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## **CITY PLANNING VERSUS METROPOLITAN PLANNING: HISTORICAL EXPERIENCE ON THE EXAMPLE OF WARSAW**

Article 29 of the Constitution of the Republic of Poland, adopted in 1997, stipulates that “Warsaw is the capital of the Republic of Poland”. The wording differs from that of the previous constitutional provision concerning the same subject, i.e. Article 105 of the 1952 Constitution (originally, and up to 1989, Constitution of the People’s Republic of Poland), maintained in force by Article 77 of the 1992 “Small Constitution”: “Warsaw, *the city* of heroic traditions of the Polish Nation, is the capital of the (People’s) Republic of Poland”. Moreover, the 1952 Constitution was the first Polish Constitution indicating the capital of the state.

The present lack of the term “city” in the constitutional mention of Warsaw does not necessarily mean that the name “Warsaw” and the attribute of its “capitalhood” has to cease to be linked with a separate territorial unit qualified as the “city” in terms of the legislation in force. Moreover, legislation qualifying “the city” has been changing since 1990 (the year of restoration of local self-government in Poland after practicing the Soviet model of “unity of the state power”), as up to 1993 “city” (*miasto* in Polish, without linguistic distinction among “city”, “borough” and “town”) was simply an urban municipality (*gmina*). Since that time, it has been possible to give such status to a separate part of a municipality, but since 1998 there has been also a category, proper for bigger cities, of the “city enjoying rights of the district (*powiat*)”, that can be called in English “city-district”.

What is more, from among three subsequent particular laws enacted from 1990 and relating to the self-government of Warsaw on (with some small changes) the same territory, and under the same name of “the City of Warsaw”: 1990 (Warsaw as the specific union of seven “quarters-municipalities”), 1994 (Warsaw as the specific union of eleven particular municipalities, none of them surprisingly was legally qualified as urban), and 2002 (Warsaw as the city-district), only the present one qualifies Warsaw as the *city* in terms of the general Polish legal terminology. Warsaw, moreover, is the only Polish city subject to such specific legislation, as the other big cities are regular city-districts functioning on the basis of

general self-government legislation (in particular, of the 1990 Law on Municipal Self-Government)<sup>1</sup>.

The City of Warsaw – one of few Polish cities with growing population – registered 1,724,404 inhabitants (933,197 women and 791,207 men) in 2013, living in the area of 517.24 sq. km. For comparison: the second was the City of Cracow – 758,992 inhabitants, and the third City of Lodz – 711,334 inhabitants. That means that it has almost the same population as, for instance, Budapest and Vienna in a relatively comparable area. Nevertheless, it has to be noted that in reality, the population of Warsaw, due to specificities of formal registration of inhabitants is quite bigger, and is about 2.2 million.

Before the World War II (in 1938) the City of Warsaw, enjoying then a particular status of quasi-voivodship<sup>2</sup>, was populated by 1,295,000 people, however, in an area almost four times smaller. This is a measure of the change in the then very high density of the area caused by the War, even not so much because of the 1939 defense war and two subsequent insurrections (the 1943 in the Ghetto, the 1944 in the whole Warsaw), but particularly because of the organized destruction of the left bank part by the Nazis – and, on the other hand, a measure of the post-war sprawl as well.

As far as history is concerned, it could be instructive to add that up to 1916 the City of Warsaw had been more and more cramped within its borders unchanged much from those fixed for sanitary reasons in 1770, and formally recognized in 1791 (when its population, of 120,000 was among the biggest in Europe). In 1916, the area of the City was 32.7 sq. km (sixteen times smaller than now), and it was then extended to 114.8 sq. km by inclusion of non-urbanized suburbs – to achieve 134.7 sq. km in 1938. In 1951, as a result of adopting the “socialist city” model imported from the Soviet Union and appropriate for the centralized mode of political, administrative and economic governance, the City of Warsaw (equipped with the status of voivodship) was extended to 411.7 sq. km. Since that time, there has been four further extensions (1957, 1977, 1992, 2002), without, however, substantive significance. While in 1951 Warsaw was extended to an overwhelming part of its metropolitan area, since that time the *de facto* city has been going more and more beyond the borders of the city *de iure* – meaning that the permanent extension of an administrative unit is not an effective response to the phenomenon of the city growth.

<sup>1</sup> See my article: H. Izdebski, *Ustrój Warszawy a ustrój metropolii europejskich*, *Samorząd Terytorialny* 2015, No. 3, pp. 75–86. The present paper is also based on some parts of my book *Samorząd terytorialny. Podstawy ustroju i działalności*, 3<sup>rd</sup> ed., Warsaw 2014, in particular Chapter XVI, pp. 378 sqq.

<sup>2</sup> Voivodship is a term traditionally used for biggest units of territorial division of the Polish state as, therefore, an equivalent of region.

The problem of what is Warsaw *de iure* in terms of the Constitution – examined, moreover, several times by the Constitutional Tribunal with, it is indispensable to add, quite different answers – would be rather academic if there was not a very important question of administrative organization of Warsaw *de facto*, i.e. of the metropolitan area of Warsaw.

The problem is that, except for the period 1975–1998, after the World War II, there have been no formal organizational links of administrative entities on such area, and the Capital Voivodship of Warsaw, set up in 1975 within the political and administrative framework completely different from that present since 1989/1990, was from 1990 totally separated from the restored self-government organization, limited to the Capital City of Warsaw.

That means that, at present, Warsaw *de facto*, existing within the framework of the biggest Polish regional entity, i.e. the Voivodship of Mazovia (5.32 million people leaving on the territory of 35,558 sq. km, and organized in 314 municipalities – population and area are comparable with the whole Republic of Slovakia), and representing even more than a half of the region population, has no institutional expression.

This fact makes any real metropolitan planning difficult, if not impossible. It has to be kept in mind that Warsaw is the only big European capital having no supralocal administrative designation of its own; London (officially Greater London) was the other example of such a situation, but only in 1986–2000, as the experiment of abandoning Greater London administration proved not to be successful (even in spite of the fact that there always were specific institutions of metropolitan services, as fire protection or public transport – non-existent in Warsaw). Generally, European capital areas are given the status of the highest unit of territorial self-government (i.e. the region in a general sense – and rather the region of the level NUTS 2 in the EU classification), though the position of the capital city itself can be very different depending upon the local experience and tradition.

Moreover, it is not easy to say how big Warsaw is *de facto*, even if the answer is limited to such data that could be qualified as having any legal recognition.

In 2003-2014, there was a formal, though only virtual, planning area named Warsaw Metropolitan Area – OMW. It is noteworthy that the area was almost two times bigger than the area fixed for planning reasons in 1994. It was composed of 72 municipalities (including the City of Warsaw) on the area of 6,206 sq. km. There has been diverse data relating to its population. In 2012, according to the Main Statistics Office, the OMW had 3,061,814 inhabitants<sup>3</sup>. At present, the population is estimated at about 3.2 million (some more than previously leading Metropolitan Area of Upper Silesia with Katowice as the biggest city). The OMW was recognized within the Spatial Plan of the Voivodship of Mazovia, adopted by

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<sup>3</sup> *Obszar Metropolitalny Warszawy w 2012 r.*, GUS, Warsaw 2014.

the Voivodship Council on 7 July, 2014 – but without a separate metropolitan plan for the Area.

Since the 2014 amendment of the Law on Spatial Planning and Management, metropolitan areas have been replaced, also in adapting solutions of the EU law, by a wider formula of functional urban areas of the voivodship centres, without, however, their strict delimitation, and without any distinction of a particular plan for the given metropolitan area to be adopted by the voivodship council. The term “metropolitan areas” came back very recently to Polish legislation thanks to the Law of 9 October, 2015 on Metropolitan Unions<sup>4</sup>. It concerns, however, area of activity of a union to be individually established by the appropriate regulation of the Council of Ministers. For the time being, no union has been established, and there are no serious preparations for such an establishment; for that reason, it is not possible to size the Warsaw metropolitan area in terms of that Law.

According to preparatory materials serving to the 2014 amendment, the Functional Urban Area of Warsaw had to group 50 municipalities on 3,820 sq. km, with 2,787,000 inhabitants (according to the data of 2011)<sup>5</sup>. However, this is not the Spatial Planning Law, but another piece of legislation that has led to the delimitation of the Functional Area of Warsaw (WOF). As the Law of 11 July, 2014 on Principles of Implementation of Programs in the Field of the Cohesion Policy Financed within the 2014–2020 Perspective)<sup>6</sup> introduced a new formula of ZIT (*Zintegrowane Inwestycje Terytorialne*, in English “ITI” – Integrated Territorial Investment) – as the new territorial instrument of the EU Cohesion Policy 2014–2020, it served as a legal basis of confirmation of acts made in order to set up such instruments. For Warsaw area, it was the Agreement of 40 municipalities of the WOF of 21 February, 2014 on Co-operation in the Field of ZIT, preceding even the general Partnership Agreement concluded by the Republic of Poland with the EU on 21 May, 2014<sup>7</sup>.

The area of the Warsaw ZIT has been recognized as that of the WOF – or rather virtual WOF (such term is, moreover, in use). Those 40 municipalities, including 26 cities, have together 2,932 sq. km, and about 2.7 million inhabitants (assuming that Warsaw has some less than 1.8 million ones).

However, it is important to remember that ZIT is not an instrument of spatial planning, as it serves to elaborate and carry out specific common activities of interested units of territorial self-government within the given area. Generally, the programmed activities have been agreed upon by quite different partners, and they do not cover the whole territorial field of the Agreement. The other thing

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<sup>4</sup> Journal of Laws of 2015, item 1890.

<sup>5</sup> P. Śleszyński, *Delimitacja Miejskich Obszarów Funkcjonalnych stolic województw*, *Przegląd Geograficzny* 2013, Vol. 85, No. 2, p. 188.

<sup>6</sup> Journal of Laws of 2014, item 1146.

<sup>7</sup> *Strategia Zintegrowanych Inwestycji Terytorialnych dla Warszawskiego Obszaru Funkcjonalnego 2014–2020*, Warsaw 2014.

is that the Warsaw Metropolitan Area, bigger than that of ZIT and WOF, plays still, maybe by the force of inertia, a role in planning procedures, as in April 2015 the draft Strategy of Development of the OMW up to 2030 was subject to public debate as if there had been no legislative change in the meantime.

The important competence of the metropolitan union in terms of the 2015 Law is to elaborate and adopt a “framework study of conditions and directives of spatial management” for the metropolitan area, having a limited legal force (binding municipality authorities in their planning activities but without any force of the act of local law). As the Law does not work yet, and it is not possible to foresee whether and how it could work, in particular with respect to Warsaw, it brings only a general opportunity, and not tangible solutions.

All that means that, for the time being, there is practically no spatial planning at the level between the voivodship, and the municipality – and, therefore, no metropolitan planning at all.

The result of that is that each municipality (and municipalities play the key role in the Polish system of spatial planning), including the Capital City of Warsaw, adopts independently its own study of conditions and directives of the spatial management (a kind of general plan, mandatory for all municipalities, covering the whole municipality territory but with no force of the act of local law), and its own particular plans (for chosen areas within the municipality territory). Taking into account also general weaknesses of legislation relating to municipality planning as well, and a disorganized practice in that field<sup>8</sup>, it is not too difficult to explain the phenomenon of “spatial chaos” we note generally in Poland, but, because of an uncontrolled urban sprawl, in particular, in metropolitan areas.

That does not mean that there is no consciousness of the defectiveness of the present situation. On the contrary, there have been attempts at introducing (or rather, as it will be presented some further, reintroducing) instruments of metropolitan planning, in particular relating to the metropolitan area of Warsaw.

Generally, those attempts were connected with proposals of providing an institutional expression to Warsaw *de facto* – that is to say of setting up a metropolitan unit of Warsaw, equipped with respective metropolitan planning competences. There was, in fact, a series of legislative initiatives in that field, in particular, to enumerate only those draft laws that were presented to the Sejm:

– the 2000 draft law, presented by a group of deputies to the Sejm, on Warsaw Capital District (*Warszawski Okręg Stołeczny*), grouping 59 municipalities – withdrawn by its initiators;

– the 2001 law, elaborated within the framework of works on much more modest draft laws proposed by groups of deputies to the Sejm, passed by the

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<sup>8</sup> Those weaknesses are indicated and analyzed, in particular, in: H. Izdebski, I. Zachariasz, *Ustawa o planowaniu i zagospodarowaniu przestrzennym. Komentarz*, Warsaw 2013.

Parliament, but effectively vetoed by the President of the Republic – providing, besides changes in organization of the City of Warsaw, for establishment of Warsaw Urban Group (*Warszawski Zespół Miejski*), composed, besides the City of Warsaw, of seven districts;

– the 2013 draft law, presented by a group of deputies, on metropolitan district (*powiat metropolitalny*), that could be applied also to the metropolis of Warsaw (without chances of passing); the 2015 Law on Metropolitan Union is a version of that draft law, however, substantially changed (and “disarmed”).

At present, those who are conscious of the problem, and want to solve it, seem to prefer a solution represented to a certain extent by the last draft law, i.e. introduction in Poland of 10–12 specific metropolitan districts, representing level NUTS 3 (the voivodship is NUTS 2, and the present “ordinary” district – NUTS 4). Warsaw (for the time being, Warsaw *de facto*) would become, in such case, *de iure* one of metropolitan districts, possibly distinguishing itself by the complicated structure of the City of Warsaw.

The question why such attempts have not been successful does not seem to be too difficult to answer. On the one hand, Polish units of territorial self-government in general, and municipalities in particular, traditionally are not inclined to cooperate (except for specific stimuli in obtaining external extra financing, what is the case of ZIT), and the idea of multi-level governance – the principle of contemporary public governance – is still far from practical recognition. On the other hand, any self-government institution situated below the self-governed region, but above the present entities, i.e. municipalities and districts (the latter having, moreover, no competences in the field of spatial planning), endangers the region (voivodship), and its self-government, in the present political and legal position. Any metropolization should need a transfer of some regional competences to metropolitan government, in particular in the field of spatial planning.

However, it is more and more difficult to solve real metropolitan problems, in particular problems of spatial planning coordination, without establishing indispensable metropolitan institutions or, at least, instruments of municipal cooperation (which, however, may not be mandatory in the light of Article 172 of the Polish Constitution). The 2015 Law on Metropolitan Unions does not seem to be an effective means of solving metropolitan problems, especially particular problems of Warsaw.

What is more, the present situation could be qualified as exceptional while examined from the point of view of history of spatial planning in Warsaw.

It was just after the above-mentioned extension of Warsaw in 1916 that the Circle of Architects nearby the Association of Polish Technicians elaborated an introductory outline of the regulation plan of the extended city. It became a basis of official works and their results, the first being the 1920 “regulation plan” of the City, elaborated within the Mayor’s office. It was followed by plans of 1922–1923



and 1926, and served also as an important material in the 1930s. Then, applying the 1928 Building Law, two subsequent “building plans” were elaborated: of 1929 (in 1931, confirmed by the Minister of Public Works and, therefore, fully official, and formally valid until the 1960s), and of 1938. A working plan of the City of Warsaw and its surroundings was also produced<sup>9</sup>.

What is important, the plans of 1930s included the contents of the particular document, elaborated on the common initiative of modernist freelance architects: Jan Chmielewski and Szymon Syrkus, and of their colleagues employed by the City, and presented to the public, Polish and international, including the famous CIAM, in 1934. That was the study of “Functional Warsaw”, containing analyses and proposals of spatial development of the whole metropolitan area. The 1928 Building Law provided, moreover, for elaborating regional plans on the decision of the Minister of Interior, and, on the other hand, since 1867 there had been (and that up to 1952) a particular district of Warsaw, composed of municipalities surrounding the City. “Functional Warsaw” was very much appreciated among specialists of the time – but, what more, was, together with the plans of the 1930s the basis of spatial planning more than two decades after the World War II, though, it was in quite different conditions.

In “People’s Poland”, spatial planning, regulated by subsequent laws of 1946, 1961 and 1984, was regarded as a part of socio-economic planning, typical of “socialist economy” under (permanent, but not effective) construction. It had to rely upon principles different from those of the pre-war planning. In the first place, it relied on a double negation: first, of autonomy of territorial self-government (in particular, of municipalities), and of the private ownership. On the other hand, the neglect of the private ownership, peculiarly strong in the 1950s, opened the room for much easier application of plans – what had been one of the dreams of the modernist movement, and in particular of CIAM participants. The total abolishment of territorial self-government in 1950, when the Soviet administrative system was fully introduced, eliminated traditional institutional obstacles in the plan application.

The Law-Decree of 26 October, 1945 on Ownership and Use of Land at the Territory of the City of Warsaw, being the object of the other paper presented to this conference, transferred ownership of all the lands within the then City to the Municipality of Warsaw (what meant, finally in 1950, to the state). Private owners, on their demand, were authorized to get only the right of permanent usufruct and only when it was not contrary to the spatial plan in force (it was, moreover, the Plan of 1931), but the general policy was to refuse the demand (at present, such refusal is usually declared to be null and void). That legislation facilitated execution of the 1931 Plan and, more and more, new plans – making Warsaw become

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<sup>9</sup> See A. Jankiewicz, J. Porębska-Srebrna, *Tradycje urbanistyczne Warszawy*, (in:) W. Falkowski (eds.), *Straty Warszawy 1939–1945. Raport*, Warsaw 2005.

a “phoenix city”, though more and more within, up to 1956, “socialist realism” as a Soviet-type ideology of urbanism<sup>10</sup>.

Ideas of “Functional Warsaw” were, however, not abandoned after 1945 – neither in their contents, nor in searching for a legal basis of their implementation. The 1947 Law on Reconstruction of the Capital City of Warsaw (in force formally to 1964) provided elaboration (by the special Bureau of Reconstruction) and adoption (by the High Council of Warsaw Reconstruction, presided by the Prime Minister) of spatial plans for not only the City itself, but also of the Warsaw Urban Group. The area of the Group was that of the district of Warsaw together with the City of Warsaw, and a general vision of the development of the area was elaborated.

The 1951 substantive extension of the City and the respective abolishment of the district of Warsaw reduced to a great extent the interest in developing spatial planning of Great Warsaw as the Warsaw Urban Group. Nevertheless, because of the real development of Warsaw *de iure*, such planning was continued up to 1975. The last plan of the Group, dating from 1969, covered 3,146 sq. km, i.e. only some less than the present area of ZIT. The Capital Voivodship of Warsaw, established within the new administrative division of the state into 49 voivodships (introduced in 1975, and continued until 1998, from 1990 as the Voivodship of Warsaw) on a some bigger area (of 3,788 sq. km; population in 1998 – 2,420,000), took also the role of the Group. In particular, the then Bureau of Planning of Warsaw Development presented in 1978 the Prospective Spatial Plan of the Capital Voivodship of Warsaw, and only after doing that, the Prospective Spatial Plan of the City of Warsaw (1982) and Local General Plan of the City (1992).

The present lack of metropolitan institutions that could be competent in spatial planning of the metropolitan area of Warsaw and existence exclusively of local planning may be regarded, while taking into account the historical experience and the results in permitting to Warsaw to be named the “phoenix city”, an interval, as the need of metropolitan planning is even bigger than ever before. Therefore, it is possible to foresee, in spite of the present obstacles, a come back of such planning to be done within more and more indispensable metropolitan institutions, though “metropolitan union” provided for in the 2015 Law does not seem to be such institution at all.

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<sup>10</sup> See my book: H. Izdebski, *Ideologia i zagospodarowanie przestrzeni. Doktrynalne prawnopolityczne uwarunkowania urbanistyki i architektury*, Warsaw 2013.



## **CITY PLANNING VERSUS METROPOLITAN PLANNING: HISTORICAL EXPERIENCE ON THE EXAMPLE OF WARSAW**

### **Summary**

“Warsaw is the capital of the Republic of Poland” – these words of the Constitution of the Republic of Poland should also reflect the place of Warsaw as the capital in constitutional terms in the system of Polish public governance, and, within it, its place in the system of spatial planning. Generally, in particular in Europe, big capital cities in the sense of agglomerations or rather metropolises, independently of their internal organization (though they are not reduced rather to a simple municipality), have a supralocal status, frequently that of a region. That means that their areas (metropolitan areas) may be subject simultaneously to, at least, two formulas, different in different legal systems, of spatial planning: local (generally, at the level of municipality) and metropolitan.

Warsaw, in spite of rich traditions in this respect, is not, at present, equipped with instruments of metropolitan planning. The paper, reminiscing tradition of Warsaw metropolitan planning, presents respective legal solutions in force, and attempts taken to restore indispensable institutions of metropolitan planning.

## **PLANOWANIE MIEJSKIE A PLANOWANIE METROPOLITARNE: DOŚWIADCZENIA HISTORYCZNE NA PRZYKŁADZIE WARSZAWY**

### **Streszczenie**

„Stolicą Rzeczypospolitej Polskiej jest Warszawa” – te słowa zawarte w Konstytucji RP powinny również odzwierciedlać znaczenie Warszawy w polskim systemie ładu publicznego, w tym jej znaczenie w systemie planowania przestrzennego. Zasadniczo, szczególnie w Europie, duże stolicy w rozumieniu aglomeracji, czy też raczej metropolii, mają status ponad lokalny, najczęściej regionalny, niezależnie od ich wewnętrznej organizacji. Oznacza to, że takie obszary metropolitalne podlegają co najmniej dwóm reżimom planowania przestrzennego: lokalnemu (zasadniczo na poziomie gminy) oraz metropolitalnemu.

Mimo bogatych tradycji w tym zakresie Warszawa nie posiada obecnie instrumentów planowania metropolitalnego. Artykuł przedstawia tradycję warszawskiego planowania metropolitalnego, obowiązujące regulacje prawne oraz próby przywrócenia niezbędnych mechanizmów planowania metropolitalnego.

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- Journal of Laws of 2014, item 1146
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**KEYWORDS**

spatial planning, metropolitan area, capital of the state, subregion

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planowanie przestrzenne, obszar metropolitalny, stolica państwa, podregion