

**Maciej H. Grabowski**

**Gdańsk Institute for Market Economics**

## **The Polish Case – fiscal decentralisation**

1. Updated country results for 2004
2. Main changes since 2002

### Introduction

The idea to compare the fiscal decentralisation and trends in this respect in the European countries is a core for the IREF project. This means that the strict rules of measurement of this complex issue, as fiscal decentralisation is, should be applied to all fiscal systems. Therefore I will follow the description how to generate the index of fiscal decentralisation invented and provided by the prof. Garelo and Price<sup>1</sup>. Nevertheless I will also describe and analyze problems which I have met when adopted this scheme into the Polish fiscal system. Moreover the main changes in the fiscal system, which took place in Poland within last 4 years are commented.

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<sup>1</sup> Victoria Curzon\_Price and Jacques Garelo „Index of fiscal decentralisation methodology and findings”, Vol. 13, no 4, Dec. 2003, pp. 441-478

## 1. Updated country results for 2004-2005

### Structure of budget receipts

The last available data for 2004 on public revenues indicated that 50,5%<sup>2</sup> of all revenues of self-governmental units, i.e. communities, counties and regions (local government entities) are derived from their own revenues. The rest is provided by either general state subsidies or state grants to perform the state tasks by self-government units. The state revenues (except revenues of state appropriated funds, such as social security fund, which collects fees from employees) are about 71% higher than all revenues of self-government units. If we subtract state grants and subsidies for these units from their revenues, the structure of public revenues would be as follows: state revenues 77% (or 156,3 billion of zloty), self-government units 23% (or 46,2 billion of zloty) as in 2004. These calculations are received from data published by the Ministry of Finance. The same share of local and central government revenues from taxation one would get if he take data provided by EUROSTAT<sup>3</sup>. Data provided by Eurostat suggest that between 2002 and 2004, the share of local government in total taxation increased by 35%<sup>4</sup>. This is in contradiction to data used in previous estimation of fiscal decentralization index<sup>5</sup>. Overall I would suggest for 2004 score: 1,5.

### Measure of fiscal autonomy and democratic answerability

The measure refers to fiscal autonomy of communities, counties and regions. The list of local taxes is not short one, and includes the following taxes: agriculture tax, forest tax, real estate tax, tax on inheritances and gifts, tax on possession of dogs, tax on civil law transactions, stamp duty, local charges. But the significance of these taxes for the local budget is limited. These taxes and other local sources of revenues, such as revenues from local assets, provide about 28% (or 26,2 billion zloty) of all local government revenues. This 26,2 billion zloty represents 13% of all revenues of state and local government. The tax revenues of local government come also from their share in personal income tax and corporate income tax. These taxes are collected by state, and communities, counties and regions receive share of these taxes, which are collected in their respected territories. Local governments keep rights to set the level of tax rates of their own taxes, such as rates, exemptions, forgiveness, but they

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<sup>2</sup> com. [www.mf.gov.pl](http://www.mf.gov.pl), or Biuletyn Finansów Publicznych, nr 2(14) 2005

<sup>3</sup> Structure of the taxation systems in the European Union data 1995-2004, Eurostat, 2006 edition pp. 242-248

<sup>4</sup> op.cit. page 247

<sup>5</sup> comp. Victoria Curzon-Price and Jacques Gareilo „Index of fiscal decentralisation methodology and findings”, Vol. 13, no 4, Dec. 2003, p. 468

don't have any power to control "state" taxes, such as personal income tax, and corporate income tax. The score of 1 is appropriate.

#### Measure of legislative responsibility for setting taxes

The Polish constitution approved in 1997 in art. 271 says<sup>6</sup>: "The imposition of taxes, as well as other public imposts, the specification of those subject to the tax and the rates of taxation, as well as the principles for granting tax reliefs and remissions, along with categories of taxpayers exempt from taxation, shall be by means of statute." This suggests that the Polish Sejm (Parliament) has the exclusive power in taxation, because Sejm has power to pass statutes (laws). Local government may have some power in taxation, because the art. 168 says: "To the extent established by statute, units of local government shall have the right to set the level of local taxes and charges.". So if statute allow, local government have power on taxation. The Polish Constitution also regulates the problem of imposing tasks on local government by the state. In such case, the appropriate revenues should be secured, and as art. 167 par. 4 states: "Alterations to the scope of duties and authorities of units of local government shall be made in conjunction with appropriate alterations to their share of public revenues." This looks like strong rules, but in practice the government imposes new duties on local government without sufficient financing. As it was written above the local government enjoys power to set rates, exemptions in local taxes. Fiscal referenda are allowed, but such institution is not used. Score 2,5.

#### Spending decisions

The general rule is that your own revenues may be spent according to your own will. For the local government it means that general subsidies, own tax and non-tax (including credits or loans) revenues may be spent according to local budget approved by the local council. There are however some limitations on indebtedness of local government. There is limit of total debt of local government, which may not exceed 60% of annual budget. The other rule says that annual cost of paying of interest and borrowed capital may not exceed 15% of annual budget. From the other side, the state grants to carried out tasks or duties imposed by the state are to be spent exclusively on these tasks. So local governments are not free in their financial decisions in such fields. Score 3,5.

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<sup>6</sup> comp. [www.sejm.pl/prawo/konst](http://www.sejm.pl/prawo/konst)

### Tax disputes and litigations

Here also we should refer to the constitutional rules. Decision taken by either state or local tax authority, as any other administrative decision, may be questioned by the taxpayer and case may be sent to the Administrative Court. Court proceedings have two stages. As art. 168 says: "...administrative courts shall exercise (...) control over the performance of public administration. Such control shall also extend to judgments on the conformity to statute of resolutions of organs of local government and normative acts of territorial organs of government administration.". So in case, when taxpayer is not happy with the tax decision taken by the tax authority he may appeal to administrative court to change or overrun it or send back his case to the tax authority again for further consideration. If there is a loss due to the fact that tax authorities imposed inappropriate tax, a taxpayer may sue the public administration (local or central) for this loss to the ordinary court as in any other civil case. Score 4.

### Average score for Poland as in 2004

Total score would be 12,5. Divided by five is: 2,5. It is lower than in the previous report (2,6), and there were three differences. First, responsibility for setting taxes got score 2,5 (before it was 3); power on spending score 3,5 now, before 3, and litigation now the score is 4, and previously it was 5.

## **2. Main changes for fiscal decentralisation since 2002**

The main rules and institutional solutions for public finances and local government were set either in the Constitution of 1997 or in the statues approved in 1997-1998. The constitution remains unchanged, and there were institutional changes, which may not be called significant ones. Yes, there was a new law of local government revenues in 2003, but it didn't change the very idea of financing the local government tasks and duties.

The new law on local governments' revenues determines that the share of state government in Personal Income Tax is 48,81% of total revenues from this tax, and in Corporate Income Tax is 75,99% of total revenues from this tax. Old law on local government revenues set these levels at 69,9% and 94,5% respectively. There are also new rules for local governments, which revenues per capita are higher than average. Such entities are to pay back to the state coffer relevant sums. This solution is to provide more "justice" to the system, but

taking into account that the first threshold is 110% of average, the current system discourages local authorities to increase taxes. The collected sums are then sent to the poor local units.