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Municipal Financing of Environmental Protection Activities as Part of the Sustainable Development Strategy of Local Governments in Poland (Selected Issues)

Introduction

Sustainable development is considered the basic and most important principle of both European and national environmental law. The implementation of its assumptions comprises a major part in the system for ensuring environmental security, which is among the priority tasks of European Union Member States.

From the principle of sustainable development derives the duty of each state as an entity responsible for the protection and rational shaping of the environment to create such conditions in which present and future generations can and will be able to employ its resources in a real and equal manner. Achieving this objective requires the pursuit of harmonized actions in the field of ecology, economy and social policy at the global, regional (e.g., European Union), national and local levels. To take pro-environmental action merely at the supranational or national level with the exclusion of the local level would significantly weaken the effectiveness of these activities, and sometimes even nullify their outcomes. Given the above, it should be stated that the municipal government is a key actor in the local implementation of sustainable development,¹ and environmental protection activities set before it are a substantial area of activity of this local government unit.

This article is devoted to the issues of financing environmental tasks in the form of targeted grants from the municipal budget to finance or subsidize the cost of pro-environmental investments. Given their purpose, these donations should be considered one of the instruments used by local government units to achieve local sustainable development goals. The article comprises an attempt to answer the question of the

¹ See more: P.B. Zientarski, *Zrównoważony rozwój samorządu terytorialnego z perspektywy polityki państwa* [in:] *Wybrane aspekty realizacji zasady zrównoważonego rozwoju samorządu terytorialnego*, eds. M. Sitek, P.B. Zientarski, Warszawa 2019, pp. 7–14; A. Katoła, *Oddziaływanie samorządu lokalnego na zrównoważony rozwój gmin*, "Zeszyty Naukowe Uniwersytetu Szczecińskiego. Studia i Prace Wydziału Nauk Ekonomicznych i Zarządzania" 2011, no. 24, pp. 51–62.

adequacy (appropriateness) of the legal provisions regarding financing of environmental tasks by municipal governments by means of targeted subsidies in the context of the obligations incumbent on these local government units under the principle of sustainable development. This issue, evaluating recent decisions of supervisory bodies connected with the financial management of local government units and the jurisprudence of administrative courts on the financing of environmental activities in the form of a targeted subsidy from the municipal budget, is a matter of much controversy.

1. Local government units as entities responsible for the state of the environment

According to Article 5 of the Constitution of the Republic of Poland of April 2, 1997,² environmental protection is a state task, the implementation of which is directly determined by the principle of sustainable development.³ With this task, the legislature associates specific duties incumbent on public authorities. Pursuant to Article 74(2) of the Constitution, these duties include environmental protection.⁴ Because local government bodies are – by virtue of Article 163 of the Constitution – organs of public authority,⁵ the duty to protect the environment is addressed not only to state bodies, but also to local government ones.

Constitutional regulations that stipulate the obligation of public authorities to protect the environment determine the legal position of local self-government as an entity responsible for the condition of environmental resources jointly with the state. The obligation to protect natural resources incumbent on local governments cannot be limited merely to the municipality's duty to carry out environmental and nature protection tasks referred to in Article 7, para. 1, item 1 of the Act of March 8, 1990 on Municipal Government.⁶ The constitutional obligation of public authorities to protect the environment (Article 74(2) of the Constitution) implies that in the execution by a municipality of any public tasks incumbent upon it related to satisfying the collective needs of its residents, as referred to in Article 7(1) of the Municipal Government Act, the unit should take into account the need to protect natural resources in accordance with the principle of sustainable development. Thus, the local government unit should choose such a manner of performing a given task that will not only best meet the needs of its local community in a given area, but also will not cause negative effects on the environment. At the very least, it should reduce such effects to a significant

² Journal of Laws, No. 78, item 483 as amended.

³ A. Chmielarz-Grochal, J. Sułkowski, *O potrzebie świadomej konstytucjonalizacji statusu zwierząt*, PiP 2021, no. 9, p. 17.

⁴ M. Florczak-Wątor, *Komentarz do art. 74 [in:] Konstytucja Rzeczypospolitej Polskiej. Komentarz*, ed. P. Tuleja, 2nd edition, LEX/el. 2021.

⁵ W. Piątek, A. Skoczylas, *Komentarz do art. 163 [in:] Konstytucja RP. Tom II. Komentarz do art. 87–243*, eds. M. Safjan, L. Bosek, Warszawa 2016.

⁶ Consolidated text: Journal of Laws 2023, item 40.

degree. As an example, the municipal government should provide such equipment for public facilities that, according to current knowledge, will meet the objectives of environmental protection.⁷ All municipal activities for the implementation of its own tasks should be undertaken in line with the principle of sustainable development, and thus should aim to preserve the environment in an undeteriorated state, so that everyone, including future generations, will have equitable access to its resources.

The municipality's duty of general care for the environment, which should accompany the implementation of the entirety of its own tasks, should be distinguished from the municipality's satisfaction of the collective needs of the community's residents in the field of environmental and nature protection from Article 7(1) item. 1 of the Local Government Law. The municipal obligation to protect the environment and to conserve nature is implemented on the basis of the Act of April 27, 2001 the Environmental Protection Law,⁸ which defines the scope of tasks incumbent on the municipality and the rules for their performance.

2. Rules for financing environmental protection by the municipal government in light of Article 403 of the Environmental Protection Law

According to Article 403(2) of the Environmental Protection Law, municipalities' own tasks include financing environmental protection within the scope specified by the legislator in Article 400a(1) of the Environmental Protection Law. Tasks that are financed by municipalities as part of environmental protection include projects related to water protection, waste management, preservation of the earth's surface (excluding remediation involving self-purification) and air protection, as well as activities in the field of environmental education and promotion of pro-environmental activities and the principle of sustainable development. The tasks financed by municipal governments as serving environmental protection comprise an open catalog, which is evidenced by the fact that these units can also finance other tasks that serve environmental protection and water management than those enumeratively indicated by the legislator, that is if they result from the principle of sustainable development and are consistent with environmental policy.

As follows from Article 403(2) of the Environmental Protection Law, the amount of municipal financing of the above tasks must be not less than the revenues from fees and penalties for the use of the environment constituting the income of municipal budgets, less the surplus on account of such income transferred to provincial funds. This method of determining the minimum amount of funds that a municipality is obliged to allocate to finance environmental tasks in a given year is not tantamount to

⁷ K. Czajkowska-Matosiuk, *Dotacje na ochronę środowiska z budżetu gminy i budżetu powiatu*, "Prawo i Środowisko" 2011, no. 2, p. 53.

⁸ Consolidated text: Journal of Laws 2022, item 2556.

the obligation to allocate revenues from fees and penalties for environmental purposes.⁹ The legislator in Article 403(2) of the Environmental Protection Law merely stipulates that the funds allocated for these tasks in a given budget year should not be less than the amount of proceeds from fees and penalties referred to in Article 402(4–6) of the Environmental Protection Law.¹⁰ Thus, a municipality is also authorized to finance environmental protection within the scope specified by the legislator in Article 404(2) in conjunction with Article 400a of the Environmental Protection Law with other funds constituting income in its budget.

Municipal financing of environmental protection activities takes place in accordance with the procedure specified in separate regulations, subject to para. 4–6. By virtue of Article 403(4) of the Environmental Protection Law, the legislator has made it possible to finance environmental protection in the form of a targeted subsidy from the municipal budget. The condition for providing such financial support is that the municipal council shall adopt a resolution specifying the principles for granting the subsidy, the procedure for granting such subsidy and the manner of accounting for it (Article 403(5) of the Environmental Protection Law), and furthermore that the municipality concludes an agreement applicable in this regard with the subsidy beneficiary (Article 403(6) of the Environmental Protection Law).

The obligation to refer to separate provisions defining the mode of financing environmental protection should be interpreted as the obligation to apply the provisions of the Act of August 27, 2009 on Public Finance,¹¹ which sets out the rules of budgetary spending by a local government unit. Financing environmental protection activities from the municipal budget – if the unit implements the task directly – is subject to the legal regime as expenditures for the implementation of other tasks of the municipality. The legislator does not prescribe any special rules in this regard.

The second mode of financing environmental protection by the municipality is to make expenditures in the form of an earmarked subsidy, as provided for in Article 403(4) of the Environmental Protection Law.

3. Legal limits to the application of Article 403(4) *et seq.* of the Environmental Protection Law in the light of case law and decisions of supervisory authorities

Municipal financing of environmental protection in the form of a special-purpose grant may only be carried out in accordance with the law. The municipality's use of such disbursement of budget funds for pro-environmental activities must be supported by

⁹ Different: K. Gruszecki, *Komentarz do art. 403 [in:] Prawo ochrony środowiska. Komentarz*, 6th edition, Warszawa 2022.

¹⁰ M. Górski, M. Pchałek, W. Radecki, *Komentarz do art. 403 [in:] Prawo ochrony środowiska. Komentarz*, 3rd edition, Warszawa 2019.

¹¹ Consolidated text: Journal of Laws 2022, item 1634.

Article 403(2–6) of the Environmental Protection Law, as well as by the provisions of the Public Finance Act setting the basic rules for the management of public financial resources by units of the public finance sector, including defining legal instruments for the disbursement of budget funds.

The basic condition for a municipality to finance environmental protection under Article 403(4) *et seq.* of the Environmental Protection Law concerns the legal form of spending municipal budget funds on environmental protection. Pursuant to Article 403(4) of the Environmental Protection Law, such financing may consist of the provision of a targeted grant within the meaning of the Public Finance Act. The legislator's stipulation in the text of this provision that the grant provided is a targeted grant within the meaning of Article 127(1) pt. 1(f) of the Public Finance Act is tantamount to being a grant within the meaning of Article 126 of the Public Finance Act. Thus, a grant under Article 403(4) of the Environmental Protection Law should have characteristics of such a form of expenditure of public funds.

Referring to the legal definition of a subsidy, which implies its monetary nature, it should be stated that benefits that are not monetary in nature are not a subsidy within the meaning of Article 403(4) of the Environmental Protection Law. This is because such benefits are not a subsidy as referred to in 126 of the Public Finance Act.¹² Notably, the assessment of the pecuniary nature of a given benefit constituting a subsidy within the meaning of the Public Finance Act must follow not only from the perspective of the subsidizing entity, but also of the subsidy beneficiary. This is because the entity is obliged to account for the subsidy in accordance with the principles set forth in Articles 252 and 252 of the Public Finance Act, and – in the event that statutorily defined circumstances are found – to return the subsidy and pay interest upon a violation of the repayment deadline. Considering the above, it should be stated that Article 403(4) and (5) of the Environmental Protection Law does not constitute a legal basis for the adoption of a resolution in which the municipal council specifies the principles of subsidizing pro-environmental projects in line with which the financial support granted from the municipal budget is not a subsidy within the meaning of Article 126 of the Public Finance Act.¹³

Secondly, the legislator has been prejudged in the wording of Article 403(4) of the Environmental Protection Law that the subsidy may serve to finance or subsidize investment projects in the field of environmental protection from Article 400a of the Environmental Protection Law. Thus, there is no possibility of granting a subsidy for current expenses; these funds, according to the case law, can only serve to finance or

¹² See more: E. Chojna-Duch, *Struktura dotacji budżetowej. Studium teoretycznoprawne*, Warszawa 1988, p. 44; K. Czarnecki, *Komentarz do art. 126 [in:] Ustawa o finansach publicznych. Komentarz*, ed. Z. Ofiarski, LEX/el. 2021.

¹³ See: resolution No. LI/329/2023 of the Paradyż Municipality Council of March 16, 2023 on adopting the rules for granting targeted subsidies to subsidize the implementation of sewerage connections in the Paradyż Municipality area, for the years 2023–2024, Official Gazette of Lodz Province 2023.2396.

subsidize the costs of an investment, understood as a specific good of a permanent nature, and not to cover current expenses.¹⁴

The provisions of the Environmental Protection Law also define a catalog of potential beneficiaries of the subsidy. In accordance with Article 403(4) of the Environmental Protection Law, such a subsidy may be granted to entities not included in the public finance sector, in particular to natural persons, housing communities, legal persons, entrepreneurs or units of the public finance sector that are municipal or district legal entities. A municipality, upon deciding to finance environmental protection by way of targeted subsidies, is required to specify in the resolution referred to in Article 405(5) of the Environmental Protection Law, the potential beneficiaries of such a subsidy. Indeed, the subject circle of subsidies is contained in the concept of "subsidy rules."¹⁵ It should be noted, however, that the decision-making body does not hold complete freedom in determining the entities that can apply for a subsidy. It is true that the authority may select the eligible entities from among those listed in Article 403(4) of the Environmental Protection Law, and may also designate other entities as potential subsidy recipients, but it may not modify the given statutory category.¹⁶ On the other hand, the municipal council is not allowed to limit the category of entities explicitly listed in Article 403(4)(1) of the Environmental Protection Law as potential beneficiaries, by stipulating that not all individuals (or, for example, not all housing communities, not all legal persons, not all entrepreneurs) are entitled to receive the subsidy, but only those who possess some additional characteristic.¹⁷

Another condition that the municipality must meet in order to grant targeted pro-environmental subsidies is the need to adopt a resolution, the scope of which shall be determined by law. In accordance with Article 403(5) of the Environmental Protection Law, the resolution prepared by the decision-making body shall determine the principles for granting targeted subsidies, including in particular the criteria for selecting investments for financing or subsidizing, as well as the procedure for granting the subsidy and the method of accounting for it. In light of Article 403(3) of the Environmental Protection Law, it is not legally permissible to grant subsidies from the municipal budget without first adopting a resolution under Article 403(5) of the Environmental

¹⁴ Ruling of the Provincial Administrative Court in Warsaw of June 22, 2012, V SA/Wa 1112/12, <https://orzeczenia.nsa.gov.pl>; Ruling of the Supreme Administrative Court of October 5, 2021, I GSK 406/21, <https://orzeczenia.nsa.gov.pl>; Ruling of the Provincial Administrative Court in Lodz of September 6, 2022, I SA/Łd 597/22, <https://orzeczenia.nsa.gov.pl>.

¹⁵ Ruling of the Provincial Administrative Court in Poznań of September 28, 2017, III SA/Po 513/17, <https://orzeczenia.nsa.gov.pl>.

¹⁶ Resolution No. 2/2/2023 of the College of the Regional Chamber of Accounts in Lodz of January 16, 2023, Official Gazette of Lodz Province 2023.1721; Resolution No. III/11/2023 of the College of the Regional Chamber of Accounts in Bydgoszcz of January 18, 2023, Official Gazette of Bydgoszcz Province 2023.585; Resolution No. III/13/2023 of the College of the Regional Chamber of Accounts in Bydgoszcz of January 18, 2023, Official Gazette of Bydgoszcz Province 2023.582.

¹⁷ Ruling of the Provincial Administrative Court in Poznań of April 27, 2022, III SA/Po 46/22, <https://orzeczenia.nsa.gov.pl>; Ruling of the Provincial Administrative Court of Krakow in the judgment of November 21, 2014, I SA/Kr 1656/14, <https://orzeczenia.nsa.gov.pl>; Ruling of the Provincial Administrative Court in Lodz of July 8, 2015, I SA/Łd 636/15, <https://orzeczenia.nsa.gov.pl>.

Protection Law. The above condition stems from the public-legal nature of the legal relationship of subsidizing, which is established between the subsidizing entity and the subsidized entity, and therefore must be authorized by the applicable legal provisions.¹⁸ The legal basis for the subsidy relationship is Article 403(4) of the Environmental Protection Law, in which the legislator has allowed for the possibility of providing subsidies for environmental protection while making the above financing conditional on the adoption of a resolution under Article 403(5) of the Environmental Protection Law. In the resolution, the decision-making body is to regulate the basic issues of subsidizing, i.e., the principles of granting the subsidy, the procedure for granting the subsidy, and the method of accounting for it. Failure to specify the above, e.g., the scope of potential beneficiaries, or the criteria for selecting investments for financing or co-financing, precludes the granting of a subsidy from the municipal budget. In the light of Article 403(4) and (5) of the Law, a targeted subsidy from the municipal budget for financing or subsidizing the costs of investments serving environmental protection is granted on the basis of the provisions of the Environmental Protection Law supplemented by local acts defining the principles for granting the subsidy, the procedure for its granting, and the manner of accounting for it. In light of this fact, it should be added that the current content of Article 403(5) of the Environmental Protection Law excludes the possibility of providing subsidies from the municipal budget if, for example, the rules would be determined by a body other than the municipal council (e.g., the executive body) or would result from acts, guidelines or programs issued by another entity (such as the Regional Fund for Environmental Protection and Water Management – WFOŚiGW or the National Fund for Environmental Protection and Water Management – NFOŚiGW).

The legitimacy of adopting a resolution on the basis of Article 405(5) of the Environmental Protection Law has been questioned by the supervisory authorities in the case of financing environmental protection by the municipality by way of a targeted subsidy, if the funds for such a subsidy originate from a grant from the Regional Fund for Environmental Protection and Water Management under priority programs implemented by the National Fund for Environment Protection and Water Management.¹⁹ The starting point for consideration in this regard was an analysis of the municipality's position as an entity entering into the implementation of such a program. It was pointed out that the local government unit is required to fully accept the terms and conditions of a subsidy established by the fund and that modifications are not permitted.

¹⁸ K. Sawicka, *Wydatki z budżetu gminy w formie dotacji. Zagadnienia prawnofinansowe*, "Acta Universitatis Wratislaviensis. Przegląd Prawa i Administracji" 2009, vol. 80(3127), p. 151.

¹⁹ Resolution No. 67/2022 of the College of the Regional Chamber of Accounts in Wrocław of November 28, 2022, Official Gazette of Wrocław Province 2022.5922; Resolution No. KI.411.24.2023 of the College of the Regional Chamber of Accounts in Kraków of February 8, 2023, Official Gazette of Kraków Province 2023.1541; Resolution No. 5/10/2023 of the College of the Regional Chamber of Accounts in Opole dated February 15, 2023, Official Gazette of Opole Province 2023.719; Resolution No. 179/g283/D/22 of the College of the Regional Chamber of Accounts in Gdańsk of December 21, 2022, Official Gazette of Gdańsk Province 2023.82.

Secondary to this, the content of the resolution adopted on the basis of Article 405(5) of the the Environmental Protection Law was, in fact, a duplication of the assumptions developed by the NFOŚiGW, with the local government unit acting only as an intermediary entity in the transfer of funds between the provincial fund for environmental protection and water management, and the final beneficiary. This led the supervisory authorities to conclude that there was no matter that could be regulated by a local law act on the basis of Article 403(5) of the Environmental Protection Law. In the opinion of the supervisory authorities, this provision provides a basis for the adoption of a resolution by a municipality's governing body only when it decides to subsidize investment tasks for environmental protection in the form of a grant, within the scope of its own tasks, as defined in Article 400a(1), (2), (5), (8), (9), (15), (16), (21) to (25), (29), (31), (32) and (38) to (42) of the Environmental Protection Law, in an amount not less than the proceeds from fees and penalties referred to in Article 402(4), (5) and (6) of the Environmental Protection Law, constituting income of the municipal budget, reduced by the surplus of such income transferred to the provincial fund, as provided for in Article 403(2) of the Law. The supervisory authorities believe that the above indicates that there is no legal basis for the decision-making body to adopt the resolution, and the adoption of such a resolution was considered pointless. In order to implement the program, the local government unit should conclude an appropriate agreement with the WFOŚiGW, as well as develop and publish documents related to the call for applications for final beneficiaries. However, a separate resolution of the decision-making body is not required for these activities. At the end of its considerations, the supervisory body referred to the principle of legalism of the actions of public authorities arising from Article 7 of the Constitution.²⁰

The conclusion that there is no legal basis for a resolution to be adopted by the constituent body in the case of municipal financing of environmental protection by way of a targeted subsidy if the funds for such a subsidy come from a grant from the WFOŚiGW under priority programs implemented by the NFOŚiGW is not supported by current legislation.

This is because there is no legal basis for differentiating the legal position of a local government unit as an entity performing its own task in the field of environmental protection and the principles of financing such a task, depending on whether the funds for this purpose are obtained from an external entity (e.g., WFOŚiGW), or constitute revenues from fees and penalties for the use of the environment. It should be noted that the funds obtained by the municipality in the form of a grant from an external entity constitute revenues of its budget, which the entity – in accordance with the provisions of the program – is obliged to allocate for financing environmental protection. The provisions of financing environmental protection by the municipality are set forth in Article 403(3) of the the Environmental Protection Law ordering that the provisions of a separate law (the Public Finance Act) be applied in this regard, sub-

²⁰ Resolution No. 179/g283/D/22 of the College of the Regional Chamber of Accounts in Gdańsk of December 21, 2022, Official Gazette of Gdańsk Province 2023.82.

ject to the possibility of providing an earmarked subsidy under the principles set forth in para. 4–6. Therefore, questioning the obligation of the constituting body to adopt a resolution setting forth the principles of providing an earmarked subsidy, the procedure for providing the subsidy, and the method of accounting for it means rejection of the possibility of financing environmental protection by way of a subsidy from the municipal budget. This is because the granting of a subsidy from the municipal budget for environmental protection can only take place on the basis of Article 403(4) of the Environmental Protection Law as well as a resolution of the constituent body.

It must also be mentioned that the role ascribed to the municipality as an intermediary entity in the transfer of funds between the WFOŚiGW and the beneficiary of a grant from the municipal budget is in contradiction with Article 7(1) of the Municipal Government Act, as the analysis of its content indicates that the municipality is not authorized to carry out a task, the essence of which comes down only to the transfer of funds, by which it is supposed to play the role of an intermediary entity. The position emphasizing exclusively such a role of the local government unit and obliging it to pursue a number of actions related to the implementation of the program (e.g., to conclude an agreement with the WFOŚiGW, to develop and publish documents related to the call for applications for the final beneficiaries of the program) is therefore in contradiction with the constitutional principle of legalism. Indeed, according to Article 7 of the Constitution, public authorities act on the basis and within the limits of the law. Municipal bodies may therefore act only if a provision of the law so stipulates, and this action has limits defined by an act of statutory rank.

The provision by a municipality of targeted subsidies for environmental protection from funds that the entity has previously obtained from an external entity does not mean that it is not carrying out its own task in the field of environmental protection and nature conservation, as referred to in Article 7(1), item 1 of the Municipal Government Act. This task is performed by the municipality from its own income, independently, on its own behalf and on its own responsibility.

It should also be added that Article 403(4) and (5) of the Environmental Protection Law obligates the municipality to adopt a resolution specifying the rules for granting subsidies, the procedure for granting such subsidies and the manner of accounting for them, and the body exercising the law-making authority contained in the statutory authorization is obliged to act within the limits of this authorization. It is therefore not authorized to move beyond the scope of the statutory authorization or to regulate what has already been statutorily regulated. Furthermore, it is not allowed to include provisions in resolutions that are inconsistent with the Environmental Protection Law, even if such provisions result from acts, guidelines or programs formulated by external entities to finance environmental protection and are a condition for the municipality to obtain such funds. Therefore, under the current state of the law, the municipality's decision-making body has no legal possibility to adopt a resolution that, on the one hand, takes into account the provisions of such acts, guidelines or programs defining the principles of financing environmental protection in a manner different from that resulting from Article 403 of the Public Finance Act, and, on the other hand, does

not violate the provisions of the Environmental Protection Law and the Public Finance Law, which the local government unit is obliged to observe when performing its tasks within the scope of its authorizations. In order to enable units to obtain such funds, the wording of Article 403 of the Public Finance Act must be amended. Taking into account the conditions resulting from Article 403(4–6) of the the Environmental Protection Law for financing environmental protection by a municipality in the form of a targeted grant, it is reasonable to supplement it with a provision from which it would follow that in the case of implementation by a local government unit of a priority program of the National Fund for Environmental Protection and Water Management or the Provincial Fund for Environmental Protection and Water Management, the rules set forth in Article 403(4–6) shall not apply, as long as the local government unit fully implements the aforementioned program. It would also be necessary to stipulate the necessity for the decision-making body to adopt a resolution by virtue of which the municipality would accept the program in question for implementation. Such a resolution would constitute, together with the aforementioned provision, the legal basis for the disbursement of funds for a given purpose. In order to preserve the internal consistency of Article 403 of the Environmental Protection Law, the wording of paragraph 3 would also need to be amended accordingly.

It has already been demonstrated in light of the current wording of Article 403(4) and (5) of the the Environmental Protection Law that the condition for a municipality to provide targeted subsidies for environmental protection is the adoption of a resolution, the scope of which is determined by law. Thus, the failure of the decision-making body to regulate the issue (e.g., the method of accounting for the subsidy) in the resolution means that the resolution reviewed was adopted in violation of Article 403(5) of the Public Finance Act.²¹ The legislator also stipulates that in the event that the subsidy constitutes public aid or *de minimis* aid, its award shall be made taking into account the conditions for the admissibility of such aid specified in the provisions of European Union law (Article 403(6) of the Environmental Protection Law).

The last condition for financing environmental protection in the form of a targeted grant under Article 403(4) *et seq.* of the Environmental Protection Law is the signing of an agreement concluded by the municipality with the grant recipient. This agreement – in accordance with Article 403(6) of the Environmental Protection Law – shall constitute the basis for the donation.

Conclusion

Consideration of sustainable development cannot proceed in isolation from environmental issues. This results not only from the assumptions of the 1992 Rio Declaration on Environment and Development and other international regulations, but also from

²¹ Resolution No. 9/27/2023 of the College of the Regional Chamber of Accounts in Lodz of March 1, 2023, Official Gazette of Lodz Province 2023.2338.

national legislation. This is prevented both by Article 5 of the Constitution, in light of which the principle of sustainable development represents a kind of core around which the actions of public authorities to protect the environment are to be focused, and by Article 74 of the Constitution, which obligates public authorities to pursue a policy that ensures the ecological security of present and future generations (para. 1) and imposes an obligation on these authorities to protect the environment (para. 2). The above conclusion is also confirmed by the provisions of the Environmental Protection Law, which repeatedly refer to the principle of sustainable development [article 1, 3, 8, 13 etc.].

The degree to which local government units implement the objectives of sustainable development in the field of environmental protection depends on their financial capabilities. A lack of funds or the inadequacy thereof comprise the main barrier to the implementation of sustainable development. Therefore, any funds that local government units can obtain from external entities to cover the costs of environmental tasks should be considered a stimulating factor in the implementation of the concept of sustainable development. On the other hand, the inadequacy of legal provisions that comprise the basis for the activities of the local government unit in this regard, constituting a legal barrier to obtaining such funds, should be assessed as a limiting factor. Eliminating such barriers by changing the law is the duty of the Polish state, which bears responsibility for the current and future state of environmental resources.

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Summary

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Municipal Financing of Environmental Protection Activities as Part of the Sustainable Development Strategy of Local Governments in Poland (Selected Issues)

Local government units are obliged to implement sustainable local development strategies in the field of environmental protection. This article presents the scope of pro-environmental tasks incumbent on the municipality and the principles of their financing. For this purpose, an analysis of the provisions of the law was carried out with simultaneous reference to the literature, and court decisions and decisions of supervisory bodies were presented. The work established that the currently applicable regulations regarding the financing of environmental protection tasks by local government units constitute a legal barrier to the implementation of these tasks, and changes to the law in this area are proposed.

Keywords: sustainable development, local government unit, municipality, environmental protection, grants.

Streszczenie

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Finansowanie przez gminy zadań z zakresu ochrony środowiska jako element strategii zrównoważonego rozwoju samorządu terytorialnego w Polsce (wybrane zagadnienia)

Jednostki samorządu terytorialnego są zobowiązane do wdrażania lokalnych strategii zrównoważonego rozwoju w zakresie ochrony środowiska. W artykule przedstawiono zakres zadań prośrodowiskowych spoczywających na samorządach oraz zasady ich finansowania. W tym celu dokonano analizy przepisów prawa z jednoczesnym powołaniem się na literaturę, a także przedstawiono orzeczenia sądów oraz rozstrzygnięcia organów nadzorczych. W pracy ustalono, że aktualnie obowiązujące przepisy normujące zasady finansowania przez jednostki samorządu terytorialnego zadań z zakresu ochrony środowiska stanowią barierę prawną dla realizacji tychże zadań oraz zaproponowano zmiany prawa w tym zakresie.

Słowa kluczowe: zrównoważony rozwój, jednostka samorządu terytorialnego, gmina, ochrona środowiska, dotacje.