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SELECTED ISSUES ASSOCIATED WITH POLAND'S COMMUNE ORGANIZATIONAL UNITS AND THEIR MANAGEMENT

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Abstract

This paper addresses issues pertaining to the management of Poland's commune organizational units and the difficulties of their establishment. This matter is especially important because of the range of public tasks performed at this fundamental level by local commune units. Poland's legislature is introducing various legal structures which will expedite performing these tasks in order to satisfy basic community needs i.e. the needs of the commune residents. Entrusting these tasks to units formed by commune authorities and external, independent organizations should have one over-riding objective, that of public benefit. Commune management should be understood as certain knowledge and skill in the supervision of specified resources. The commune, as the fundamental unit of local government, enjoys full control of the establishment's activity, and as a result also incurs full responsibility for said establishment's liabilities. In forming an organizational unit without legal status, the commune furnishes same with specific assets such as (but not limited to) land and moveable property.

Keywords: *community, organizational unit, management in the municipality,*

1 INTRODUCTION

This paper addresses issues pertaining to the management of Poland's commune organizational units and the difficulties of their establishment. This matter is especially important because of the range of public tasks performed at this fundamental level by local commune units. Poland's legislature is introducing various legal structures which will expedite performing these tasks in order to satisfy basic community needs i.e. the needs of the commune residents. Entrusting these tasks to units formed by commune authorities and external, independent organizations should have one over-riding objective, that of public benefit.

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2 BASIC PREMISES

The entry point for further consideration can be found in the Constitution of the Republic of Poland of April 2, 1997, in Articles 163 to 166 (Dz. U. [Journal of Laws] No. 78, item 483). These regulations provide for local governments to provide public administration (see Niewiadomski, 2001). The authority given by the constitutional regulations indicate the range of public administration assigned to local governmental units, performed on their authority and responsibility (Chochowski, 2011, pp. 61-74). The impact of such legal solutions is the obligation of performing public services by local governmental entities which now become active participants in community, economic and political life. In the currently applicable legal system, local units possess a catalog of public services to be performed, as mentioned, on their authority and responsibility, resulting in a variety of tasks sanctioned through various legal forms for their execution. These particular local governmental units are budgetary units, local administrative units and commercial entities. Besides the listed organizational forms, communes may sub-contract their tasks to private concerns or non-governmental organizations (Zacharko, 2000; e.g. Zacharko, 1996, pp. 57-61). Furthermore, in the case where a commune is unable to single-handedly perform a given task, the law provides for cooperative efforts among communes.

The range of entrusted tasks to communes, as listed in Article 7, is rather extensive and includes maintenance of education and culture, health services, social welfare, public order, zoning, recreational areas and sports equipment, communal bazaars, communal cemeteries, environmental protection, physical fitness, and tourism (Tabernacka, 2005, pp. 409-422).

The municipal economy cannot be excluded (Rakoczy, 2010), as it is regulated by the Legislation of December 20, 1996 (Dz. U. z 2011 r., No. 45, item 236) which lists local mass transit, public water, sewerage, cleanliness, utilities (power and heating), public housing, and maintenance of public structures and equipment for public service (Gonet, 2006).

It should be noted that the method(s) chosen for the performance of said tasks is determined by the policies established exclusively by local and regional authorities based on constitutional and legislative mandates, and conversely, can only be restricted through legislative regulation (see Czarnow, 2009, pp. 19-29).

3 ORGANIZATIONAL AND LEGAL FORMS

The majority of Poland's communes generally, actively manage their assets through various departments. Public services are provided by such entities as budgetary units, local administrative units or utility companies. Municipal organizational units can be formed by the commune on the basis of Article 9, Paragraph 1, of the Law of March 8, 1990, regarding Commune Government (Dz. U. of 2015, item 1515) and performance of public tasks. The most common commune units are those formed in accordance with Article 9 of the law from August 27, 2009, regarding public finance (Dz. U. of 2013, item 885) i.e. budgetary units and local administrative units. As defined in Article 11, Paragraphs 1 and 2 of the aforesaid Law, budgetary units are those public finance units which don't have legal status, cover their costs directly from the governmental budget, and any revenues gained are deposited in appropriate local governmental accounts i.e. the commune's (Bohdan, 2008, pp. 147-161). They function on the basis of standardized statutes pertaining to name, head office and core activity. As the above regulations indicate, these entities have no legal status but all civil law activities are carried out in the name of said unit by specific managers. The basis for financing budgetary units are annual budgets i.e. registers of revenues and expenditures.

The second group, local administrative units (Article 15, Paragraph 1 – Public Finance Law), performs those public services which are paid for additionally, covering their operating cost from revenues. These entities may have surplus, deficit or zero financial results. When the annual results show a surplus, the establishment settles with the commune depositing the profits minus the growth factor i.e. the normative current assets as established by the commune council. Whether the funds in question return to the establishment or not, is determined by the founding authority which in the case of communes is the commune council. A local administrative unit - established or liquidated upon an act of the commune council – is in effect an independent organization; however, during its functioning it remains a part of the commune infrastructure; it has no legal status and all its activity is in the name of the commune with the commune's mandate establishing the establishment's competence. The commune, as the fundamental unit of local government, enjoys full control of the establishment's activity, and as a result also incurs full responsibility for said establishment's liabilities. In the case of an administrative unit's liquidation, the commune is also liable for debt incurred by said entity. The absence of full independent activity by an administrative unit makes it a so-called handicapped legal entity which, on the one hand, enjoys independent business activity, but on the other, is restricted by the limits imposed by the commune mandate.

A good number of communes, in accordance with the regulations of the Legislation of December 20, 1996, regarding communal economic activity (Dz. U. z 2011, No. 45, item 236), have transformed budgetary units into communal single-share companies i.e. commercialization of certain units (e.g. Wasniewski, 2001, pp. 42-52; Szostak, 2006, pp. 139-145). In accordance with Article 12, Paragraph 2, of the above legislation, in the single-share company units of local governments, the functions of the general shareholders' meetings are fulfilled by the executives of these units – mayors and commune executives (see Dziarski, 1993). Practically speaking, commercialization does not separate the functions of ownership from those of operation which consequently may result in a lack of quality management of communal assets.

4 COMMUNE ORGANIZATIONAL UNITS

As was earlier indicated, the commune may establish appropriate organizational units in order to perform its various tasks. These units generally comprise of three elements:

- personnel (employees),
- organizational (unit structure), and
- assets (e.g. land or moveable property).

In forming an organizational unit without legal status, the commune furnishes same with specific assets such as (but not limited to) land and moveable property. Establishing such a unit, upon analysis of appropriate legal regulation, obviously exceeds the authority of common executive boards (Adamus, 2011, pp. 118-130; Uliasz, 2002, pp. 825-831; Uliasz, 2002a, pp. 883-888). The consequence of such a premise is the reservation of this authority expressly for the commune council (Article 18, Paragraph 2, Sub-paragraph 9, item 'h', Commune Government Legislation). The commune council, undertaking the initiative of forming such a unit and equipping it as such, passes a resolution. In the case where such a unit is already functioning and its development presents additional assets, the transfer of land should be accompanied by the establishment of permanent management. Permanent management is established through an administrative decision which incorporates the following:

- the name and head office location of the unit for the benefit of the permanent management,
- the identification of land in accordance with notes incorporated in the permanent land registry and according to the real estate cadaster,
- area and plat description,
- objective in transferring land and its intended utilization,
- land value and charges resulting from permanent management,
- possibility of updating charges resulting from permanent management, and
- the permanent management's term of service.

Upon the presentation of the above analysis, an effort should be made to detail the concept of the organizational unit: a group lawfully separated with listed assets and competent personnel authorized to function within a defined scope.

5 MANAGEMENT IN THE COMMUNE

The commune is an independent economic entity in a contemporary society based on a market economy. Each commune endeavors to promote local development, one of its fundamental objectives. It is a developing process of the local condition taking into account local needs and the importance of specific components. Proper task management of a commune – and its organizational units – should be based on economy, efficiency and effectiveness. Commune management involves a number of basic components, such as (Kuznik, 2005, p. 71):

- administrating – overseeing current affairs, performing property management,
- performing owner obligations e.g. purchasing or selling,

– allocating public funds,
– monitoring and evaluating the functioning of local governmental units.

Commune management should be understood as certain knowledge and skill in the supervision of specified resources, which for the contemporary commune are:
– human,
– financial,
– spatial, and
– natural.

It is also a developing process having as its objective maximum advantage for an identified goal i.e. satisfying the needs of the community. The public character of a commune's activity demands openness on the part of leaders which is demonstrated through citizen participation in the decision making process and enabling community monitoring. Local officials should create authentic channels of communication and cooperate with residents as may be seen in various forms of consultation and feedback (Wojciechowski, 2003, p. 23).

Analyzing the issues of lawful solutions, as well as the concepts of commune management, it is prudent to indicate a number of characteristics (see Kozuch, Stych, 2011):
– the identification of local problems especially those whose primary significance in regard to the level of satisfying community needs – proper identification ties into the ideals of ecological or sustainable development,
– a multi-effort, or a matrix for solving problems which also takes into account opportunities and dangers for development,
– progress in commune government performance, and
– reaching decided goals in a systematic, efficient and effective way.

6 CONCLUSIONS

The practice of commune functioning allows the observation that not one commune in the Republic of Poland serves its community exclusively through its subordinate units or offices. In effect, the communes function according to the so-called mixed model, the market/regulatory model. The communes purchase certain services from the private sector on the basis of agreements and contracts as defined by the law governing public contracting. The division of tasks, competence, assets and finances between municipal authorities puts into motion the process of forming the legal and institutional framework for performing public tasks by local government units. For creating organizational units, communes have the influence for determining their various forms e.g. legal, political, economic and social. In accordance with the analyzed legal regulations, communes are able to execute tasks of public service on their own authority, either through their own units and offices, or through contracted services from the private sector. In the former case, communes fulfill the role of regulator and operator, in the latter, they become the regulator and organizer of the market for certain services.

The analysis of the mentioned regulations allows the conclusion that the choice of how public tasks are accomplished decides the management and basically depends of the character of the local government unit and the specificity and dimension of activity in the name of the community.

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