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Changes in the Direction of Financing Tasks of Local Government Units

***Abstract.** The existing financial situation forces local government units to seek alternative financing possibilities for tasks. The aim of the study is to indicate the two basic options, which allow for the financing of investment projects in a way that is not a burden on the local government budget. The paper presents the financial reasons for the changes in the directions of financing tasks. They point to a public-private partnership (PPP) and the creation of municipal companies as the two basic alternatives for financing local government tasks.*

***Keywords:** local government, financing, PPP*

Introduction

Local government units (LGUs) carrying out public tasks at the same time compete for citizens or an investor. This competition is reflected in increasing the quality and/or quantity of the tasks. These decisions affect both sides of the situation, the income and expenditure. LGUs undertake investment projects that are related to maintaining current standards of provided services and benefits, as well as, deciding to invest for growth.

These decisions relate to capital expenditure, taking out debt liabilities, or the acquisition of foreign funds, including those of the EU. The existing fiscal rules on one hand, are aimed at stabilizing the financial management of local government; but on the other hand, limit the possibility of taking out debt liabilities (especially



in the case of the debt rule), which allow an increase in the standards of the performed tasks through investments.

The presented situation forces many local governments to seek alternatives that will stimulate an increase in those standards, extend the task force, and will constitute an important aspect of enhancing the quality of services provided to the public. The aim of the study is to indicate the two basic possibilities that allow the financing of investment projects.

1. Evaluation of financing tasks of local government units

Though LGUs have been appointed to realize their own specific tasks, they are also entrusted with the execution of the tasks of a government administration under the applicable laws, and to carry out tasks arising from agreements with other local governments; however, they do not always realize them in the expected or required standards of both a qualitative or quantitative nature. Reducing the standard tasks can result from reduced quantitative and qualitative requirements. The most common reason for a reduction of requirements in relation to ongoing tasks is the scarcity of budgetary resources. Reducing the quantitative requirements, LGUs bear a lower cost and thus, the expenses for the local government unit budgets are smaller. This operation may, however, not be accepted by the recipients of the services, or the local community of the LGU. Reducing quality requirements would also lead to a reduction in the cost of providing the service and the local government would reduce the cost of its implementation. Nevertheless, in this case the change would also not be accepted by customers [Fornalczyk 2013: 97-98; McConnell 1987: 93-100; Schiller 1989: 57-60; Blaug 1994: 600-610; Samuelson & Marks 1998: 445, 599; Baumol & Blinder 1988: 646-648; Begg, Fischer & Dornbusch 2007: 130-159; Stiglitz 2004: 184-217]. It is essential to find answers to the question of how to provide a high number and better quality of tasks for the local community using the means of available funds, which includes the LGUs budget for a given year.

The current financial situation of LGUs (presented in Table 1), as well as, the scope of tasks and the necessity to improve the quality and quantity of goods for society, make it necessary to seek alternatives outside the local government unit budget; especially alternatives capable of achieving a greater efficiency with distribution of allocated funds, at a certain level of budgetary expenditure.

The period of increasing absorption of EU funds from different programs (as seen in Table 2), as well as, operating aid mechanisms (like the Norwegian mechanism) have limitations that are related to the necessity to sustain their own contribution. Furthermore, the existing rules limiting debt further restrict the possibility of obtaining alternative funding.

Table 1. The structure and dynamics of LGU budget revenues in Poland during the years 2013-2015

	2013	2014	2015	2013	2014	2015	2013/14	2014/15
	In thousands of PLN			Structure (%)			Dynamics (%)	
Total income (current and property)	183,458,281	194,337,188	199,018,949	100.00	100.00	100.00	94.40	97.65
Current income	163,168,725	171,721,544	176,067,029	88.94	88.36	88.47	95.02	97.53
Own revenues, including:	85,794,504	92,656,211	97,915,012	52.58	56.79	60.01	92.59	94.63
Own revenues in narrow terms (whithout PIT and CIT)	47,033,594	51,110,327	52,738,765	54.82	59.57	61.47	92.02	96.91
PIT, CIT only	38,760,910	41,545,884	45,176,246	45.18	48.42	52.66	93.30	91.96
Targeted subsidies	26,408,864	28,160,787	27,103,200	16.19	17.26	16.61	93.78	103.90
General subsidy	50,965,357	50,904,546	51,048,817	31.23	31.20	31.29	100.12	99.72
Property income	20,289,556	22,615,644	22,951,920	11.06	11.64	11.53	89.71	98.53
Own revenues, including:	6,004,165	5,934,846	5,524,318	29.59	29.25	27.23	101.17	107.43
Revenues from the sale of assets	3,785,992	3,872,597	3,515,749	63.06	64.50	58.56	97.76	110.15
Targeted subsidies	13,993,081	16,381,771	17,133,121	68.97	80.74	84.44	85.42	95.61
General subsidy	291,731	299,028	294,486	1.44	1.47	1.45	97.56	101.54

Source: own calculations based on *Sprawozdania z działalności...* 2014-2016.

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Table 2. The structure and dynamics of income in Poland separating projects financed with foreign funds including those financed by the EU, between the years 2013-2015

	2013	2014	2015	2013	2014	2015	2013/14	2014/15
	In thousands of PLN			Structure (%)			Dynamics (%)	
Total income (current and property)	183,458,281	194,337,188	199,018,949	100.00	100.00	100.00	94.40	97.65
Expenses for the implementation of projects financed from EU funds	16,385,716	171,721,544	17,412,763	8.93	9.47	8.75	89.06	105.66
Current income	163,168,725	18,397,523	176,067,029	88.94	88.36	88.47	95.02	97.53
Grants and appropriations to finance expenditures for projects given EU funding	3,959,556	171,721,544	2,545,638	2.43	2.31	1.45	99.60	156.15
Property income	20,289,556	22,615,644	22,951,920	11.06	11.64	11.53	89.71	98.53
Grants and appropriations to finance expenditures for projects given EU funding	12,426,655	14,422,479	14,867,125	61.25	63.77	64.78	86.16	97.01

Source: own calculations based on *Sprawozdania z działalności...* 2014-2016.

Table 3. The structure and dynamics of expenditures of local government units in Poland separating expenditures on projects implemented by foreign funds from the EU between the years 2013-2015

	2013	2014	2015	2013	2014	2015	2013/14	2014/15
	In thousands of PLN			Structure (%)			Dynamics (%)	
Total expenditure	183,838,643	196,754,150	196,415,300	100.00	100.00	100.00	93.44	100.17
Current expenditure	148,831,937	155,403,934	157,839,415	80.96	78.98	80.36	95.77	98.46
Expenses related to projects co-financed from EU funds	3,968,059	4,164,102	2,631,773	2.67	2.68	1.67	95.29	158.22
Capital expenditure	35,006,707	41,350,216	38,575,885	19.04	21.02	19.64	84.66	107.19
Investment expenditures, including:	33,497,403	39,922,753	37,219,959	95.69	96.55	96.49	83.91	107.26
Expenses related to projects co-financed from EU funds	16,870,533	19,734,506	16,712,840	50.36	49.43	44.90	85.49	118.08

Source: own calculations based on *Sprawozdania z działalności...* 2014-2016.

Table 4. Revenues, expenditures, and outcomes for local government budgets between the years 2013-2015

	2013	2014	2015	2013	2014	2015	2013/14	2014/15
	In thousands of PLN			Structure (%)			Dynamics (%)	
Total revenues	24,062,022	22,893,508	20,257,746	100.00	100.00	100.00	105.10	113.01
Contracted debt, including:	12,959,196	11,234,006	8,090,976	53.90	49.10	39.90	115.36	138.85
Debt connected with projects co-financed from EU funds	1,862,807	2,101,554	1,427,542	7.70	9.20	7.00	88.64	147.21
Free resources and surplus	10,890,869	11,456,270	11,996,644	45.30	59.20	59.20	95.06	95.50
Total expenditures	13,753,153	9,304,310	11,332,133	100.00	100.00	100.00	147.81	82.11
Repayment of debt, including:	11,838,719	8,000,696	8,291,576	86.08	85.99	73.17	147.97	96.49
Debt connected with projects co-financed from EU funds	1,551,731	2,006,500	1,538,735	11.28	21.57	13.58	77.34	130.49
Budget outcome	-380,363	-2,416,962	2,603,649				15.74	-92.83
Surplus	3,782,249	3,655,713	6,317,898	x			103.46	57.86
Deficit	-4,162,612	-6,072,675	-3,714,249				68.55	163.50

Source: own calculations based on *Sprawozdania z działalności...* 2014-2016.

The current financial situation of local governments shows significant capital expenditure (at approx. 20% in the analyzed period), as well as, a high level of debt (as seen in Table 4).

It should be noted that the amount of capital expenditures decreased in 2015. In addition, expenditures related to projects co-financed from foreign funds, which include the EU, also decreased. It is worth emphasizing that the trend discovered is that of the reduction of debt incurred in the period, as well as, a decrease in the amount of expenditures related to the repayment of debt.

In the presented data, an investment insufficiency becomes apparent for local government units in relation to existing fiscal rules. They restrict the possibility of borrowing, as well as, reduce expenditures. The analyzed data shows the need to consider alternatives outside the system of local government finances. This possibility can be created by the legislator as legal solution and includes public-private partnerships and municipal companies.

2. A public-private partnership (PPP) as an alternative for the realization of public tasks

It is commonly stressed that the PPP (a public-private partnership) formula may constitute an effective tool for public purposes by combining different forms of public and private funds. The subject of public-private partnership is a common implementation of the project based on the division of tasks and risks between the public entity and the private partner.¹

Considering the division of tasks, usually the task of local government is restricted to the preparation of the project, the creation of conditions for formal and legal functioning of the partnership, the development of assumptions for the project (often project documentation, obtaining necessary permits, etc.), and the determination of the criteria for partner selection. After which, the local government must supply the partner with the design assumptions and supervise the process of the construction or renovation (renovation or revitalization) of the project specified in the contract. The private partner is engaged in designing or redesigning, afterwards, the process of building, and in many cases, the operation and/or management of the project (building, structure, or roads). One must remember that the PPP agreement must specify the formal and legal situation concerning the resulting partnership assets (often an object). After the end of the contract, the private partner can pass the object to the owner, in this case, the LGU. The private partner may also rent the object. Another variation is the passing of the

¹ Definitions on the subject of partnership: Art. 1 § 2 of the Act of December 19th 2008 pertaining to public-private partnerships, Journal of Laws 2009, no. 19, item 100 as amended.

object to the owner (the LGU) and signing a concession contract of service. The private partner may also purchase the object from the public partner in exchange for the opportunity to use it. The private partner can, after the completion of the investment phase, decide to end cooperation with the LGU. In this situation, the public partner pays appropriate remuneration to the private partner and takes over the exploitation of the object or may delegate the task to another entity selected in a new proceeding.

The PPP thus divides the obligations of the parties to the activities related to the preparation and the execution of the project in a clear manner. The PPP sets out the commitment of the private partner for the implementation of the action, task, or project, for which he receives remuneration from the public partner. Remuneration can also be rewarded in the form of benefits that can be derived from the completed project (for example, in the form of fees for its use). The purpose of the public partner is to control the execution of the agreement and the creation of conditions for its implementation during its duration.

The second condition for the use of the PPP is an issue of risk sharing. This risk arises from the contract itself, but is also primarily associated with burdening the local government budget with debt or with the inability to go into debt for the realization of a project that the local government is not able to cover financially within their budget.

This last point applies to both current and future financial situations of the local government, but also the possibility of obtaining funds from the European Union. PPP also gives an undeniable chance to co-finance investments from EU funds through the use of hybrid financing, which is acceptable in these types of projects.

It should be emphasized that in previous programming periods LGUs have often taken on substantial debt obligations, which currently significantly reduce the ability to incur new debt obligations (Art. 243 of the Act on Public Finance²). An important limitation is the phase of the operation, because art. 242 of the Act on Public Finance indicates an obligatory balancing of the current budget. LGUs do not always take into account newly transferred investments in their ongoing operation of investment projects.

There are often high costs that exceed the previously incurred and budgeted funds for the indicated purpose. This means that the “new” investments cost more than the implementation of the task which is based on the existing infrastructure. This fact points to the occurrence of internal risk on the side of the public partner, which is related to refinancing risk and financial risk [Filipiak 2011: 77-78; Ponia-towicz 2014: 158-160; Filipiak & Guranowski 2016: 14-26].

² Ustawa z dnia 27 sierpnia 2009 r. o finansach publicznych, Dz.U. nr 157, poz. 1240, ze zm. [Act of August 27th 2009 on Public Finance, Journal of Laws no. 157, item 1240 as amended].

The same problem of risk in PPP projects is extremely important. Art. 18a paragraph 1 of the Act on Public-Private Partnership identified three categories of risk, which the evaluation of the project (or projects) should be focused on from the point of view of the initial classification of assets covered by the agreement of the PPP, namely: the risk of construction, the availability risk, and the demand risk.

The scope of risk has been identified in the Regulations of the Minister of Economics from February 11th 2015, concerning the risks and factors taken into account in the assessment of risk.³ The indicated classification is undoubtedly crucial from the point of view of the LGUs.

Debts arising from contracts of a public-private partnership do not affect the level of public debt and the deficit of public finances in a situation where the private partner bears most of the risks of building and most of the risk of the availability or demand risk (including the impact on these risk factors, such as guarantees and financing by the public partner and asset allocation at the end of the agreement). This means that taking a risk by the private partner will not affect the level of debt obligations and will not burden the individual debt ratio (as defined in Art. 243 of the Act on Public Finance). These reasons highlight the attractiveness of PPP solutions for local governments, which will be able to develop a project that will allow the safe transfer of risk to the private partner, in addition to transferring to them the cost of operation and management of the property, allowing for the implementation of goals for the public.

The premise that will determine the success of the PPP is the establishment of the remuneration for the private partner. This factor is a condition of the effectiveness of the public task, because it is not always possible to accomplish the task at acceptable costs for its implementation. For the private partner to take on the PPP project it is necessary to indicate a satisfying compensation. It must ensure the stability of the income of the project after its completion, or return on the investment, and a satisfactory remuneration for the private partner. This means that the interest of the private party is associated with the acceptance of the relative durability of the PPP contract (terms of withdrawal must be set out therein), as well as, the economic efficacy of the project to a certain level [Filipiak & Guranowski 2016].

The projects implemented in PPP are mainly about reconciling socially acceptable costs, which the local government has to pay in relation to the performance of the PPP (this cost is spread out over many years) with the need to ensure a stable remuneration to the private partner, which will be able to cover the incurred time costs (outlays) and enable them to meet profit margins. In particular,

³ Rozporządzenie Ministra Gospodarki z dnia 11 lutego 2015 r. w sprawie rodzajów ryzyka oraz czynników uwzględnianych przy ich ocenie, Dz.U. poz. 284 [Regulations of the Minister of Economics from February 11th 2015, Journal of Laws item 284].

the latter often raises issues of opposition from the local community, perceiving a negative amount of staggered expenditure. This is undoubtedly a mental issue, because the local community does not take into account that they given a standard service much earlier (or even at all) than would be possible to achieve with a traditional budget approach.

Speaking of opportunities, the functioning of this idea should also be summarized. Agreeably, under the current law, a Database of Public-Private Partnership Projects was created.⁴ This database operates in response to an obligation established by the Minister responsible for the economy (the Minister of Development) to distribute and promote public-private partnerships. Its aim is to present analyses and assessments of the functioning of public-private partnerships and the prospects for their financial involvement in the private sector.

The information given to the public indicates that at the end of July 2016, 98 projects were declared as completed and there were 150 ideas for the PPP design.⁵ A breakdown of completed and potential ideas between individual regions is illustrated in Figure 1, Part A. The figure indicates that the leaders in the implementation of PPP projects are unquestionably the following regions: Pomerania (10 completed projects), Lower Silesia (11 completed projects) and the Lesser Poland Voivodeship (15 completed projects). The smallest number of completed PPP projects (standing at only two completed projects) are seen in the regions of Podlaskie Voivodeship, Lubusz Voivodeship, Lublin Voivodeship, and with only one project implemented, the Lodz Voivodeship. Part B of Figure 1 shows the breakdown of possible projects for implementation in a PPP project. The most projects submitted to the PPP database have come from these regions: Greater Poland Voivodeship (25 submitted ideas), Masovian Voivodeship (21 submitted ideas), and the Lesser Poland Voivodeship (18 submitted ideas). The least amount of project ideas submitted were in the following regions: Podlaskie Voivodeship (3 submitted ideas), Lubusz Voivodeship (4 submitted ideas), and Lodz (4 submitted ideas).

The presented data is not impressive, considering the fact that the idea of public-private partnership has been legally recognized (by an Act) from 2005. In spite of great distrust and numerous barriers, local governments perceive the possibility of implementing public tasks using PPP in the future because of the lack of own funds for investment, aversion to being an investor, and grappling with investment risk (thus, solving this through transferring risk to the private partner),

⁴ New regulations on the PPP impose statutory obligations on the minister responsible for the economy to disseminate and promote public-private partnerships (Art. 3 of Act from December 19th 2008, concerning public-private partnerships). The Database of PPP projects was created to this end, and accessible at www.bazappp.gov.pl.

⁵ www.bazappp.gov.pl [access: 30.07.2016].

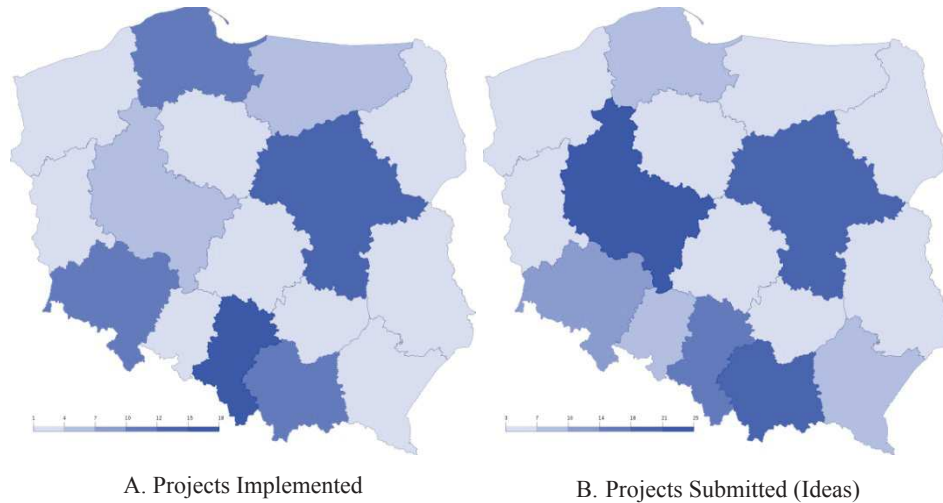


Figure 1. Completed and potential (ideas submitted) PPP projects in Poland

Source: own work based on: https://bazapp.gov.pl/project_base/ and the use of the program found at: <http://mapy.easysoftware.pl/> [access: 30.07.2016].

and the possibility of the realization of other investments, which cannot be implemented through a PPP due to their nature.

3. Municipal companies as contractors of current and investment tasks

Each local government unit in the municipality is obliged to realize the tasks of running economy utilities. This includes, in particular, the tasks of a public utility, whose aim is ongoing and uninterrupted satisfaction of the collective needs of the population through the provision of a universal service. Municipal services can be carried out by local government units, particularly in the form of local government budgetary establishments or commercial companies. The law allows the transfer of tasks to entities that can more flexibly, more efficiently (especially in cost) achieve them, in addition to having the appropriate competence and necessary equipment for the implementation of infrastructure. This idea was developed alongside privatization and has both supporters and opponents at present. It gives undeniable possibilities for future use of instruments and sources of financing, which are reserved for local government units. They do not fall under restrictions contained in the law, as is the case for local government units.

The legislator introduces a limit to the types of companies that LGUs may create. On the subject of activity, it is important that outside of public utilities, the municipality can establish commercial companies and join them. In particular, the legislator indicates that the LGU can utilize the companies when there are community government needs that are not met, or unemployment significantly affects the standards of living, or the use of other activities and existing provisions of the law have not resulted in the revival of the economy; especially if there is not a significant revival of the local market or a permanent reduction of unemployment. In addition, it allows for the creation of special purpose companies for the implementation of PPP projects.⁶

It is crucial for a municipal company to be both effective and efficient. It becomes a market entity, which may (but does not need to) seek potential customers for its services in the commercial market and to local government, which is the owner (based on public procurement law), it can contract public services “in-house”. The Act from June 10th 1994 on public procurement does not apply to cases of entrusting a municipality’s organizational unit the tasks of public road creation. The completing of “in-house” tasks through the created municipal organizational unit does not necessarily require an agreement to be created. The basis of performing these types of tasks is, in fact, the very reason for its creation and the appointing authorities specify the objectives for its activity. Within the relationship between the municipality and its organizational entity, there is a possibility for a contract to be created to service a public contract for the municipality. This contract may happen provided that the contracted task does not fit into the range of tasks for which the entity was created for by the municipality.⁷

According with the intentions of the legislator, entrusting the service to the entity should allow for both the functioning of the company, ie the revenue will cover the costs of the services entrusted at that time, as well as, to ensure the profitability at a sufficient level for development based on asset replacement (“Reasonable profit” should serve this purpose). Public services are not always correctly estimated, which makes it necessary to incur increased expenditures by the local governments to raise more capital, usually in the form of a contribution.

The entity created by the government, in addition to pursuing public tasks in the form of public service, may also take on commercial services. As indicated in the NIK report, municipal companies appointed by the local government focus too much on commercial activities rather than completing public tasks. This situation results in a relief for local governments, but limits the objectives for which these

⁶ Broader indications for the creation of companies by LGUs can be found in Art 10 § 2-4 of Act from December 20th 1996, relating to municipal economy, Journal of Laws 1997 no. 9, item 43.

⁷ The position of the Supreme Administrative Court stated its judgement August 11th 2005, sygn. akt II GSK 105/05.

entities were established, namely to focus on public services. Moreover, the NIK indicates that local governments provide unreliable supervision over the entities they create, resulting in almost half of them bringing losses. Ultimately, the financial consequences of these projects are felt by the people living in these regions (according to the NIK report). This means that when deciding on the creation of entities, local governments have to make a decision to increase the efficiency of their management, their organization, and the financial execution of specific tasks.

There is another benefit associated with the appointment of a municipal entity when considering the potential to increase the efficiency of completing public tasks by local governments. LGUs can flip the implementation of investment projects on the municipal entity, which would make it the investor, but it would also be financing the project. To finance the work, the entity may incur a debt obligation that (as long as local government is not a guarantor or guaranteeing repayment of the debt) will not burden the budget and will not affect the individual debt ratio. Running the company will source repayment of the debt obligation from the investment.

The cited report indicates that only half of the established companies are actually not in financial difficulty. Those with companies that have financial difficulties will undoubtedly be looking for solutions to their financial problems in the local government unit budget. Others will be directed and managed based on market principles, in addition to their objective statute, they will be guided by cost-oriented attention to the efficiency of its activities.

Conclusions

The two indicated alternatives for financing tasks ensure both financing investment, as well as, current projects. Public-private partnerships allow for ensuring quality standards throughout the duration of the contract, as opposed to the use of a public utility company which does not always guarantee proper execution of the task. Utility companies may have financial problems, which would translate into the need for recapitalization by the owner, or in this case, the local government. Public-private partnerships, although based on a market approach towards the project, will always have the fear that the private partner will no longer comply with the contract in an unexpected way.

The advantages and disadvantages of both solutions lead the author to conclude that the effects of transferring out specific tasks should always be considered. LGUs must guard against bad implementation of contract provisions, but also need to shape the structure of its tasks so that in the future there are guaranteed standards of a quantitative and qualitative nature and are adequate to the current financial situation and the needs of its society.

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Przemiany w kierunkach finansowania zadań jednostek samorządu terytorialnego

Streszczenie. *Istniejąca sytuacja finansowa wymusza na jednostkach samorządu terytorialnego poszukiwanie alternatywnych możliwości finansowania zadań. Celem opracowania jest wskazanie na podstawowe dwie możliwości, które pozwalają na finansowanie zadań inwestycyjnych w sposób nieobciążający budżetu JST. W opracowaniu przedstawiono przesłanki finansowe zmiany w kierunkach finansowania zadań. Wskazano na partnerstwo publiczno-prywatne oraz tworzenie spółek komunalnych jako dwie podstawowe alternatywy finansowania zadań JST.*

Słowa kluczowe: *samorząd terytorialny, finansowanie, PPP*