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Wojciech Sońta[1]

EMISSION OF POLLUTIONS AND AIR PROTECTION ON THE CZECH–POLISH BORDER

The international community decided that the global temperature cannot rise more than 2°C comparing with the level before the period of industrialisation that the climate changes do not reach a dangerous level. Therefore, EU endeavours to induce the member countries to reduce the emissions. In turn, each of the countries in various areas of functioning of their economies and households seeks reduction of harmful emissions having influence on increase of the temperature in the local scale. In this article there is taken an attempt to present the problem based on the example of the Czech–Polish border and especially on the terrain of Cieszyn city.

JEL Classification Codes: F65, G11, N90, Q53.

Keywords: climate policy, air pollution, natural environment protection, cogeneration.

Introduction

In the era of the global economic slowdown and the European debt crisis more often appears a question about a sense of the EU climate policy. However, the most influential politicians of the world (A. Merkel, B. Obama) express their view on various world forums (e.g. G7 summit) that the world must unite in actions preventing climate changes. Implementing significant limitations of using fossil fuels and emission of CO_2 by the Union will distinctly affect cooling of the climate. The purpose of the article is presentation and analysis of actions aiming to reduce of air pollution at the border terrain of Cieszyn city. It seems that analysis of the case will allow recognising of the

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problem in the local scale according to the principle: „act locally, think globally". There was used in the article the method of analysis and synthesis of occurring changes and processes in years 2010 – 2014 in terms of air pollution's reduction on the terrain of Cieszyn city. At the end of the article it was presented a vision of further progress of actions having as a goal reduction of emission of pollution to the atmosphere.

Characteristic of the study area

Length of the border between the Czech Republic and the Republic of Poland is 796 kilometres. Program's area of environmental protection covers about 7.1 million citizens and on the Czech side there are 3.4 million while on the Polish side there are 3.7 million. Density of the population of the individual parts of the area is above average value for the whole EU. Total density of the population in the area of support is 151 citizens/km^2. Main reason of the increased migration on the area are economic factors (decrease of workplaces, structural problems of the mining industry). In turn, constantly ongoing process of suburbanisation has influence on internal migration. According to the condition dated 31st December 2014 average unemployment rate on the Czech side is 8.7% while on Polish side is 14.9%. The borderland has also development potential in service sector, it means services related to tourism and health resort. The border areas are characterised by a variety of natural wealth which are numerous mountain massifs, relatively good quality of the environment and vast areas being protected. Condition of atmospheric air in various parts is different. The settlement structure has direct influence on spatial distribution of air quality as well presence of pollutants which are related with localisation of main stationary sources, first of all these are industrial companies and also households. The main transport routes are referred to the settlement structure and are related with the highest occurrence of pollution.

Summarizing the above mentioned arguments related with characteristics of the studied area it must be claimed that zones having larger grade of pollution which the Silesia province is divided have negative impact on the neighbouring zones with lower grade of pollution because as it was stated in the further part of the study „air does not know boundaries". Therefore it would be a mistake to consider the problem in isolation from the wider environment hence it was stated as a basis for the analysis not only Cieszyn but also the Silesia province. Specifics of the province are characterised by

the fact that on its terrain there is concentration of different pollutants not only the air and between them there are interactions having influence on the whole environment.

In turn, Cieszyn city is located on the river Olza where its right part of the bank belongs to Poland and left part to the Czech Republic and it is called Czech Cieszyn. In the Polish part there are 36.1 thousand of citizens on the area of 28.6 km^2, the Czech part has 24.4 thousand of citizens and 34.4 m^2. Cieszyn is located in southern part of the Silesia province and it is a county city. Density of the population is 1262 persons/km^2. Increase of the population in the Cieszyn county is + 271 people (*Dzieje Cieszyna*..., 2010).

The city is an important administrative, cultural and educational centre. It is also nodal point of transport on the map of Europe. In the city there is also headquarter of Cieszyn Silesia Euro–region. It becomes more popular tourist and cultural centre what partially compensates collapse of the local industry in the 90s of the last century and lack of large economic investments. The local economy is currently focused mainly on trade and services. Cieszyn is a city with plenty of green areas (23% of the city area) what is not without significance for environmental protection. System of urban roads is well developed what causes that Cieszyn has its own public transport which operates budget company of the city, i.e. 9 bus lines (5 urban and 4 suburban) (Sońta, 2008).

Summarizing the above mentioned it must be claimed that the happening structural changes in the city follow in the right direction what definitely will transfer into reduction of air pollution. Inflow of funds from EU which will contribute to eliminate the old technology, modernization of the infrastructure, etc. will also help.

There are two cities in one municipal body but in two different countries. It is typical phenomenon for cities located on borderlands territories. History was not so kind for them because the boundary was moved in one or other side and not local communities but politicians decided about the division. Nonetheless, the time obliterated trauma from the past and currently co–operation develops very well in different fields and only the air as a free good flows naturally from one side of the border to the other depending on direction of a wind. It is interesting why the air as a free good derived from the nature and occurring in unlimited amount is so polluted?

Actual condition of air pollution in the Silesia province

In 2014 on the terrain of the Silesia province operated 325 plants especially burdensome for cleanness of the air, i.e. 18.2% of the total number of this type of plants in Poland. The plants had emitted to the atmosphere dust, gas pollution or together dust and gas ones. Emission of the dust and gas pollution in the Silesia province from the plants especially burdensome for cleanness of the air in 2014 was 37 265.7 thousands of tons, including 734.2 thousands of tons without carbon dioxide (Directive 2001/80/WE). In 2014 there were emitted 10.3 thousands of tons of dust pollution (0.8 ton per 1 km^2 of the area) what was 21.7% of domestic dust emission (in Poland 0.2 ton per 1 km^2). Emission of the dust pollution in the province decreased by 3.2% comparing with the previous year. The largest amount of dust pollution was generated by burning of fuels (46.7% of the general emission of the dusts in the province). The largest amount of dust pollution was emitted in Dabrowa Gornicza and it was 4.0 thousands of tons (what represents 39.4% of the general emission in the province) and in Rybnik with 1.1 thousands of tons (10.4%). In relation to 2005 emission of the pollution was reduced by half, i.e. 54.3%.

Among the emitted gas pollutants in the Silesia province dominated carbon dioxide being 98.1% of the global emission of gases on the terrain. Emission of the gas pollutants (excluding carbon dioxide) was 724.0 thousands of tons (58.7 tons per 1 km^2 of the area) what represents 46.0% of the national emission (in Poland 5.0 tons per km^2). Comparing with year 2013 there was noticed increase of emission of the gas pollutants by 1.3% (excluding carbon dioxide). The largest share in emission of the gas pollutants (excluding carbon dioxide) had methane 60.9%, carbon monoxide 21.8% and Sulphur dioxide 9.4%. The largest emission of the gas pollutants (excluding carbon dioxide) was noticed in Dabrowa Gornicza and it was 154.3 thousands of tons (21.3% of the general emission in the province) and in the Pszczyna county 88.8% thousands of tons (12.3%). During the last 10 years emission of the gas pollutants (excluding carbon dioxide) had fluctuations: the lowest emission was noticed in 2009 (644.9 thousands of tons) and the highest in 2007 (754.1 thousands of tons).

Among the plants which are especially burdensome 222 had devices to reduce the dust pollutants (68.3% of the total number of the especially burdensome plants in the province) and only 53 had devices to reduce the gas pollutants (16.3%). In the devices to reduce pollution of the air in the Silesia province were blocked and neutralised 2 749.4 thousands of tons of the dust pollutants what is 99.6% of the generated dust pollutants and 274.3

thousands of tons of the gas pollutions what is 27.5% of the generated gas pollutants (excluding carbon dioxide). Degree of reduction of the generated dust pollutants in years 2005–2014 remained at the high level (more than 99%), however in case of the gas pollutants it was fluctuating (in the range between 27.5% a 31.8%).

According (to the article 87 dated 27th April 2001 Environmental protection law) evaluations are done in zones including agglomerations. On the terrain of the Silesia province there are separated 5 zones according to (regulation of Minister of Environment dated 10th August 2012 regarding zones where there is done evaluation of the air quality). These zones are as follows: Upper Silesia, Rybnik–Jastrzab, Bielsko-Biala city, Czestochowa city and Silesia zone. The evaluation of the air quality and observations of changes were done under national environment monitoring (article 88 of the act of Environmental protection law). The basis for classification of the zones according to the article 89 of the above mentioned act were admissible levels of substances in the air and admissible levels having tolerance margin with allowed cases of exceeding, target levels and levels of long–term goals due to the protection of human health and protection of plants. List of the pollutants in terms of fulfilment of the criteria defined to protect healthcare covered: benzene, nitrogen dioxide, Sulphur dioxide, carbon monoxide, ozone, dust particulates PM 10, dust particulates PM 2.5, arsenic, benzopyrene, lead, cadmium and nickel. For all the substances being assessed the zones were included to one of the classes: class A – if concentrations of the pollutants on its area did not exceed respectively the acceptable levels, class C – if concentrations of the pollutants on its area exceeded the acceptable levels.

Evaluation of air pollutions' condition in Cieszyn based on the selected indicators

Starting the analysis of the selected indicators for the Cieszyn city it should be realised how the concept of environment protection should be understood. Air protection relies on reducing and keeping levels of the substances in the air below acceptable, target levels or levels of long–term goals (Kaczmarczyk 2015). All kinds of the mentioned groups of indicators in the analysis will be included with the proviso that indicators for the Cieszyn city will be compared to the highest in the other measurements places of the Silesia zone. In this way we want to present existing differences between the places of the measurements and the same their evaluation with respect to the acceptable levels and levels of maximum pollution in other measurement places.

Table 1. Maximum 8–hour concentration of carbon monoxide in the years 2011–2014 (admissible value 10 μg/m³)

Place of measurement	2011	2012	2013	2014
Cieszyn	3.3	4.2	2.2	3.7
Wodzisław	6.1	7.5	3.0	3.0

Source: http// www. katowice/pios.gov.pl/monitoring/raporty/

Table 2. Results of maximum 24–hour concentration of Sulphur dioxide in μg/m³ on the measurement stations in the years 2010 – 2014 and classification of the zones in 2014 in respect of protection of human health (acceptable level for 24–hour concentrations is 125 μg/m³)

Place of measurement	2010	2011	2012	2013	2014
Cieszyn	198	65	85	49	73
Zywiec	256	145	193	153	132

Source: as in the table 1.

Table 3. Results of annual average concentrations of nitrogen dioxide in μg/m³ on the measurement stations in the years 2010 – 2014 and classification of the zones in 2014 in respect of protection of human health (acceptable level is 40 μg/m³)

Place of measurement	2010	2011	2012	2013	2014
Cieszyn	20	17	17	17	15
Wodzisław	28	25	23	21	20

Source: as in the table 1.

Table 4. Results of maximum 8–hour concentration on the measurement stations in the years 2010 – 2014 and classification of the zones for ozone in 2014 in respect of protection of human health as a long–term goal (measurement of long–term goals 120 μg/m³)

Place of measurement	2010	2011	2012	2013	2014
Cieszyn	–	149	154	166	153
Złoty Potok	152	146	165	164	149

Source: as in the table 1.

Table 5. Results of acceptable frequency of 8–hour concentrations' exceedance on the measurement stations in the years 2008–2014 and classification of the zones for ozone in 2014 in respect of protection of human health (acceptable frequency of exceeding is 25 days)

Place of measurement	2008–2010	2009–2011	2010–2012	2011–2013	2012–2014
Cieszyn	–	23	30	27	22
Zloty Potok	26	24	30	32	28

Source: as in the table 1.

Table 6. Results of annual average concentrations of dust particulates PM 10 in μg/m³ on the measurement stations in the years 2010–2014 and classification of the zones in 2014 in respect of protection of people (acceptable level 40 μg/m³ in consideration of the acceptable frequency of exceeding the level of 24–hour concentrations)

Place of measurement	2010	2011	2012	2013	2014
Cieszyn	35	37	36	36	37
Wodzislaw	80	63	78	57	53

Source: as in the table 1.

Table 7. Frequency of exceedances of the acceptable 24–hour concentration's level of dust particulates PM 10 in the years 2012–2014 (number of acceptable exceeding is 35)

Place of measurement	2012	2013	2014
Cieszyn	50	50	63
Wodzislaw	170	145	135

Source: as in the table 1.

Table 8. Number of acceptable exceedances of the 24–hour concentrations' level of dust particulates PM 10 in the years 2012–2014 and measurements' time coverage in percentages in 2014 (90%)

Place of measurement	2012	2013	2014
Cieszyn	50	50	63
Pszczyna	90	140	138

Source: as in the table 1.

Table 9. 90.4 percentile of 24–hour concentrations of dust particulates PM 10 in the years 2010 – 2014 (acceptable level is 50 μg/m³)

Place of measurement	2012	2013	2014
Cieszyn	80	70	67
Wodzislaw	160	120	110

Source: as in the table 1.

Doing the evaluation of the presented indicators in the tables from 1 to 9 it should be claimed that the situation in terms of air pollution affecting health of the people and animals and protection of plants in Cieszyn is satisfactory in relation to other measurement's places in the Silesia zone.

It is evidenced in the fact that:

– most of the indicators is much below the acceptable ones,

– indicators of the Cieszyn city in comparison to other places where there were stated maximum pollutions are usually twice and even in some cases three times less.

It is a premise to calm our southern neighbours but it is never so good in order to be even better.

Environmentally friendly activities in Cieszyn

The Kawka program is a common program realised by the National Fund of Environmental Protection and Water Management (NFEP&WM) and the Provincial Fund of Environmental Protection and Water Management (PFEP&WM) which aim is to reduce emission of the pollutants to the atmospheric air.

Cities having more than 10.000 inhabitants and resorts where there are noticed exceedances of the accepted levels of air pollution (PM 10 dust and benzopyrene) can apply for money in accordance with Kawka program.

Realisation in 2015 the task „Reduction of low emission in the City Centre of Cieszyn – pilot project" relied on exchange of old heating technologies in the buildings into more energetic and ecological, it means connecting the buildings equipped with individual coal stoves to urban heating system. In addition, installation of thermal insulation in the buildings so far uninsulated will cause reduction of energy demand needed for their heating.

The main sources of air pollution in the cities are local heat sources, especially households' coal stoves and urban transport. The aim of the Kawka program is reduction of the pollution levels, first of all PM 2.5 and PM 10 dusts and emissions of carbon dioxide.

Financial funds which the city received for the purpose are: 1 million and 13 thousand Polish zlotych, including 444 thousand Polish zlotych of grant from the NFEP&WM, 386 thousand Polish zlotych of loan from the NFEP&WM and 183 thousand Polish zlotych of loan from the PFEP&WM. There is possible to get subsidy in the form of grants as 45% of the funds from the NFEP&WM and a loan up to 35% of the funds from the PFEP&WM in Katowice from the program.

The above obtained funds were distributed for the following tasks:

– there were connected to the urban heating system 8 multi–family houses,
– there were eliminated 151 coal–fired tiled stoves,
– the buildings were insulated reducing heating costs.

As a result of the investment's realisation there will be reduction of the harmful substances in Cieszyn with the values presented in the below table.

Table 10. Reduction of the pollutants' emission in the particular groups in kg/year

Types of pollutants	Reduction of the emission
PM 10 dust	2 264.00
PM 2.5 dust	2 145.00
Sulphur dioxide SO_2	5 362.00
Nitrogen oxide NO_x	775.00
Carbon dioxide CO_2	312 621.00
Benzopyrene	1.61

Source: www.ec.cieszyn.pl

The air polluted by the gases and dusts gets inside human's body causing cardiovascular diseases, allergies, neoplastic diseases, asthmas. Benzopyrene is dangerous for a human being the same as carbon monoxide CO (choke–damp) which is a gas having specific properties: highly toxic, colourless, odourless and lighter than air what makes it easy to spreading. Cieszyn Power Engineering Limited Liability Company is a manufacturer and distributor of thermal and electric energy on the terrain of the Cieszyn city. The heat production is realised in high–efficiency cogeneration with production of the electric energy. The company has effective heating system what means that 75% of the produced heat comes from cogeneration (Directive 2004/8/WE).

The carried on investments in the period 2011 – 2014 when Cieszyn Power Engineering was realising the project named „Reconstruction of the heating system in Cieszyn" which was co–financed by EU influenced on such good results. The total value of the project was 30.728 thousand Polish zloty and value of the subsidy was 11.897 thousand Polish zloty. Within the investment there was done replacement of old channel system and overhead parts into new ones and replacement of thermal insulation on the existing pipelines. In relation to the investment there were modernised about 10 kilometres of the heating system what affected on reduction of heat loss and consequently limitation of the air pollution by about 9.6%. Liquidation of the old heating system, mainly in the region of Bobrowka river contributed to improvement of attractiveness of the city by increasing its landscape values. Currently the company is not on the list of burdensome businesses for the natural environment.

Summing up as a result of the realised modernization Cieszyn Power Engineering became a modern and unique power plant in the field of production in Polish scale. In the longer term the company plans to replace section of the system done in old technologies into pipelines made in pre–insulated

technology with thicker insulation. As an effect of the project there will be reduction of heat losses. Limitation of carbon dioxide emission to the atmosphere is also linked with the savings.

1. The advantages of the realised pro–ecological investments are the following (http//euroregions.org./files/dokuments/Analiza.../).
2. Ecological effect – reduction of the low emission in the city centre in Cieszyn including limitation of burdensome smog in the winter period, 323 tons of pollutants less during the year.
3. Improvement of health condition of the inhabitants and improvement of rest necessary for good health and psyche which in the winter time is limited to work related to hating of homes.
4. Increase of thermal comfort in the homes and its providing with completive prices in relation to prices of other sources.
5. Limitation of costs related to management of the buildings due to maintenance and repairs of the tile stoves, chimney maintenances and necessity of their adaptation to transporting of exhausts from gas boilers (chimney and ventilation liners).
6. Improvement of aesthetics of the buildings' facades in the centre of Cieszyn (reduction of dirt as a result of limitation of the dusts emission).
7. Safety of heat supply to the houses, elimination of danger of carbon monoxide poisoning, explosion, electric shock or fire.
8. Saving of space as a result of lack of necessity to economise surface to store of fuel and heating devices.
9. Convenience related to maintenance–free, supplier of heat provides complex maintenance, modernisation and repairs of the heating devices.
10. Possibility to obtain significant financial resources from the funds of environment protection in the form of low–interest loans or non–refundable subsidies.

„Air without borders" is the next cross–border project realised in a broad partnership in the area of Silesia Cieszyn Euro region – Těšinské Slezsko. Its goal is increasing of awareness of air quality and related to it responsibility to each other and the neighbours. The cities Cieszyn, Český Těšin and Cieszyn County and the parties of the agreement joined to its realisation. They act inter alia by informing of Polish and Czech public opinion about current status of the air pollutions and about possibilities of active participation of the residents in local actions to improve its quality, actively engaging local governments, schools and other interested institutions. The partners aim to create conditions of common monitoring of the air quality in the region of Silesia Cieszyn Euro region. The program refers to the Air Silesia one realised

in the previous years which the object was creation of regional system of information about air quality on area of border in the region of Upper Silesia and Northern Moravia. From the above mentioned follows that in the first stage there was focused on social education and in the subsequent stages it is planned specific investments which will affect on improvement of the air condition, i.e. creation of a fund to financing exchange of boilers, heating systems and thermos–modernisation and also installation of air monitoring.

Differences and barriers of Czech–Polish cross–border's cooperation

Due to the strict norms in relation to the EU requirements the companies on the terrain of Poland and Czech Republic are forced to investments aiming to eliminate harmful impact of their business on the natural environment – removal of dust, elimination of harmful emissions. The investments have direct influence on development of the industry often due to rigorous conditions, which influence on moving the business on the terrain of other country, i.e. on the territory of Poland, where the norms are less rigorous. The most affected area is first of all the east part of Moravia–Silesian country where the limitations have significant influence on the industrial production which is an important branch of the industry in Ostrava agglomeration. A significant source of the pollution is also Upper Silesia agglomeration in which there are not such rigorous requirements as it is on the Czech side.

For example, in order to compare there will be presented a twin company named Arcelor Mittal Poland for which there was determined limit of dust emission in the amount 100 $\mu g/m^3$ emission of the pollution. Whereas, Arcelor Mittal Ostrava under the same actions is obliged to keep a limit which is two times more rigorous. Right away after three times crossing the acceptable limit of the dust value in the atmospheric air which is 50 micrograms per m^3, meteorologists give signal so–called regulation. It means that large industrial companies must adapt to so–called rules of regulations and therefore limit their production to minimize emission of the pollutants. In Poland the regulation was not accepted and it has no use even in the period when the value of the dust significantly exceeds the allowed limit.

In the light of the presented arguments in the process of identification of the differences between Polish and Czech side concerning realisation of the projects, the following barriers appear (http//euroregions.org/files/dokuments/Analiza...):

– high administrative burdens on the Polish side which characterise the fact that during applying project applications and during the inspection it is required to prepare many documents wherein some communities or enti-

ties do not have sufficient processing capacity to elaborate and submit the project application,
- legislative differences,
- insufficient advisory and essential activity,
- more strict control of departments on the Czech side,
- problems with financing the projects characterising by lack of obtaining of payments on account on their realisation and long waiting periods on their reckoning up from 1 to 1.5 year,
- lack of database of potential partners interested in realisation of a specific cross–border project,
- languages' barriers,
- risk of exchange rate's differences.

The conducted survey among the beneficiaries of the realised projects showed that ratio of answers on the question: „How do you assess status and protection of the atmospheric air?" (Condition of the environment in the Silesian province in 2014) was as follows:
- the worst condition – 9%,
- average condition – 79%,
- the best condition – 6%,
- there is no opinion – 6%.

It seems that the presented results of the survey confirm the previously formulated conclusions regarding the emission of the pollutants and protection of the air on the Czech–Polish border.

Summary

Taking into account the above analysis it should be noticed positive changes in terms of emission of the harmful substances to the air which characterised in the fact that:
- the emissions were lower from the acceptable ones,
- emission indicators of the appropriate pollutions in the analysed period had decreasing tendency.

The pro–environmental investments done by the Czech and Polish side have contributed to the situation. Still occurring differences and barriers in the cross–border cooperation on various levels will require further normalization as a result of bilateral negotiations.

In Poland there is required quick and thorough modernization of the entire energetic system considering the appearing energy deficiency and its higher and higher prices, and especially:

– saving of energy and improvement of efficiency of its use,
– reductions of transmission losses,
– supporting of renewable sources of energy,
– further reduction of the pollutants' emission to the atmosphere,
– gradual resigning of the carbon economy.

Realisation of the mentioned postulates should contribute to further improvement of the air quality and counteracting of changes of the climate. All these activities are consistent with the constitutional principle of the sustainable development and they serve economic and social growth.

References

Dzieje Cieszyna od pradziadów do czasów współczesnych, (2010). Książnica Cieszyńska.

Sońta W. (2008). *Mienie komunalne w Polsce. Zagadnienia prawne i finansowe*, Wydawnictwo Politechniki Radomskiej, Radom.

Ustawa z dnia 27.04. 2001 r. *Prawo ochrony środowiska*: t.j. Dz.U. 2013, poz.1232.

Rozporządzenie Ministra Środowiska z dnia 10 sierpnia 2012 r. w sprawie stref, w których dokonuje się oceny jakości powietrza: Dz.U. 2012, poz. 914.

Kaczmarczyk M. (2015). *Niska emisja – od przyczyn występowania do sposobów eliminacji*, Wydawnictwo Geosystem Burek, Kotysa s. c.

http//www. katowice. pios.gov.pl /raporty2014/raport2014.pdf

www.ec.cieszyn.pl

Dyrektywa 2004/8/WE Parlamentu Europejskiego i Rady z dnia 11.02.2004 r. w sprawie wspierania kogeneracji w oparciu o zapotrzebowanie na ciepło użytkowe na rynku wewnętrznym energii. Dostępne na: http//uokik.gov.pl

http://euroregions.org/files/dokuments/Analiza/Analiza_Problemow_ver_PL30092014_final.pdf

WIOŚ (2015). *Stan środowiska w województwie śląskim w 2014 r*. Katowice, Biblioteka Monitoringu Środowiska.

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PERFORMANCE OF PUBLIC TASKS BY COMPANIES OF LOCAL GOVERNMENT UNITS

The present article focuses on the issue of the provision of services of general economic interest by companies of local government units. Various parts discuss the basic requirements for entrusting the provision of this type of services to commercial companies, with particular reference to phenomena observed on a practical basis. It also addresses the aspects of diagnosed activities that bear signs of defectiveness, while stressing the importance of practices regarded as model. Collection and summary of conditions for the preparation and ordering the services from the sphere of public tasks was accompanied by the reflection on individual solutions, whose culmination are the observations relating to the recent changes in the national legislation and practice observed in other Member States.

JEL Classification Codes: **H54, H76.**

Keywords: local government units, public services.

Introduction

Local government units are responsible for the provision of a particular type of services in favor of the residents of an administratively–separated area. Ensuring their provision is of particular importance for meeting the basic needs of individuals, as well as effective implementation of the public authority. Following the criteria of a special method to regulate these services, they can be divided into several groups, namely: activities for the implementation of the public authority, social services and services of general economic interest.

For the purpose of this paper it was assumed that the implementation of the public authority includes all activities related to the implementation of

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the governmental authority, understood as an opportunity to develop the legal situation by persons outside the structure of public administration bodies, by means of decisions of the entity remaining the public administration body, within the meaning of the applicable law. Social services, referred to in the normative acts of the European Union, also as social services of general interest, relate to social security systems, covering the main risks of life and services of a preventive nature and contributing to the achievement of social cohesion and social exclusion (*Implementation of the Community Lisbon Program,* 2006) Services of general economic interest shall be understood as the sector of economic activity, which offers services of general public interest, which would not be provided or would be provided under different conditions, when it comes to quality, safety, affordability, equal treatment or public access, on the market without public intervention (*Quality frameworks for services of general interest,* 2011).

Due to the scope of this paper, it will discuss almost exclusively the issue of services of general economic interest by companies owned by local government units, together with selected aspects implemented in connection with this action in the field of the public authority. Time frames of individual observations will be set in particular by the date of the judgment of the Court of 24 July 2003 on C–280/00 (Altmark Trans GmbH, Regierungspräsidium Magdeburg against Nahverkehrsgesellschaft Altmark GmbH) and the entry into force of the Act of 22 June 2016 on amendment of the Public Procurement Act and some other acts (Journal of Laws of 2016, item. 1020, 1579 and 1920) to the extent of the implementation of the relevant provisions of the European Union law (Directive of the European Parliament and of the Council 2014/24/EU; Directive of the European Parliament and of the Council 2014/25/EU). This paper aims at the recapitulation and discussion of requirements and practical aspects concerning the choice of the method of the provision of services of public interest by the company of the local government unit, with particular reference to the most common mistakes in this regard.

Rules for the provision of services of public interest by companies of local government units

Considerations on the possibility of ordering the task in the field of services of public interest to the company of the local government unit shall be started by a general conclusion about the unique nature of this type of solution, and thus the necessity of paying special attention to meeting a number

of requirements in this regard. The first is the preparation of appropriate legal and organizational analyses, then the demonstration that the scope of services to be provided applies to services of public interest. The next step is the conclusion of an appropriate agreement that properly governs the scope of governmental authorities of the local government unit, as well as the mechanism for compiling and accounting the costs of the service. The completion of the service or the lapse of the period specified by law or agreement is followed by the audit of expenditures and settlements of the amount of compensation.

All the aforementioned requirements relate to the determination of the conditions for derogation from the principle of competitiveness when finding the entity responsible for the performance of the task, as well as meeting the conditions related to the services that can potentially be considered as state aid.

Service of public interest[2]

As indicated in the introduction, the services of general economic interest is a sector of economic activity, which offers services of general public interest, which would not be provided (or would be provided under different conditions, in terms of quality, safety, affordability, equal treatment or public access) on the market without public intervention.

Therefore, to provide the service of general economic interest, it must meet the basic needs of the citizens, which is covered by the category of public interest. The fact whether the services are of public interest, without full freedom in this regard, is decided by Member States, guided by the criterion of local conditions in the essential dimension. Thus, the solutions adopted in this regard shall be tailored to the needs of time and place. Therefore, considering the fact of entrusting the service for the provision to the company of the local government unit, it is necessary to determine whether, under the national legal order, there is an act specifying the provision as the service of public interest. If we refer to the sphere of services provided by local government units, basically their complete catalog is specified in Art. 7, paragraph 1 of the Act of 8 March 1990 on the local government (i.e. Journal of Laws of 2016, item. 446, 1579, 1948). It is, however, still necessary to answer

[2] For the purposes of this paper, the terms of „service of public interest" and „service of general economic interest" are treated as identical i.e. are characterized by the same group of designates, and thus will be used interchangeably.

the question of whether the fact of remaining of the service one of the elements of a sample calculation, mentioned above, makes it possible to order its provision in the so–called in–house procurement and on the principles of derogation or exemption to the rules concerning state aid. In the opinion of the author of this paper, the answer must be negative, in spite of completely different practices in this regard.

First of all, we must refer to the definition of the service of general economic interest, quoted in the introduction. The provision of this type is an element of the catalog of services of basic importance, defined by the Member State, which shall be stressed, and which would not be provided or would be provided under different conditions, without public intervention. In the current economic environment there is a number of service providers, referred to in Art. 7, paragraph 1 of the Act on Local Government. Thus, before classifying the service as the service of general economic interest, it is necessary to examine whether in the case of choosing the competitive selection mode of the contractor, it would be possible to find the service provider and whether this would ensure the adequate level of its provision. The last of these criteria applies in particular to the parameters, such as: quality, safety, affordability, equal treatment and public access. It is important to generally verify the fact of compliance with the overriding principle in relation of services of public interest, namely providing continuity (persistence) of the provision of services and their availability. The research in this regard shall refer to the relevant market of enterprises capable of meeting the aforementioned requirements.

In the opinion of the author of this paper, in the course of analyses referred to above, which shall be written on paper, it is necessary to determine the level at which the service shall be provided. The current technical conditions allow for the achievement of high quality of the provision of municipal services, and thus the local community may have a legitimate expectation as to the quality of services provided. Therefore, this analysis shall cover not only the determination whether the competition existed in the relevant market, but whether it is possible to achieve relevant, precisely defined conditions for its provision. If the answer to that question is affirmative, in the opinion of the author of these considerations, there are no grounds to classify the service as the service likely to be the so–called *in house* procurement and taking into account the rigors resulting from the scope of the state aid rules.

Business aspects, organizational aspects and economic efficiency aspects

In the course of preparation of entrusting the provision of the service of public interest to the company of the local unit government, it is necessary to precede such action by relevant analyses concerning not so much the service itself, but the considered manner of its provision. They are connected with the said uniqueness of the solution, in relation to the use of the competitive mode.

Entrusting the tasks to the company of the local government unit shall be preceded by business and organizational analyses, which will clearly indicate that individual projects are economically justified. This requirement relates to the purposes of operation of local government units, and is considered in this aspect, i.e. by identifying and defining the tasks of the local government in the data, personalized local conditions.

These analyses shall also justify the delegation of tasks to companies, as the best solution. In other words, from the point of view of the local government unit, the selected model shall be the most optimized from the organizational, legal and economic point of view. The burden of the demonstration of these features by the model lies with the commissioning entity, i.e. the local government unit. The control of practices of commissioning services points to the genesis of the defectiveness of this process in the absence of preparation of the described research (Supreme Chamber of Control, 2014).

The requirements applying to this kind of analyses refer to the necessity to prepare them in writing, in the period preceding the delegation of tasks to the company, and as to their reliability. The most difficult to meet is the requirement of the reliability of analyses. In this regard, it is necessary to avoid the preparation of documents according to the principles determining the fact of obtaining the desired application. Any observations made in these analyses shall be objectified, however, shall refer to the data and circumstances of the particular local government unit.

Company as an internal operator

The possibility to entrust the ability to provide services of public interest to the company of the local government unit, in the so–called *in house* procurement mode, is conditioned by the recognition of this type of company as an internal operator of the local government unit, within the meaning of the European Union law. According to the guidelines of the aforementioned judgment of the Court of 24 July 2003 on C–280/00, the internal operator will be

the company managed by the unit acting as the owner. Thus, in the course of the analysis of the meeting of the discussed requirement, the research will cover the scope of the imperious influence of the local government unit in relation to the company.

In particular, in larger cities there comes to the separation of functions and tasks of the entity performing the powers in relation to the company, concerning the ownership supervisory, as well as the responsible local government unit for exercising the rights and obligations under the entrustment agreement. This kind of solution shall be considered as relevant in view of the differences resulting from legal aspects of the asset management, and the act as the parties to the civil law relationship. In the other Member States, the relationships are differently developed, but the Polish legal order may result in potential problems arising from the combination in a single entity of ownership management powers with those resulting from the commitment. The real risk is the fact of obliging the companies owned by local government units to perform non–rational acts from an economic point of view, but reasonable in relation to the demands of ownership. In the opinion of the author of this paper, this is a relatively significant problem, which needs to be discussed in a separate statement.

The subject of the research in this case will be the cumulative scope of powers applicable to the local government unit, regardless of the basis for their exercising. Therefore, this scope will include both the powers resulting from the entrustment agreement concluded, as well as those defined in the generally applicable provisions of law. In this regard, however, it is decisive to the local government unit to have all or most of the shares in the company.

Object of economic activity of the company of the local government unit

For the sake of the clarity of funding of services of general economic interest, including the possible verification of compliance with the state aid rules by competent bodies, it is legitimate for the company of the local government unit to not conduct other economic activity than the one covered by funding, as part of the construction of entrustment. On the basis of the specific legislation, in subsequent stages of the development, especially with regard to network sectors, there were formulated the requirements for the separation of the entity operation sphere in the field of services of public interest, and the remaining object of economic activity, in this case the company. Examples may include structural, accounting or organizational separation. Not entering into the area of detailed considerations in this regard, we shall

opt for the concept of separation of the entity providing services of public interest, while to the remaining extent, which is increasingly practiced, transfer of other type of services to a separate company. Any other solution is conductive to the emergence or increase of the risk of the occurrence of the phenomenon of subsidizing the activity established outside the public utility sphere from public funds allocated for the performance of the service of general economic interest. Such a practice is forbidden in particular in terms of competition protection standards.

Method of determination of the company's remuneration

In the current development of regulations and views of the doctrine of law over the provision of services of general economic interest, there came to questioning the possibility of achievement of profits by companies of local government units, providing this type of service. However, in the context of classification of the phenomenon of provision of services of general economic interest to the economic activity sphere and its clear distinction from social services of a clearly non–economic nature, this position lost its base.

Given the above, the determination of the municipal company's remuneration shall be based on the following principles. The fundamental principle of financing of services of general economic interest is to incur the costs of the company's operation by public entities, but as mentioned earlier, only in terms of the provision of services of public interest. This means that the company must be entitled to receive the compensation for the costs actually incurred. In such cases, the remuneration is most commonly determined based on the cost calculation drawn up in advance, which is subject to the subsequent verification. When the expected costs of the service are higher than the assumed, the public entity is obliged to pay the specified cost, and respectively, in the case of lower costs of the service, the company shall make the appropriate reimbursement. Noting in this regard requires a faulty practice consisting in too general defining of calculation records. This document shall specify in detail the categories of costs to be incurred by the company, in relation to the designated manner of the provision of the service of general economic interest. The calculation will become the basis for the audit after the period of the provision of the service or after the lapse of the specified period for its provision.

As mentioned earlier, the basis for the decision on the selection of the service of public interest in the model of entrusting to the company of the local government unit, is the analysis indicating the economic efficiency of

this solution. Hence, in the opinion of the author of this paper, confirmed by the position of control authorities, the cost of the provision of the service of public interest by the company shall be lower than in the case of commissioning the provision of the service under the competitive procedure. In other words, the provision of the service of public interest by the company, in terms of costs, shall be optimal with respect to the interest of the local government unit. As pointed out earlier, the determination of costs is the provision of the service at the appropriate level, tailored specifically to the legitimate expectations of members of the local community.

The element arousing the most controversy is the category of the company's profit. Only the transport–related regulations determine a precise rate of the company's profit. In other areas of activity, it is specified in the agreement concluded between the local government unit and the company. The correct practice in this regard focuses on shaping the amount of the profit in relation to the service provision cost. It shall be stressed that in accordance with the position expressed in practice, the company shall achieve the profit not higher than similar enterprises, i.e. enterprises providing similar services on the relevant market with the same features.

Transferring the local government unit's assets to companies

The issue of transfer of the local government unit's assets in terms of the current practice requires attention to two phenomena. The first is transferring the assets to companies without the support in a specific contractual relationship. It shall be clearly noted that if the company actually holds the assets as the owner, it must have the appropriate empowerment in this regard. Its basis is usually the contractual relationship, specifying the powers and responsibilities of each party. The absence of regulations in this regard results in the faulty practice. In particular, in the case of infrastructure sectors, it is necessary to ensure the maintenance of assets in a non–deteriorated condition, while maintaining the integrity and efficiency of its use, in order to ensure the operation of the local government unit.

Another kind of problem is the situation of transferring the ownership of certain assets to companies without the proper control over its use in an efficient manner and in accordance with the purpose of the transfer. In such situations, it is recommended to introduce the effective control mechanisms, based in particular on the rights of the ownership supervision that will enable the enforcement of the sound management of assets from the company and its use only for the provision of services of general economic interest.

The postulated solution is to specify the best practice catalog in the field of management/ administration of entrusted public assets, or to appoint advisory teams of an interdisciplinary nature within the units exercising the substantive supervision.

Summary

The provision of services of public interest by companies of local government units remains the matter subjected to numerous regulations, mostly developed on the basis of practice and established based on the belief as to whether to increase the legal certainty in Altmark I and II packages[3]. In opposition to the belief that is practiced, the preparation and provision of services of general economic interest by companies in question, in accordance with the requirements outlined in this paper, is not a simple task devoid of risk. Substantive provisions in this regard stem from the basis on the principle of the uniqueness of these solutions and the model of competitive modes for awarding of contracts for such services.

The selection of the so–called *in house* procurement, in the system of entrusting and compensation of costs, is burdened with additional risks,

[3] The Altmark package I includes: Commission Decision of 28 November 2005 on the application of Art. 86, paragraph 2 of the EC Treaty for state aid in the form of compensation for the provision of public services, granted to enterprises obliged to manage the services of general interest (Official Journal of the EU of 29.11.2005, L 312/67); Community framework for state aid in the form of compensation for the provision of public services (Official Journal of the EU of 29.11.2005, C 297/4); Commission Directive 2005/81/EC of 28 November 2005 amending Directive 80/723/EEC on the transparency of financial relations between Member States and public enterprises and on the financial transparency within certain enterprises (Official Journal of the EU of 29.11.2005, L 312/47), replaced by: Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public enterprises, as well as on the financial transparency within certain enterprises (Official Journal of the EU of 17.11.2006, L 318/17).
The Altmark package II includes: Commission Decision of 20 December 2011 on the application of Art. 106, paragraph 2 of the Treaty on the Functioning of the European Union for state aid in the form of compensation for the provision of public services, granted to enterprises obliged to provide the services of general economic interest (Official Journal of the EU of 11.01.2012, L 7/3); Communication from the Commission on the European Union framework for state aid in the form of compensation for the provision of public services (Official Journal of the EU of 11.01.2012, C 8/15); Communication from the Commission on the application of the European Union rules in the field of state aid for the services of general economic interest (Official Journal of the EU of 11.01.2012, C 8/4).

which are not discussed in this paper, such as, for example, overstaffing, inefficiency in the achievement of set goals, extending beyond the public utility sphere by companies, local jurisdiction or jurisdiction of tasks that can be performed by local government units. These phenomena, however, remain outside the discussion of this paper.

The prerequisite condition for the performance of public tasks in the described mode is to understand its nature and type of legal standards, in which it was established. The regulations in this regard were developed on the basis of the provisions falling within the scope of the acquis of the European Union, dominated by the teleological interpretation, rather than the linguistic interpretation as in the case of the Polish legal order. Worth noting are also the trends observed in other Member States, where there is a gradual withdrawal of the intervention of public entities and minimizing of the scope of services included in the area of public utilities. This corresponds to the conviction of the leading role of services offered on the competitive market, as well as the strict application of the state aid rules.

In the context of the Polish economic reality, there comes to the development of municipal companies and increase of the scope of services provided by them. It corresponds to the legislator's attempts to acquire, for example, the so–called *in house* procurements, specified in the provisions of the Public Procurement Act, while the directives referred to in the amendment of the Act of June 2016 situate the contracts entirely outside the public procurement sphere.

Taken the analyzed solutions as a whole, in the opinion of the author of this paper, they are the interesting solution and often the only solution to quickly provide services of public interest to the local community, in addition to services provided at the appropriate level. It is necessary, however, to meet all the requirements in this regard, so there are no situations limiting the economic development, as a result of the appropriation of the areas of gainful activity by public entities.

References

Directive of the European Parliament and of the Council 2014/24/EU of 26 February 2014 on public procurement, repealing Directive 2004/18/EC, Official Journal of the EU L 94 of 28.03.2014, p. 65, as amended.

Directive of the European Parliament and of the Council 2014/25/EU of 26 February 2014 on procurements by entities operating in sectors of water management, energy, transport and postal services, repealing Directive 2004/17/EC, Official Journal of the EU L 94 of 28.03.2014, p. 243, as amended.

Gronkiewicz–Waltz H., Wierzbowski M. (2009). *Economic law. Administrative and law issue*s, Warsaw.

Grzelakowski A. (2004). *Policy in the field of transport, telecommunications and energy* [in:] Brodecki Z. (ed.), *Infrastructure*, ed., Warsaw.

Implementation of the Community Lisbon Program: social services of public interest in the European Union (COM (2006) 177, final version of 26 April 2006.

Karasiewicz K. (2009). *Services of general interes*t (in:) Piatek E., Karasiewicz K. (eds.) *Quo Vadis Europa III?*, UOKiK, Warszawa.

Karasiewicz K., *Services of general economic interest: between the single market and the citizenship of the European Union* (in:) Biernat S., Dudzik S. (eds.) *Movement of people and provision of services in the European Union. New phenomena and trends.*

Kawka I. (2008). *The role of the European administration in the regulation of infrastructure sectors*, Management Issues, No. 1.

Kociubinski J. (2011). *The concept of services of general economic interest in the EU competition law*, Europ. Judicial review, No. 8.

Kociubinski J. (2012). *The application of the Altmark package (I and II) to aid granted to enterprises providing services of general economic interest,* Wroclaw.

Kociubinski J. (2013). *Services of general economic interest in the European Union Law. The challenge for the European economic model*, Torun.

Krakala–Zielinska M. (2011). *The importance of the universal service in the creation of the EU sector of services of general interest* (in:) Gronkiewicz–Waltz H., Jaroszynski K. (eds.) *The Europeanization of Public Economic Law*, C.H.Beck, Warsaw.

Materna G. (2009). *Organization of services of public interest in the light of competition law* – commentary to the judgment of the Supreme Court of 20.11.2008 (III SK 12/08), Commentary, No. 3.

Quality frameworks for services of general interest (2011). the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Brussels.

Skoczny T. (2004). *Protection of competition and pro–competitive sector regulation*, Management Issues, No. 4.

Supreme Chamber of Control (2014). *Performance of public tasks by companies established by local government units*, Warsaw.

Szydlo M. (2005). *Regulation of infrastructure sectors as a kind of state functions to the economy*, Wydawnictwo Prawo i Praktyka Gospodarcza, Warszawa.

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SOCIAL CLAUSES IN PUBLIC PROCUREMENT AS A PREMISE TO OPTIMISE FINANCING OF THE TASKS OF GOVERNMENT UNITS

Accepting on 26 February 2014 by the European Parliament and the Council a new directive concerning procurement and the necessity to transposition its provisions to the Polish legal system caused the appearance of vital changes in the area of procurement referring to social aspects. The most momentous changes are connected with the specified in regulations possibility to describe a subject–matter of the contract including social requirements, possibility to exclude contractors exclusion and forming conditions of participating in proceedings, and possibility of forming offers assessment criteria referring to social aspects. Therefor the social aspects became a momentous, yet facultative premise of the optimisation of the public expenses within public contracts.

JEL Classification Codes: **H72, H57.**

Keywords: Public procurement, Government units, Optimise financing.

Introduction

Subjects of public administration constitute the widest group among those awarding with public contracts. It results from the fact that legal regulations concerning public procurement are in the first place directed to the units of the public finances sector (Public procurement law, Art. 3 sec. 1 point 1), and this category covers among others local government units (Public finances law, Art. 9 of 27). Hence, the area of public procurement is the sphere of the

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activity of local government units working in non–governmental forms, which are shown in entering contracts of civil law character and organization of civil law procedures aiming at selecting executors who are the parties of such contracts. A civil law character of public procurement does not, however, determine a total freedom of the contracting parties in this area. The issue of awarding public contracts includes also and interference of a legislator into the process of awarding a contract by imposing certain duties on contracting institutions or creating rights in order to realise the functions of the public procurement system (Panasiuk, 2007, p. 43 and the following).

The issue of public procurement is presently undertaken mainly by the act of 29 January 2004 – Public procurement law (hereinafter referred to as p.p.l). The act has been binding as of 2 March 2004. So far, this legal act has been change almost 50 times, also in the connection with the necessity of implementing directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts (Directive 2004/18/EC).

On 26 February 2014, the European Parliament and of the Council accepted new directives concerning public procurement: directive 2014/24/EU on public procurement, repealing directive 2004/18/EC (Directive 2014/24/EU), so called classic directive, as well as directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors and repealing directive 2004/17/EC (Directive 2014/25/EU), so called sector directive. As the European Parliament and the Council approved the classical directive and sector directive, there is an obligation to introduce a Polish legal system for their regulations. Pursuant to art. 90 section 1 of the directive 2014/24/EU and art. 106 section 1 of the directive 2014/25/EU, implementation deadlines of both directives into the legal system of the EU memberstates were on 18 April 2016.

On the ground of the Polish legislation, in connection with the obligation of transposition of the regulations of both classical and sector directives, there were revealed two concepts of actions: one aiming at creating one, complex act – Public procurement law, the other meaning regulations novelization of the binding act in the necessary scope. In connection with that, in 2015 the Public Procurement Authority created a project of a new act regulating awarding public contracts. In accordance with the authors' intentions, the goal of the regulation was to create mechanisms allowing the most effective usage of public means, as well as to enable the use of public procurement

as a means of meeting goals and policies described by the state. Among the most important solutions included in the project, there was indicated – together with regulations simplifying and making more flexible the procedures awarding public contracts – promoting the real use of non–economic goals of procurement contracts. The new solutions would take into consideration in public procurement issues connected with observing social regulations. In January 2016, the Public Procurement Authority went back, however, to the concept of so called small novelization of the act – Pubic Procurement Law. The transfer of the crucial regulations of the directive was done two months after the implementation deadline, i.e. on 22 June 2016 by the Act on act change – Public Procurement Law and some other acts.

In connection with the necessity of the implementation of the regulations of the classic directive, the issue of adjusting Polish national legislation to the requirement of the EU law became of special importance. It is worth paying attention to changes in the area of regulations concerning the issues of so called social aspects of public procurement.

The subject of the study are chosen rights and duties of the local government units as contracting authorities, in the area of realizing social aspects in the organization of public procurement application procedures. For that reason, in analyzed matter the concentration falls on so called classic contracts, while the issues concerning so called sector contracts were omitted, as they refer mainly to the subjects operating in certain areas of economy. The goal of the work is to present sensitive areas of public procurement application procedures covering the problem of subject requirements, requirements as to standing, and offers assessment criteria, in which there was revealed the necessity of a careful transposition of the classic directive regulations concerning social aspects. The study concentrates on so called social clauses, i.e. entries in documentation on public procurement placed by the contracting authority, which include requirements of the contracting authority concerning social aspects.

Financing Optimisation in Public Procurement Tasks

The term „optimisation" referring to financing public tasks, does not have a legal definition. The term optimisation itself is used in different contexts in legal sciences, including the financial law doctrine. In the literature concerning tax law, there is a commonly used term „tax optimisation", however in

practice the term is used in intuitive manner, hence without stating vital for a definition elements (Iwin–Garzyńska, 2016, p. 97–107).

For the needs of this study, the notion of optimisation refers to the choices made by the contracting authorities during the organization of public procurement application procedures, undertaken to realise goals of awarding public contracts. This choices – in accordance with optimisation requirements – are the more appropriate, the more possible appropriate reaching all goals of the public procurement they make. In the accepted understand, optimization has a multi–criteria character.

The analysis of all the goals of the public procurement, whose reaching is the criteria of optimisation, goes beyond the frames of this study. The objective is to emphasise the resent increase of the meaning of social goals in awarding public contracts, and through this emphasise the importance of the criteria as a premise of optimizing financing public tasks.

The issue was noticed in 2015 in the Recommendations of the Council of Ministers on the use of social clauses in public procurement by the government administration (*Sprawozdawczość klauzule społeczne*). In the document, the Council of Ministers reiterate their conviction that limiting social problems and connecting economic growth with better life conditions are the key tasks of government administration. The vital amount of public means dedicated annually by the government administration to finance the purchase of products, services and building works may have an influence on realisation of social and economic goals of the State. It also justifies intensified actions for a new approach to public procurement. The new approach to public procurement means that public institutions are obliged not only to conduct public expenses according to regulations on public procurement in order to purchase goods, services and building works by keeping the most favourite relation of quality to price, but they should also support the realisation of public policies, including in the range of social policy. Socially responsible public procurement serves taking into consideration different social aspects by the contracting, e.g. the possibility of employment and decent work, social integration, achieving equality of opportunities. It support creating socially aware markets. Binding statutory regulations give the contracting authorities the right to use social clauses by describing additional requirements connected with realisation of public procurement, including the unemployed or minors in order to prepare them vocationally, as well as the disabled.

Range of Social Clauses Use in Public Procurement

As shown in the preamble of the classic directive, public procurement plays a key role in the Europe 2020 strategy, set out in the Commission Communication of 3 March 2010 entitled 'Europe 2020, a strategy for smart, sustainable and inclusive growth' (EUROPE 2020) as one of the market–based instruments to be used to achieve smart, sustainable and inclusive growth while ensuring the most efficient use of public funds. Repealing of the previous directive and introduction of a new one is explained by the necessity to increase the efficiency of public spendings. Also, there is emphasized the need to facilitate the participation of small and medium–sized enterprises (SMEs) in public procurement, as well as enabling procurers to make better use of public procurement in support of common societal goals (Directive 2014/24/EU, point 2 of the preamble).

Indications included in the preamble to the classic directive have their continuation in a normative part. Within its frames, the main place is taken by the issues of regulations of awarding public contracts. The directive constitutes – next to the rule of non–discrimination, transparency and proportionality – the rule according to which memberstates are obliged to undertake appropriate steps which ensure that while realising public procurement, the procurers watch binding obligations in the scope of environmental protection, social and labour law, set in the European and national regulations, in collective agreements or in the international environmental protection law, international social law and international labour law[2].

Further regulations of the classic directive concerning social aspects transposed to the Polish legal system may be divided into four groups connected with the organisation of the public procurement procedures: (A) standards concerning description of the subject of the procurement and the realisation of the public contract (so called subject requirements), (B) standards con-

[2] Art. 18 section 3 of the classic directive. Attachment X to the directive includes a list of international conventions within the social and environment al protection laws. It lists among others: ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise, ILO Convention No. 98 on Right to Organise and Collective Bargaining, ILO Convention No. 29 on Forced or Compulsory Labour, ILO Convention No. 105 on Abolition of Forced Labour, ILO Convention No. 138 on Minimum Age for Admission to Employment, ILO Convention No. 111 on Discrimination in Respect of. Employment and Occupation, ILO Convention No. 100 on Equal Remuneration for. Men and Women Workers for Work of Equal Value, and ILO Convention No. 182 on Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

cerning conditions of participation in the proceedings as well as premises of the exclusions from the procurement proceedings (so called requirements as to standing), (C) standards concerning assessment criteria of the offers. Another group constitute (D) regulations concerning a separate way of proceedings in case of public contracts of some social services.

Uses of Social Clauses within Subject Requirements

Regulations of the classic directive, as well as the regulations of Public Procurement Law, which implements it, describing the duties of a contracting institution concerning a correct description of the public procurement subject, can be divided into those in which the legislator (a) imposes on a contracting authority the duty of meeting certain requirements, (b) allows using certain possibilities, and (c) plans certain prohibitions.

An example of restrictions imposed on a contracting authority in description of the public procurement subject is a legal norm included in art. 29 section 2 p.p.l., which implies it is forbidden to describe a public procurement subject–matter in a way which may hinder fair competition, as well as the norm from art. 29 section 3 of p.p.l. which includes prohibition of subject–matter description by indicating trademarks, patents or the origin, source or a special process which characterizes products or services provided by a certain supplier, if it can lead to favouritism or elimination of some providers or their products.

Interesting in the area of the contracting authority's rights are the regulations of the new classic directive concerning so called technical specifications which are an element of public procurement documentation prepared by a contracting authority. In technical specifications there are described required features of building works, services and supplies. In the directive there are allowed a few ways of forming technical specifications. The first, basically means forming specifications in the categories of performance and functional requirements. The other ways mean forming technical specifications by referring to appropriate norms, but by joining performance and functional requirements with the normative ones (Directive 2014/24/EU, Art. 42). In the directive it is stated that in case when compulsory requirements concerning accessibility are accepted in a legal form of the Union, a technical specification is described – as far as the accessibility for the disabled or designing for all the users are concerned – by referring to the act (Directive 2014/24/EU, Art. 42, section 1).

On the Polish ground, an example of such an approach to the issue is an amended regulation of art. 29 section 3a of p.p.l., which states that a contracting authority includes in the description of a contract services or building works description, employment requirements in which a contractor or subcontractor is obliged to employ based on a work contract people conducting works indicated by the contracting authority within the procurement realization, if conducting these works means doing work as described in art. 22 §1 of the act of 26 June 1974 r. – the Labour Code.

From the point of view of changes in Polish regulations, it is worth mentioning that according to the amended regulations of p.p.l., description of the subject requirements referring to the issue of employment reaches more vital meaning than before.

Particular attention should be given to the regulations describing exclusion of the rights of a contracting authority concerning the description of the procurement subject–matter. Pursuant to art. 29 section 2 of p.p.l., a contracting authority may give in a procurement subject–matter's description requirements connected with realisation of the procurement, which may include among others social aspects, aspects connected with innovation or employment, especially concerning the employment of: 1) the unemployed, pursuant to the act of 20 April 2004 on employment promotion and labour market institutions; 2) the minors as described in the labour law regulations, in order to prepare them vocationally; 3) the disabled, pursuant to the act of 27 August 1997 on vocational and social rehabilitation and employment of the disabled; 4) other people than described in points 1, 2 or 3, pursuant to the act of 13 June 2003 on social employment or to appropriate regulations of the European Union or European Economic Area member states (Szabroński, 2013, p. 157).

The classic directive refers also to the problem of so called labelling (labels). In case contracting institutions are going to purchase building works, deliveries or services of special character (e.g. social), they may in technical specifications, contract awarding criteria or conditions of realising the contract, require a certain label as a proof that building works, deliveries or services have the required characteristics (Directive 2014/24/EU, Art. 43).

The regulation transferring the provisions of the directive is at present art. 30a of p.p.l. It predicts that in case of procurement of special character, a contracting authority may include in the contract subject–matter description, in the offer assessment criteria or in the conditions of realising the procurement, special labelling, if the following conditions are jointly met: 1) requirements concerning labelling refer only to criteria which are connected

with the procurement subject, and they are appropriate for describing the characteristics of building works, deliveries or services which are the subject matter of the procurement; 2) requirements concerning labelling are based on criteria which are possible to be objectively checked and which are non–discriminatory; 3) conditions of awarding labelling are accepted in open and transparent procedure, in which all interested subjects can participate, including the subject which belong to public administration, consumers, social partners, manufacturers, distributors and non–government organizations; 4) labelling is accessible to all interested parties; 5) requirements concerning labelling are described by the third party, and the contractor applying for labelling cannot have a decisive influence on them.

Use of Social Clauses within the Frames of the Requirementsas to Standing

As mentioned before, the participation of contractors in the procurement proceedings is also connected with the need to verify their as to standing qualifications, referring for ex ample to certain qualifications, personnel potential, experience they have, but also the lack of circumstances disqualifying the contractor from the participation in the procurement proceedings.

In the content of the preamble to the classic directive there is also a reference to the issue of exclusion of the contractors because of so called „social obligations". Pursuant to the recital 101 of the preamble, contracting institutions should have the possibility to exclude contractors who turned out to be unreliable, for example by violating social obligations,, including regulations concerning accessibility for the disabled.

Pursuant to art. 57 section 4 item a) of the classic directive, institutions may exclude or be obliged to exclude from the participation in proceedings to be awarded a public contract when the contracting authorities, by any means, may prove violation of the applicable obligations, as described in art. 18 section 2 of the directive, i.e. among others, the obligations concerning social law.

In p.p.l, the reflection of the rule is art. 24 section 5 item 7) specify the possibility of the exclusion of a contractor who was issued a final administrative decision concerning the violation of obligations resulting from the regulations of the labour law, environmental protection law or social security regulations, if together with the decision the fine not less than 3000 PLN was given (Szabroński, 2013, p. 158–159).

The indicated exclusion premise is not obligatory. Its use depends on whether the contracting authority specifies such possibility in the given procurement proceedings.

Requirements as to standing include also positive conditions, on fulfilling which the participation of the contractor in the procurement proceedings depends.

In accordance with the content of the directive, employment and work are key elements which guarantee equal chances and which help to integrate the society. That is why the role of sheltered workshops and of the subjects leading so called „social economic activity" are noticed. However, the participation of such subjects in procurement in normal competition conditions is difficult. That is why the directive specifies that the memberstates may stipulate that the right to participate in procurement proceedings or to part of them is given only to such institutions or to other subject from the area of social economy. The contracting authority should also have the possibility to stipulate the necessity of contract realisation for the sheltered employment programmes (Directive 2014/24/EU, Recital 36 of the preamble).

Directive's recitals have their expression in art. 20 concerning so called reserved contracts. According to it, the memberstates may stipulate, among others, the participation in procurement proceedings for the sheltered workshops and contractors whose main aim is social and vocational integration of the disabled and disfavoured.

Based on the Public procurement law, the example of such a solution is the possibility to make a stipulation that the public contract may be awarded only to sheltered workshops and other contractors whose activity, or activity of their organisational units which are to realise the contract, covers social and vocational integration of people who are members of socially marginalised groups, especially the disabled, unemployed people deprived of personal freedom or released from prisons, who have problems with the integration with their environment, the homeless, refugees, people under 30 or right after 50 who are registered as seeking employment, people without employment, as well as the members of minority which is in an unfavourable situation, especially of national and ethnic minorities (Public procurement law, Art. 22 section 2).

Use of Social Clauses in Offers Assessment Criteria

Among offers complying with the requirements set by a contracting authority, filed by the contractors meeting the conditions of participating in

proceedings, the contracting authority makes the choice of the most advantageous offer. The contracting authority uses offers assessment criteria, being directed by the rules described in the public procurement regulations.

The basic rules ordering contracting authority's use of offers assessment criteria is the rule of a free choice of criteria by the contracting authority and the rule according to which the criteria have to refer to the subject–matter of the procurement. Keeping the freedom of criteria choice rule, art. 91 section 2 of p.p.l. show example criteria of the offers assessment, among which it enumerates social aspects, including vocational and social integration of certain groups, so called disfavoured people, who were mentioned above in connection with the requirements as to standing.

The issue of offers assessment criteria is undertaken in the new classic directive. Article 67, concerning contract award criteria states that contracting institutions base offer awarding on the offer which is economically most advantageous, the while the economically most advantageous offer is described based on price or cost, using the approach based on cost effectiveness, such as life–cycle–costs (*Guidelines for Social Life Cycle Assessment of Products*).

The economically most advantageous offer may encompass the Best ratio of quality to the price, which is estimated based on criteria covering different aspects, including social ones.

In accordance with provisions is necessary to analyse the feasibility of establishing a common methodology in the area of the calculation of social life cycle costs, taking into consideration the existing methodologies, such as „Guidelines for Social Life Cycle Assessment of Products" approved within the United Nations Environment Programme (Guidelines for Social Life Cycle Assessment of Products).

The issue of the calculation of life cycle costs is undertaken in art. 91 sections 3b–3d amended by p.p.l. Unfortunately, the content of the article does not refer to the social aspects.

Conclusions

Accepting on 26 February 2014 by the European Parliament and the Council a new directive concerning procurement and the necessity to transposition its provisions to the Polish legal system caused the appearance of vital changes in the area of procurement referring to social aspects. The most momentous changes are connected with the specified in regulations possibility

to describe a subject–matter of the contract including social requirements. Next change concerns premises concerning contractor's exclusion from procurement proceedings as a result of the violation of social obligations and the possibility of forming conditions of participating in proceedings referring to the employment of disfavoured people. Completing the changes is the possibility of forming offers assessment criteria referring to social aspects, which is specified in the amended act.

It is worth emphasising the fact that all presented changes do not impost obligations on the contracting authorities, but they specify the possibility of undertaking certain actions within the organisation of the procurement proceedings. At present, contracting authorities each time have a choice whether to introduce social clauses to given proceeding or not. Their possible introduction determines the course of procurement application proceedings, influences the way contractors' offers are prepared, including prices and contract realisation costs calculations. It means that social aspects remain a momentous, yet facultative premise of the optimisation of the public expenses within public contracts.

References

Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts, Official Journal of the European Union L 134 of 30.04.2004, p. 114.

Directive 2014/24/EU on public procurement, repealing directive 2004/18/EC Official Journal of the European Union L 94 of 28.03.2014, p. 65.

Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC Official Journal of the European Union L 94 of 28.03.2014, p. 243 as amended.

EUROPE 2020 A strategy for smart, sustainable and inclusive growth, http://ec.europa.eu

Guidelines for Social Life Cycle Assessment of Products of United Nations Environment Programme, http://www.unep.fr/shared/publications/pdf/DTIx1164xPA–guidelines_sLCA.pdf (accessed 30.03.2017 r.).

Iwin–Garzyńska J. (2016). *Nowe oblicze optymalizacji podatkowej w Polsce*, Finanse, Rynki Finansowe, Ubezpieczenia (83), part 1.

Panasiuk, A. (2007). *Publicznoprawne ograniczenia przy udzielaniu zamówień publicznych*, Bydgoszcz, Oficyna Wydawnicza Branta.

Public finances law, Dz. U. /Journal of Law/ of 2013, item 885 as amended.

Public procurement law (consolidated text: Dz. U. /Journal of Law/ of 2015 item 2164 as amended.

Recommendations of the Council of Ministers on the use of social clauses in public procurement by the government administration, https://www.uzp.gov.pl/baza-wiedzy/analizy-systemowe/sprawozdawczosc-klauzule-spoleczne

Sprawozdawczość klauzule społeczne: https://www.uzp.gov.pl/baza-wiedzy/analizy-systemowe/sprawozdawczosc-klauzule-spoleczne (accessed 30.03.2017 r.).

Szabroński, S. (2013). *Klauzule społeczne w zamówieniach publicznych a zrównoważony rozwój lokalny*, Warmińsko-Mazurski Kwartalnik Naukowy, Nauki Społeczne, Issue 1.

*The Act on act change – Public Procurement Law and some other act*s, Dz. U. /Journal of Law/ of 2016 item 1020.

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CIVIC INITIATIVE – BETWEEN SOCIAL AND MARKET ASPECT OF THE TERRITORIAL AUTONOMY'S ECONOMY ON THE EXAMPLE OF RADOM CITY

The subject of this consideration is the validity of existence and functioning of the direct mechanisms responsible for political decisions which are manifested in the process of the civic initiative – the most popular form of civic participation defined as the citizens' share in making decisions by the authorities. The goal of this work is to answer the question about the role and perspective of the civic initiative's progress as a tool of the citizens' effect on the decisions considering placing the wherewithal on the specific local investments. The issue of the civic participation, its mechanisms and the principles of its action presented in this project is discussed on the example of Radom city.

JEL Classification Codes: **H72.**

Keywords: social participation, citizens' initiative, citizens' budget, local government, consultations, democracy.

Introduction

It is easy to notice that there has been a systematic tendency among the citizens to decrease of sharing elections to the government representatives and an unwillingness to go in for political parties for several tens of years. Moreover, there is an opinion that the citizens' level of trust to public institutions and democratic mechanisms (Długosz, Wygnański, 2005, p. 4) is

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declining. At the same time, the meaning of the civic organizations which are ideologically differentiated and work in a various levels is rising (Wright, 1994, p. 102–137). Finally, it can lead to crisis of the mechanisms responsible for the functioning the country as a unit sometimes called „the deficit of the democracy"[2] (Nentwich) therefore the most of the citizens claims that the „authority" – chosen representatives – does not embody them.

The participation, defined as taking part – contribution in a bigger group, project or investment. Generally it is identified as an active taking part of a local society in the process of the public issues' management. Specifically, it comes down to citizens' direct activity while making political decisions (Sakowicz, KSAP XVIII p. 5). This term is firmly associated with democratic theories which are related to the participation in making decisions, cooperation among investments and society. The concept of social participation very often applies to the institution of „participated democracy" which relies on socializing of the administration of towns' and districts' budget. Participatory democracy is regarded as one of the form of direct democracy's implementation, or the governments without factoring of chosen representatives (Urban, 2009, p. 102) – „people's authority".

The fact that a decline of the trust to political representatives is real is best shown by the scientific researches made for that aim. The results of comparing analysis done in March 2011 in five European countries indicate that only 29% respondents in United Kingdom and even less in Poland – only 16% „trust the government is able to solve its country's problems"[3] (http://www.guardian.co.uk and http://centrumwspolpracy.org.pl/). In the same study 12% of British people claim that they acknowledge that politicians behave in a honest and right way while in Poland such opinion was presented by only 3%. Due to such negative results the attention was paid on the problem of decreasing voter turnout and low trust to public institutions. Creation of the possibility for citizens to take part in debates and express their own opinions about the decisions made by authorities became an important point. The

[2] „Democratic deficit" – the definition proposed by Michael Nentwich, referring to public participation in political participation UE, using the terms „opportunity structures for citizens Participations" and „political opportunity structures", it indicates that an organization such as the European Union provides ample opportunities for the participation of citizens in the creation of power, making decisions that are not used.

[3] The Guardian ICM. Examined a random sample of 5 023 adult respondents in five EU countries (UK, France, Spain, Germany, Poland) aged 18–64 years using the online dashboard in the period from 24 February to 8 March 2011.

initiative or the civil participation[4] (Kalina-Prasznic, 2001, p. 139) means conscious citizens' involvement in creating the decisions made by the representatives of national authority. For reaching that target there is a need for representatives of the government to start a dialogue between them and citizens which can lead to contribution of politics that is led by the government.

The civic participation in that shape means much more than only taking part in vote once a several years. Civic discussion as well as negotiations between the citizens and the authority about the way of public goods' redistribution are the essential parts of participated budgeting (Wampler, 2007). In practice that discussion should be realised by a permanent cooperation between the administration and the citizens based on mutual analyse of the problems and seeking for possible solutions (www.centrumwspolpracy.org.pl/).

The origins of the idea

The history of the participated budget is not long. The concept was created quite recently – in 90s of XX century. It can be surprised that not in Europe but in south–eastern town of Brazil – Porto Alegre. The goal of the civil initiative was not to enhance the democracy but to lead to varied social changes. Their aim is to initiate a long–term social reform consisting in the change of financial resources' redistribution at the city level. The most of south American cities that decided to apply the participated budget, was struggling with a lot of basic social and economic problems. In these cities there were big social disproportions in a range of the life standards causing extreme poverty which led to growth of the crime factor. Implementation of the participated budget there played a significant role causing involvement excluded social groups in the process of local issues' management which meant better and clearer system of city finances' disposal. A new solution had also an important psychological meaning because it contributed to building among citizens a sense of co–responsibility for the city they lived in. The participated budget was to increase the effectiveness of spending budget resources, to reduce wasting of money and to bring citizens' trust to authorities back (Sadura, 2013, p. 11).

The participated budget in Porto Alegre has turned to be a great success for years. In 1990, which was the first year of its functioning, in public assemblies there were only 976 citizens who took part, while in 2004 in the deci-

[4] The idea of participatory democracy derives from the koncept of Jean Jacquesa Rousseau.

sion process there were 50000 involved people who participated in official district and thematic assemblies (Górski, 2005 p. 20). What is essential, in the whole process the big share belonged to the poorest and jobless citizens who are rather unwilling to active involvement in a public life. On the organised assemblies the citizens were debating for example about: the housing economy, tourism, the social assistance, health, education, culture and spare time. Afterwards, they indicated main areas for particular district. Very important element of the participated budget was politics which informed about spending public money. Since 1990 in Porto Alegre the net of agencies that informs about the structure and factors of the budget, administrative supplies and investment plans has been functioning (Górski, 2005, p. 10). Moreover, each year the city officers are obliged to show the reports from accomplishment of the last year budget to the citizens. Positive effects of introducing the participated budget in Porto Alegre were for instance:

- generalisation of the access to water and electricity
- due to rising number of the students in elementary and secondary schools to 240%, the percentage of illiterates was the smallest in Brazil
- giving 98% of citizens sewage system, which had only 49% before
- the indicator of the average length of life exceeded national norms, the lowest death rate among infants in the country
- implications for the budget from local taxes grew for ages to 144% (Górski, 2005 p. 26–30).

Social participation in that shape first became widespread throughout the whole Brazil, where till 2008 this solution was introduced in about 200 cities. Therefore, the possibility to co–decide about expenses was obtained by more than 44 million of citizens from that country (Kłębowski, 2013, p. 11). At the start of 2000 the attempts to implement the participated budget was made in Europe: United Kingdom – 2000, France – 2002, Spain – 2003. The participated budget became very popular with the whole world very fast. Outside the European areas it appeared also in Africa, Asia and North America (Głąbicka, Świtał, 2016, p. 348). It was not only used for changing the civic politics but also for solving certain problems of specific social groups.

Polish rules and regulations

The first display of the initiative ideologically regarding to issues of the civic participation appeared in Płock[5] between 2003–2005. The project con-

[5] Płock – city located in Mazowieckie, Poland.

ducted by the City Hall in Płock, PKN Orlen and United Nations was to create so–called „grant fund" thanks to which local non–governmental organisations had possibility to apply for funding of their projects. (Głąbicka, Świtał, 2016, p. 349)

The idea of the introducing the first participated budget in Poland occurred in 2010 (some reports claim it was 2011) thanks to the Developmental Initiative in Sopot (www.sopockainicjatywa.org) informal organisation that functions in Sopot in favour of realisation of demands regarding balanced development and growth of citizens' participation in making decisions concerning themselves (Kraszewski, Mojkowski, 2014, p. 8). At first, the concept had not so many followers among the representatives of the city authorities. As a result of educational and promotional activities made by the Developmental Initiative in Sopot the City Council decided by vote a resolution that introduced mechanism of the participated budget. They wrote down a plan concerning putting under civil expenditure which stands about 1% of the all city budget's expands (about 3 million PLN). What is more, they convened the ad hoc Commission of the City Council for the civil budget that gave attention to formulation of the procedure of introducing the citizens' budget in Sopot. (Kraszewski, Mojkowski, 2014, p. 26).

The citizens' budget – such name was given to the civic participated initiative – was introduced in more than 70 communes and cities in Poland. In 2013 almost 40 cities in Poland fulfilled the participated budget as well as they planned a part of expands for 2014. cities were as follow: Białystok, Chorzów, Dąbrowa Górnicza, Elbląg, Gdańsk, Gliwice, Gorlice, Gorzów, Jaworzno, Kargowa, Kędzierzyn–Koźle, Koszalin, Kielce, Kraków, Legnica, Łódź, Milicz, Mrągowo, Olsztyn, Piekary Śląskie, Płock, Poznań, Radom, Rawicz, Ruda Śląska, Rybnik, Sopot, Starachowice, Słupsk, Stargard Szczeciński, Szczecin, Świętochłowice, Tarnobrzeg, Tarnów, Wałbrzych, Włocławek, Wrocław, Zielona Góra (Kraszewski, Mojkowski, 2014 p. 5–6).

Law aspects

Self–governments in Poland create budgets on the basis of approvals of the district council and executive organ's edict. Civil budgets realised in polish cities became contests of the citizens' projects which were funded by assigned parts of the budget – mostly about 1% of the whole city budget.

The civil budget is introduced according to Article 5a Law of communal self–government (Dz. U. 2016 poz. 446, 1579) on the basis of which in case of occurrences provided for the law or other important for communes issues

the consultations with the citizens may be carried out. The budget resolution accepted by the representative organ of the commune constitutes legal basis and authorisation for financial economy's management in particular budget year. (Borodo, 2008, p. 242)

Self–government enactment as well as the rules of the enactment of public finance do not regulate the issues about citizens' taking part in the procedure of the commune's budget creating and co–deciding about spending its financial sources. The organs of commune are obliged to deal with the enactments such as a village head (a mayor or a president) and the city council. The executive organ develops the budget project and shows it to the council within a particular time frame restricted by the law of the public financials until 15th of November the previous budget year. Whilst according to Article 18 (2) point 4 of the self–government law the city council is obliged to enact the commune budget, examine reports from its functioning and make a resolution as providing discharge for that. Therefore, the regulations of the self–government budget procedure do not add the legal basis to working on so–called the participated budget. (Czarnecki, 2014)

Essential is fact that the civil budget is not exactly like social consultations. Despite the fact that both institutions are not combining for authorities. As far as the citizens' budget is concerned, the citizens however have some guarantee that their willing will be respected and the project chosen by them will be funded next budget year. Generally, in the case of civil initiative process the commune authorities declare that citizens' decisions will be approved. Such solution is only a social deal between the authorities and the citizens. Attitude like that may cause a lot of doubts to begin with the fact that the social deal does not combine both fronts effectively but is based only on goodwill in fulfilling promises. That is why councillors who do not abide by the deal laws do not have to bear any consequences. It would have sense only if the councillors suffered the consequences of not fulfilling the points of deals for instance not agreeing with citizens' proposals about introducing budget offers to the council in accordance with the deal. However, the councillor's mandate is a free mandate; therefore, there is no possibility to make deals concerning the way of fulfilling the mandate by the councillor. In that case the citizens do not have any legal means which can help them to exert gratifying the promises made by the authorities when they do not fulfill assignments chosen by the citizens. The only sanction for not fulfilling restricted issues from the civil budget which the citizens absorb is not voting for specific authorities in self–government vote or organising an appeal referendum. It is appropriate to mention that there was not any case of not fulfilling the deal so far. (Kraszewski, Mojkowski, 2014, p. 8).

The civil initiative in Radom – first projects

The subject matter concerning the participated budget in Radom which regards putting forward citizens' points of view about specific investments was initiated in 2013. However, earlier because in 2012 the city authorities chaired meetings with citizens involving postulates about modernisation and city resources' improvement. The civil budget was assumed to occur as a sort of social consultations in support of spending part of the budget of the Commune's of City Radom on indicated by the citizens' local purposes. Within the limits of the participated budget the citizens who have the rights to vote were able to get involved in the choice of investments which should be realized as a part of the city budget put at disposal by them.

On 21st of January 2013 city council in Radom adopted a resolution number 472/2013, which introduced the procedure that regulates rules of social consultation in Radom in general. Its aim is to regulate the legal issues of the social participation in the active managing of the city. The main goal was to define the rules and procedures of conducting social consultations with the inhabitants of the city, it also indicated the term of social consultations and their purpose. That is why the proposed resolution of the definition of social consultation should rely on:

- expression an opinion, submit comments and proposals to the matters subject of consultation,
- providing responses for questions,
- selecting one of the proposed solutions (Uchwała nr 472/2013 Rady Miejskiej w Radomiu z dnia 21 stycznia 2013 r.).

The most important goal of public consultations with the citizens was to strengthen the mechanism of the civil participation concerning important issues for every citizen. It causes at the same time active cooperation of local authorities and citizens in making a modern civil society more popular, raising civic awareness and responsibility for local issues (www.konsultacje.radom.pl). The purposes in this act were identical and relied on:

- including the residents in the process of city management,
- expressing citizens' opinions about the matter of the consultations,
- obtaining public understanding and acceptance for proposed solutions,
- building the civil society.

Moreover, a form of consultation was identified and it formed:

1) an open meeting with residents
2) meeting with the representatives of social and professional groups, non–government organisations and other groups conducting charitable activities for the benefit of residents

3) receiving opinions and proposals in a form of a paper of electronic survey. (Uchwała nr 472/2013 Rady Miejskiej w Radomiu z dnia 21 stycznia 2013 r.)

The decision–making process of the participated budget was divided into two stages. In the first stage the residents reported their proposals to the city budget by completing a registration form. Firstly, they filled the form and next they sent it to the City Hall. The citizens had to define the purposes of their project, a short description, and estimated costs in this form. Then all the submitted forms were given to departments where they were analysed mainly focusing on the legal possibilities of the investment as well as the economy, and the possibility of securing funds for the idea in the upcoming years. The cost of each project cannot go over 600 000 PLN. Next the verified substantive projects with descriptions and recommendations were submitted by the offices of the president (the Centre of social communication) to the opinionated team that analysed these projects on the basis of the recommendations and it developed a final list of the residents' projects to vote. (Załącznik nr 1 do Zarządzenia nr 77/2015 Prezydenta Miasta Radomia z dnia 7 stycznia 2015 r.). The list of all received projects, both of these matching the conditions and those not matching, was given to the public information.

The second stage was the residents' voting on reported and verified projects. The projects were evaluated in a secret vote. Every resident of Radom who graduated 16 years has the right to participate in the voting. The voting is carried out within the prescribed time schedule and special prepared cards to vote in the indicated areas in the city (Załącznik nr 1 do Zarządzenia nr 77/2015 Prezydenta Miasta Radomia z dnia 7 stycznia 2015 r.). Residents of Radom voted on the basis of lists of votes when they shown their ID card. Voters could choose five the most interesting and most important projects. After verification of those applications this projects which obtained the most votes were introduced into the budget for the next year, until the budget funds were used for their realization. These funds were allocated differently in various cities (for instance in Sopot it was 6 million PLN, in Poznań 10 million PLN, in Elbląg 2 million PLN) (www.radom.pl).

Public consultation concerning the participated budget give the residents opportunity to comment about spending part of the financial resources of the community on specific investment, renovation or other works. The participated budget is in fact a plan to divide a certain amount of money included in the budget of the commune, about which residents can discuss in the form of social consultation (Borodo, 2008, p. 248–249).

Citizen's initiative in Radom in successive councils

In 2014 the total amount of the civil budget was 3 millions PLN. It means that each of the project from the five electoral districts was worth 500 thousand PLN. The same sum of money, also 500 thousand PLN, was given to the citywide project (www.radom.pl).

In 2015 this amount increased and estimated 4 million and 200 thousand. Therefore each area received 700 thousand PLN. It is a big difference with comparison to the previous year.(www.radom.pl) The sum allocated in the city budget for the civic budget in 2016 already amounted 4 million 800 thousand PLN[6] giving 800 thousand PLN. to the projects of each of the five areas and 800 thousand PLN for citywide project. (Zarządzenie nr 77/2015 Prezydenta Miasta Radomia z dnia 7 stycznia 2015 r.)

The winning projects were divided according to five areas. The following tables present the projects which were included in the following areas (https://konsultacje.radom.pl).

Table 1. The winning project in the area of the whole city– area „0"

No.	The venture project	Number of voters	Total points	Estimated cost (thousand PLN)
1	Good house – place of concern for the human psyche	2 685	12 625	100
2	Ambulance for citizens of Radom	2 280	10 836	500
3	Parks bespattering against mosquitoes and ticks	1 968	9 121	200

Source: The author's own compilation.

Table 2. The winning projects in the area number 1

No.	The venture project	Number of voters	Total points	Estimated cost (thousand PLN)
1	Playgrounds for primary school numb 13	3 280	15 909	600
2	Modernization of land for recreational and sport purposes for children, teenagers and adults	2 637	12 677	200

Source: The author's own compilation.

[6] Although the cost of individual projects in some areas exceeded the estimated cost for the proposed area of 800 PLN. The civic budget finally fit in the assumed total of 4 800 000 PLN.

Table 3. The winning projects in the area number 2

No.	The venture project	Number of voters	Total points	Estimated cost (thousand PLN)
1	Bike paths on the Ustronie estate and on the Grzecznarowskiego Street	1 580	7 319	600
2	New books for the libraries, increasing of the library branch no. 14 and 15	798	3 366	100
3	Fit children – healthy children. Zone of physical activity and rest in a primary school no. 4 in Radom	807	3 329	200

Source: The author's own compilation.

Table 4. The winning projects in the area number 3

No.	The venture project	Number of voters	Total points	Estimated cost (thousand PLN)
1	A multipurpose sports field and running track on the Wośniki estate	2 261	10 810	600
2	New books for the library, increasing of the library branch No. 9, 12, 16	859	3 784	100
3	By foot and safe	696	2 890	100
4	Equipment fencing, and change of the location of the playground on the Podkanów estate in Odlewnicza 2 Street	577	2 359	100

Source: The author's own compilation.

Table 5. The winning projects in the area number 4

No.	The venture project	Number of voters	Total points	Estimated cost (thousand PLN)
1	Development of green objects in Maria Konopnicka high schoolin Radom	2 218	10 535	300
2	Continuation of the construction and enlargement of the Gołębiów park–gym, fitness, new trees and walking and cycling paths	1 470	6 886	300
3	Transformation of several rooms in the primary school public recreation and sports complex for Kaptur, Zamłynie, Wacyn estate	793	3 411	100
4	New books for the library, increasing of the library branch No. 3, 4.	678	3 784	100
5	Outsidegym in Mroza Street in Radom	571	2 486	100

Source: The author's own compilation.

Table 6. The winning projects in the area number 5

No.	The venture project	Number of voters	Total points	Estimated cost (thousand PLN)
1	Construction of pedestrian paths and bicycle paths along the Energetyków, street between Stara and Nowa Wola Gołębiowska	1 740	8 251	600
2	New books for the library, increase the library branch No 1, 2	785	3 360	100
3	Gym under the sky	720	3 036	100

Source: The author's own compilation[7].

Citizen's initiative in Radom – plans for the future

Certainly, the civil budget will be continued in following years owing to the fact that it is very popular and it has positive effects. It should be noted, that the procedure for its preparation is not easy and requires involvement of many resources and the work of a lot of clerks. Basically, it is not really appropriate to define it as a method of direct deciding about the city issues. It should be called the „half–direct" method or the „indirect" system of deciding concerning versatility of proceedings and activities of the Commission that gives opinions about the projects which excludes most proposals. Nevertheless, the design of the social participation should be assessed positively because it is not only motivates the commune, the city but also has many positive effects on economic and social sphere. It improves thrift and supports the proper usage and allocation of financial resources.

In 2017 projects for implementation under the civil budget also was divided according to six areas. Within citywide project there will be realized for instance: first aid for anyone, literary and theatrical workshops, mobile museum of antique bicycles, the new car–parking spaces in Radom, bespattering parks in the city against mosquitoes and ticks, „cancer backwards", the informative and aid campaign, free bikes transport – health and ecology. In the first region the projects which was approved are as follow: the revitalization of the area – the renovation of the square, the playground, the construction of parking spaces, replacement of lighting, jogging for health – free „nordic walking" classes, exposing the most valuable monument of Radom by its illumination and safe pavement and bicycles path to the station. The

[7] Tables No. 1, 2, 3, 4, 5, 6 have been developed on the basis of the data contained in Appendix 5 to report on the public consultation on the so–called. Citizens' budget of Radom for 2016.

second area was obtained such initiative: renovation of the gym in primary school No. 9 in Radom and the expansion of the gym and outdoor playground in the „Ustronie" park. The third area gained as much as 8 new projects: the construction of „Skrajna" Street lighting, cheerful mini playground, fitness park in primary school No. 26, „laboratory space", „brighter way to home", the improvement of communication in „Południe" estate. In the fourth area the residents decided to create an inter–generational club of initiatives, cycling paths in three urban neighborhoods and support the development of new green areas on the outskirts of „Gołębiów" estate. In the last five area most points were gained by the following projects: the construction of the tool for the long jump in the primary school No. 20 in Radom, bike paths in the „Gołębiów" and „Glinice" estates and introduction of a „cultural meeting by the stream". (Załącznik nr 6 do sprawozdania z konsultacji społecznych dotyczących Budżetu Obywatelskiego Miasta Radomia na 2017 r.)

Conclusions

Building a development strategy involving the introduction of far–reaching changes should be based largely on human perceptions which have a major impact on creating the vision of the development and the willingness of its realization. The most essential role is played by the local government, which should be the inspiration and the moderator of an activity of the citizens, that aims to develop collective agreements regarding solving social problems.

Owing to the institution of citizens' initiative, citizens have much greater opportunities to participate in the process of creating the projects that are undertaken in their communities. Special dimension becomes a principle of democracy as one of the basic constitutional principles. In the most general terms, it is considered as a democratic system in which power is exercised by „demos" which means people (Mik, 2000, pp. 414–438). Despite the fact that such understanding of democracy is reflected in the constitutions of several countries, the authorities extreme rarely realise it directly[8].

The reference to dreams and creativity of the citizens themselves should be the overriding criterion in the process of creating the policy of the civil society's development and strengthening its structures. The civil budget is a very important and necessary initiative.

[8] Preamble of the Polish Constitution: „[...] We, the Polish Nation – all citizens of the Republic ..." art. 4 of the Constitution: „1. Supreme power in the Polish Republic belongs to the Nation. 2. The Nation shall exercise such power through their representatives or directly "

References

Borodo, A. (2008). *Samorząd terytorialny. System prawnofinansowy*, wyd. 6, Warszawa

Czarnecki, K. (2014). *Udział mieszkańców w ustalaniu wydatków budżetu gminy w ramach tzw. budżetu partycypacyjnego (na przykładzie Torunia w latach 2013–2014)* artykuł w Prawo Budżetowe Państwa i Samorządu 1(2)/2014

Długosz D.J., Wygnański J. (2005). *Obywatele współdecyduję, Przewodnik po partycypacji społecznej*, Stowarzyszenie na rzecz Forum Inicjatyw Pozarządowych, Warszawa.

Głąbicka K., Świtał P. (Ed) (2016). *Partycypacja społeczna w samorządzie terytorialnym – aspekty prawne, ekonomiczne, społeczne*. Instytut Naukowo–Wydawniczy „Spatium", Radom

Górski R. (2005). *Przewodnik po demokracji uczestniczącej/partycypacyjnej, Poznań–Kraków.*

http://centrumwspolpracy.org.pl/wp-content/uploads/2014/11/budzet-partycypacyjny.pdf (accessed 17.11.2016 r.).

http://www.bip.radom.pl (accessed 26.11.2016 r.).

http://www.guardian.co.uk/news/datablog/2011/mar/14/europe-poll-icm#data (accessed 17.11.2016 r.).

http://www.radom.pl/page/3536,razem-o-budzecie-miasta-na-2015-rok.html (accessed 26.11.2016 r.).

http://www.sopockainicjatywa.org/ (accessed 17.11.2016 r.).

https://konsultacje.radom.pl/page/14,konsultacje-spoleczne.htmlhttp://www.radom.pl/page/2835,razem-o-budzecie-miasta-na-2014-rok.html (accessed 26.11.2016 r.).

https://konsultacje.radom.pl/page/145,zwycieskie-projekty-budzetu-obywatelskiego-2016.html (accessed 26.11.2016 r.).

Kalina-Prasznic U. (Ed.)(2001). *Encyklopedia prawa*, Warszawa.

Kłębowisk W. (2013). *Budżet partycypacyjny. Krótka historia obsługi*, Instytut Obywatelski, Warszawa.

Kraszewski D., Mojkowski K.(2014). *Budżet Obywatelski w Polsce*, Fundacja im. Stefana Batorego Warszawa.

Mik C. (2000). *Europejskie prawo wspólnotowe. Zagadnienia teorii i praktyki, t. 1*, Warszawa.

Nentwich M. *Opportunity structures for citizens' participation*, [w:] A. Weale A., Nentwich M. (Ed.), Political Theory.

Sadura P. (2013). *Podzielmy się kulturą. Budżet partycypacyjny w Domu Kultury Śródmieście. Opis procesu wraz z rekomendacjami*, Fundacja Pole Dialogu, Warszawa.

Sakowicz M. *Partycypacja społeczna w działaniu administracji na tle rozwiązań w państwach Unii Europejskiej – prace analityczne słuchaczy KSAP XVIII Promocji* (Ed.) M. Sakowicz, Krajowa Szkoła Administracji Publicznej, Warszawa.

Uchwała nr 472/2013 Rady Miejskiej w Radomiu z dnia 21 stycznia 2013 r. w sprawie zasad i trybu przeprowadzania konsultacji społecznych na terenie Miasta Radomia.

Urban A. (2009). *Bezpieczeństwo społeczności lokalnych,* Warszawa.

Ustawa z dn. 08.03.1990 r. o samorządzie gminnym, Dz. U. 2016 poz. 446.

Wampler B. (2007). *Participatory Budgeting In Brazil Cooperation and Accountability*, Pensylvania State Uniwersity Press PA.

Wright V. (1994). *Reshaping the State, The Implication for Public Administration (Ed.) W. Muller, V. Wright, The State in Western Europe. Retreat or Redefinition?* Special Issue if West European Politics, Vol. 17, No. 3

Załącznik nr 5 do sprawozdania z konsultacji społecznych dotyczących tzw. Budżetu Obywatelskiego Miasta Radomia na 2016 r.

Załącznik nr 6 do sprawozdania z konsultacji społecznych dotyczących tzw. Budżetu Obywatelskiego Miasta Radomia na 2017 r.

Zarządzenie nr 77/2015 Prezydenta Miasta Radomia z dnia 7 stycznia 2015 r. w sprawie: przeprowadzenia na terenie Miasta Radomia konsultacji społecznych dotyczących tzw. Budżetu Obywatelskiego Miasta Radomia na rok 2016.

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Małgorzata Ofiarska[1]

OPINIONS OF THE REGIONAL ACCOUNTING CHAMBERS REGARDING THE DOCUMENTS ON THE FINANCIAL ACTIVITY OF THE METROPOLITAN UNION

Except for one provision, the Act on RACs does not specify the rules and procedure of issuing the RACs' opinions on the documents drawn in the course of financial activity of these unions. In this regard, the provisions of the Public Finance Law and Act on RACs apply, setting out the limits of the RACs' opinion–making activity. The subjects of the opinions are the following: draft resolutions, periodical information and reports, recovery proceedings programmes, other financial documents. In general, the opinions issued by RACs do not contain any content binding for their recipients, but in certain situations specific obligations arise, e.g. to present opinion in a proper term to the proper body, making correction to previously prepared financial documents. In one case the negative opinion revokes the entitlement of the decision–making body of the metropolitan union to adopt the budgetary resolution.

JEL Classification Codes: **H70, H79.**

Keywords: metropolitan union, financial documents, opinions, Regional Accounting Chamber.

Introduction

The aim of this paper is the analysis of the existing legislation regarding issuing the opinions by the Regional Accounting Chambers (RACs) on the documents drawn with reference to the financial activity of the metropolitan

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unions and pointing out to the fact that this particular form of third party intervention in the financial independence of those unions is necessary. It has been assumed that all public finance entities, including local government units, shall be treated equally in the light of public finance law. This equal treatment shall be reflected in the solutions regarding issuing opinions on documents referring to the financial matters of the local government units (LGUs) as well as various organizational units created by LGUs, including metropolitan unions. The basic research method shall be the method of legal dogmatics, supplemented with analytical and empirical methods. The scope of study included current legislation, legal academics and jurisdiction withe reference to the RACs' opinion–making activity regarding various financial matters of the new local government unit, i.e. metropolitan unions.

The provisions of the Metropolitan Unions Act dated 9 October 2015 have remained effective since January 1, 2016 (Act of 9 October 2015). This is not a legal act of a complex nature, as it does not contain all regulations referring to different aspects of the metropolitan unions functioning. Its internal structure results from repetition of the concept previously applied in so–called local government system acts (Act of 8 March 1990) providing general regulations on, among others, LGUs tasks and their scope of activity, the structure and competence of their organs, principles of making local enactments, the property and finances of LGUs, supervision on their activity. Likewise, the metropolitan unions, which constitute entities classified as local government sector, have been regulated in a separate act.

The legal status of a metropolitan union is specified by the provisions of Article 1,2 and 5 and Article 9 item 2a of Public Finance Law of August 27, 2009. Those provisions specify metropolitan union as the association of LGUs located within a particular metropolitan area, constituting a spatially coherent impact zone of the city being a seat of voivode or regional assembly, characterized by strong functional relations and advancement of urban processes, with at least 500.000 inhabitants. Metropolitan union comprises the communes located within the boundaries of the metropolitan area and poviats which include at least one commune located within the boundaries of the metropolitan area. Metropolitan union is a legal person performing public tasks on their own behalf and at their own responsibility and their independence shall be protected by the courts.

Thus, the essence of a metropolitan union is its being clearly distinguishable from the LGUs forming this union. Such distinction may be of formal and substantial legal nature. The attributes of this distinction are, among others, the bodies of the union being different from the bodies of the LGUs forming

this union, the catalogue of union's own tasks, statutory sources of union's income and revenues, own budget of a metropolitan union and different financial plans (e.g. long–term financial forecast), budgetary reporting of the union separate from the budgetary reporting of the LGUs forming the union.

The need to create legal basis for the creation of metropolitan unions has been reported by the local government circles and academics for many years. It has been pointed out that it is necessary to reinforce the current structure of the public administration in its local dimension with the entities capable of satisfying effectively the collective needs of the inhabitants of the communes, entwined with the neighbouring LGUs to form a single organism through a network of mutual dependencies stemming from functional, economic and cultural relations (Dolnicki, 2016, p. 563). In view of the regulations of the Public Finance Law, metropolitan unions have the legal status of the units of the public finance sector. In accordance with Article 4 section 2 Public Finance Law, the provisions of this Act regarding LGUs shall apply accordingly to these unions, including the provisions regulating issuing opinions by RACs.

The essence and scope of the opinion–making activity of the Regional Accounting Chambers

The term „opinion" has been widely used in the acts regulating the status, tasks and functioning of RACs, however the term was not defined by the legislator. According to dictionaries, an opinion – (French: opinion) is an assumption, outlook, information, decision (oral or written) regarding the value and merits of someone or something, the assessment, reference (Dubisz, 2003, pp. 237–238) or reputation (Bańko, 2005, p. 495). A similar term, though not used in the legislation regarding RACs, is „consulting", which may denote seeking opinion of a specialist, expert or a person of trust, giving advice and providing explanations by a specialist or expert (Bańko, 2003, p. 672). Thus, it shall be assumed that „to issue an opinion" shall be associated with such actions as: to review, express an opinion, asess, consult (Bańko 2005, p. 495). An opinion–maker is a person or institution authorized to issue opinions on something or someone (Dubisz, 2003, p. 238) on the grounds of having necessary knowledge or experience (Bańko, 2007, p. 368). An opinion–making body may be, for example, a body or entity whose task is issuing opinions on something or someone (Bańko, 2007, p. 368).

The task of RAC directly expressed by the legislator is developing opinions on the matters specified in the enactments (Act of 7 October 1992, Article 1

section 3). However, further provisions of the Act on RACs, as well as the Public Finance Law, contain the term „issuing an opinion". Dictionary definition of „developing" specifies it as „working on something and giving it a defined shape" (Bańko, 2007, p. 374). Thus, developing an opinion does not necessarily involve presenting other entity with this opinion. Issuing an opinion (previously made and developed) is related with presenting it to a specified recipient who is located outside the organizational structure of the RAC. (Ofiarska & Ofiarski, 2013, p. 247). Opinions issued by RACs may be considered a tool for preliminary review of the whole process of financial management by the local government, i.e. from the stage of financial planning to the acknowledgement of the fulfilment of duties by the executive bodies (Jurewicz, 2015, p. 115).

The scope of RACs' opinion–making activity regarding metropolitan unions is specified in three enactments. Pursuant to the provisions of the Public Finance Law, RACs issue opinions on:

- possibility of repayment of the credit or loan and redemption of securities taken out or issued by the union;
- draft resolution on long–term financial forecast for the union, or draft of amendment of this resolution;
- the correctness of the planned amount of the union's debt resulting from the planned and incurred liabilities,
- draft budget resolution of the union,
- recovery proceedings adopted by the union,
- possibility of financing the deficit presented by metropolitan union;
- annual report on the execution of union's budget;

Moreover, pursuant to Article 23 section 3 Metropolitan Union Act, RAC issues an opinion on the conclusions made by the audit committee of the union's assembly, regarding the acknowledgement of the fulfilment of duties by the union board. The scope of RACs' opinion–making activity is also specified in the Act on RACs. It is comparable with the scope specified by the provisions of Public Finance Law, however the Act on RACs also mentions the opinions issued with reference to the information on the current budget execution in the first six months filed by the union board.

Various documents created within the framework of the financial activity of the metropolitan union are also subject to the opinions issued by RACs. These include: draft resolutions, annual reports on the execution of union's budget, recovery proceedings programmes, semi–annual information on the budget execution, conclusions by the audit committee of the union's assembly regarding the acknowledgement of the fulfilment of duties by the

union board, forecasts regarding the possibility of loan (credit) repayment or redemption of debt securities, forecasts regarding servicing of public debt and budgetary deficit of the metropolitan union. The aforementioned documents refer to both the preliminary stage of the financial activity of the union (forecasts, projects), and the stage summarizing the given period of this activity (reports, information, conclusions of the audit committee). Those documents may also be classified taking into consideration the criterion of frequency – how often they are drawn and the opinions are being issued on them. Based on this criterion, it is possible to distinguish the following categories of issuing opinions on documents: periodically, i.e. each calendar year (draft resolutions, annual reports, semi–annual information); intermittent, i.e. not every calendar year (forecasts regarding the planned public debt or budgetary deficit); in extraordinary circumstances (recovery proceedings programmes).

The opinions issued by RACs are generally not binding for the bodies of a metropolitan union or third parties to such union (e.g. banks or other financial institutions), however the legislator has specified such a manner of presenting this information and time of notifying certain bodies and entities, that the contents of particular opinions may have a significant impact on the actions taken by these bodies (entities), as well as on the decisions made by these organs (bodies). Thus, the non–binding nature of RACs' opinions should be analysed taking into consideration the manner of their presentation. It should also be noted that the content of the opinion is the outcome of the works of an expert body having insight in the whole financial economics of the metropolitan union. The opinions are formulated by RACs based on the criterion of legality. All RACs' activities related to the functions they serve (supervisory and monitoring) is based on this criterion (Sawicka, 2013b, p. 50).

Pursuant to Article 14 and Article 15 Act on RACs, the RAC's body is defined as a committee comprising chairman of the chamber acting as the President of the committee and other members appointed by Prime Minister upon the request of the president of the chamber. The members appointed from the candidates proposed by the decision–making bodies of the LGU constitute half of the chamber's committee. The statutory scope of duties of the RAC's committee includes issuing opinions on matters specified in the acts. This task is executed by the adjudicating panel of three, composed of the members of the RAC's committee. The opinions of the adjudicating panel take the legal form of resolutions passed by absolute majority of votes, with at least half of the members of the committee present. The resolutions are executed by a person chairing the meeting of the committee. It is possible

to appeal against the decisions of the adjudicating panel to the RAC's committee en banc within 14 days from the day of serving the resolutions In the event of appeal against the decision of the adjudicating panel, the task of the committee is to consider the appeal against the opinion, and not to deal with the claims already processed by the adjudicating panel (Resolution of RAC in Bydgoszcz, 2004).

RACs' periodical opinions on the the financial documents of the metropolitan union

It should be noted with reference to the aforementioned classification of the financial documents of metropolitan union that each year the following documents are subject to opinion by RACs: draft budgetary resolutions of the union, draft resolutions on long–term financial forecasts, information on the execution of union's budget in the first six months of the year, annual reports on execution of the union's budget along with the information on the condition of the union's property, conclusions made by the audit committee of the union's assembly regarding the acknowledgement of the fulfilment of duties by the union board.

Pursuant to Article 238 Public Finance Law, the board of the metropolitan union is obliged to draw a draft budgetary resolution of the union and present it to the union's assembly and RAC no later than November 15 of the year preceding the budget year. Issuing an opinion on the presented draft budgetary resolution is a task of the RAC. The opinion of RAC is a document which significantly affects the course of legislative works of the union's decision–making body aimed at passing the budgetary resolution (Gorgol, 2014a, p. 1147). Legal academics specifies the significant function of such opinion, namely being an instrument of preliminary audit, aimed at preventing the law–making body from adopting the budget in the form that is contrary to applicable norms (Salachna, 2013, p. 941). The RAC's opinion is not binding for the body adopting the budgetary resolution, however the union board is obliged to present it to the union's assembly before adopting the budget.

Article 238 section 3 Public Finance Law indicates that every opinion (positive or negative) issued by the RAC on a draft budgetary resolution must be presented by the executive body (board) to the decision–making body (assembly) of the union. This duty was stipulated differently in Article 21 section 1 Act on RACs, as only the negative opinion on draft budget should be presented to the decision–making body before adopting the budget (together with reply to all allegations included in the opinion) by the executive

organ. The legislator does not refer to the positive opinion issued by RAC in the quoted provision. Moreover, the legislator points out that issuing negative opinion on the draft budget does not withhold the procedure of budget adoption. Provisions of Article 238 section 3 Public Finance Law and Article 21 section 1 Act on RACs have different scope, as the first one refers to any opinion of the RAC, whereas the second provision refers only to the negative opinions issued by RAC. Moreover, the objects of opinions are specified in a different manner t in each of them. Article 238 section 3 Public Finance Law uses the term „draft budgetary resolution", whereas a much narrower term „draft budget" is used in Article 21 section 1. Pursuant to the provisions of Public Finance Law, the budget of metropolitan union is the annual plan of income and expenses, as well as the revenues and disbursements of the union. Budgetary resolution consists of a budget and appendices containing the summary of the planned amounts of subsidies granted from the union's budget, the income plan of the income statement of the metropolitan budget units conducting activity in the field of education and the expenditures financed using this amounts, plans of the revenues and costs for the enterprises owned by local government.

The law academics generally state that every opinion issued by the RAC, either positive or negative, on draft budgetary resolution should be presented to the decision–making body by an executive body, and, in the case of a negative opinion being issued by the RAC, the executive organ is also obliged o present the decision–making body with replies to allegation contained in this opinion (Sawicka, 2013b, p. 53). The adopted budgetary resolution should be audited by the RAC, which, in the course of supervisory proceedings, indicates inaccuracies and the means and manner of their removal. Should the competent body fail to remove inaccuracies in a specified period of time, the RAC's committee adjudicates invalidity of the resolution in full or in part. It is highly probable that if significant inaccuracies were indicated in the previously issued opinion and the said inaccuracies have not been removed during legislative works on a draft budgetary resolution, the RAC shall deem the resolution invalid in part or in full (Salachna, 2013, p. 942). Shall the budgetary resolution be deemed invalid in part or in full, the budget or the parts of the budget affected by invalidity shall be adopted by the RAC committee.

The provisions of Article 230 Public Finance Law clearly indicate that it is only the board of the metropolitan union that is granted initiative in the matter of drawing a draft resolution on a long–term financial forecast of the union (as well as entitlement to amend it). The draft resolution, including draft resolution amending the long–term financial forecast, is presented for

opinion together with draft RAC budgetary resolution by the union board. Opinion on a draft resolution on a long–term financial forecast of the union or its amendment is issued by the RAC with special emphasis on ensuring the compliance with the provisions of the Act regarding the adoption and execution of the union's budgets in the next years, including liabilities already incurred or planned. The RAC opinion issued regarding that matter is not read out during the budgetary session of the union's assembly(Resolution of RAC in Zielona Góra, 2010), it is subject to Article 246 section 2 Publice FinanceAct, applicable accordingly, thus the RAC's opinion is published by the metropolitan union within 7 days from the day of receiving it form the RAC The opinion is publishedin accordance with the rules set out in Act of September 6, 2001, on access to public information (Act of 6 September 2001), i.e. the official online journal defined as Biuletyn Informacji Publicznej [Public Information Bulletin].

Pursuant to Article 230a point 1 Public Finance LAw, RACs were obliged to hand the projects of long–term financial forecasts together with the opinion results in the form of an electronic document to Minister of Finance no later than on December 31 of the year preceding the budget year (Resolution of Minister of Finance of January, 2013). This provision entered into force on January 1, 2013 and it is aimed at providing Minister of Finance with greater scope of information on the anticipated financial situation of LGUs and their unions (Leńczuk, 2014, p. 1118).

The scope of RACs duties, specified in Article 230 section 4–5 Public Finance Law include issuing opinions on the correctness of the planned debt amount of the metropolitan union resulting from the incurred and planned liabilities. The opinion is drawn based on the long–term financial forecast adopted by the union and on the budgetary resolution. Shall the RAC's opinionbe negative, the union is obliged to introduce such changes to the resolution, that the union continues to be able to pay its liabilities in a given budget year: loans and credit instalments, redemption of securities and liabilities arising from the sureties and guaranties granted by the union. Capability of regulating the liabilities is established pursuant to the provisions of Article 243 Public Finance Law. Using the plural form „resolutions" in Article 230 section 6 Public Finance Law indicate the obligation to make amendments both to the resolution regarding the long–term financial forecast and budgetary resolution (Walasik, 2011, p. 48).

Article 230 Public Finance Law stipulates that RAC participates in the procedure of adopting long–term financial forecast for the metropolitan union through execution of certain audit tasks in the form of an opinion. There are

two types of opinions, as the first one refers to the assessment based on the criterion of conformity with the law of the draft resolution regarding the long–term financial forecast, whereas the other opinion refers to the correctness of the planned amount of the union's debt and budgetary resolution (Sawicka, 2013a, p. 72). It has also been noted that the existing provisions of law do not directly specify the general competence of RAC as for the assessment of the validity of the forecasts included in the long–term financial forecast. It is assumed that they may provide assessment of the formal „validity" of the long–term financial forecast, i.e. examination of the conformity of the numbers adopted for the forecast with the ones adopted in the budget and with the data specifying the numbers of previously incurred liabilities, as well as the examination of the aforementioned conformity of the resolution on long–term financial forecast with the statutory requirements (Srocki 2014, p. 8).

Pursuant to the provisions of Article 266 Public Finance Law, no later than on August 31, the board of the metropolitan union presents the assembly of this union an RAC with:

- information on the execution of the union's budget,
- information on the long–term financial forecast, including the process of realization of the long–term programmes, projects or tasks (including the ones related to programmes financed with European funds and agreements on public–private partnership),
- information on the execution of the financial plan for the first six months of the year (specifically with account for the status of receivables and liabilities, including the due ones), independent public health care institution, local government culture institutions, local government legal persons whose founding body is the metropolitan union.

The scope and form of this information is specified by the union's decision–making body (assembly). The absence of even one of the necessary elements in the contents of the decision–making body resolution regarding the scope and form of the information shall result in the resolution being incomplete (Resolution of RAC in Lublin, 2012) and make it impossible to control the process of carrying out the targets contained in the financial plans of the union or its organizational units. Pursuant to Article 13 point 4 Act on RACs, only the information on execution of the union's budget in the first six months of the year is the subject of RAC's opinion. The rest of the aforementioned information does not formally constitute the subject of RAC's opinion, however their content may be used by the RAC to form opinions regarding the information on union's budget execution in the first six months (Salachna,

2010, p. 386). It is possible to appeal against the resolution of the adjudicating panel of the RAC committee regarding such opinion within 14 days from the day of serving the resolution. The appeal shall be considered by the RAC's committee no later than within 14 days from the date of its lodging.

Pursuant to article 267 Public Finance Law the board of the metropolitan union presents to the assembly, no later than on March 31 of the year following the budget year, annual report on the execution of the union's budget, containing summary of income and expenses resulting from closing of the union's budget accounts, no less detailed than specified in budgetary resolution. Within the same time frame, the union's management board presents this report to the RAC in order to obtain an opinion. By issuing the opinion on the budget execution report, the RAC's committee adjudicating panel directly affects the factual and legal situation of the executive body. The union's management board, being the recipient of the opinion concerning the category of financial matters the board is responsible for, has the sole authorisation to lodge an appeal against the decision of the RAC committee adjudicating panel (Resolution of RAC in Warsaw, 2011).

Pursuant to Article 21 section 2 and 3 Act on RAC, the chairperson of the RAC informs the voivode and Minister of Finance about the negative opinion issued regarding the annual report on the execution of the budget. RAC's negative opinionregarding the reporton the execution of the union's budget is presented by the union's management board to the union's assembly together with a reply to objections raised in the opinion no later than the day the fulfilment of duties by the union's management board is acknowledged. Article 21 Public Finance Law does not specify the form in which the execution body is obliged to reply to claims formulated in the negative opinion issued by RAC. The most correct form would be a written reply presented at the session of the decision–making body and then constituting an appendix to the minutes from the budgetary session. However, as the written form has not been specified y the legislator as mandatory, the executive body may give oral reply to the claims contained in the opinion. The oral reply should be recorded in the minutes of the budget session (Decision by Voivodship Administrative Court in Łódź, 2015).

Pursuant to Article 270 section 2 and 3 Public Finance Law, the union's audit commission reviews, among others, considers the report on budget execution together with RAC's opinion on this report and presents the union's assembly with the motion to acknowledge the fulfilment of duties by the union's management board, no later than on June 15 of the year following the budget year. No later than June 30 of the year following the budget year, the

union's assembly adopts a resolution on the acknowledgement of the fulfilment of duties by the union's management board, following examination of the report on union's budget execution, the RAC's opinion on this report and the opinion of the audit commission. The opinion (conclusion) of the union's assembly audit commission regarding the acknowledgement of the fulfilment of duties by the union's management board is subject to opinion by RAC, pursuant tot the provisions of Article 23 section 3 Metropolitan Union Act.

RAC's opinion on the execution of the budget is not binding and claiming otherwise would be a violation of the rules of the sole competence of the decision–making body to the review the report on the execution of the budget and the resulting acknowledgement of the fulfilment of duties. RAC's opinion is a source of knowledge aimed at providing information useful for the assessment of the execution of the budget (Chruściel & Kotowski, 2012, p. 65). The acknowledgement of the fulfilment of duties constitutes the summary of the execution of the budget. It is the element closing the financial economics of the union and a measure of control over the union's board by the union's assembly (Decision by Voivodship Administrative Court in Kielce, 2013). The acknowledgement of the fulfilment of duties is an act made by the decision–making body, approving the financial activity of the executive body. The acknowledgement may not be related to any assessment other than the assessment of the board's activity connected directly with the execution of the budget. In the course of the acknowledgement process, clear information regarding the degree of completion of the planned income, expenses, revenues and expenditure shall be obtained, the reasons for discrepancies shall be explained and the question if it is the board who is responsible for such discrepancies shall be answered. The resolution regarding the acknowledgement of the fulfilment of duties must be strictly the outcome of carrying out assessment of the execution of the budget (Resolution of RAC in Opole, 2012).

RACs' occasionally issued opinions on the documents regarding the financial documents of the metropolitan union

Opinions may be issued by RACs only occasionally, i.e. Following the particular event, thus not every calendar year. They may refer to the union application for a loan or credit or the intention to issue securities, forecast regarding the planned public debt or budgetary deficit of the union.

The obligation of the board of the metropolitan union to obtain the RAC's opinion results from the provisions of Article 91 section 2 Public Finance Law. The obligation arises only when the union is applying for a loan or a credit

or loan or intends to issue securities whose proceeds are to be spent on financing the planned budget deficit of the union, repayment of earlier obligations with respect to the issue of securities and loans and credits, preceding financing activities financed from the EU budget, financing investment spending and investment purchases included in the framework of multiannual programmes, projects or tasks. The union's management board shall apply to RAC for issuing the opinion. In their opinion, the RAC indicates the possibility of loan or credit repayment or redemption of securities by the metropolitan union.

The need to draw the opinion by RAC, expressed in Article 230 section 4 Public Finance Law, results from planning the debt of the metropolitan union, arising from planned and incurred liabilities contained in the long–term financial forecast. In such circumstances, the amount of metropolitan union's debt and the means of its repayment shall be specified for each year of the financial forecast. Pursuant to the long–term financial forecast adopted by the union and budgetary resolution, the RAC present sthe opinion on the correctness of the planned amount of union's debt. In the event of RAC's issuing negative opinion in this regard, the metropolitan union amends the resolution in such manner, that the union's ability to pay its obligation in a given budget year is preserved. This means the negative opinion issued by the RAC obliges the union's bodies to commence certain legislative actions, i.e. Preparing draft amendments to the resolutions by the union's board and adopting those amendments by the union's assembly. Thus, it may be concluded in such context that the negative opinion issued by the RAC results in the union's bodies taking the actions specified in Article 230 section 5 Public Finance Law.

Shall a deficit be planned in the draft budgetary resolution of the union, the RAC, pursuant to the provisions of Article 246 Public Finance Law, shall present their opinion on the possibility of financing the deficit based on this draft. The RAC's opinion is published by the metropolitan union in public information bulletin [Biuletyn Informacji Publicznej] no later than 7 days from the day of receiving the opinion from the RAC. Further opinion by RAC regarding the possibility of financing the deficit is presented pursuant to budgetary resolution adopted by the union's assembly. This means RAC issues an opinion on financing the deficit twice: once based on the draft budgetary resolution and the second time on the ground of the adopted budgetary resolution. Thus, despite the fact both opinions are issued by the same body, the factual and legal substantiation of the issued opinions is different in each case (Gorgol, 2014b, p. 1197).

The legislator has specified a finite list of sources of funding the metropolitan union's deficit. Pursuant to Article 217 Public Finance Law Budgetary deficitmight be financed with the revenues from: selling the securities issued by the union, credits, loans, privatising the union's assets, surplus of the union's budget from the previous years, spare funds being the surplus cash on the union's budget current account, resulting from the settlements of the issued securities, credits and loans from the previous years. Wrong indication of the source of addressing the deficit in the budgetary resolution constitutes a breach of law (Resolution of RAC in Katowice, 2016).

RACs' opinions on the documents regarding the financial documents of the metropolitan union issued in extraordinary situations

A situation may be deemed extraordinary in the event of the metropolitan union not being able to adopt neither the long–term financial forecast, nor the budget that would provide stabilization and liquidity, or in the occurrence of threats to the realisation of public tasks by the union. The provision regulating the actions taken in the aforementioned events was added to Article 240a Public Finance Law on December 28, 2013. It normalized the procedure of presentation and realization of the recovery proceedings and substitutive establishment of the local government budget by RACs. Shall it prove impossible to adopt a long–term financial forecast or the budget of the metropolitan union fulfilling the standards set out in Article 242–244 Public Finance Law and the realization of the public task by the union is threatened, the RAC committee is obliged to request the union to develop and adopt the recovery proceedings programme and hand the programme to the RAC for opinion within 45 days from the day of receiving the request. The union's assembly adopts the recovery proceedings programme for the period not exceeding 3 consecutive budget years.

Article 13 point 13 Act on RACs states that the RACs' scope of duties include issuing opinions on recovery proceedings programmes. It has been assumed that the RAC's opinion on such programme is a supervisory measure and the only criterion for issuing the opinion – similarly to the case of potential threat to realisation of the public tasks – must be the recovery programme's being in compliance with the law (Bitner 2016, p. 691) within the meaning of the programme fulfilling the formal and material standards specified in Article 240 Public Finance Law. Such a specific assessment of the nature of the RAC's opinion on recovery proceedings programme might

be affected by the suggestions made by the drafter of the act amending Public Finance Law. It has been pointed out that as RACs supervises the financial economics of the LGUs, it is also the RACs' task to issue opinions on the recovery proceedings programmes developed by LGUs (Explanatory statement on a bill dated November 8, 2013 on amendment of Public Finance Law and certain other acts – form no. 1789, Sejm RP, 7th term). Even prior to the aforementioned act amending Public Finance Law, there were proposals to introduce solutions enabling RACs' supervision over the realization of the recovery proceedings programmes in the local government sector entities (Gonet, 2013, p. 185–187).

Pursuant to Article 240 section 4 Public Finance Law, the union's decision–making body may adopt long–term financial forecast and the union's budget which fail to maintain relation specified in Articles 242–244 Public Finance Law in the period of realization of the recovery proceedings programme that has obtained a positive opinion by the RAC, however such failure to maintain relations may apply only to the payment of liabilities existing on the day of adopting the recovery proceedings programme. In such circumstances, the decision–making body shall retain authorisation to adopt the aforementioned resolutions. The type (content) of RAC's opinion is therefore important, as in the case of a positive opinion on the programme not being issued by the RAC, it is the RAC who shall adopt the union's budget (Decision by Voivodship Administrative Court in Szczecin, 2013). Both the negative opinion by RAC on the recovery proceedings programme and failure to develop such programme by the metropolitan union, pursuant to the provisions of Article 240a section 3 Public Finance Law, is considered an event justifying substitutive adoption of the union budget by the RAC. Following the adoption of the budget by the RAC, the union's assembly regains its competence regarding the budgetary matters (Resolution of RAC in Wrocław, 2015). Pursuant to Article 240a section 9 Public Finance Law, the amendment of union's budget adopted by the RAC without maintaining relations specified in Article 242–244 Public Finance Law may not result in increased degree of failure to maintain relations resulting from this budget.

Final conclusions

The scope and rules for RACs issuing opinions on the financial documents of the metropolitan union is comparable to the procedure of issuing opinions on such documents drawn in LGUs, metropolitan associations and county

unions. The Act on Metropolitan Unions, except for one provision referring to RACs' issuing opinions o the conclusions of the audit commission of the acknowledgement of the fulfilment of duties by the union's board, does not contain any other provisions referring to the process of issuing RAC's opinion on the financial documents of the union.

Thus, the provisions of the Public Finance Law and Act on RAC shall apply. Moreover, Article 16 section 2 Metropolitan Union Act contains significant provisions — pursuant to this Article, provisions of chapter 7 Voivodship Self–Government Act entitled „Supervision over the activity of the voivodship self–government" shall apply accordingly to the supervision over the activity of metropolitan union. The RAC's opinions are not binding for the local government bodies, but in certain circumstances are considered as a form of supervision, along with confirmations and arrangements (Decision by Voivodship Administrative Court in Wrocław, 2006). Article 80 Voivodship Self–Government Act may be indicated in the context of RACs' opinion–making activity. It states that if the law requires that the validity of the decision made by the local government body depends on the opinion on that decisionissued by the other body, zsuch body shall make a statement no later than within 14 days from the day of serving this decision or its draft The quoted provision refes to an existing, specific resolution which is to be delivered to the other body in order to obtain an opinion (Decision by Voivodship Administrative Court in Szczecin, 2008). In the analysed situation, it is obligatory to serve the RAC, in order to obtain opinion, with various financial documents of the metropolitan union (draft resolutions, periodical information and reports, recovery proceedings programmes, other financial documents).

Metropolitan union is a public entity and a unit of a public finance sector to which specific solutions apply regarding the standards of planning and executing financial activity. Execution of financial economics by an entity of such legal status shall be made pursuant to and within the limits of applicable law. The opinions issued by RACs are mainly a form of preliminary control over the financial activity of the metropolitan union. In the cases where the metropolitan union's body – due to RAC's having issued a negative opinion – has to commence certain activities, such opinion may be qualified as a quasi–supervisory measure (e.g. negative opinion resulting in obligation to duly correct the long–term financial forecast and budgetary resolution in order to obtain standards set out in Articles 242–244 Public Finance Law). In one case, the negative opinion of the RAC may be categorised directly as a supervisory measure the RAC is entitled to, i.e. the negative opinion on the

recovery proceedings programme, resulting in the union's assembly losing the authorisation to adopt the budget and leading to the substitutive adoption of the budget by RAC.

Moreover, the opinion–making activity of RACs is also an important source of gathering information about the events related to financial economics of the self–government sector entities. Pursuant to Article 10 Act on RACs, on the grounds of the results of the supervisory, monitoring and opinion–making activity, the RAC presents a report on the condition of financial economics of a given self–government sector entity, if it is neccessary to point out the repeated irregularities or threat to the execution of statutory tasks to local government bodies. The RAC's committee takes decision on drawing the report by means of a resolution, specifies its scope and term and appoints a member of the RAC's committee responsible for preparation of the draft report. The report may not be drawn on request of the other entity, e.g. the decision–making body of a self–government entity or a group of councillors (Grzegorzewski 2004, p. 6). Following the adoption of the report by the RAC's committee, the chairman of the RAC hands the report to the decision–making and executive bodies of the proper self–government entity (in case of the union, also to the union's bodies). The bodies of the entity may file objections to the report to the RAC's committee no later than within 30 days from the day of receiving the report. The RAC's committee dismisses the objections or meets the concerns and amends the report. The content of the report is subject to announcement in teleinformatic system.

References

Act of 27 August 2009 on Public Finance Law, consolidated text Dz.U. of 2016 item 1870 as amended.

Act of 5 June 1998 on District Self–Government, consolidated text Dz.U. of 2016 item 814 as amended.

Act of 5 June 1998 on Voivodship Self–Government, consolidated text Dz.U. of 2016 item 486 as amended.

Act of 6 September 2001 on access to public information, consolidated text Dz.U. of 2016, item 1764 as amended.

Act of 7 October 1992 on Regional Accounting Chambers, consolidated text Dz.U. of 2016 item 561 as amended.

Act of 8 March 1990 on Commune Self–Government, consolidated text Dz.U. of 2016 item 446 as amended.

Act of 9 October 2015 on metropolitan unions, Dz.U. of 2015, item 1890 as amended.

Bańko M. ed. (2003). *Wielki Słownik wyrazów obcych PWN*. Warszawa: Wyd. Naukowe PWN SA.

Bańko M. ed. (2005). *Wielki Słownik wyrazów bliskoznacznych PWN*. Warszawa: Wyd. Naukowe PWN S.A.

Bańko M. ed. (2007). *Słownik języka polskiego, v. 3*. Warszawa: Wyd. Naukowe PWN.

Bitner M. (2016). *Prawne instrumenty ograniczania deficytu budżetowego i długu publicznego jednostek samorządu terytorialnego*. Warszawa: Wolters Kluwer.

Chruściel J., Kotowski J. (2012). *Absolutorium samorządowe w rozstrzygnięciach kolegiów regionalnych izb obrachunkowych w 2012 r. oraz w dotychczasowym orzecznictwie sądów administracyjnych*. Finanse Komunalne, 11, 58–74.

Decision by Voivodship Administrative Court in Kielce, dated October 30, 2013, I SA/Ke 554/13, LEX no. 1426536.

Decision by Voivodship Administrative Court in Łódź dated December 4, 2015, I SA/Łd 1232/15, Legalis no. 1388099.

Decision by Voivodship Administrative Court in Łódź dated December 4, 2015, I SA/Łd 1231/15, Legalis no. 1388098.

Decision by Voivodship Administrative Court in Szczecin dated June 23, 2013, I SA/Sz 519/16, Legalis no. 1547130.

Decision by Voivodship Administrative Court in Szczecin dated October 29, 2015, I SA/Ol 338/15, Legalis no. 1388235.

Decision by Voivodship Administrative Court in Szczecin, dated March 12, 2008, I SA/Ke 1160/07, LEX no. 505320.

Decision by Voivodship Administrative Court in Wrocław, dated June 21, 2006, IV SA/Wr 432/05, OwSS 2008, no. 1, p. 20.

Dolnicki B. (2016). *Samorząd terytorialn*y. Warszawa: Wolters Kluwer.

Dubisz S. ed. (2003). *Słownik języka polskiego, v. 3*. Warszawa: Wyd. Naukowe PWN.

Gonet W. (2013). *Naprawa finansów jednostki samorządu terytorialnego*. Warszawa: Difin.

Gorgol A. (2014a). *Commentary on Article 238*. In P. Smoleń (Ed.), *Ustawa o finansach publicznych [Public Finance Law]*. Comment. Warszawa: C.H. Beck.

Gorgol A. (2014b). *Commentary on Article 246*. In P. Smoleń (Ed.), *Ustawa o finansach publicznych [Public Finance Law]*. Commentary. Warszawa: C.H. Beck.

Grzegorzewski P. (2004). *Regionalne izby obrachunkowe w świetle nowelizacji ustawy o regionalnych izbach obrachunkowych z 24 lipca 2003 roku.* Finanse Komunalne, 3, 5–15.

Jurewicz D. (2015). *Opinie regionalnych izb obrachunkowych.* In A. Borodo (Ed.), *Słownik finansów samorządu terytorialnego*. Toruń: Dom Organizatora.

Leńczuk J. (2014). *Comment on Article 230a.* In P. Smoleń (Ed.), *Ustawa o finansach publicznych [Public Finance Law]*. Comment. Warszawa: C.H. Beck.

Ofiarska M., Ofiarski Z. (2013). *Opinie regionalnych izb obrachunkowych jako narzędzie oddziaływania na organy jednostek samorządu terytorialnego*. In Krawczyk R.P., Stec M. (Eds.), *Samorząd – finanse – nadzór i kontrola. XX–lecie regionalnych izb obrachunkowych*. Warszawa: Wolters Kluwer.

Resolution of Minister of Finance of 10 January 2013 on long–term financial forecast for LGUs, consolidated text Dz.U. of 2015 item 92 as amended.

Resolution of RAC in Bydgoszcz dated June 4, 2004, XIV/16/04, LEX no. 1724745.

Resolution of RAC in Katowice, dated January 13, 2016, 9/I/2016, Legalis no. 1428686.

Resolution of RAC in Lublin dated June 26, 2012, 70/2012, OwSS 2013, no. 1, p. 106.

Resolution of RAC in Opole, dated August 8, 2012, 17/29/2012, „Nowe Zeszyty Samorządowe" 2012, no. 5, p. 87.

Resolution of RAC in Rzeszów dated August 9, 2011, XVII/3715/2011, Legalis no. 1259923.

Resolution of RAC in Warsaw dated May 25, 2011, 178/K/11, LEX no. 1726167.

Resolution of RAC in Wrocław, dated February 18, 2015, 16/2016, Legalis no. 1370560.

Resolution of RAC in Zielona Góra dated September15, 2010, 299/2010, LEX no. 1725683.

Salachna J. M. (2010). *Informacje oraz sprawozdania z wykonania budżetu jednostki samorządu terytorialnego.* In Salachna J. M. (Ed.), *Budżet i wieloletnia prognoza finansowa jednostek samorządu terytorialnego – od projektu do sprawozdania*. Gdańsk: ODDK.

Salachna J. M. (2013). *Commentary on Article 23*. In Ruśkowski E., Salachna J.M. (Eds.), *Finanse publiczne. Komentarz praktyczny*. Gdańsk: ODDK.

Sawicka K. (2013a). *Opinie regionalnej izby obrachunkowej dotyczące wieloletniej prognozy finansowej*. In Miemiec W., Sawicka K., Miemiec M. (Eds.), *Prawo finansów publicznych sektora samorządowego*, Warszawa: Wolters Kluwer.

Sawicka K. (2013b). *Rola regionalnych izb obrachunkowych w procedurze uchwalania i kontroli wykonania budżetu jednostek samorządu terytorialnego*. Przegląd Prawa i Administracji, 93, 49–71.

Srocki S. (2014). *Wieloletnia prognoza finansowa jako instrument stabilizacji finansowej samorządu – zagadnienia prawne.* Finanse Komunalne, 12, 5–14.

Walasik A. (2011). *Wątpliwości dotyczące wieloletniej prognozy finansowej.* Samorząd Terytorialny, 1–2, 43–50.

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Figura kolumnowa (słupowa)
według dokumentów uznana za najstarszą
w całej Gminie Białaczów.
Wykonali ją artyści rzeźbiarze z Włoch.

Figura kolumnowa z posągiem Chrystusa – „Pomnik Pana Jezusa”. Obiekt wzniesiono przy pomocy finansowej Dworu w Białaczowie podczas epidemii cholery w 1894 r. Ufundowali go Ludwik i jego żona hr. Broel-Platerowie zam. Stanisławów – Białaczów. Miała to być swoista forma prośby do Boga, aby „zaraza” zwana „morowym powietrzem” ustała.




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