

Implementation of public tasks in the light of responsibility for the effective spending of public funds

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Abstract— The implementation of public tasks for which public funds are spent should be recognized by striving to achieve the set goals and due diligence in managing funds. In the Public Finance Act (Article 44), the legislator linked the effectiveness of spending public funds with the effectiveness and optimization of the selection of methods for achieving set goals and the timely implementation of incurred obligations. Public tasks defined in European Union law and transferred to Polish legislation most often have precisely defined objectives, for example in the form of unambiguous indicators. The problem is that the indicators are increasing year by year and the threat of high penalties for failing to achieve them. Therefore, the responsibility for the effective spending of public funds for the implementation of the indicated tasks becomes fundamental. An illustration of the above-mentioned problem are tasks in the field of municipal waste management, the goals for which are specified in the Act on maintaining cleanliness and order in municipalities, and municipal the source of their financing are funds from the garbage fee, the amount of which is determined by the council.

Keywords— Responsibility for the effective spending of public funds, fines, effectiveness of task implementation, efficiency.

I. INTRODUCTION

The problem of the efficiency of spending public funds is becoming, and it should be expected that in the coming years it will be the subject of lively discussion not only in the scientific community, but also among those entrusted with the management of public finances. Poland's membership in the European Union, apart from the benefits, is associated with obligations, for which the required levels of effects have been largely defined in a strict manner and the deadlines for their achievement have been indicated in a restrictive manner. The implementation of the designated obligations, the vast majority

of which are public tasks, requires the spending of public funds. At the same time, failure to achieve specific effects within the established deadlines is subject to high financial penalties. In the current Act on Public Finances (Journal of Laws 2023.0.1270), the legislator linked the efficiency of spending public funds with the effectiveness and optimization of the selection of methods for achieving the set goals and the timeliness of fulfilling the incurred obligations. In connection with this, many problems of a political, legal, economic, and financial nature arise. One of the important issues is the assessment of the effectiveness of spending public funds by entities in the public finance sector. Public finances, from the point of view of assessing the effectiveness of spending funds, are not a uniform area. On the one hand, there are difficulties resulting from the specificity of the area being assessed, and on the other hand, there is a close connection between the effectiveness of spending funds and the effectiveness of achieving the set goals. Assessing the effectiveness of achieving precisely defined goals and deadlines for their achievement is not a problem. However, it may be the lack of possibility to apply optimal methods of achieving the goals. Another problem is the assessment of the effectiveness of spending funds resulting from the ambiguity of the results of the methods used. In this context, there is a problem of responsibility for any failure to achieve the statutory task goals and the high financial penalties associated with it, as well as for ineffective spending of public funds.

The aim of the presented article is to assess the possibility of suffering consequences for inefficient spending of public funds on tasks for which the goals have been precisely defined. In order to achieve the goal, the following hypothesis was put forward:



Under the current legal framework for spending public funds, there is a real risk of consequences for inefficient spending of public funds.

The implementation of the objective was presented based on the analysis of tasks in the field of municipal waste management. The article uses the following methods: classification, deduction method supported by reasoning by analogy, critical analysis of the subject literature, analysis of the legislation regulating the examined issue. The following structure of the article was adopted for the purpose set. The first part is an introduction. The second point analyzes the concepts of effectiveness and efficiency, the proper understanding of which is of particular importance in the public sector. The third part presents and discusses the principles of conduct in the expenditure of public funds contained in art. 44 of the Act on Public Finances. The third part also includes an assessment of the possibility of suffering consequences for failure to achieve the set objectives of the tasks and ineffective expenditure of public funds. The article ends with a conclusion, in which, in addition to the summary, conclusions are presented.

II. RATIONALITY OF ACTION IN THE SPHERE OF IMPLEMENTATION OF PUBLIC TASKS

Membership in the European Union has a significant impact on the functioning of the state. This results from the scope of activities, which include the policies of the European Union (european-union.europa.eu): customs, energy, food safety, trade, single market, competition, education, training and youth, culture, taxes, regional policy, foreign policy and security, humanitarian aid and civil protection, human rights and democracy, enterprises and industry, agriculture, development and cooperation, justice and fundamental rights, environment, transport, employment and social affairs, health. In the above areas, the Union sets goals and sets deadlines for their achievement. In the case of countries such as Poland, there are also delays resulting from the lack of participation in the fifty-year integration process. In negotiations on Community policy in all areas, the parties are states and they are responsible for the commitments made, only some of which are burdensome for private entities or may be additionally imposed on them by appropriate legal regulations. This of course results in an increase in the costs of economic activity with all its consequences. Most of the obligations, at least from the point of view of the amount of resources needed to implement them, must be fulfilled by public entities, for which this often means functioning in completely new conditions. Changes may concern the organization, management and financing of public tasks. The implementation of obligations resulting from the European Union policy has caused and is causing:

- creation of new public tasks,
- expanding the scope of existing public tasks,
- raising or establishing quantitative, qualitative and timely standards of tasks performed.

Tasks for which precise goal parameters and deadlines have been defined have become a challenge for public entities. The

challenges include four key issues:

- effectiveness of achieving set goals,
- efficiency of public spending,
- financial sanctions for failure to achieve required goal parameters,
- responsibility for inefficient spending of public funds.

The implementation of public tasks, including processes related to determining the expected effects, selecting methods and means, and determining the costs used to achieve the designated results, should be characterized by the features of rational conduct. Rational conduct, in the case of the implementation of public tasks, means taking actions that lead most directly to achieving the goals and economical management of funds. The specificity of public tasks should also be taken into account, so that in connection with rationalization, greater social damage is not caused than the benefits achieved. Public entities incur expenses for the implementation of tasks for which the goals have been either set by the legislator or defined independently. In both cases, public entities are obliged to act rationally, although some decisions on spending funds are made in a complex, changing environment and tasks, especially those of a compulsive nature, may be performed with less reliability and diligence.

In economics, rational action is understood as conduct that aims to achieve goals that can be achieved in given conditions using the means available to the acting entity, which are best suited to effectively achieving the goals (Musiał 2008). The concept of effectiveness refers directly to purposive issues, which concern both the degree of goal achievement (operational problem) and the accuracy of the adopted goal of action (strategic problem) (Pawlak 2010). Evaluation of effectiveness requires a comparison of results with standards or expectations (Hedley 1998). The condition of effectiveness is a positive assessment of this comparison, in practice meaning the compliance of the result with the goal (Pszczółkowski 1978). According to the ISO 9000:2005 standard, effectiveness is the degree to which planned activities are implemented and planned results are achieved (ISO 9000). If the goals are measurable, the achieved results expressed by parameters or indicators are compared with their expected values. The measurability of goals specified in the European Union legislation, most often transposed to Polish law, is rarely discussed, which does not seem right. In the case of goals set at the state level, but implemented by individual public entities (institutions), e.g., municipalities, their achievement may not be possible for some of them.

The achievability of goals is of great importance in the public sector, where the evaluation of a specific institution's functioning is the result of an analysis of the effectiveness and efficiency of the actions taken. The effectiveness of a public institution is defined as the ability to achieve the set results, and efficiency as the ability to achieve results with a minimum expenditure of time, materials and money.

Effectiveness is characterized by (Chapman, Cowdell 1998):

- achieving the best results,
- maximizing benefits,

- optimal use of resources.
- Efficiency is characterized by (Chapman, Cowdell 1998) :
- applying the right course of action,
 - constant cost control,
 - protection of existing resources.

In the public sector, the priority for managers of public funds is to find the appropriate relationship between effectiveness and efficiency (Roberts 2000).

Efficiency is a term that is commonly used and well-established in everyday life. It becomes a kind of multifunctional tool, a conceptual aggregate, which, thanks to its ambiguity and information capacity, often even replaces other concepts in various linguistic contexts (Skudrzykova, Ubran 2000). In the literature on the subject, there are a number of examples of the use of synonymous concepts, such as economy, efficiency and rationality in the meaning appropriate to the concept of efficiency. In the case of the concept of economy, one can come across the statement that an entity that manages well is an entity that operates effectively, and for the assessment of economy, the obtained effects are related to the incurred expenses (Żabka, Pyka 2011). For O. Lange, thrift is a way of proceeding closely related to the principle of thrift, or the principle of rational management. The principle means that the maximum degree of goal realization is achieved if, with a given input of resources, the procedure leads to the maximum degree of goal realization, or for a given degree of goal realization, the minimum input of resources was used. The principle of thrift (rational conduct) formulated in this way is of a general nature in terms of quantification of the goal and means of action (Lange 1978). In connection with this, thrift has become an important criterion for good and economical management of something entrusted, skillful conduct of business, as well as proper handling of financial resources intended for the realization of a goal (Gola 2019).

The ambiguity of the term "efficiency" has also been established at the theoretical level, which means that in practice it is necessary to determine each time in what meaning the term will be used (Zieleniewski 1976). Praxeology treats efficiency as a concept belonging to the "family of meanings" together with efficiency, economy, benefit, effectiveness, productivity, economy and efficiency. Considering the concept of efficiency in this context must be closely connected with the concept of economy. We should also refer to the basic issue defining economics as a social science of management, i.e. such allocation of scarce resources that is coherently related to the phenomenon of efficiency (Metelska-Szaniawska, Beldowski 2014). The introduction of the New Public Management concept to the public finance sector, the aim of which was to implement professional management together with methods and techniques used in the private sector, has broadened the possibilities of assessing the expenditure of public funds (Owsiak 2014). At the same time, it has complicated the consideration of the concepts of efficiency and effectiveness, because they are interpreted differently in economic sciences and management sciences. In economic sciences, efficiency is defined as the relationship of effects (results) to inputs, and effectiveness as the degree or scope of realization of the set

goals. In this approach, economic efficiency expresses the result of the activity of an entity or an undertaken undertaking defined by the ratio of the obtained effects to the incurred costs (the content of the effects is related to the purpose of the activity), (Jastrzębska 2016). In management sciences, efficiency should be analyzed from the point of view of the effectiveness of the organization. In the assessment of the results of the organization, the concept of the effectiveness of the functioning of the organization is also used, which includes, among others; financial result, product sales, market share, rate of return for shareholders, or additional results obtained in connection with operational activities, including work effects, employee satisfaction, customer satisfaction, etc. (Wiśniewski 2018). In management sciences, effectiveness is one of the measures of the efficiency of the activity assessed in terms of approaching the goal that has been set and is the basis for this assessment (Odlanicka-Poczobut 2014). Therefore, it is important in which area "efficiency" is considered.

III. RESPONSIBILITY FOR INEFFECTIVE SPENDING OF PUBLIC FUNDS ON TASKS SUBJECT TO FINANCIAL PENALTIES

Public funds management requires precise definition of principles and rigorous procedures. It is equally important to formulate clear criteria for assessing responsibility for the achieved effects of public funds management. This is of particular importance when implementing tasks in the case of which failure to achieve the set goals is threatened with high financial penalties. Expenditure of public funds in accordance with art. 44 sec. 3 item 1 letter a and b, item 2, item 3 of the Public Finance Act should be made in a purposeful and economical manner, in compliance with the principles:

- obtaining the best results from given inputs,
- optimal selection of methods and means to achieve the assumed goals
- and:
- in a way that enables timely execution of tasks,
- in the amounts and deadlines resulting from previously incurred liabilities.

The indicated provisions mean that the efficiency of spending public funds is linked to the effectiveness and optimisation of the selection of methods for achieving the set goals and the timeliness of the implementation of the incurred obligations. Therefore, the legislator introduced the "3E" principle into the act constituting public finances, i.e. savings, effectiveness and efficiency (economy, efficiency, effectiveness). The efficiency of the actions taken is usually related to effectiveness, which in practice means that the process by which the set goals are achieved with the lowest possible expenditure is considered effective. However, effective action does not necessarily have to be effective (Miller 2011), in the private sector, the implementation of an investment project may be profitable, although the set production level has not been achieved. It should be noted that in accordance with Article 35 of the Public Finance Act of 2005, public expenditure made economically and purposefully (the

obligation to allocate for the set purpose) could be spent effectively, despite the failure to achieve the set goals. The current Public Finance Act extends the conditions for the necessity of achieving efficiency. Public funds spent on public tasks whose set goals have not been achieved are, according to the directives of the current act, spent inefficiently.

The implementation of tasks for which the objectives have been specified in European Union law is difficult for entities in the public finance sector. Although the objectives set are most often precisely defined, for example in the form of unquestionable indicators, their achievement is conditioned by many external factors for the obliged entity. A good illustration of the indicated problem are the objectives set for municipal waste management.

Polish legislation, similarly to other European Union countries, places full responsibility for the entire local municipal waste issue on the commune. Therefore, communes are obliged to achieve the municipal waste recycling levels contained in Directive 2018/851 (OJ EU.L.2018.150.109), which apply to selected fractions of municipal waste and their entire stream, and so : by 2025, municipal waste recycling should amount to at least 55% by weight. By 2030, this level will be increased to 60%, and by 2035 – to 65%. And although the Directive is not directly binding, it requires its recommendations to be entered into national law. An appropriate provision was introduced into the provisions of the Act on Maintaining Cleanliness and Order in Municipalities, in which in Article 3b, paragraph 1, the legislator specified mandatory thresholds and deadlines to be achieved. In 2022, municipal waste recycling amounted to 26.7%. Experts point out that doubling this amount within three years is practically impossible (Tetlak 2023). The problems of recycling municipal waste, especially packaging waste, are related to factors on which municipalities have little influence, despite their efforts. These factors include (Tetlak 2023):

- the type of materials from which manufacturers produce packaging,
- insufficient consumer knowledge about the possibilities of recycling packaging,
- lack of consistent regulations introduced early enough to be effective in practice.

Failure to achieve the objectives set out in the Directives of the European Parliament and of the Council (EU), transposed into Polish law, may result in the imposition of penalties by the European Commission (daily and lump sum), the amount of which is determined by the Court of Justice of the European Union (CJEU). The penalties can be very high, as evidenced by the judgment of the CJEU, which imposed a periodic penalty of EUR 1 million per day on Poland (businessinsider.com.pl). The implementation of objectives in the field of municipal waste management may include the following cases (the indicated problem also applies to tasks from other areas of the functioning of the state):

- 1) The set goals are achieved in aggregate at the state level and by all municipalities.
- 2) The set goals are achieved in aggregate at the state level, individual municipalities do not achieve the set goals.

- 3) The set goals are not achieved in aggregate at the state level, individual municipalities do not achieve the set goals.

In the second and third cases, municipalities pay fines for failure to achieve the set targets. An illustration of these cases is 2020, in which Poland achieved the required level of 50% preparation for reuse and recycling of packaging waste, while in 831 municipalities from 11 voivodeships the required levels were not achieved. According to information from the Mazovian Voivodeship Inspectorate for Environmental Protection (WIOŚ), out of 314 municipalities in the voivodeship, 165 did not achieve the required level of preparation for reuse and recycling of part of the packaging waste fraction. Due to failure to achieve the required recycling levels, the Mazovian WIOŚ imposed fines on 87 municipalities (as of 31.12.2022) in the amount of PLN 1,738,574 (Tetlak 2024).

In the above cases, the following situations may occur from the point of view of analysis and assessment of the effectiveness of public funds spending:

- 1) The goals were achieved on time using optimal means to achieve them. Public funds were spent economically. The conditions for effective spending of public funds were met.
- 2) The goals were achieved on time, and optimal means were used to achieve them. Public funds were not spent economically. The conditions for effective spending of public funds were not met.
- 3) The goals were achieved on time, but the optimal means to achieve them were not used. Public funds were spent economically. The conditions for effective spending of public funds were not met.
- 4) The goals were achieved on time, but the optimal means to achieve them were not used. Public funds were not spent economically. The conditions for effective spending of public funds were not met.
- 5) The goals were not achieved on time. Optimal means were used to achieve them. Public funds were spent economically. The conditions for effective spending of public funds were not met.
- 6) The goals were not achieved on time. The optimal means to achieve them were used. Public funds were not spent economically. The conditions for effective spending of public funds were not met.
- 7) The goals were not achieved on time. The optimal means to achieve them were not used. Public funds were spent economically. The conditions for effective spending of public funds were not met.
- 8) The goals were not achieved on time. The optimal means to achieve them were not used. Public funds were not spent economically. The conditions for effective spending of public funds were not met.

The commune finances the proper management of municipal waste collected from residents primarily from the fee paid by residents, which, in accordance with art. 6r section 1 of the Act on Maintaining Cleanliness and Order in Communes, is the commune's income. The waste fee therefore belongs to public funds and its effective spending is the statutory obligation of the

commune. In the first, second, third and fourth cases, the given commune has achieved the goals set out in the Act on Maintaining Cleanliness and Order in Communes and does not pay penalties for failure to achieve the set goal. In the remaining cases, the goals have not been achieved, therefore the given commune will pay the financial penalty imposed by the WIOŚ. However, in the second, third, fourth, fifth, sixth, seventh and eighth cases, the communes are liable for the inefficient spending of public funds. The principle of rational spending of public funds (the principle of economy) contained in art. 44 of the Act on Public Finances, in order to be implemented, all of its features must be met. Only in such a situation can the spending of public funds be considered correct and lawful (Judgment 2017).

The listed variants, binding obligations arising from the acts on maintaining cleanliness and order in municipalities and on public finances regarding achieving the required levels in the field of municipal waste management and effective spending of public funds, illustrate the difficulty of making the necessary assessment. The criterion of economy, used to assess the spending of public funds, more broadly the management of public property, does not raise any major doubts in the literature on the subject, especially since it is one of the basic elements of the legal structure of the Supreme Audit Office (Gola 2021). The opposite of economy is the concept of mismanagement, which has been penalized by the legislator in art. 296 §1 of the Penal Code, according to which: Whoever, being obliged under the provisions of the Act, the decision of the competent authority or the agreement to deal with the property matters or business activity of a natural person, a legal person or an organizational unit without legal personality, by abusing the powers granted to him or failing to fulfill the obligation incumbent on him, causes him significant property damage, shall be subject to the penalty of imprisonment from 3 months to 5 years. The reference to Art. 296 §1 of the Penal Code does not mean that, in the author's opinion, persons responsible in municipalities for the ineffective spending of public funds, illustrated in cases 2-7, are subject to prosecution for mismanagement. The problem is all the more controversial because the representatives of the criminal law doctrine themselves emphasize that the pathology of the phenomenon of mismanagement is debatable, and if so, whether it is sufficient to justify its criminalization (Gola 2021). However, in cases 4-8, especially 8, although unlikely, the municipalities will not only pay high fines, burdening the budget with them, but will also waste public funds that could be spent on other purposes. It should be noted that there is a fear in the municipalities of the mentioned unfavourable scenarios and clauses are inserted into the contracts for waste collection and management, transferring responsibility from the municipalities to the companies for failure to achieve the statutory objectives. Companies carrying out tasks in the scope of public utility, which include municipal waste management, are most often municipal companies, hence their potential lack of consent to the indicated clauses is very limited. This action is questionable for many reasons, but above all, in practice the companies do not have any tools to discipline waste producers, therefore any penalties will be included in the

prices of the services offered.

IV. CONCLUSION

Responsibility for spending public funds in a commune is spread over many people. Councillors adopting a budget with a set amount of waste collection fee, in the case of the task under analysis, the president, mayor, commune head responsible for its implementation. As a result, those making decisions on spending public funds on tasks whose objectives have been imposed, for which there are additionally no positive implementation models, may be faced with the choice of the "lesser evil"; the accusation of failure to achieve the statutory objective of the task or ineffective spending of public funds. Practice shows that choosing the "lesser evil" is a theoretical choice, which in a sense carries a positive charge. The consequences of responsibility for the lack of effectiveness in achieving the statutory objectives and the associated high financial penalties can be avoided by applying appropriate provisions in contracts with companies for waste collection and management. On the other hand, responsibility for ineffective spending of public funds resulting from Article 44 of the Public Finance Act considered in terms of mismanagement on the basis of Article 296 of the Penal Code Act is undefined in doctrine and practice.

The aim of the article was to assess the possibility of suffering consequences for ineffective spending of public funds on tasks for which the goals were precisely defined. In order to achieve the goal, the following hypothesis was put forward :

Under the current legal framework for spending public funds, there is a real risk of consequences for inefficient spending of public funds.

The presented analysis based on tasks in the field of municipal waste management does not allow to consider the formulated hypothesis as positively verified. Expenditure of public funds should be based on the premises of rational management, because actions, from a scientific (economic) point of view, consistent with the state of knowledge about the surrounding reality create a chance to achieve the best social and economic results (Owsiak 1983). Rationalization of public expenditure is one of the most important problems of public finances , which is confirmed in the Act on Public Finances (Article 44). The legislator introduced the "3E" principle into the Act, i.e. savings, effectiveness and efficiency . The introduced regulation fundamentally changes the approach to the implementation of public tasks in comparison to the previous act from the point of view of achieving the set goals. In the context of the adopted solutions, the regulations regarding liability for violating public finance discipline also require reform (Ruśkowski 2010). For tasks in the field of municipal waste management, the cut-off date for the analysis and evaluation of public funds expenditure will be 2025. The goals set for these tasks, in the unanimous opinion of experts, are unachievable, therefore a discussion on responsibility and, as a result, consequences for inefficient spending of public funds is inevitable and necessary.

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