



Conditions for the Implementation of the Commune's Financial Policy in Poland

Uwarunkowania realizacji polityki finansowej gminy w Polsce

Marcin Hyski*
Dorota Chudy-Hyski**

Abstract

The aim of the presented research is to indicate the conditions for the implementation of financial policy by the commune. The text analyzes two basic areas related to the functioning of the commune level of local government. At the beginning, the essential features of commune are discussed, while its place in the organization of public life in Poland is clearly indicated. The commune is characterized as an entity of power and administration, with special focus on the nature of local government and the concept of a commune in the Polish legal system. The rest of the research concentrates on the functioning of the commune and the implementation of its tasks, with particular emphasis on the

Abstrakt

Celem artykułu jest opis uwarunkowań realizacji polityki finansowej przez gminę. W tekście poddano analizie dwa zasadnicze obszary związane z funkcjonowaniem gminnego szczebla samorządu terytorialnego. Na wstępie artykuł omawia istotę gminy i wskazuje jej miejsce w organizacji życia publicznego w Polsce. Gminę scharakteryzowano jako podmiot władzy i administracji, ze szczególnym naciskiem na istotę samorządu terytorialnego i pojęcie gminy w polskim systemie prawnym. W dalszej części artykuł skupia się na sposobie funkcjonowania gminy i realizowanych przez nią zadaniach ze szczególnym uwzględnieniem metody ich realizowania. Omówione zostaje tu zagadnienie racjonalnego działania oraz kwestia

* Academy of Physical Education in Katowice;  <https://orcid.org/0000-0002-1267-7516>; m.hyski@awf.katowice.pl.

** University of Silesia in Katowice;  <https://orcid.org/0000-0001-8357-658X>; dorota.chudy-hyski@us.edu.pl.

method of their implementation. The issue of rational action is discussed along with the issue of the effectiveness of implementing the commune's own tasks. Against this background, the financial conditions for performing tasks by the commune in terms of implementing an autonomous financial policy are also characterized. The analysis includes, among others: the possibility of collecting financial resources by the commune, the autonomy of financial management and the principles of handling it.

Keywords: commune, commune's own tasks, financial policy

efektywności realizacji zadań własnych gminy. Na tym tle scharakteryzowano także uwarunkowania finansowe wypełniania zadań przez gminę w aspekcie realizacji autonomicznej polityki finansowej. W przedstawionej analizie uwzględniono m.in. możliwości gromadzenia przez gminę środków finansowych, autonomię gospodarki finansowej i zasady jej prowadzenia.

Słowa kluczowe: kluczowe: gmina, zadania własne gminy, polityka finansowa

Introduction

The commune, as a self-governing community, through elected authorities, makes decisions regarding the scope and methods of satisfying the collective needs of residents and the shape and directions of local development policy. This involves the need to spend public funds, which constitute an important condition for the implementation of tasks by the commune. The collection of funds and the method of expenditure determine the scope of the implementation of the commune's tasks, and thus the degree to which the needs of the local community are met. It determines the implementation of the adopted development direction and, consequently, the quality of life of residents and the conditions for running a business.

The fact that the commune carries out tasks justifies defining it as a social, economic, legal and even technical system at the same time. The social character of a commune is related to the basic purpose of its functioning, namely, the obligation imposed on it to meet the collective needs of the community, as well as with the participation of people in this process: commune authorities, employees of the commune office and subordinate organizational units, as well as voters between whom the various relationships occur. The commune can be considered an economic system, which means combining material and human resources necessary to achieve the adopted goals in accordance with the requirements of management efficiency and the need to obtain financial resources enabling the ongoing operation of the commune and its long-term development resulting from the assumptions of the adopted strategy. The commune's relations with its surroundings and the principles of implementing tasks (collecting

and allocating public funds) are based on applicable legal structures. This makes the commune also a legal system. In turn, the technical nature of a commune results from the material base necessary for its functioning, which is strictly determined by the specificity of the activity and the type of available and used technologies.

The aim of our research is to indicate the conditions for the implementation of financial policy by the commune. The analysis of conditions is focused on the instruments and frameworks characterized by legal regulations relating to this sphere of socio-economic life. The goal here is of a theoretical nature and was achieved on the basis of a review of the literature on the subject.

Commune in terminological terms

Local government is considered the basic form of organizing public life in the commune (Szewczuk, 2006, p. 57). The essence of local government consists of two basic elements, namely, decentralization of the state administration while performing its duties. The first element points to the independence and autonomy of local government units (Tarno, 2004, p. 19). The second element determines the material content of local government and the manner of exercising power by its bodies. Local government is a component of the state's public authorities system (Borodo, 2004, p. 23). Its essential function is the management of public affairs by the interested parties themselves (Tarno et al., 2002, p. 20). Local government is also defined as "a public law association (legal corporation) separate from the state, existing by operation of law, which was established to manage the affairs of the community of inhabitants of a given territory and equipped with administrative power" (Przybysz, 2000).

The concept of a commune is defined in various ways in the literature on the subject, depending on the context of the analysis. This is usually done in with reference to the provisions of the law, and thus, using constitutional provisions (Konstytucja, 1997, art. 163–172), it can be indicated that the commune is the basic unit of local government, established to perform public tasks, which has legal personality allowing it to benefit from ownership and other property rights in order to perform public tasks not reserved by the Constitution or other acts for bodies of other public authorities, serving to meet the needs of the local government community. It is the self-governing community and the territory inhabited by it that have been recognized as a commune pursuant to the provisions of the Act on Municipal Self-Government (Ustawa, 1990, art. 1, par. 2). Such a self-governing community is established by operation of law and is a compulsory association of citizens resulting from the fact of residing in a given territory

(Grobicka-Madej et al., 2015, pp. 11–13). The commune carries out public tasks on its own behalf and under its own responsibility.

In the light of many concepts of local government, the main attribute of a commune is constituting a separate entity from the state, both in the private law (including property) and public law spheres (Rajca, 2004; Mulawa, 2004). The result of this approach is that the commune is granted legal personality, judicial protection, ownership and other property rights (Jagoda, 2016, pp. 139–151). The public law personality of a commune proves the separate status of the commune's population as a local corporation and allows it to manage in the sphere of administrative law on its own behalf (Malikowski, 2011).

The commune, as a local government unit, which is becoming increasingly important in the performance of public tasks, is a public entity representing the community of a specific territory. It is a form of civil society organization exercising public local authority (Chojna-Duch, 2001, p. 157). It is therefore recognized that local government bodies, equipped with public (administrative) authority, constitute a component of the public authority system (Konstytucja, 1997, art. 16, par. 2), the natural consequence of which is the location of many independent centers of public authority in the territory of the country, and thus the emergence of many different ways of satisfying the collective needs of society and alternatives of action. In this way, each commune is a separate organizational unit that makes decisions regarding the selection of the area's development strategy, the selection of specific objectives related to meeting the collective needs of the community and the methods of their implementation.

Rationality in the implementation of the commune's own tasks

Public tasks determine the behavior of public entities, that is, the form and scope of activity, because they impose specific obligations or grant specific rights (Woźniak, 2004, p. 427). The catalog of tasks performed by municipalities is not closed, and the scope of tasks envisaged by legal acts is not full. The commune implements constitutional and statutory assumptions by performing tasks related to the development of an efficient territorial socio-economic system serving the local community, including:

- public matters of local importance, except for those reserved to the competences for the state administration;
- matters related to ensuring basic living conditions of the local community, carried out as part of own tasks;
- other optional tasks dictated by the needs of the local community (Kowalczyk, 2004, p. 167).

All public tasks (public tasks *sensu largo*) performed by communes are related to the performance of public (*sensu stricto*), social and economic functions. Public functions in the strict sense are performed by the commune in areas such as administration, security, construction and maintenance of technical and economic infrastructure facilities. Social functions involve the intervention of municipal authorities when the needs of certain groups of the local community are not met, such as education, culture, social security. Economic functions result from the fact of collecting financial resources in the form of public levies and their expenditure in connection with the implementation of public functions in the narrow sense and social functions. Economic functions are also expressed in those activities of the commune that are associated with influencing society and the local economy, in particular the financial situation and allocation of resources (Woźniak, 2004, pp. 429–437).

The implementation of the commune's public tasks, established by act or by resolution of the commune bodies, is subject to the rules specified by law. The Public Finance Act specifies the manner of performing tasks financed from public funds. These tasks should be performed in an efficient, cost-effective and timely manner, in accordance with the principles of fair competition (Ustawa, 2009, art. 47). This formulation of the issue indicates the need for rational action, that is, one characterized by order and efficiency (Szołno, 2018, pp. 373–382; Schmidt et al., 2017), with the determinants of efficiency¹ being: effectiveness, economy and profitability. Effectiveness is related to the achievability of goals. Economy means saving and efficiency of activities undertaken by the commune, while profitability is the surplus of the value of useful results of activities performed over the values constituting costs resulting from the economic calculation (Nahotko, 2000, p. 16). The Constitution of the Republic of Poland (Konstytucja, 1997) refers to the concept of efficiency in the preamble, pointing to the need to ensure the reliability and efficiency of public institutions so that they are able to perform the tasks entrusted to them without undue delay, taking into account modern requirements of knowledge and technology and the principle of good faith (Banaszak, 2009, p. 7). The principle of efficiency, treated as a principle of law, is associated with the normative obligation of bodies to act efficiently (Olejniczak-Szałowska, 2013, pp. 179–180).

The issue of the commune's effectiveness in implementing tasks is an ambiguous issue. Generally, it is treated as a ratio of effect to effort, and is influenced by many factors. P. Cabała (2007, p. 29) states that effectiveness is the result of two elements: effectiveness and efficiency. Looking at management in this way, it can be called effective if the result of the activities is assessed positively. In

¹ Efficiency (effectiveness) is understood as striving to achieve the goals set in the plans, with the lowest possible use of financial and organizational resources (Bogacki & Bulzak, 2012). In administrative law, the concepts of efficiency and effectiveness are often equated (Olejniczak-Szałowska, 2013, p. 192).

order to meet the requirements of rationality, a commune should define its tasks, goals and measures of their implementation. Such proceedings result from the management control standards announced by the Minister of Finance (Komunikat, 2009).

In practice, the quality of goods and services provided in a given period of time depends in particular on the functioning of the system of collecting public funds by municipalities. Obtaining the level of public funds adapted to the needs reported by the local community depends on how efficiently the process of collecting financial resources is carried out and on what mechanisms it was built.

Framework for the commune's independent financial policy

An important condition for the implementation of the commune's tasks are financial conditions, which are reflected in the process of collecting and allocating public funds. Financing the tasks performed by municipalities is possible thanks to tools and rules formalized in the form of legal provisions. They enable the collection of public funds not only by authoritative order, but also using financial market institutions and economic mechanisms. These diverse sources of obtaining financial resources are referred to in the literature as the financing system.

In terms of obtaining public funds, the commune has certain legal options that allow it to establish a separate income policy for the commune. This policy should be defined as a part of the commune's budget policy which "consists in the conscious and purposeful selection of sources and types of budget revenues in accordance with applicable legal regulations and in determining the methods of operation (principles) for their acquisition, in accordance with the principle of efficiency and timeliness, so to ensure financial liquidity of the budget of a local government unit and, at the same time, have a positive impact on the environment (residents and economic entities in its area) using the instruments of this policy" (Kogut-Jaworska, 2008, p. 89).

The commune's public funds may come from sources specified in the Act on the Revenues of Local Government Units (Ustawa, 2003). In art. 3 it is specified that the revenues of local government units are their own revenues, general subsidies and targeted subsidies from the state budget. Within the meaning of the Act, local government units' own revenues also include shares in revenues from personal income tax and corporate income tax. The income of local government units may also include funds from foreign sources that are not subject to return, funds from the European Union budget, as well as other funds specified in separate regulations.

In the literature on the subject of public funds obtained from various sources by municipalities emphasis is placed on the so-called revenue authority, which is to ensure that local government units can conduct autonomous financial management, which is an important condition for the implementation of commune tasks. This issue is related to providing the commune with stable, reliable and efficient sources of income and at least partially linking them with the local economic base (Adamiak, 2005, p. 157; Będziszczak, 2010; Kołaczkowski & Ratajczyk, 2016).

The division of public tasks between the state and individual levels of local government is related to the division of financial resources, which is reflected in the formulated principles of the construction of the public financial system. Therefore, the principle of independence and mutual autonomy of the financial system of the state and local government, as well as the financial independence of local government levels and individual local government units, should be indicated (Borodo, 2011; Brzozowska & Kogut-Jaworska, 2016). In this respect, what is important is not the complete independence of the financial subsystem of local government (financial autonomy), but a real link between the amount of available financial resources and the scope of entrusted and performed public tasks and the determination of appropriate sources of income, both at the scale of individual levels of local government and individual units. Financial independence of a local government unit is understood as creating its own financial policy within the existing legal framework, and not as shaping the legal basis for financial management (Łyszkiewicz, 2013; Milewska, 2017). It also means the right of local government to conduct financial management independently (Sawicka, 2013). Financial independence does not mean self-financing (covering expenses exclusively or mainly from own income), but is associated with independent management of financial resources, regardless of the fact that they constitute own income or, for example, subsidies from the state budget (Feret, 2013). According to K. Piotrowska-Marczak, financial independence “regardless of the form in which it occurs, must be characterized by the freedom to make financial decisions related to both obtaining income and allocating it to various types of expenses” (Piotrowska-Marczak, 1997, p. 19; Wyszowska, 2017).

Principles of implementing financial management in the commune

Financial management by municipalities is subject to specific rules, which function as certain universal principles of public funds management applied by all units of the public finance sector, including local government units and organizational units for which the local government unit is the founding or supervisory

body. These principles, formulated in the literature on the subject, are the result of the analysis of legal provisions and the practice of functioning of units. In particular, with regard to the financial management of local government units, the following principles are listed (Patrzalek, 2010):

- the principle of transparency (art. 33–35 and 37 of the Act on Public Finance and art. 61 of the Act on Municipal Self-Government), which obliges public finance sector units to inform residents on matters of financial management in a given area, which favors social control (Bosak & Majka, 2015, p. 97; Nucińska, 2012);
- the principle of transparency (art. 39–41 of the Public Finance Act, albeit the concept of “transparency” has not been defined normatively), which is related to the application of a uniform budget classification, covering revenues and expenses as well as budget revenues and expenses, as well as uniform accounting and reporting rules, increasing the readability of the budget and improving the control of its implementation (Gliniecka, 2015);
- the principle of equality in access to the implementation of financial tasks from public funds (art. 43 of the Public Finance Act) – the right to implement tasks financed from public funds is available to all entities, unless separate acts provide otherwise;
- principle of unity – as a principle of formal unity of the budget, it means the need to include public revenues and expenses in one legal act, and as a principle of material unity, it is associated with the prohibition of combining public funds from individual titles with expenses mentioned by name (art. 42, par. 2 of the Act on public finances) (Osiatyński, 2006, pp. 34–35);
- the principle of the prognostic nature of income and revenues – income and revenues (also expenses and outgoings) are included in the commune budget and financial plans of local government sector institutions in the form of forecasts (art. 211 of the Public Finance Act);
- the principle of the directive nature of expenditures – the amounts of expenditures planned in the commune budget and the financial plans of local government sector institutions constitute an unsurpassable limit of amounts related to the assumed objectives (art. 44, par. 1 of the Public Finance Act);
- the principle of purposefulness and economy, which refers to public expenditure in order to obtain the best results from given expenditure, with the optimal selection of methods and means to achieve the assumed goals (art. 44, par. 3 of the Public Finance Act);
- the principle of performing obligations in the field of financial control, which stipulates the need to comply with financial control procedures relating to various aspects of the financial management of a public finance sector entity;
- the principle of legality (acting on the basis of the law) and the rule of law (observing the law, acting within the limits thereof) – public authorities operate

- on the basis and within the limits of the law (Sarniecki, 2014; Konstytucja, 1997). The framework for the financial management of a local government unit is established by law, and “each action of public authority bodies should be based on the authorization resulting from the statutory norm to undertake action of a given type, under specified conditions and in a specified form” (art. 7 of the Constitution of the Republic of Poland) (Sawicka, 2015);
- the principle of financial discipline, which is directly related to the principle of legality and the rule of law and indicates the need to comply with procedures in the sphere of the financial management of an entity (Ustawa, 2004);
 - the principle of collecting public funds only in the manner specified in the act (art. 42, par. 1 of the Public Finance Act), which means that individual categories of public funds are collected in accordance with the procedures applicable to them (e.g. tax law provisions, regulations regarding real estate management, etc.);
 - the principle of primacy of the revenue side of the budget over expenses, which means that the level of budget expenditure of a local government unit is primarily determined by financial possibilities, not the scale of needs (Łyszkiewicz, 2013, pp. 19–20).

In the literature, in addition to the above, there are also other rules regarding financial management in local government units. All of them, regardless of the fact that they are formulated directly in the legal provisions regulating the local government subsector of public finances or in the doctrine, set out the framework, the respect of which creates the conditions for the effectiveness of the commune's functioning in terms of planning, collecting and spending public funds.

In accordance with the provisions of the Public Finance Act (Ustawa, 2009, art. 211), the basis for the financial management of the commune in a given budget year is the budget resolution, the main element of which (along with the annexes) is the commune's budget, which is an annual plan of its income and expenses as well as revenues and expenditures. The commune budget is an instrument performing specific functions: control (a tool for verification, supervision and control), planning (in terms of planning budget income and expenditure) and political (as an instrument for implementing local policy) (Jastrzębska, 2012, p. 61; Starzyńska, 2015).

The rationalization of the management of public funds is to be facilitated by long-term financial planning, introduced by the provisions of the Public Finance Act, both at the central government and local government levels. The fundamental purpose of such a solution is to link public expenditure with the medium- and long-term priority objectives of local government units, concentrate activities on the medium- and long-term stability of public finances, facilitate the absorption of EU funds, and improve the efficiency of spending public funds. The literature emphasizes that long-term financial planning should contribute to increasing the

transparency, credibility and predictability of financial policy (Witalec, 2011; Józwiak et al., 2010, p. 164; Sawicka, 2012).

The multi-annual financial forecast² covers the period of the financial year and at least three subsequent financial years, and the forecast of the debt amount, which is part of the multi-annual financial forecast, is prepared for the period for which liabilities have been incurred and are planned to be incurred (art. 227 of the Public Finance Act). The document being developed has a “rolling” nature – the time range is extended every year (Owsiak, 2014; Dylewski, 2016). In connection with the implementation of long-term financial planning, communes are obliged to develop and adopt long-term financial forecasts. Pursuant to the Public Finance Act, the resolution on the multi-annual financial forecast includes³: a multi-annual financial forecast with explanations of the values adopted therein, a list and description of planned projects along with possible authorizations to incur liabilities. The Act specifies that the multi-annual financial forecast should be realistic, and for each year covered by the forecast it should specify in particular such elements as (Ustawa, 2009, art. 226, par. 1): current budget revenues and expenses, budget property revenues and expenses, budget result, allocation of the surplus or the method of financing the deficit, revenues and expenses of the budget, including the debt incurred and planned to be incurred, as well as the amount of the commune’s debt and the method of financing its repayment. For each project, the multi-annual financial forecast specifies (in the annex to the resolution) such elements as (art. 226, par. 3): implementation period and total financial outlays, expenditure limits in individual years and the limit of liabilities (Grad, 2014).

The use of long-term financial forecasts is an expression of financial planning, which determines the way municipal authorities make decisions. This instrument enables a methodical approach to examining and predicting the alternative financial impacts of various planned activities. It also enables the determination and estimation of risks, taking into account the impact of their implementation on the financial situation of the entity.

² The multi-annual financial forecast is a description of the intended (over a period of at least three years) internally coherent activities of local government bodies related to the collection and distribution of financial resources in order to achieve the set goals related to the organization and provision of public and social goods (Patrzalek, 2010, pp. 116–117; Adamiak, 2012).

³ The template for the multi-annual financial forecast is specified by regulation of the Minister of Finance (Rozporządzenie, 2013).

Conclusions

A review of the literature on the subject made it possible to characterize the commune as a separate organizational unit making independent decisions regarding its development and the current satisfaction of the collective needs of the community of residents.

The commune, as a local government unit, is a special system that pursues economic, social and political goals. The basic condition for its functioning is the fulfillment of duties to meet the collective needs of the local-government community. It is a complex process whose effectiveness and efficiency depend both on the human factor, manifested in the mutual relations between the municipal authorities, official staff, employees of the created organizational units and residents, as well as on the material and financial resources that are collected and allocated under special rigor of the law. In this way, both the current functioning of the commune and its long-term development resulting from the assumptions of the adopted strategies are different from those in private sector entities and even to some extent in other public finance sector units.

The commune has legal personality, acts on its own behalf and under its own responsibility, and its main function is to shape the local social environment in accordance with its economic conditions and financial policy. It is an autonomous subject of rights and obligations. On the one hand, the commune exercises administrative authority, which means that it can unilaterally determine the legal situation of other entities in a legally binding manner. On the other hand, it participates in market trading on a partnership basis on equal terms with other entities, for example by concluding contracts with them. A commune striving for development is subject to the rules set out in law, which require rational action. It is an entity that manages its own affairs independently on its own behalf and under its own responsibility, which is manifested, for example, in the freedom (limited by law) to shape its organizational structures, spend its own income, or administer the municipal property and draw benefits from it, excluding other entities, both to implement the commune's tasks and to obtain income. The legal provisions setting the limits of the commune's freedom in various spheres of its operation concern in particular financial management and the related rules regarding the collection and disposal of public funds. Due to the fact that the commune manages public funds, which results in the lack (or incomplete) functioning of market mechanisms that enforce the efficiency of financial management, the regulations provide for the need to supervise its activities and establish obligations regarding its control.

A commune as a unit of local government is a form of exercising public authority, and its specificity in this respect is determined by the exercise of state administration and the decentralization of this administration, resulting

in the independence and autonomy of the commune, in particular in terms of shaping its own financial policy, both in the area of collecting income and making expenses. The commune, equipped with tasks, competences, public assets and public funds, can independently decide on the method of regulating and managing public affairs at the local level. Generally speaking, the essence of a commune is its autonomy, which means that communes are not identical and each one implements the adopted development strategy resulting from the local development policy in a different (individual) way.

In the near future, communes will face the challenge of adapting their financial policy to the framework set out by the EU policy in terms of adapting to dynamic changes in demographic, climatic conditions (including the related energy transformation) and other regulatory and legal conditions originating from EU legal acts. These issues may become the subject of further research and consideration.

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