

# The legal model for metropolis management in Poland - comments on the regulation of metropolitan union in the Silesian voivodship

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## **Abstract**

*Political changes that followed after 1989 led to the creation of local self-government in Poland. As a result, a municipality, a county and a voivodship self-government were established. In the course of these reforms, however, the problem of the system of metropolitan areas, and thus their management, has not been resolved. Making metropolisation in Poland, understood as creating special solutions for metropolitan areas in the form of large urban agglomerations, that are facilities of various networks (transport, scientific, economic) and development centers, is not satisfactory. Initiatives to ensure management of metropolitan areas have been undertaken for a long time, but still without achieving sufficient results. In 2015, the Act on metropolitan unions was adopted, whose provisions constituted the basis for creating metropolitan unions regardless of the country's area. On the basis of its provisions, however, no metropolitan union was established. In return, there was undertaken the work on the subsequent act in analyzed area - this time concerning only the area of the Silesian voivodship. The purpose of the article is to analyze provisions of the act on metropolitan union in the Silesian voivodship, aiming at determination of effectiveness and sufficient nature of these provisions in the area of metropolitan areas management in Poland. The regulations regarding only one, though undoubtedly the largest urban agglomeration in Upper Silesia, which is currently the case, seems insufficient to assume that the problem of providing a special system and rules for management of metropolitan areas has been solved.*

**Keywords:** *metropolis management, metropolisation, metropolitan unions, metropolitan union in the Silesian voivodship.*

**JEL Classification:** K23

## **1. Introduction**

In the modern world, large metropolises are beginning to play an increasingly important role. This also applies to many Polish cities. Metropolisation is a process that takes place on two levels. On the one hand, it develops thanks to globalization, and therefore big cities become centers that manage the flow of capital, information and human resources. On the other hand, such cities are growing in the physical aspect - in space - increasingly affecting the surroundings.

As a result of political changes that took place after 1989, the local self-government was established in Poland. As a result of successive reforms, in 1990 a

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municipal self-government was established, and then in 1998 - a county self-government and a voivodship self-government. As a result of the reforms, local communities were subjected to empowerment as well as provided with their rights and obligations. In the course of these reforms, however, the problem of metropolitan areas' system, and thus their management, has not been resolved. Therefore, the legal status of large Polish cities in the structure of the territorial division of the state has not been regulated. Over the years, this issue was a serious systemic loophole.

Taking the above into account the scientific purpose of the research is to analyze Polish legal provisions concerning management of metropolitan areas, especially provisions of the last act in this area – the Act on metropolitan union in the Silesian voivodship<sup>2</sup> - aiming at determination of effectiveness and sufficient nature of these provisions in the area of metropolitan areas management in Poland. The regulations regarding only one, though undoubtedly the largest urban agglomeration in Upper Silesia, which is currently the case, seems insufficient to assume that the problem of providing a special system and rules for management of metropolitan areas has been resolved.

The scientific method that has been applied is based on dogmatic scientific research and the typical for dogmatic of law - the logical-language analysis of legal text. That scientific method has been supplemented by the use of the systemic interpretation and the functional interpretation, as well as a historical-legal method of the research. There have been also analyzed the opinions of the representatives of judicial doctrine.

As well as the results of the study is concerned, it should be stated that for the purpose of the study there were investigated two main issues. First of all, there were analyzed the impact of the repealing of the 2015 Act on metropolitan unions<sup>3</sup> and the passing of the 2017 Act on the metropolitan union in the Silesian voivodship on the process of managing metropolises in Poland and shaping the model of this management. According to the second purpose of the research, through the analysis of the provisions of the abovementioned acts, it has been made an attempt to answer the question whether there are grounds for recognizing that a general metropolitan management model has been developed in Poland.

## **2. The notions of metropolis and metropolisation. The importance of metropolis in the territorial system**

Analyzing legal regulations concerning the metropolis management model requires defining the notion of metropolis, related to the organization of metropolitan management and the creation of public structures in this area - the

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<sup>2</sup> Act of 9 March 2017 on metropolitan union in the Silesian voivodship (Journal of Laws of 2017 item 730); hereinafter as: Act on metropolitan union in the Silesian voivodship or Act of 2017.

<sup>3</sup> Act of 9 October 2015 on metropolitan unions (Journal of Laws of 2015 item 1890); hereinafter as: Act on metropolitan unions or Act of 2015.

term of metropolitan area - as well as the notion of the phenomenon of metropolisation.

With reference to the notion of metropolis, it should be noted that in the colloquial sense this term is associated with a large city. In science, however, that term has a broader meaning - it means not only the city-center, but also the surrounding environment, that is the metropolitan area, the metropolitan zone - the agglomeration. Large cities are developing and, as a rule, are functioning with a close connection with their immediate surroundings, creating agglomeration systems.<sup>4</sup> In the territorial sense, the metropolis is larger than the city. The metropolis consists of cities, and the cities consist of localities.<sup>5</sup> It is emphasized that metropolises should be referred to as cities with complex functions and a significant complication of the higher-order functions fulfilled, so-called diversified cities.<sup>6</sup> The metropolis plays the dominant role of the center of economic, technological and cultural dynamics both in the region and on a European scale. Metropolises are large cities that gather the world's potential: economic, financial and scientific, they are the seat of media and social organizations (cultural, sports, etc.) with a large scale of impact.<sup>7</sup> In the currently dominant economy based upon knowledge, metropolises play a huge role - they compete for capital and innovative branches of the economy, trying to create an attractive environment for international institutions and enterprises. For this purpose, they also improve their image, initiate large investment projects, strive for the organization of prestigious events - sports, festivals, congresses, exhibitions - on international and global reach. In the case of metropolises, strong relations with their surroundings have been replaced by relations with other metropolises on a continental or global scale.<sup>8</sup>

The concept of a metropolitan area is related to the concept of metropolis. Metropolises shape the metropolitan area. It is a complex structure, which includes many territorial communities - municipalities, cities, counties - as well as many self-government and government authorities.<sup>9</sup> The legal concept of the metropolitan area has evolved in the Polish legal system. Initially, the legal definition of the metropolitan area followed from Article 2 Point 9 of the Act on

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<sup>4</sup> E. Wysocka, *Planowanie strategiczne wielkich miast*, Samorząd Terytorialny 1994 No 5, p. 3 and next.

<sup>5</sup> See B. Dolnicki, *Samorząd terytorialny*, Warsaw 2016, p. 527.

<sup>6</sup> See J. Purchla, J. Sepioł, *Metropolie a rozwój regionalny Polski* [in:] J. Purchla (ed.), *Metropolitalne funkcje Krakowa*, Cracow 1998, s. 16, O. Budynowska, *Obszary metropolitalne, ich struktura i funkcje w układach terytorialnych*, Samorząd Terytorialny 2000 No 10, P. Swianiewicz, *Zarządzanie obszarami metropolitalnymi – doświadczenia międzynarodowe a rzeczywistość polska*, Samorząd Terytorialny 2006 No. 1-2.

<sup>7</sup> W. W. Budner, *Procesy metropolizacji i rozwoju metropolii w Polsce*, Acta Scientiarum Poloniarum. Administratio Locorum 7/1, 2008, p. 9.

<sup>8</sup> W. W. Budner, *Procesy metropolizacji...*, p. 9.

<sup>9</sup> M. Niziołek, *Problemy ustroju aglomeracji miejskich*, Warsaw 2008, p. 29, B. Dolnicki, *Samorząd...*, p. 528.

spatial planning and development.<sup>10</sup> The metropolitan area at that time meant the area of the large city and the functionally related immediate surroundings, determined in the concept of spatial development of the country. In the literature, however, it was emphasized that in this approach the metropolitan area was only a spatial and planning unit, subject to specification in the spatial development plan of the voivodship self-government.<sup>11</sup> However, the provision cited above was repealed as a result of the passing of the Act on metropolitan unions, which introduced another definition of the metropolitan area. In the light of the provisions of this Act, as the metropolitan area it was recognized a coherent in spatial terms the zone of the influence of the city being the seat of the province governor or voivodship parliament, characterized by the existence of strong functional connections and the advancement of urbanization processes, inhabited by at least 500.000 inhabitants.<sup>12</sup> The metropolitan area, in the understanding of the Act on metropolitan unions, ceased to have only the character of a spatial unit, determined in advanced the spatial area, but it became a space neighbouring a large city with strictly defined qualitative and quantitative traits.

The formation of the metropolis and the creation of metropolitan areas is in turn associated with the phenomenon of metropolisation. Metropolisation is not a legal concept. It is connected with processes and factors affecting the functioning of large cities. In economic sciences metropolisation is defined as a process of taking over by some of the big cities of managerial functions in post-industrial management on a supranational scale. This process is also associated with the transformation of the urban spaces themselves. The metropolisation of space consists in changing the relationship between the main city (metropolis) and its immediate surroundings and the discontinuous use of urbanized space. It is connected with the creation of a new type of functional and spatial structure in settlement systems related to large cities and their surrounding areas.<sup>13</sup> Metropolisation is recognized as a kind of urbanization process, whose driving force is the development of technology and its close relationship with the production and management processes within the economy based upon knowledge and the broadly understood process of globalization of economic, social and cultural phenomena. Contemporary transformations of urban spaces have changed the relationship between large cities and their immediate surroundings. Economic development and globalization processes have led large cities to enter a new phase of urbanization, which is the phase of metropolisation.<sup>14</sup>

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<sup>10</sup> Act of 27 March 2003 on spacial planning and development (consolidated text Journal of Laws of 2017 item 1073); hereinafter as: Act on special planning and development.

<sup>11</sup> See H. Izdebski, *Samorząd terytorialny. Podstawy ustroju i działalności*, Warsaw 2014, p. 383, B. Dolnicki, *Samorząd...*, p. 541.

<sup>12</sup> Article 5 of the Act on metropolitan unions.

<sup>13</sup> B. Jałowiecki, *Metropolie*, Białystok 1999, W. W. Budner, *Procesy metropolizacji...*, p. 7.

<sup>14</sup> W. W. Budner, *Procesy metropolizacji...*, p. 7.

### 3. The specificity and conditions of metropolises management. Features of the metropolises management model

Due to the fact that each large city is surrounded by settlement units of various character with which it interacts, it is an element of a larger functional and spatial entirety. The units surrounded the city, together with the central city or several such cities of an equivalent nature, form an internally related urban assembly (functional region). Such an assembly exists objectively - regardless of whether it finds a mapping in the sphere of the system of local management and in the structure of the administrative division of the state. As a separately existing functional system, it requires the implementation of an appropriate policy, primarily coordinating the development of the entire spatial layout.<sup>15</sup> This policy could be implemented within different models of management of metropolitan areas, and the choice of such a model depends on specific legal and structural conditions, but also political, cultural and historical conditions in a given country.<sup>16</sup>

The metropolitan management system should take into account the individual development rules to which each urban region is subject. The difficulty of building a model for managing urban agglomeration results however from the special combination of social, economic and spatial issues, which have the character of simultaneous mutual interactions.<sup>17</sup> Within the metropolitan area, local functions overlap with metropolitan functions, which often also have a national or even international reach.<sup>18</sup> Contemporary challenges and the way the society operates, especially in large urban centers, require new solutions, and many needs and problems go far beyond the areas of the largest cities. Therefore, the management of metropolises should take into account the common interest, while at the same time integrate sectorial and horizontal policies in an innovative way.<sup>19</sup> 'The ever-faster pace of changes in the environment and the increasing complexity of factors affecting the functioning of urban regions trigger the need to take coordinated and comprehensive measures taking into account the widest possible range of these factors and including entities operating in a given space and using it in accordance with the principles of sustainable development. This need is expressed in the idea of integrated space management'.<sup>20</sup>

The development of metropolitan areas consists in the functional inclusion of new areas and the 'densification' of the central area due to the growing economic turnover and the number of workplaces. The scale and significance of

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<sup>15</sup> See B. Dolnicki, *Samorząd...*, p. 526-527.

<sup>16</sup> See B. Dolnicki, *Ustrój metropolii – współczesne koncepcje*, Administracja Publiczna. Studia krajowe i międzynarodowe 2010, No 6(16), p. 187-206.

<sup>17</sup> B. Dolnicki, *Samorząd...*, p. 527.

<sup>18</sup> M. Niziołek, *Problemy ustroju...*, p. 21-22.

<sup>19</sup> See B. Dolnicki, *Samorząd...*, p. 563, D. Szwed, B. Maciejewska, M. Tkacz-Janik, B. Kozek, *Zrównoważony rozwój metropolii Silesia*, Gdańsk 2011.

<sup>20</sup> D. Mantey, *Potrzeba zintegrowanego zarządzania miastami i obszarami metropolitalnymi*, Samorząd Terytorialny 2013, No 6, p. 5.

these phenomena compel the application of appropriate methods of integration of agglomeration management. In agglomerations various phenomena, and therefore different public tasks, occur in various territorial ranges, which brings about that management should adopt a flexible form if possible. Therefore, it should be determined for which public tasks it is enough to cooperate with existing local self-government units, and for which it is necessary to create special metropolitan authorities.<sup>21</sup>

The issues of territorial space management were also considered by the European Union as part of its cohesion policy - in this aspect of territorial cohesion, which was introduced alongside social and economic cohesion. Along with passing of the Treaty of Lisbon, developmental objectives began to be implemented in relation to the territory, taking into account the specific socio-economic situation, cultural context, geographical conditions and dynamics of processes.<sup>22</sup> Territorial cohesion, understood as the possibility of cooperation between regions and local systems, has become an important part of the EU cohesion policy.<sup>23</sup>

#### **4. Attempts to regulate the metropolises management process undertaken by 2015**

Attempts to solve the problem of metropolises management and cooperation of urban regions have been undertaken in the Polish legal system for a long time. Legal initiatives in this area could be divided into legal initiatives - concerning particular metropolitan areas - based on legal solutions resulting from the existing legal provisions regulating the functioning of local self-government units and undertaking common initiatives by such units, and nationwide initiatives, based on newly adopted statutory solutions.

With regard to the first of the aforementioned groups of initiatives, measures were taken as part of two large urban agglomerations - the Wrocław agglomeration and the Upper Silesian agglomeration. For the Wrocław agglomeration there was adopted the Wrocław Agglomeration Development Strategy in 2001. In 2005 a joint-stock company was established - the Wrocław Agglomeration Development Agency - whose objectives were to meet the needs of the local community by creating conditions for economic activation, in particular by revitalizing local markets, permanent reduction of unemployment and implementation of projects related to supporting entrepreneurship, as well as

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<sup>21</sup> M. Niziołek, *Problemy ustroju...*, p. 29, B. Dolnicki, *Samorząd...*, p. 528.

<sup>22</sup> See P. Żuber, *Terytorialny wymiar w polityce rozwoju – potrzeba zmian systemowych w świetle nowej generacji dokumentów planistycznych* [in:] T. Markowski, P. Żuber (ed.), *System planowania przestrzennego i jego rola w strategicznym zarządzaniu rozwojem kraju*, Warsaw 2011, p. 7-24.

<sup>23</sup> See G. Gorzelak, *Rozwój polskich regionów a polityka spójności Unii Europejskiej* [in:] G. Gorzelak (ed.), *Polska regionalna i lokalna w świetle badań EUROREG-u*, Warsaw 2007, p. 12 and next.

conducting another activities important for the development of local government units.<sup>24</sup>

On the other hand, in the Upper Silesian agglomeration as early as 1991 the Communal Communication Association of the Upper Silesian Industrial District was created by 11 municipalities of this area and its task is to organize local public transport.<sup>25</sup> Then came the concept of cooperation between territorial self-government units of this area in the form of a communal association, called Union of Upper Silesian Conurbation, prepared by the presidents of the cities of Gliwice and Katowice, based on legal solutions resulting from the act on municipal self-government.<sup>26</sup> The Union of Upper Silesian Conurbation was to be ultimately set up by virtue of a separate act.<sup>27</sup> However, it was not passed. In 2005 another initiative was initiated - a project of the Upper Silesian Metropolitan Union was developed. In 2007 an application for its registration was filed. The Union has 14 cities, which - as required by the Minister of Interior Affairs and Administration - are exclusively cities with county rights.<sup>28</sup> The Upper Silesian Metropolitan Union was registered in the Register of Inter-Municipal Associations on June 8, 2007.<sup>29</sup> Its main objective was to create a strong metropolitan center made up of the largest cities of the Upper Silesian agglomeration, which, through joint implementation of tasks and problems solving, would lead to improve the management and boost the development of the conurbation's cities. The Union performs public tasks related mainly to the establishment and implementation of a joint strategy of cities comprising it, obtaining funds for the implementation of its tasks, including those from European Union funds, activation of the labour market in the cities comprising it, management of roads transferred by the member municipalities based on relevant agreements.<sup>30</sup> The Union has its own bodies, which are the Union's Assembly and the Management Board of the Union, it can create organizational units and enter into agreements with other entities.<sup>31</sup>

The second group of initiatives related to the development of legal solutions regarding metropolises management are national initiatives, undertaken

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<sup>24</sup> B. Dolnicki, *Samorzqd...*, p. 537.

<sup>25</sup> Currently the Union consists of 25 members – see more in B. Dolnicki, *Samorzqd...*, p. 551.

<sup>26</sup> The Act of 8 March 1990 on municipality self-government (consolidated text Journal of Laws of 2017 item 1875, as amended) - Article 64 Paragraph 1 of this Act provides that in order to jointly carry out public tasks, municipalities may create inter-municipal associations.

<sup>27</sup> See B. Dolnicki, *Samorzqd...*, p. 538, see also H. Izdebski, *Samorzqd terytorialny...*, p. 381.

<sup>28</sup> According to Article 92 Paragraph 2 of the Act of 5 June 1998 on county self-government (consolidated text Journal of Laws of 2017 item 1868, as amended), a city with county rights is a municipality which simultaneously performs the tasks of a county on the principles set out in the Act on county self-government. However, cities with county rights are the cities which on December 31, 1998 had more than 100.000 inhabitants, as well as cities which ceased to be seats of province governors on that day, and the cities which was granted the status of a city with county rights while making the first administrative division of the country into counties.

<sup>29</sup> B. Dolnicki, *Samorzqd...*, p. 538.

<sup>30</sup> See more B. Dolnicki, *Samorzqd...*, p. 538-539.

<sup>31</sup> See more B. Dolnicki, *Samorzqd...*, p. 539.

on the basis of new solutions resulting from statutory provisions contained in legal acts specifically adopted for this purpose.

In the analyzed area, on January 3, 2007, the Team for Regulating the Functioning of Metropolitan Areas was established. In the course of the work of the Team, it was assumed that within the existing forms of cooperation between local self-government units, which are a special-purpose federation, association and agreement, due to legal constraints and the scope of tasks of the metropolitan area, the optimal formula would be to use a special-purpose federation.<sup>32</sup> It was considered that the legal form of such federation should be based on the mechanism of the "statutory metropolitan union" of local self-government units included in it, without changing their lines and without creating a new level of territorial division of the state. The main objective of such a relationship would therefore be to ensure the sustainable development of the entire metropolitan area, in particular by coordinating and performing certain public tasks of supra-local importance and the implementation of common undertakings entrusted by the units creating federation.<sup>33</sup> As a result of the work of the Team, a draft of the act on the development of cities and metropolitan areas was prepared in 2008. Then, another draft of the act on the development of cities, regional development centers and metropolitan areas was prepared. Both projects have adopted similar solutions.<sup>34</sup> The concept of metropolis has been defined, recognizing it as a large city with county rights constituting the center of a region or urban agglomeration. A few or a dozen neighbouring and interdependent cities with county rights constituting a joint center of the region or a large urban agglomeration were also recognized as the metropolis.<sup>35</sup> The provisions of the proposed drafts were based on the identification of metropolitan areas and the creation of metropolitan teams that were intended to solve problems of public management common to local self-government units in large urban agglomerations. The metropolitan area was assumed to cover the whole or a part of a given urban agglomeration, where there is intensive development and high population density, a large movement of people and goods and a significant exchange of services. Within the meaning of the drafts the metropolitan area was to constitute a spatially continuous settlement complex comprising at least one metropolis as the center of this complex and functionally connected with metropolis its immediate surroundings in the form of settlement units of various sizes of urban, suburban or rural character, located in neighbouring or successive communes. The area was to be designated by indicating the municipalities located

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<sup>32</sup> B. Dolnicki, *Samorzqd...*, p. 540.

<sup>33</sup> B. Dolnicki, *Samorzqd...*, p. 541.

<sup>34</sup> See B. Dolnicki, *Samorzqd...*, p. 544 and next, see also H. Izdebski, *Samorzqd terytorialny...*, p. 378.

<sup>35</sup> The scope of the defined concept includes mainly metropolises of European and national significance: the Capital City of Warsaw, fourteen cities with county rights together forming the Upper Silesia metropolis (Katowice) 'Silesia', Lodz, Cracow, three cities with county rights together forming the Tricity metropolis (Gdansk), Wroclaw and Poznan, as well as developed metropolises of regional significance: Bydgoszcz and Torun as well as Szczecin, Lublin, Bialystok and Rzeszow – see more B. Dolnicki, *Samorzqd...*, p. 545.

in the area. Metropolitan areas were to be created by the Council of Ministers by way of regulation, taking into account the number of population and population density.<sup>36</sup> To the management of the affairs of metropolitan area, the drafts provided for the creation of metropolitan complexes to which local self-government units located in the metropolitan area were to belong. The complexes were supposed to function as separate legal entities with its names corresponding to the names of metropolitan areas that the complexes were supposed to manage. The scope of activity of each metropolitan complex should include primarily planning and infrastructure issues, acquiring financial resources of metropolitan areas as a whole, as well as coordinating the activities of local self-government units in metropolitan areas in specific matters.<sup>37</sup> However, the analyzed drafts have not been finally adopted in the form of applicable laws.

Another concept in the analyzed area was the concept of the metropolitan county of Upper Silesia and Zagłębie. Its genesis is related to the adoption of the Green Paper on metropolitan areas, presented on June 29, 2012, in which it was indicated that the metropolitan district should be a targeted institutional solution for metropolitan areas.<sup>38</sup> Due to the fact that the Upper Silesian Metropolitan Union did not meet its expectations,<sup>39</sup> there was emerged a concept for the creation of a special unit of the territorial division of the state - a metropolitan county, which is a special county category, operating on the basis of statutory regulations and performing tasks assigned to it in a binding manner for municipalities in its area. A draft of the act was prepared that created the basis for establishing metropolitan counties in Poland<sup>40</sup> as a special category of counties in the existing and thus unchanged three-level territorial division of the state into municipalities, counties and self-government voivodships.<sup>41</sup> The metropolitan county, in the intention of the creators of the project, was to constitute one of the categories of counties with specific tasks.<sup>42</sup> The task of the metropolitan county was to be to perform supralocal activities, crucial for the development of the entire agglomeration, whose effective performance exceeds the capacity of individual cities and municipal associations. The metropolitan county was to take over the tasks of two municipal associations indicated above - the Communal Communication Association of the Upper Silesian Industrial District and the Upper Silesian Metropolitan Union, whereas as of the date of entry into force of the Act concerning the county, these unions were to be liquidated.<sup>43</sup>

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<sup>36</sup> See H. Izdebski, *Samorząd terytorialny...*, p. 378, B. Dolnicki, *Samorząd...*, p. 545-546.

<sup>37</sup> See more B. Dolnicki, *Samorząd...*, p. 546-547.

<sup>38</sup> B. Dolnicki, *Samorząd...*, p. 550.

<sup>39</sup> See more B. Maciejewska, B. Kozek, *Czy metropolia Silesia może się rozwijać w sposób zrównoważony* [in:] D. Szwed, B. Maciejewska, M. Tkacz-Janik, B. Kozek, *Zrównoważony rozwój...*, p. 23 and next, B. Dolnicki, *Ustrój metropolii – współczesne...*, p. 187-206.

<sup>40</sup> See B. Dolnicki, *Samorząd...*, p. 553, see also H. Izdebski, *Samorząd terytorialny...*, p. 379.

<sup>41</sup> Act of 24 July 1998 on the introduction of essential three-stage territorial division of the state (Journal of Laws No 96 item 603, as amended).

<sup>42</sup> See more B. Dolnicki, *Samorząd...*, p. 554 and next.

<sup>43</sup> More B. Dolnicki, *Samorząd...*, p. 555-559.

In the literature, it was assessed that the entry into force of the Act on metropolitan counties would enable the creation of such counties covering the areas of the most integrated agglomerations. In this connection, local self-government units responsible for the performance of tasks, the importance of which goes beyond the possibilities of communes and counties existing in Poland at present would arise. Consolidation of tasks in the field of spatial planning, management of trans-local roads or promotion in a positive way would affect economic development and the labour market in agglomerations. The integration of public transport was to improve the quality of services provided to residents. At the same time, it was assessed that choosing the county level to administer in the agglomeration would allow local communities to preserve identity and existing social bonds.<sup>44</sup> Despite the indicated favorable elements of such agglomeration area management model, the Act creating the metropolitan county have not been passed.

### **5. Metropolises management in the light of the Act of 2015 on metropolitan unions**

On 1 January 2016, the Act on metropolitan unions entered into force. Within the meaning of this Act, the metropolitan union was an association of local self-government units located in a given metropolitan area. Its composition was to include municipalities located within the metropolitan area and counties, where at least one municipality located within the metropolitan area is located.<sup>45</sup> At the same time, the metropolitan union was recognized in terms of its legal character as a specific new entity in the structure of local self-government.<sup>46</sup> Similarly to all local self-government units operating in Poland, the metropolitan union was to have legal personality and perform public tasks on its own behalf and on its own responsibility, and its independence was subject to judicial protection. The Act also defines the concept of metropolitan area indicated above. On the basis of features of the metropolitan area resulting from its definition, eighteen metropolitan areas would be identified on the territory of Poland.<sup>47</sup>

On the basis of the analyzed Act, however, the statutory delimitation of metropolitan areas has been abandoned, leaving regulation of those important for the functioning of metropolitan areas and metropolitan management issues to the regulations of the Council of Ministers. In the light of the provisions of the Act, the Council of Ministers, by way of a regulation, was to set the boundaries of individual metropolitan areas for the purpose of creating metropolitan unions by indicating municipalities included in metropolitan areas and create metropolitan unions in individual metropolitan areas, at the same time determining their

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<sup>44</sup> See B. Dolnicki, *Samorzqd...*, p. 562-563.

<sup>45</sup> Article 1 of the Act on metropolitan unions.

<sup>46</sup> B. Dolnicki, *Samorzqd...*, p. 564.

<sup>47</sup> See B. Dolnicki, *Samorzqd...*, p. 564.

names.<sup>48</sup> Metropolitan unions were assigned public tasks in five aspects, which included shaping spatial order, development of the area of the union, public transport in the area of the union, cooperation in determining the course of national and provincial roads in the area of the union, promotion of metropolitan union.<sup>49</sup> Moreover, on the basis of agreements with local self-government units, the union could carry out public tasks falling within the scope of municipality, county and voivodship or coordinate the implementation of these tasks, and based on agreements with government administration bodies, the metropolitan union could also get the opportunity to carry out such tasks.<sup>50</sup> In addition to the conclusion of these agreements, the metropolitan union was authorized to create organizational units and conduct business activity outside the scope of tasks of a public utility character.<sup>51</sup> It could also create associations with local self-government units and other metropolitan unions.<sup>52</sup> As the bodies of the metropolitan union, the assembly of the metropolitan union was planned, performing the tasks of constitute and control, and the management board of the metropolitan union, as the executive body.<sup>53</sup> The treasurer of the metropolitan union and the secretary of the metropolitan union were also established.

However, on the basis of the provisions of the Act on metropolitan unions, no metropolitan union was established. The reason for this state of affairs was the failure of the Council of Ministers to issue a regulation concerning the procedure for submitting an application for establishing a metropolitan union by the municipality council located within the metropolitan area, as well as failure to issue a regulation on establishing a metropolitan union, which the Council of Ministers could have done *ex officio*.<sup>54</sup>

## **6. Metropolises management in the light of the Act of 2017 on metropolitan union in Silesian voivodship**

Regardless of the lack of executive regulations aimed at establishing a metropolitan union based on the provisions of the Act on metropolitan unions, there was undertaken the work to pass another Act in the analyzed area. However, it was recognized that the functioning of metropolitan unions should be limited to only one area - the Silesian voivodship. In connection with this, on March 9, 2017, the Act on the metropolitan union in the Silesian voivodship was passed. At the same time, the Act on metropolitan unions was repealed.

According to Article 1 Paragraph 2 and Paragraph 3 of the Act on the metropolitan union in the Silesian voivodship, the metropolitan union is an association of municipalities of the Silesian voivodship, characterized by the

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<sup>48</sup> Article 4 Paragraph 1 of the Act on metropolitan unions.

<sup>49</sup> Article 12 Paragraph 1 of the Act on metropolitan unions.

<sup>50</sup> Article 13 Paragraph 1 Point 2 of the Act on metropolitan unions.

<sup>51</sup> See Article 13 Paragraph 1 Point 3 of the Act on metropolitan unions.

<sup>52</sup> Article 14 Paragraph 1 and Paragraph 2 of the Act on metropolitan unions.

<sup>53</sup> Article 17, Article 19 and Article 26 Paragraph 1 of the Act on metropolitan unions.

<sup>54</sup> See Article 4 Paragraph 1 Point 2 of the Act on metropolitan unions.

existence of strong functional connections and the advancement of urbanization processes, located in a spatially cohesive area inhabited by at least 2.000.000 inhabitants. The metropolitan union includes a city with the county rights - Katowice.

In accordance with the Act, the metropolitan union in the Silesian voivodship was established by way of a regulation of the Council of Ministers regarding the establishment of a metropolitan union under the name "Upper Silesia and Zagłębie Metropolis" of 26 June 2017, which entered into force on 1 July 2017 and precisely defined the boundaries of the union.<sup>55</sup>

Pursuant to the Act on metropolitan union in the Silesian voivodship, the metropolitan union in the Silesian voivodship performs public tasks on its own behalf and on its own responsibility. The metropolitan union has legal personality. Independence of the metropolitan union is subject to judicial protection, while the system of the metropolitan union is subject of its statute.<sup>56</sup>

As far as the tasks imposed on the metropolitan union in the Silesian voivodship are concerned, they were shaped similarly to the tasks imposed on the metropolitan union as such, based on the provisions of the repealed Act of 2015. On the basis of Article 12 Paragraph 1 of the Act of 2017, the metropolitan union performs public tasks in the area of shaping spatial order, social and economic development of metropolitan area, planning, coordination, integration and development of public transport, including road, rail and other transport, as well as sustainable urban mobility, metropolitan passenger transport, cooperation in determining the course of national and provincial roads in the area of the metropolitan union, promotion of the metropolitan union and its area.

The metropolitan union could also perform public tasks belong to the scope of activity of the municipality, county or voivodship self-government or coordinate the implementation of these tasks on the basis of an agreement concluded with the local self-government unit or with the association of local government units. He is also guaranteed the possibility of implementing public tasks belong to the scope of activity of government administration on the basis of an agreement concluded with government administration body.<sup>57</sup> In order to perform the tasks assigned to it, the metropolitan union is able to create organizational units, enter into agreements with local self-government units, associations of local self-government units and government administration bodies, conduct business activity that do not exceed the scope of tasks of a public utility character. It could also create associations with local self-government units.

Supervision over the activities of metropolitan union, in accordance with Article 17 of the Act on the metropolitan union in the Silesian voivodship, is exercised by the Prime Minister and the Silesian province governor, and in the

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<sup>55</sup> Journal of Laws of 2017 item 1290.

<sup>56</sup> Article 2 Paragraph 1, Paragraph 2 and Paragraph 3 of the Act on metropolitan union in the Silesian voivodship.

<sup>57</sup> Article 12 Paragraph 2 and Paragraph 3 of the Act on metropolitan union in the Silesian voivodship.

financial matters - the regional fiscal office. The provisions of Chapter 7 of the Act of 5 June 1998 on the voivodship self-government<sup>58</sup> shall apply accordingly to supervision over the activities of the metropolitan union.

The bodies of the metropolitan union there are assembly and management board of the metropolitan union.<sup>59</sup> Assembly is constitute and control body of metropolitan union. It consists of delegates from the municipalities that create the metropolitan union - one from each municipality. Delegates are head or mayors of municipalities or presidents of cities or persons authorized by them.<sup>60</sup> The management board, in turn, is the executive body of the metropolitan union. The management board consists of five members, including the chairman of the board. The board is elected by assembly in a secret ballot. Firstly, the chairman of the board is elected, and then the remaining members of the board, at the request of the chairman of the board.<sup>61</sup> The management board performs the tasks of metropolitan union not reserved for the assembly. The tasks of management board include in particular the implementation of the resolutions of the assembly, management of property of the metropolitan union, preparation of the project and implementation of the metropolitan union budget, management, coordination and control of the activities of the metropolitan union organizational units, including employment and dismissal of their managers.<sup>62</sup> A member of the management board of a metropolitan union could not be a person who is not a Polish citizen. Membership in the management board could not be combined with membership in the body of local self-government unit, acting as a municipality head, mayor, city president or their deputies, performing the function of the province governor or deputy province governor, mandate of a member of Parliament or senator.<sup>63</sup> The Act also provides for the functions of treasury and secretary of the metropolitan union.<sup>64</sup>

Analogically to metropolitan unions envisaged by the Act of 2015, the metropolitan union in the Silesian voivodship could be considered as a specific, new entity in the structure of local self-government units in Poland. However, it was established as a single entity, operating on a specific area only, covering a part of the Silesian voivodship, without having equivalents in other areas of the country.

## 7. Conclusions

On the basis of Polish administrative law, despite many initiatives undertaken to develop solutions for the management of metropolitan areas as specific territorial areas with many complex functions, including local initiatives

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<sup>58</sup> The Act of 5 June 1998 on voivodship self-government (consolidated text Journal of Laws of 2017 item 2096, as amended).

<sup>59</sup> Article 18 of the Act on metropolitan union in the Silesian voivodship.

<sup>60</sup> Article 20 and Article 21 of the Act on metropolitan union in the Silesian voivodship.

<sup>61</sup> Article 27 and Article 29 of the Act on metropolitan union in the Silesian voivodship.

<sup>62</sup> Article 33 Paragraph 1 and Paragraph 2 of the Act on metropolitan union in the Silesian voivodship.

<sup>63</sup> Article 28 of the Act on metropolitan union in the Silesian voivodship.

<sup>64</sup> See Article 37 of the Act on metropolitan union in the Silesian voivodship.

related to individual metropolitan areas and based on legal solutions resulting from the existing provisions that regulate existing local government units and common undertakings of them, as well as nationwide initiatives, undertaken on the basis of newly adopted, subsequent statutory solutions, the uniform, comprehensive solutions in this area still have not been developed. The solution recently adopted in the analyzed area consisting in the creation of a statutory metropolitan union in the Silesian voivodship, as covering only one metropolitan area out of many possible to be distinguished on Polish territory, does not seem to be an optimal solution for Polish metropolitan areas. Although the metropolitan area that operates in the Silesian voivodship is the largest and the most complex area of this type, there are, in addition to it, a dozen other areas with metropolitan status in Poland, which also require the development of comprehensive management principles. Therefore, the lack of further legislative actions towards the creation of specific metropolitan unions within certain metropolitan areas under the Act of 2015 on metropolitan unions and repeal of that Act instead of issuing specific executive acts to it deserves to be criticized. At the same time, the adoption of the Act on metropolitan union in the Silesian voivodship is an action aimed at establishing the rules of managing only one metropolitan area. Regardless of the fact that it concerns an area which due to its specificity urgently needed legal solutions, it does not constitute a comprehensive approach to attempts to solve the problem of metropolises management in Poland.

Attempts to appoint management of metropolises that control the development of the functional area not only in Poland, but in many other European countries, encounter resistance, above all from small municipalities who are reluctant to give their prerogatives. This does not mean, however, that it is justified to minimize them, or even to abandon them only to one metropolitan area, that is the Silesian voivodship.

In view of the above, the creation of an optimal metropolises management model is a challenge for contemporary public administration based on the principle of decentralization in Poland, as in many other European countries. At present, there is no reason to consider that there is a coherent, uniform, comprehensive model of metropolises management in Poland. It is, however, indispensable in the realities of the emergence of increasingly numerous and more complex functional areas, being nodes of various networks and development centers.

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