



# **SOCIAL DIALOGUE SCHEMES FOR DECENT WORK IN THE PUBLIC SECTOR AT MUNICIPAL LEVEL II**

**FINAL REPORT**



The project received funding from Norway via Norway Grants 2014-2021  
part of the Programme Social Dialogue – Decent Work.







# **SOCIAL DIALOGUE SCHEMES FOR DECENT WORK IN THE PUBLIC SECTOR AT MUNICIPAL LEVEL II**

**FINAL REPORT**

Gdańsk, 2023

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**Publisher:**

National Commission NSZZ Solidarność  
ul. Wały Piastowskie 24  
80-855 Gdańsk

This report is published under the project  
“Social Dialogue Schemes for Decent Work in the Public Sector at Municipal Level II”

Office of European Programmes KK NSZZ Solidarność  
ul. Wały Piastowskie 24  
tel. (48) 58 308 43 18

**Typesetting and print:**

Wydawnictwo Tekst Sp. z o.o.  
85-307 Bydgoszcz, ul. Kossaka 72  
tel./fax 507 048 092  
www.tekst.com.pl, e-mail: info@tekst.com.pl

ISBN 978-83-85610-37-3

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# INTRODUCTION

Dialogue and cooperation of social partners define the framework of social market economy which – according to Article 20 of the Constitution of the Republic of Poland – is the basis of the economic system in our country.

**According to the definition of the International Labour Organisation, social dialogue is all forms of negotiations, consultations or a simple exchange of information between representatives of the government, employers and employees concerning issues in the area of economic and social policy.**

In turn, the report prepared jointly by NSZZ “Solidarność” and the Association of Polish Cities shows that about 20% of the total working population in our country is employed in public institutions that are part of local government administration or where local government units are the owners or that perform functions that are the statutory responsibility of local governments. In turn, local government, in accordance with Article 16 of the Polish Constitution, participates in the exercise of public authority. The Trade Union Act, in its Article 7 stipulates that in terms of collective rights and interests, these organisations represent everyone in paid employment.

**Taking it all into consideration, the need to promote and strengthen all forms of dialogue between trade unions and local government units becomes obvious.**

Such dialogue is common in the vast majority of Western European countries, though practices may vary. The common objective is to provide and support, wherever possible, of space for the use of collective bargaining as a way to organise labour relations. In Poland, however, there are significant challenges in conducting social dialogue in this sector. This is a result of a situation which is referred to as a ‘triangle of impossibility’. Its vertices are formed by: employees of local government dependent units and trade unions representing them, direct (formal) employers within the meaning of the Labour Code and local government authorities. Looking at the sides of the triangle in the context of social dialogue, one can easily see what is at stake. According to Polish regulations, trade unions can only negotiate with formal employers who are often closely linked to the local government leaving a gap – the one that would link trade unions directly with the local government authority who hold economic power as an indirect employer.

**This gap is due to the predominance of the organisational (managerial) concept of employer over the ownership concept of employer in Polish labour law.**

In other words, the formal employer is in many respects not the real employer, but only its representative, with a limited scope of power, especially in the field of financial management.

Addressing this challenge was the objective of the project implemented in 2020–22 jointly by the NSZZ Solidarność National Commission, the Associations of Polish Cities, the Norwegian Union of Municipal and General Workers (Fagforbundet) and the Norwegian Association of Local and Regional Authorities (KS) called ‘Social Dialogue Schemes for Decent Work in the Public Sector at Municipal Level II’. The project proposed solutions based on the negotiation of voluntary tripartite agreements which aimed to establish a framework for cooperation to prevent social conflicts between local governments units and their employees, with regard to employment conditions and current challenges. Successful agreements were reached in two local governments: Płock and Jaworzno. The concept was continued by a project implemented in 2023 by NSZZ “Solidarność” and Fagforbundet aiming at signing agreements in two other local governments: Piotrków Trybunalski and Walbrzych. This project’s scope, although limited, resulted in an e-book titled (“Terra Incognita. The area of economic power vested in local government and the role of trade unions”).

Conclusions resulting from our discussions with representatives of trade unions, local governments and employers in companies dependent on local governments, combined with the analysis of views presented in the above-mentioned publication and practical knowledge resulting from the European Social Dialogue mechanisms, form the foundation for reflections in this final report. We will explore areas vital for building



social dialogue mechanisms in the local government sector. Firstly, the role of collective bargaining in the socio-economic landscape of Poland in the context of Article 4 of the recently adopted EU Directive on Adequate Minimum Wages.

**The second area in focus is the increasingly evident challenge faced by local authorities in implementing national and EU policies related to energy and climate change, technological change (digitalisation), the demographic shifts and circular economy.**

**The third area seems crucial as it concerns the systemic and financial status of local government units in the Polish social and economic reality, in the context of an increasingly growing trend towards recentralisation of public authority. Therefore, we will take a closer look at it.**



## TWO MORE TRIPARTITE AGREEMENTS

Let us begin with the outcomes of the second project phase. Its visible results are two new tripartite cooperation agreements. Negotiations were conducted and agreements signed within local government units in two medium-sized cities with powiat status: Wałbrzych and Piotrków Trybunalski. Let us add that these are cities that were, in the past, before the administrative reform of Jerzy Buzek's government, the provincial capitals and therefore have organisational potential in their history coming from strong administrative tradition.

In Piotrków Trybunalski, the signatories of the agreement on the trade union and labour side are representatives of five units, while in Wałbrzych – four. Notably, except for one unit, the trade union membership in the NSZZ “Solidarność” exceeds 20% (sometimes significantly) which is not typical in Poland. Four units are covered by enterprise collective labour agreements (ZUZP).

Name of the employer	Number of employees	Enterprise collective labour agreements
<b>Piotrków Trybunalski</b>		
City Transport Company	115	–
Nursing Home	79	–
Water and Sewage Company	175	+
Combined Heat and Power Plant	101	+
Sports and Recreation Centre	100	–
<b>Wałbrzych</b>		
Water and Sewage Company	398	+
Municipal Buildings Administration	225	+
Municipal Social Assistance Centre	210	–
Vocational activation facility „Victoria”	64	–

The content of the agreements is similar to those in Plock and Jaworzno. They are therefore of a framework nature. We will not refer here to the negotiation processes and the detailed content of the two agreements as this is not the intention of this report. All detailed information is available in the reports of the project local coordinators. However, we include some key clauses for reference.

#### ***Agreement in Piotrków Trybunalski***

- ➔ *Faced by demographic changes such as an ageing population and a low birth rate, we are signing the Agreement to make decent work a fundamental right for workers and residents of our city and to have a reliable cooperation between the Parties which will inspire further measures for the development of workers.*
- ➔ additional annual leave, extra breaks for older workers (aged 55+), long-term sick and extended breaks for breastfeeding women.

#### ***Agreement in Wałbrzych***

- ➔ This Agreement aims to establish a dialogue framework on all matters relevant to workers, employers and local government and trade union organisations.
- ➔ In the event of failing to reach an agreement with the direct employer, the trade union shall ensure that a mediation meeting with the indirect employer, i.e. the Municipality of Wałbrzych, is organised without undue delay, but no later than within 30 days of the issue being raised by the trade union organisation.
- ➔ The Parties shall endeavour to ensure transparent remuneration principles, respecting the importance of the standard expressed in the Labour Code that employees are entitled

to equal remuneration for equal work or work of equal value. At the same time, the Parties recognise the need to value long-serving employees and express their willingness to develop optional solutions in this regard at the respective Employer.

- ➔ The trade union organisations shall keep the employees fairly, objectively and comprehensively informed about the discussions and negotiations with the Employer to foster non-antagonistic interaction

The obvious conclusion is that the scheme of activities presented in the document “Report on the Pilotage with Proposal for a Model for Dialogue” (<https://www.solidarnosc.org.pl/projekty-i-dokumenty/schematy-dialogu-spolecznego-dla-godnej-pracy/>) remains fully valid, however it should be tested on more local government units. Although negotiations took place in two additional local government units, this is insufficient to reformulate or verify the assumptions and proposals in the model. Therefore, it is natural that further attempts at negotiation activities should be made in new local government units essential for broader testing and improvement of the process.



# COLLECTIVE BARGAINING – A LANDSCAPE IN THE MIDST OF A PREDICTED DISASTER

The collective agreement stands as the most rational tool for dialogue at all levels and with any employer.

**In most Western European countries which have for years followed the principles of the European social model, collective bargaining has been the primary means of regulating labour relations.**

This also applies to the local government sector. The practice of collective bargaining in local government at various possible levels, starting from provinces/regions up to the level of individual municipalities, is particularly strong in many countries. However, Poland has never developed such a practice, for collective bargaining above the workplace level for various reasons including legal constraints, trade union weakness, employers' ignorance and reluctance, including those of local governments, but mainly due to the undisguised reluctance of most political elites to the idea of using and promoting the collective bargaining agreements as the basic regulator of labour relations.

As a result, Poland ranks last in the EU in terms of collective agreement coverage in 2023. With this rate declining EU-wide (back in 2000 it was 66%, in 2018 it dropped to 56%), an EU initiative has emerged for the first time in the form of the EU Adequate

Minimum Wage Directive (2022/2041/EC), specifically its Article 4 indicating the need for social partners and Member States to take action to increase the number of workers covered by collective agreements. For the first time, national authorities must present an action plan to expand collective bargaining coverage if it falls below 80%.

**This of course also applies to Poland. The key to increasing collective bargaining coverage is in developing higher levels of collective bargaining, nearly non-existing in Poland.**

The following question arises: to what extent can voluntary negotiations with local government units for framework agreements contribute to this goal. Obviously, the framework agreements concluded during the first and second phases of the project do not constitute collective agreements or, more broadly, the collective agreements referred to in Article 4 of the Directive. They, acting alone, will not increase the number of workers covered by collective agreements.

**They can, however, act as catalysts for work leading to a collective agreement.**

Relying solely on company agreements (as is common in Poland) will not significantly increase the number of workers covered by collective agreements. Solutions and practices applied above the company level are needed.

In 2023's draft law on collective agreements presented in the so-called pre-consultation in the summer of 2023, the Ministry of Family and Social Policy proposed a new category of above-company agreement for a group of employers. Such an agreement could be subject to generalisation. This could enable strategy development for agreements with groups of employers indirectly dependent on local governments, like in social assistance, and their generalization. However, considering (as we shall write later) the financial and actual diversity of local government units in Poland.

**it seems that a thesis can be put forward that in order for local governments to take on more of the role and tasks of actual employers, comprehensive changes in the functioning of local government in Poland are needed to strengthen its financial and authority powers.**

Lastly, it should be emphasised that the unspoken assumption arising from Article 4 of Directive 2022/2041/EC is the belief in high quality agreements. If the collective agreement lacks provisions in areas not effectively regulated by the Labour Code (such as vocational training – the employee's right to improve their qualifications) then its value for the labour world is low. Such an agreement struggles to serve as a transitional tool in the face of *twin transition*.



## LOCAL AUTHORITIES WILL FACE NEW CHALLENGES

The second area involves the increasing challenges faced by the local government units in implementing national and EU policies related to energy transformation, climate change, including the introduction of circuit economy concepts and a broad range of digitalisation processes. These challenges are further compounded by demographic changes (ageing population) and challenges arising from labour market shortages on the one hand and migration processes on the other. Here is a brief reflection on the extent to which building up the practice of voluntary tripartite agreements within individual local governments can contribute to addressing these identified challenges.

**The entire labour world is currently facing challenges arising from the so-called 'twin transitions', i.e. the interrelated processes of greening the economy (including decarbonisation policies, building a circular economy and reducing energy intensity) and digitalisation (which involves greater use of AI and algorithms). It is clear that these transitions also impact employees working for employers indirectly dependent on local government.**

Equally obvious, the commentary points to the broader spectrum of challenges faced by local governments in the face of these changes related to the need especially

in providing quality, universally accessible services to residents. This scenario is further complicated by demographic shifts associated with an ageing population. Its natural consequence is an influx of migrant workers, who are increasingly employed in universal access services. As a result, there is a need for appropriate integration strategies, not only at the central level but also within various levels of government, to ensure an adequate level of integration for migrants, particularly those from outside the EU.

Given the needs of the energy transition and the increasingly apparent advantages of decentralised energy sector, it is crucial to encourage the participation of local authorities and the municipal sector as a whole in this transition. This includes organizing local energy clusters, involving local authorities in balancing the energy system, exploring opportunities for preferential production of energy from renewable sources, establishing energy cooperatives in towns, and constructing local heating systems based on renewable energy sources (RES) in rural municipalities. Investment programs should also focus on the local government sector, possibly through a special transition fund.

**To summarize, while framework agreements between local government units, trade unions, and employers indirectly dependent on local government will not be a complete solution for these complex challenges, it is reasonable to assume that the process of negotiating them may contribute to a broader exchange of views and information on ongoing processes, and that their provisions will, to some extent, facilitate the implementation of necessary changes. In the four agreements signed so far, these specific issues have not been particularly emphasized.**

It appears that when renegotiating these agreements and entering into potential negotiations with other local government units, more attention should be paid to solutions related to addressing these challenges.





# RECENTRALISATION AND DECLINE IN LOCAL GOVERNMENT REVENUES

Finally, the third area involves probably the most important issue, i.e. the systemic and financial position of local governments in the Polish social and economic landscape. Focus should be given to proposals for change and reform that have emerged in recent debates. A detailed analysis of the financial dynamics of municipalities, shaped by the current administrative division and legal frameworks governing local government finances, leads to several key conclusions:

- The state's current administrative division is marked by extensive fragmentation of basic local governments, with significant variation in their size of at the same administrative level.
- Smaller municipalities have limited resources, both in absolute terms and per capita, for executing local government tasks. This situation raises questions about the viability of these small municipalities operating independently, suggesting a potential need for a reduction in their number.

- There is a notable internal variation in the financial health of rural municipalities, with those less reliant on agriculture generally faring better financially. This disparity calls for a re-evaluation of the effectiveness of the current rural development support system.
- Necessary adjustments to the local government finance system should focus on better aligning the transfer of funds from the state budget to local government units with the actual costs incurred in performing public tasks.
- The relationship between large cities and their surrounding municipalities remains unresolved, highlighting the need for strategies that support the development of metropolitan centres.
- Although the excessive number of small municipalities seems to be the main problem of the current administrative division, it is important to note the significant variation in the size of provinces and districts.

**At this point, it is necessary to draw attention to several changes which have weakened the financial autonomy of local authorities.**

Firstly, recentralisation, i.e. the creation of special centrally distributing funds. Secondly, tax changes: an increase in the tax-free amount and the minimum wage, a reduction in the basic rate of personal income tax, tax exemption for persons under 26 years of age. Though these measures are fundamentally sound, they have resulted in decreased revenue streams for local governments. The absence of compensatory mechanisms in local government budgets has led to financial constraints and increased reliance on central subsidies. Another challenge is the delegation of tasks to local governments without providing adequate funding, exemplified by mandates such as the care of veterans' organizations or support for pregnant women, without corresponding financial support. This funding inadequacy often results in local government inefficiencies and could be perceived as a lack of capacity by central government.

### **Water and Wastewater Management**

In April 2017, the Environmental Protection Law was amended, altering the appointment process for voivodship environmental protection fund authorities. This amendment left the voivodship council with the right to delegate just one person (the vice-chairman) to the supervisory board, while the remaining members were appointed by the minister, the Voivod, and the National Fund for Environmental Protection and Water Management. This change effectively centralized control of the board. Subsequently, in July 2017, the State Water Management Authority - Wody Polskie was established. This new institution absorbed the responsibilities and powers of the President of the National Water Management Authority, regional water management board directors, and marshals and starosts in areas related to water maintenance, State Treasury property management, and water-related investments,

as well as the approval of water law regulations. This move exemplified a shift of powers and competencies, indicative of recentralization and resulting in a loss of local revenue. By autumn 2017, the Polish Water Authority was further empowered to provide opinions on draft water and sewage disposal regulations and approve tariffs set by municipal councils.

### **Sanitary Inspection**

In January 2020, organisational changes were made to the State Sanitary Inspectorate, increasing the coordination and supervisory role of the Chief Sanitary Inspector and enhanced the authority of the Voivode as the government representative in this sector. The Chief Sanitary Inspector was granted the power to appoint and dismiss state voivodship sanitary inspectors (with the voivode's approval) and to oversee the appointment and dismissal of state poviats sanitary inspectors (after consulting with the voivode). These changes established the state district sanitary inspector as a combined government administration organ in the voivodship, representing a clear move towards centralization and reducing the competencies of local governments.

### **Local Roads**

In 2018, the Local Government Roads Fund, later renamed the Government Road Development Fund, was created to support local government units in their investments in local government roads. This fund provides targeted grants, distributed by a voivode-appointed commission based on the income level of the local government unit. The Government Local Investment Fund, introduced in response to the financial impact of the COVID-19 outbreak in spring 2020, represents another mechanism for transferring subsidies to local governments. Initially, funds were allocated to local governments based on a top-down algorithm, with subsequent tranches distributed based on decisions made by the Commission for Support of Local Governments following applications from local governments.

In the current legal system, the own revenues of the local government, including shares in income taxes, cover approximately 48.5% of their expenditures. A relatively simple way to increase the share of own income in financing the expenditures of local government would be to increase the share of income tax revenue (first and foremost the share of PIT revenue) at the expense of reducing budget subsidies or subventions. However, this change might further widen the income disparity between agricultural municipalities and other types of municipalities.

The system responsible for supplementing the revenues of local governments to a level that guarantees the ability to perform the tasks imposed on them includes subsi-

dies and general subventions from the state budget, as well as, to a much lesser extent, subsidies from various types of funds and government agencies. The structure of this system of grants and subsidies, however, does not guarantee its effective functioning. This is because:

- more than half of the total amount of the general subsidy is ear-marked for education, distributed without regard to the income criterion;
- The algorithm for distributing the compensatory part of the general subvention is primarily based on levelling income levels, with only minimal consideration given to the necessary expenditures of specific local governments. This is despite statistical data showing strong diversification of expenditures in key sections even among similar municipalities, without any indication that these differences are solely due to better or worse management of public funds.

The changes proposed in the literature relate, inter alia, to limiting the scope of statutory tasks delegated to local governments.

The problems related to financing of statutorily commissioned tasks to local government cannot be solved without fundamental changes to the very structure of commissioned tasks. The changes should encompass both the scope of public tasks financed in this form and the way of their financing, while the following assumptions should be the basis for determining a new shape of the system of commissioned tasks:

- A drastic reduction in the range of mandated tasks performed continuously.
- The reduction in the scope of outsourced tasks should either involve the central government taking over the tasks currently outsourced to local governments or reclassifying current outsourced tasks as obligatory own tasks. This includes evaluating the legitimacy of outsourcing tasks such as the financing of the state fire service to poviats and tasks related to the management of State Treasury property by starosts.
- The form of outsourced tasks, performed continuously, should only be retained for those tasks whose transfer to central administration would significantly inconvenience citizens. In practice, this means maintaining outsourced tasks primarily for the payment of social welfare and family support benefits, and for subsidies for fuel purchases for farmers.

Implementing these changes would require replacing subsidies for mandated tasks, which are transformed into obligatory own tasks, with other revenues – e.g. by modifying the rules for determining the general subvention

**In our view, one of the fundamental challenges for the Third Republic of Poland is to curb the drive towards re-centralisation by influencing both**

**those in power and civil society and raising awareness of the benefits of a system of decentralised management in the public sphere.**

This detailed exploration is crucial to emphasize that the potential for developing substantial trade union framework agreements in the local government sector is also indirectly dependent on preserving, restoring, and developing the independence of local government, as well as crafting an appropriate mechanism for their financing.



## **NOT ALL MUNICIPALITIES CAN BE SELF-SUFFICIENT**

As a result of discussions held with representatives of local governments, we recognised the need to pay attention to a factor which is still underestimated, i.e. objective capacity of local governments to have resources enabling social dialogue. This applies in particular to basic units, directly indicated in the Constitution of the Republic of Poland, such as gminas (municipalities). Based on the study “Diversity of Polish Local Governments against the Background of Common Challenges” prepared in 2023 by Bank Gospodarstwa Krajowego, it is possible to divide municipalities according to their wealth into three categories: A – clearly wealthy, B – moderately wealthy, C – poorest).

The analysis can be summarised in several points. Firstly, a similar story can largely be told about rural, urban-rural and urban municipalities (although urban municipalities in many respects are already more like cities with powiat rights). The group of middle-income municipalities (B) is always the most numerous and is in a sense a snapshot of the whole population in a nutshell. The most affluent municipalities are favourably distinguished mainly by their better quality of infrastructure. The poorest municipalities, on the other hand, stand out with greater challenges of a demographic nature. Cities with powiat rights have slightly different characteristics. They are far less diverse in terms of their infrastructural situation. It seems that what most defines their belonging to particular groups is the social capital of their inhabitants.

It is worth adding another cross-sectional observation to this - cities with powiat rights and urban municipalities are, on average, characterised by a better quality of infrastructure and social capital, while rural and urban-rural municipalities achieve slightly better demographic and environmental indicators.

**All these observations confirm that Polish local governments are much more diverse than their legal status would suggest. This means that applying a homogeneous policy to all municipalities and cities is often an unwarranted simplification.**

The observed variation is further compounded by a geographical dimension. Approximately 33.3% of Poles live in the municipalities that were counted as the most affluent (cluster A). More than half of them are residents of the twenty cities with powiat rights, which were counted in cluster A (17.4% of Poles). Cluster C, on the other hand, includes 833 local governments of various levels (34% of the total number of municipalities and cities), but only 21.5% of Poles live there.

**How to relate the above conclusions to the subject matter of our report? It seems that in the case of municipalities, it can be hypothesised that the real possibility for potential collective agreements with them as actual employers would require more than obvious changes to the negotiation procedure and the parties entitled to conclude them. What would be needed would be a narrowing of the discrepancies between the actual and income situation of the various local government units. Of course, very serious differences would remain - but some standardisation should be sought (e.g. through the process of merging municipalities).**



## CONCLUDING REMARKS

The fundamental conclusion drawn from the “Social Dialogue Schemes for Decent Work in the Public Sector at Municipal Level II” Project is that the analysis of the social dialogue deficit confined only within the outlined “triangle of impossibility” does not fully encompass the actual scenario. To gain a more comprehensive understanding, the financial and legal conditions impacting local government units must be factored in more significantly. This also includes actions of a decidedly political nature that stem from implementing a strategy focused on constructing a strong state, which is based on the centralization of power at the expense of local government powers.

Additionally, our findings also highlight a generally low level of knowledge and understanding of social dialogue institutions and mechanisms among local government (permanent confusion of it with the so-called civic dialogue). However, this reflects a generally low quality of social trust capital in our country, which can be seen, for example, in the effects of the work of the Social Dialogue Council which are hardly noticeable to the public.

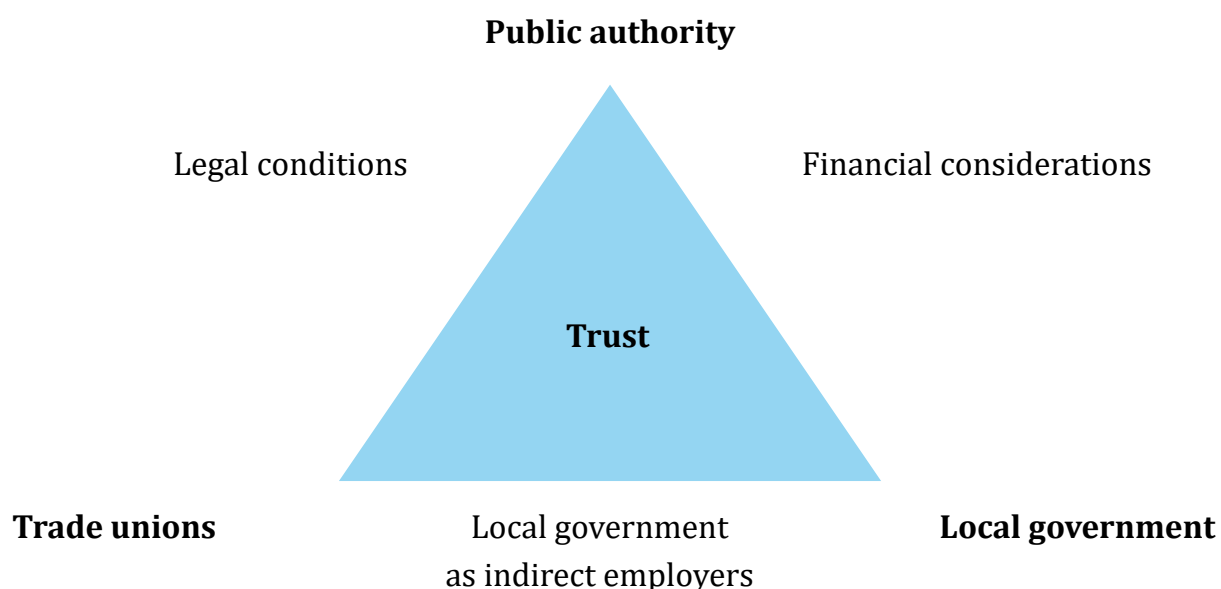
At the local level, this issue was manifested in the challenges faced during the expansion of the content of tripartite agreements in Piotrków Trybunalski and Wałbrzych. Here, the classical wage issues, which remain under the employer’s responsibility as per the Labour Code, posed a substantial challenge. Adding to this were the noticeable deficiencies in the ability to mobilize and build effective negotiation teams, as well as a general passivity and lack of substantial involvement by local government employers during



negotiation meetings. This situation underscores the main challenge in the Polish social dialogue, which methodologically translates to the need for educating on the skills of developing win-win scenarios in negotiations, essentially playing a non-zero-sum game.

**Further, subsequent agreements should be the result of thoughtful consideration of local problems, rather than simply replicating clauses from the previously concluded agreements. This is a challenging task, particularly in a context where the wage grid has been significantly flattened due to dynamic increase in the minimum wage in recent years. . This situation has directed most of the attention of union leaders and members towards wage bargaining, aiming to introduce various mechanisms such as seniority allowances or allowances linked to specific tasks performed by employees, to create a more diversified wage structure within employers indirectly dependent on local government.**

In conclusion, without legal changes aimed at ensuring greater financial security for local governments and aligning their resources with the tasks at hand, the process of addressing the challenges of greater participation in problem-solving between the employee/trade union and employer indirectly dependent on local governments, may face significant hurdles. The final diagram is dedicated to all potential participants in such initiatives, illustrating that mutual trust, especially regarding the behaviour of the central government, should be at the heart of these endeavours.



In consideration of the trade union (i.e. in this case after the NSZZ “Solidarność”), and under the sad premise of the continuing the existing legal and financial frameworks, at least a specific set of actions should be recommended, as a follow-up of the completed project, in order to achieve a perspective strengthening of the quality of social dialogue using the formula applied during the project in four local governments.

- Initially, cities with powiat rights should be in focus. These cities house a significant number of employers operating under the economic jurisdiction of local governments. Compared to larger metropolitan areas, these cities offer a more feasible environment for overseeing social dialogue processes with fewer resources and personnel.
- The development of a targeted strategy to pinpoint cities where the trade union can initiate similar negotiation processes is crucial. This strategy should encompass both organizational and recruitment activities aimed at increasing union membership in workplaces indirectly linked to local governance. A bolstered membership base enhances the potential for successful negotiation outcomes with local authorities. The strategy should also incorporate detailed principles for providing organizational and expert support. Seeking external support through applications for project funding, be it national, EU, or Norwegian, could be a vital component of this strategy.
- It is equally important to maintain a consistent monitoring process for the agreements already in place. This involves assessing their ongoing effectiveness, the degree to which they contribute to the advancement of social dialogue, and their role in facilitating the formation of collective agreements, which represent the ultimate objective of these efforts.
- Undertaking promotional activities, as described in the ‘Pilot tests report – proposal for a dialogue model’.



