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ACTIVITIES FOR IMPROVEMENT OF THE SYSTEM OF REGIONAL DEVELOPMENT IN POLAND – AN ATTEMPT OF LEGAL AND ADMINISTRATIVE ANALYSIS

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Introduction

An attempt to analyze the functioning of the system of regional development in Poland is a difficult task due to the fact that there is no legal definition of regional development.[1] Therefore, administrative law has to use either economic or sociological definitions. According to some, regional development should be understood as the intentional acts of public authorities consisting in the rational choice of the appropriate means and methods needed to generate continuous socio-economic development in the region.[2] This article is not going to analyze the abovementioned concept; instead the author intends to highlight the existing problem of the lack of a uniform legal definition. The lack of that definition leads to certain problems in defining the system of development management. Based on government documents it can be inferred that the system of development management should be understood as "a group of activities leading to effective use of human resources and material resources, undertaken in a coordinated way by units of public administration at different levels, in cooperation with representatives of socio-economic partners and non-governmental organizations, based on the principles of partnership in order to accomplish previously determined goals."[3] On the basis of the tasks of public administration pertaining to regional development as described in the definition, it is possible to determine activities for the streamlining of the system of development

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1 K. Wlażlak: *Rozwój regionalny jako zadanie administracji publicznej.* (*Regional Development as a Task of Public Adminitration*) Warszawa, Wolters Kluwer, 2010. 42.

2 Ibid. 57.

3 See: Premises of the System of Management of Poland's Development, a document passed during the meeting of the Council of Ministers on 27 April, 2009.

management. At present, the amendment to the Act of 6 December, 2006, laying down principles of conducting the policy of development is going to be the fundamental element of this process. The legislator proposes two types of changes in the amendment process: the first one consists in the introduction of new terms and instruments and the second one focuses on the elimination of dead letters that slow down and hinder the process of development management. This analysis is going to focus on the latter element.

1. Amendment of Dead Letters within the Range of Regional Development

The first of the suggested amendments involves the postponement of the deadline for the Prime Minister to pass information about the implementation of medium-term national development strategy to the Sejm and the Senate of the Republic of Poland from 31 July of each year to 31 August. According to the legislator, "the amendment proposed is the result of the lack of the possibility to prepare and formally accept before the previously determined deadline the information about the realization of the medium-term national development strategy (MTNDS). The expenditure on the realization of the priorities indicated in the MTNDS for the reported year constitutes a significant part of the information required. Therefore, preparation of such a report is only possible after the Ministry of Finances finish their work on the information regarding the realization of expenditures in the costing by activity for the reported year. Since the works on the realization of task budget are finished at the end of May each year, the remaining time is not enough to prepare an appropriate financial statement for MTNDS's reporting in a way that would allow the document to be interdepartmentally consulted upon, discussed by the Committee of the Council of Ministers for Digitization and subsequently by the Permanent Committee of the Council of Ministers and the Council of Ministers. The procedures relating to the consultation and acceptance of the document frequently extend beyond the period of two months. Therefore, it is justifiable to postpone the deadline of the report till 31 August of each year."[4] It has to be noted that postponing the deadline by one month, especially regarding the fact that this is a month of so-called "parliamentary vacations," does not allow the legislator to obtain the necessary time required for the preparation of the information needed. Therefore, it would be crucial to postpone this deadline till 30 September each year.

Another amendment concerns the clarification of the conditions for obtaining subsidies from designated budgetary sources for the realization of local government units' own tasks. The activities within the scope of developmental policy that constitute local government units' own tasks and are not included in the operational programme can be financed by designated subsidies from the state budget if the activities meet altogether the following requirements:

[4] *Justification of the draft of the Act on Principles of Conducting Regional Policy*, p. 5.

1) they realize the goals determined in the development strategy defined in Article 9 item 3 proposed by a minster responsible for regional development,
2) they are complementary to the activities implemented within the framework of the operational programme, subject to paragraph 3. The designated subsidy described in paragraph 1 is transferred on the basis of the contract entered by: 1) the minister in charge of regional development issues 2) the minister in charge or the voivode locally in charge, after obtaining a positive opinion from the minster responsible for regional development – with units of local government according to the rules defined in the law on public finances. The minister in charge of regional development announces in the Official Gazette of the Government of the Republic of Poland ("Monitor Polski") before 20 February the announcement on the maximum amount of the designated subsidy for financing the activities and the area of intervention within the range of which the activities defined in paragraph 1 will be financed by the designated subsidies from budgetary sources."[5]

According to the legislator, "the current law allows practically each type of activity – as long as it is a local government unit's own task – to obtain subsidy, since it always meets one of the requirements mentioned in Article 20a: it is either related to the activities realized within the framework of the regional operating programme or it contributes permanently to the increase of development and competitiveness of the region. Taking into consideration the fact that the scope of local governments own units' tasks includes a vast array of categories, from tasks related to spatial order, real estate management, environmental protection and water management, via public education, health protection, social care, public transport and public roads, culture and monument protection, physical culture and tourism, agriculture, forestry, inland fishery to promotion and cooperation with other communities, organizations or entities, it has become necessary to relocate the support from the state budget for the implementation of local government units' tasks. An amended Article 20a specifies the criteria local government units have to meet, in order to obtain support, the requirement to show the interconnectedness of the tasks for which they are claiming support with the National Development Strategy and the regional operating programme. Taking into account the level of the priority of the intervention, the Minister of Regional Development reserves the right to determine annually the scope of tasks subject to subsidies in each budgetary year. This approach will contribute to the cohesion of interventions undertaken within the framework of regional policy and increase their effectiveness."[6] The aforementioned amendments should be accepted completely.

The next amendment is to standardize the process of severing from both administrative and civil execution resources of specific character, such as the payments transferred within the framework of operational programmes. The proposer of the

[5] Proposed Article 20a of the draft of the Act on Principles of Conducting Regional Policy.

[6] *Justification of the draft of the Act on Principles of Conducting Regional Policy*, pp. 5–6.

motion justifies this amendment in the following way: "the regulation as in force at present severs from execution only those from the above mentioned resources that have been transferred as an advance payment. It has to be emphasized, though, that the money transferred to the beneficiary as a refund can condition further proper implementation of the project. In the case of refund (in particular, when this is not a final payment but a periodic payment) we have a situation where the beneficiary spends his/her own resources obtained from credits or loans on the realization of the project and the beneficiary's financial liquidity and, consequently, the future of the implemented project depends upon the timely receipt of reimbursement. Not severing this category of resources from execution can in practice prevent the goals of the project from being accomplished and therefore, it translates into the goals and premises of operational programmes being accomplished. Due to the above mentioned reasons, there is no justification for the different treatment of these resources, depending on the form of their transfer. This is also confirmed by the regulations concerning enforcement proceedings within the framework of civil procedure. It has to be noted that Article 831 paragraph 1 item 2 of the Code of Civil Procedure refers generally to the money granted by the State Treasury for special purposes but it does not specify the form of the transfer of subsidies. Therefore, in practice payments transferred within the framework of programmes co-financed with the EU resources both in the form of refund and in the form of advanced payment are severed from execution in civil procedure."[7] The above mentioned amendment answers the expectations of beneficiaries of the EU subsidies.

2. Amendments to the Act on Voivodeship Government

The legislator has proposed the following amendments: "After the date the act on acceptance or amendment of the strategy or the plan described in paragraph 1d becomes effective, voivodeship government verifies whether the strategy of voivodeship development conforms to them and, should any discrepancies appear, that the strategy of voivodeship development be adjusted to them."[8] The amendments to the Act of 5 June 1998 on Voivodeship Government (Article 2 item 1a of the draft where Article 11 paragraph 1e is added) referring to the requirement of updating the Voivodeship Development Strategy (VDS) resulting from passing at the national level strategic documents (including the medium-term national development strategy, National Regional Development Strategy and appropriate extra-regional strategies and other documents at the regional level, such as the Voivodeship Spatial Development Plan) aim to make this procedure more flexible. On the one hand it means that the time period of 9 months reserved for conducting an update is done away with; on the other hand, the requirement to update VDS becomes dependent upon the appearance of discrepancies between VDS and a document passed at the state level. Regulations of

[7] *Justification of the draft of the Act on Principles of Conducting Regional Policy*, p.7.

[8] Article 11 paragraph 1e of the draft of the amendment to the Act on Voivodeship Government.

law in force to date cannot be implemented in practice for two reasons. First of all, the changes in one document at the national level not infrequently lead to the need to update other documents related to them at the national level, which means that voivodeship governments have to conduct several update procedures in a very short period of time. Second of all, the period of 9 months is not long enough to conduct all the procedures related to the update of a strategic document. The process of public consultations itself lasts 35 days, and the strategic environmental impact assessment lasts about 6 months. Taking into consideration the time needed for preparation of the update of the document as well as the inclusion of the results of public consultations and the environmental impact assessment together with the time needed to conduct all the statutory procedures, it is impossible to conduct the update of VDS within the statutory 9-month period of time. At the same time, the proposed solution referring to the dependence of VDS's update on the recognition by the voivodeship government of discrepancies between VDS and a document passed at the state level conforms to the constitutional principle of self-government. Voivodeship government holds autonomous competences to conduct developmental policy on the voivodeship territory and it is based on its decisions that the VDS's update should be performed. VDSs that are currently being amended in order to be able to apply for both the state and the EU public funds within the framework of various programmes have to take into consideration developmental goals included in documents both at the national and the EU levels. It can be regarded as the adequate protection to ensure cohesion of strategic documents in vertical structure."[9] It has to be assumed that the amendment proposed lives up to the expectations of representatives of local governments and it is constructed in the appropriate way.

The second major amendment that is going to be introduced to the Act on Voivodeship Government concerns the establishment of regional territorial observatories. The main tasks of such an observatory are going to be as follows: "1) it collects and processes data and information within the scope determined by Article 6b paragraph 2 item 2 of the Act of 6 December 2006, laying down the principles of conducting the policy of development, deployed to analyze developmental processes and the influence of the interventions undertaken in a particular voivodeship on this territory; 2) it cooperates with the national territorial observatory described in Article 6B of the Act of 6 December 2006 on the principles of conducting the policy of development, including the passing of analyses and reports prepared on the basis of data collected according to its own standards described in Article 6B paragraph 2 item 1 on the principles of conducting the policy of development, before 30 April."[10]

The establishment of regional territorial observatories addresses the postulates put forward during the convention of voivodeship marshals. The council has stated

[9] *Justification of the draft of the Act on Principles of Conducting Regional Policy*, pp. 8–9.

[10] Article 11a of the draft of the amendment to the Act on Voivodeship Government.

that the fundamental task of the newly created centers should be to increase the role of public statistics in the decision-making processes of voivodeship governments.[11]

3. Conclusions

The proposed amendment to the Act on the principles of conducting the policy of development constitutes a part in a discussion on the ways of implementing regional development in Poland. It reveals decentralist tendencies that lead to the increase of the actual power of particular regions both in terms of decision-making processes and feasibility. Government administration aims to transfer competences of large scale to local governments in order to relieve its budget. However, this tendency is inconsistent with the basic principles determining self-governance, as in this case it is the executive body of the local government that obtains legislative competences of broad prerogatives. It does not seem to be the right way to create an appropriate model for the management of regional development.

[11] The standpoint of the convention of voivodeship marshals regarding the need to prepare regional statistics in Poland and establishing of Regional Territorial Observatories, pp.1–2.