted to 49.80% and 5.40% respective of the total debt held by municipal companies. In 2013 the discussed shares presented the level of 48.30% and 14.05%, respectively. This part of municipal companies' debt is also characterized by high dynamics (see Appendix 6). It amounted to 167.54% and 449.30%, respectively. It should be emphasized that the dynamics of municipal companies' debt owned by cities with county rights remains extensively diversified. Wrocław, Gdańsk and Kraków represent units with the highest debt dynamics in terms of municipal companies. In the case of Wrocław it is as high as 289.30%. In Gdańsk the respective level is 283.50%, whereas in Kraków 175.24%. The debt held by regional companies is also rapidly growing (increase by 235.72%); however, their share in the total debt of municipal companies remains low (4.34%). It has to be noticed that in the case of self-government regions, as well as Warsaw, Wrocław, Gdańsk and Kraków, the dynamics of municipal companies' debt is significantly higher than debt dynamics being a direct burden on these local self-government units.

Low dynamics of municipal companies' debt was characteristic for municipalities and counties. It was 140.30% and 110.34%, respectively. In consequence, their share in the total debt of municipal companies was reduced. Municipal companies accounted for 35.30% and 28.67% of total municipal companies' debt respectively in the period 2009–2013. In the case of county companies the respective share was 7.26% and 4.64%.

6. Final remarks

Currently the cognitive value of consolidated balance sheets issued by local self-government units is limited due to the absence of official instructions how to prepare them or at least any principles of good practice in this matter. Such limitations also result from the lack of formal and accounting audits, covering these balance sheets, performed by regional chambers of audit. The above findings determine the nature of *de lege ferenda* applications in this matter.

The obtained assessments of municipal companies debt scale justify an opinion that the discussed debt is significant and can have an extensive impact (even though indirectly) on the financial situation of self-government communities. Over three quarters of municipal companies' debt refers to Warsaw and cities with county rights. It is a fast growing debt and for this reason it should be covered by monitoring and further detailed analyses. Therefore, *de lege ferenda*, covering municipal companies by reporting obligations and allowing to carry out the above defined objectives should be considered.

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Appendix 1

Debt of municipal companies against local self-government public debt as at 31 December 2009 (in thous. PLN)

Specification	Debt of local self-government units	Debt of self-government independent health care facilities	Debt of cultural institutions	Debt of other self-government legal persons	Debt of municipal companies	Total debt A+B+C+D+E
	A	B	C	D	E	
Local self-government units total	40,294,344.3	4,438,686.9	37,413.0	10,124.9	11,946,105.5	56,726,674.6
Warszawa	4,023,652.8	177,963.0	24.3	0.0	645,403.9	4,847,044.0
Self-government regions	3,046,161.4	2,003,832.6	16,226.5	10,108.8	267,027.3	5,343,356.6
Cities with county rights	14,706,166.3	332,715.1	7,264.7	0.0	5,949,080.0	20,995,226.1
Wrocław	1,830,142.6	2.4	680.0	0.0	539,330.6	2,370,155.6
Kraków	1,981,694.0	36,618.0	485.2	0.0	420,535.4	2,439,332.6
Łódź	1,110,335.2	38,337.3	19.0	0.0	792,086.3	1,940,777.8
Gdańsk	718,604.4	0.0	179.0	0.0	426,050.2	1,144,833.6
Counties	3,907,312.4	1,779,436.3	839.3	16.0	867,687.0	6,555,291.0
Municipalities total	14,611,051.4	144,739.9	13,058.1	0.1	4,216,907.3	18,985,756.8
Urban municipalities	3,972,215.0	108,020.0	4,241.8	0.0	1,995,894.0	6,080,370.8
Urban-rural municipalities	5,421,195.8	33,895.7	6,127.2	0.0	1,362,952.7	6,824,171.4
Rural municipalities	5,217,640.6	2,824.2	2,689.1	0.1	858,060.7	6,081,214.7

Source: author's calculations.

Appendix 2

Debt of municipal companies against local self-government public debt as at 31 December 2010 (in thous. PLN)

Specification	Debt of local self-government units	Debt of self-government independent health care facilities	Debt of cultural institutions	Debt of other self-government legal persons	Debt of municipal companies	Total debt A+B+C+D+E
	A	B	C	D	E	
Local self-government units total	55,093,871.8	4,185,329.5	90,476.3	95,678.7	16,089,428.6	75,554,784.9
Warszawa	5,291,391.3	200,172.7	40.9	0.0	2,898,231.8	8,389,836.7
Self-government regions	4,291,150.2	1,908,300.7	17,001.8	85,084.8	380,244.3	6,681,781.8
Cities with county rights	18,146,131.3	334,774.0	13,114.1	0.0	7,259,596.0	25,753,615.4
Wrocław	1,924,088.6	3.8	1,076.7	0.0	935,095.2	2,860,264.3
Kraków	2,003,875.6	37,185.8	1,540.1	0.0	680,123.0	2,722,724.5
Łódź	1,327,178.4	23,692.4	197.2	0.0	733,808.5	2,084,876.5
Gdańsk	858,808.8	0.0	0.0	0.0	834,698.0	1,693,506.8
Counties	5,435,586.6	1,603,172.7	1,996.7	10,381.7	956,717.4	8,007,855.1
Municipalities total	21,929,612.5	138,909.5	58,322.7	212.2	4,594,639.2	26,721,696.1
Urban municipalities	5,504,072.2	110,855.9	6,049.3	0.0	2,194,336.7	7,815,314.1
Urban-rural municipalities	7,964,929.3	23,576.5	23,656.6	212.2	1,431,725.3	9,444,099.9
Rural municipalities	8,460,611.0	4,477.1	28,616.8	0.0	968,577.2	9,462,282.1

Source: author's calculations.

Appendix 3

Debt of municipal companies against local self-government public debt as at 31 December 2011 (in thous. PLN)

Specification	Debt of local self-government units	Debt of self-government independent health care facilities	Debt of cultural institutions	Debt of other self-government legal persons	Debt of municipal companies	Total debt A+B+C+D+E
	A	B	C	D	E	
Local self-government units total	65,478,580.6	4,127,060.6	109,653.6	98,665.7	16,734,410.5	86,548,371.0
Warszawa	5,966,430.2	190,733.8	246.7	0.0	963,100.7	7,120,511.4
Self-government regions	5,555,072.6	2,046,497.0	17,134.2	98,429.5	635,289.0	8,352,422.3
Cities with county rights	21,813,584.7	423,469.9	36,271.2	0.0	8,951,712.8	31,225,038.6
Wrocław	2,193,838.3	5.7	975.4	0.0	1,344,860.4	3,539,679.8
Kraków	2,134,456.4	45,376.2	959.7	0.0	646,596.7	2,827,389.0
Łódź	1,602,512.2	22,197.2	670.1	0.0	950,080.3	2,575,459.8
Gdańsk	1,337,208.3	0.0	3,587.5	0.0	1,368,675.3	2,709,471.1
Counties	6,134,822.8	1,433,981.5	1,153.6	0.0	947,679.2	8,517,637.1
Municipalities total	26,008,670.4	32,378.4	54,847.9	236.2	5,236,628.8	31,332,761.7
Urban municipalities	6,333,174.6	1,316.7	6,991.8	0.0	2,569,745.7	8,911,228.8
Urban-rural municipalities	9,438,024.5	26,950.0	31,721.3	236.2	1,606,306.2	11,103,238.2
Rural municipalities	10,237,471.3	4,111.6	16,134.8	0.0	1,060,576.9	11,318,294.6

Source: author's calculations.

Appendix 4

Debt of municipal companies against local self-government public debt as at 31 December 2012 (in thous. PLN)

Specification	Debt of local self-government units	Debt of self-government independent health care facilities	Debt of cultural institutions	Debt of other self-government legal persons	Debt of municipal companies	Total debt A+B+C+D+E
	A	B	C	D	E	
Local self-government units total	67,838,413.8	4,401,923.2	99,510.5	93,729.6	19,569,685.1	92,003,262.2
Warszawa	5,695,542.3	210,158.1	1,327.9	0.0	2,748,401.6	8,655,429.9
Self-government regions	6,112,888.5	2,171,557.3	25,095.3	92,601.7	722,714.0	9,124,856.8
Cities with county rights	23,882,871.8	624,207.5	31,997.0	949.5	9,618,080.4	34,158,106.2
Wrocław	2,280,676.2	5	358.3	0.0	1,385,141.1	3,666,180.6
Kraków	2,046,016.8	42,386.5	156.0	949.5	627,892.2	2,717,401.0
Łódź	1,835,465.1	25,395.8	432.0	0.0	979,392.6	2,840,685.5
Gdańsk	1,404,438.5	0.0	3,000.0	0.0	1,340,163.8	2,747,602.3
Counties	5,973,492.3	1,364,906.8	1,752.2	5.3	948,777.9	8,288,934.5
Municipalities total	26,173,618.9	31,093.6	39,338.2	173.0	5,531,711.2	31,775,934.9
Urban municipalities	6,408,352.2	1,422.4	8,061.8	0.0	2,657,195.5	9,075,031.9
Urban-rural municipalities	9,586,157.5	25,641.4	21,376.3	0.0	1,783,116.4	11,416,291.6
Rural municipalities	10,179,109.2	4,029.7	9,899.4	173.0	1,091,399.4	11,284,610.7

Source: author's calculations.

Appendix 5

Debt of municipal companies against local self-government public debt as at 31 December 2013 (in thous. PLN)

Specification	Debt of local self-government units	Debt of self-government independent health care facilities	Debt of cultural institutions	Debt of other self-government legal persons	Debt of municipal companies	Total debt A+B+C+D+E
	A	B	C	D	E	
Local self-government units total	69,159,111.9	3,919,453.7	81,079.9	422,475.5	20,636,758.1	94,218,879.1
Warszawa	5,925,200.0	60,783.4	1,953.5	0.0	2,899,784.8	8,887,721.7
Self-government regions	6,625,076.6	1,918,907.4	20,616.1	417,666.4	896,456.9	9,878,723.4
Cities with county rights	24,959,357.9	660,425.3	15,299.6	3,052.6	9,966,643.3	35,604,778.7
Wrocław	2,105,905.5	2.4	489.0	0.0	1,560,304.5	3,666,701.4
Kraków	1,976,262.8	52,526.7	487.6	3,052.6	736,949.0	2,769,278.7
Łódź	2,118,179.9	18,963.7	354.0	0.0	1,080,694.0	3,218,191.6
Gdańsk	1,329,703.3	0.0	3,000.0	0.0	1,207,862.6	2,540,565.9
Counties	5,877,615.6	1,267,659.4	3,021.4	1.8	957,396.5	8,105,694.7
Municipalities total	25,771,861.7	11,678.2	40,189.2	1,754.7	5,916,476.5	31,741,960.3
Urban municipalities	6,096,075.7	885.3	8,692.5	0.0	2,709,855.1	8,815,508.6
Urban-rural municipalities	9,522,435.2	6,542.4	20,985.2	0.0	2,030,210.1	11,580,172.9
Rural municipalities	10,153,350.8	4,250.5	10,511.6	1,754.7	1,176,411.2	11,346,278.8

Source: author's calculations.

Appendix 6

The dynamics of municipal debt at the background of local self-government debt dynamics in the period 2009–2013 (%)

Specification	Debt of local self-government units	Debt of self-government independent health care facilities	Debt of cultural institutions	Debt of other self-government legal persons	Debt of municipal companies	Total debt of local self-government
Local self-government units total	171.63	88.30	216.72	4,172.64	172.75	166.09
Warszawa	147.26	34.16	8,039.09	x	449.30	183.36
Self-government regions	217.49	95.76	127.05	4,131.71	335.72	184.88
Cities with county rights	169.72	198.50	210.60	x	167.53	169.59
Wrocław	115.07	100.00	71.91	x	289.30	154.70
Kraków	99.73	143.45	100.49	x	175.24	113.53
Łódź	190.77	49.47	1,863.16	x	136.44	165.82
Gdańsk	185.04	x	1,675.98	x	283.50	221.92
Counties	150.43	71.24	359.99	11.25	110.34	123.65
Municipalities total	176.39	8.07	307.77	1,754,700.00	140.30	167.19
Urban municipalities	153.47	0.82	204.92	x	135.77	144.98
Urban-rural municipalities	175.65	19.30	342.49	x	148.96	169.69
Rural municipalities	194.60	150.50	390.90	1,754,700.00	137.10	186.58

Source: author's calculations.

Appendix 7

The structure of local self-government subsector debt by sources as at 31 December 2009 (%)

Specification	Debt of local self-government units	Debt of self-government independent health care facilities	Debt of cultural institutions	Debt of other self-government legal persons	Debt of municipal companies
Local self-government units total	71.03	7.82	0.07	0.02	21.06
Warszawa	83.01	3.67	0.00	0.00	13.32
Self-government regions	57.01	37.50	0.30	0.19	5.00
Cities with county rights	70.05	1.58	0.03	0.00	28.34
Wrocław	77.22	0.00	0.03	0.00	22.76
Kraków	81.24	1.50	0.02	0.00	17.24
Łódź	57.21	1.98	0.00	0.00	40.81
Gdańsk	62.77	0.00	0.02	0.00	37.22
Counties	59.61	27.15	0.01	0.00	13.24
Municipalities total	76.96	0.76	0.07	0.00	22.21
Urban municipalities	65.33	1.78	0.07	0.00	32.83
Urban-rural municipalities	79.44	0.50	0.09	0.00	19.97
Rural municipalities	85.80	0.05	0.04	0.00	14.11

Source: author's calculations.

Appendix 8

Debt structure of local self-government subsector by sources as at 31 December 2010 (%)

Specification	Debt of local self-government units	Debt of self-government independent health care facilities	Debt of cultural institutions	Debt of other self-government legal persons	Debt of municipal companies
Local self-government units total	72.92	5.54	0.12	0.13	21.30
Warszawa	63.07	2.39	0.00	0.00	34.54
Self-government regions	64.22	28.56	0.25	1.27	5.69
Cities with county rights	70.46	1.30	0.05	0.00	28.19
Wrocław	67.27	0.00	0.04	0.00	32.69
Kraków	73.60	1.37	0.06	0.00	24.98
Łódź	63.66	1.14	0.01	0.00	35.20
Gdańsk	50.71	0.00	0.00	0.00	49.29
Counties	67.88	20.02	0.02	0.13	11.95
Municipalities total	82.07	0.52	0.22	0.00	17.19
Urban municipalities	70.43	1.42	0.08	0.00	28.08
Urban-rural municipalities	84.34	0.25	0.25	0.00	15.16
Rural municipalities	89.41	0.05	0.30	0.00	10.24

Source: author's calculations.

Appendix 9

Debt structure of local self-government subsector by sources as at 31 December 2011 (%)

Specification	Debt of local self-government units	Debt of self-government independent health care facilities	Debt of cultural institutions	Debt of other self-government legal persons	Debt of municipal companies
Local self-government units total	75.66	4.77	0.13	0.11	19.34
Warszawa	83.79	2.68	0.00	0.00	13.53
Self-government regions	66.51	24.50	0.21	1.18	7.61
Cities with county rights	69.86	1.36	0.12	0.00	28.67
Wrocław	61.98	0.00	0.03	0.00	37.99
Kraków	75.49	1.60	0.03	0.00	22.87
Łódź	62.22	0.86	0.03	0.00	36.89
Gdańsk	49.35	0.00	0.13	0.00	50.51
Counties	72.02	16.84	0.01	0.00	11.13
Municipalities total	83.01	0.10	0.18	0.00	16.71
Urban municipalities	71.07	0.01	0.08	0.00	28.84
Urban-rural municipalities	85.00	0.24	0.29	0.00	14.47
Rural municipalities	90.45	0.04	0.14	0.00	9.37

Source: author's calculations.

Appendix 10

Debt structure of local self-government subsector by sources as at 31 December 2012 (%)

Specification	Debt of local self-government units	Debt of self-government independent health care facilities	Debt of cultural institutions	Debt of other self-government legal persons	Debt of municipal companies
Local self-government units total	73.73	4.78	0.11	0.10	21.27
Warszawa	65.80	2.43	0.02	0.00	31.75
Self-government regions	66.99	23.80	0.28	1.01	7.92
Cities with county rights	69.92	1.83	0.09	0.00	28.16
Wrocław	62.21	0.00	0.01	0.00	37.78
Kraków	75.29	1.56	0.01	0.03	23.11
Łódź	64.61	0.89	0.02	0.00	34.48
Gdańsk	51.12	0.00	0.11	0.00	48.78
Counties	72.07	16.47	0.02	0.00	11.45
Municipalities total	82.37	0.10	0.12	0.00	17.41
Urban municipalities	70.62	0.02	0.09	0.00	29.28
Urban-rural municipalities	83.97	0.22	0.19	0.00	15.62
Rural municipalities	90.20	0.04	0.09	0.00	9.67

Source: author's calculations.

Appendix 11

Debt structure of local self-government subsector by sources as at 31 December 2013 (%)

Specification	Debt of local self-government units	Debt of self-government independent health care facilities	Debt of cultural institutions	Debt of other self-government legal persons	Debt of municipal companies
Local self-government units total	73.40	4.16	0.09	0.45	21.90
Warszawa	66.67	0.68	0.02	0.00	32.63
Self-government regions	67.06	19.42	0.21	4.23	9.07
Cities with county rights	70.10	1.85	0.04	0.01	27.99
Wrocław	57.43	0.00	0.01	0.00	42.55
Kraków	71.36	1.90	0.02	0.11	26.61
Łódź	65.82	0.59	0.01	0.00	33.58
Gdańsk	52.34	0.00	0.12	0.00	47.54
Counties	72.51	15.64	0.04	0.00	11.81
Municipalities total	81.19	0.04	0.13	0.01	18.64
Urban municipalities	69.15	0.01	0.10	0.00	30.74
Urban-rural municipalities	82.23	0.06	0.18	0.00	17.53
Rural municipalities	89.49	0.04	0.09	0.02	10.37

Source: author's calculations.

Appendix 12

Debt structure of municipal companies in the period 2009–2013 by levels of local self-government units as at 31 December 2013 (%)

Specification	2009	2010	2011	2012	2013
Warszawa	5.40	18.01	5.76	14.04	14.05
Self-government regions	2.24	2.36	3.80	3.69	4.34
Cities with county rights	49.80	45.12	53.49	49.15	48.30
Counties	7.26	5.95	5.66	4.85	4.64
Municipalities total	35.30	28.56	31.29	28.27	28.67
Urban municipalities	16.71	13.64	15.36	13.58	13.13
Urban-rural municipalities	11.41	8.90	9.60	9.11	9.84
Rural municipalities	7.18	6.02	6.34	5.58	5.70

Source: author's calculations.