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Institutional Efficiency of Local Government in Issuing Administrative Decisions, Exemplified by the Performance of the Local Government Appeal Board in Olsztyn**

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Abstract: *Institutions and institutional structures play an important role in the theory and research of processes involved in economic progress. The competitive position of territorial units depends on their effective performance, especially on the efficiency of local governments. Skills, qualifications and functional abilities of local authorities gain importance. In this context, creating and stimulating the economic growth locally is essential, because it equates with building the foundation of development processes in all areas of life. Our purpose was to evaluate the institutional efficiency of local authorities manifested by administrative decisions*

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they take. The data submitted to our analysis consisted of appeals against decisions taken by local governments. The objective was to analyze the appeals filed to local government appeal boards and how they were examined in compliance with the binding law. The time period spanned the years 2007 to 2013. The analysis covered appeals lodged to the Local Government Appeal Board in Olsztyn.

Introduction

The ongoing economic, social and political processes occur within a very intricate system of relations. Some degree of subordination and coordination is required to resolve various problems which can challenge leaders of institutions and communities, to facilitate progress and to improve the quality of life. Subordination and coordination are achieved through mechanisms and spontaneous adjustments (including market-driven adaptations), and through organizations, i.e. hierarchical structures, as well as administrative actions, based on plans and formalized structures (Wilkin, 2013).

Considering the experience gained thus far in public administration, including local governments, efforts have been taken for some time now to improve the performance, raise the efficiency and achieve better effectiveness of public administration bodies. Two aspects contribute to the importance of such efforts: the role of local governments in the field of administrative functions and the consequences of the functions performed on a local level (Marks-Bielska & Babuchowska, 2012).

One sphere in which local governments act is to pass decisions pertaining to individual cases within the scope of public administration by heads of local governments and councils (aldermen in rural communes or mayors in urban municipalities), or by the organs which they authorize. This is an essentially complex issue. On the one hand, there are increasing costs of prolonged decision-making procedures before decisions enter into force. On the other hand, equally important for local governments is to build rapport with local communities, to gain trust by the institutions whose actions can have such a large influence on life in a given territorial unit.

Institutional Efficiency of Local Government and Its Role in Promoting Social and Economic Development

Efficient and effective functioning of the public sector institutions, including local governments, play an important role in facilitating economic progress and building social wealth. Drucker (2000) states that in the 21st cen-

ture the growth of developed countries will no longer be attributed to businesses, but will most probably originate from the public sector.

In response to the challenges faced by the public sector during the evolutionary development of public management, new models have been proposed, for example public administration, new public management, public governance. Imperfections of the new public management model stimulate an interest in another model of public management, termed as public governance. Principles of governance may also be implemented at the level of local governments. This model draws on the theories which emphasize a high contribution of autonomy of territorial local governments and broad participation of citizens in the process of making decisions, at different levels in the management structure (Rudolf, 2014).

In an effort to achieve a high level of sustainable development, the following are becoming crucial: efficiency of public authorities and institutions, quality of decision-making procedures and services they render. The experience gained by societies which have attained a high level of development as well as ones striving to overcome years of lagging behind the leaders implicates that chances for development are largely dependent on the achieved institutional order (Gąciarz, 2012). Social and institutional barriers seem to be playing an increasingly important role in processes of growth and development (Balcerzak & Rogalska, 2010).

Institutional conditions underlying economic processes have been analyzed as determinants of different rates of economic growth; likewise, a reverse relationship, that is the influence of economic growth on development of institutions, has been scrutinized (Acemoglu *et al.*, 2001; 2002; Hall & Jones, 1999; Zielenkiewicz, 2014). Basing on completed analyses, teams of researcher like Kaufmann and co-authors (1999, 2003) or Kaufmann and Kraay (2002) concluded that institutions affect the level of economic progress rather than vice versa.

For promoting better relationships between formal and informal institutions and organizations which compose the institutional system, it is essential to maintain the state of equilibrium between all components (Staniek, 2012).

The efficiency of public institutions can be perceived as the ability of local governments to respond to the needs of local communities, to gain consensus when making decisions, to take decisions competently, and to perform and achieve the goals agreed on. Measures of institutional efficiency include quality of service in offices, capability of undertaking innovative actions and pursuing the policy of economic growth (Swianiewicz *et al.*, 2000; Swianiewicz, 2001). However, this sector calls for systematic changes, although their implementation usually encounters barriers, mainly in the

sphere of non-formal institutions. Therefore, it may require a longer time perspective before the so-called institutional balance is reached. Territorial systems are characterized by some degree of inertia, which is a kind of inflexibility of their structures, procedures, rules and dependencies. The low elasticity of such a system conceding with the dynamically changing environments may adversely affect the growth potential of a given territorial system (Lizińska, 2012).

The revival of local governments delegated much of the responsibility for the social and economic development to regional and local authorities. The institutionalization of local governments has therefore become an important driving force of progress (Marks-Bielska & Babuchowska, 2013). For a local government to be a progress-stimulating element, it needs to ensure a certain level of the efficiency of actions, which to a certain extent depends on its administrative capacity. Consequently, a need arises to search for new solutions which will enable municipalities to act more efficiently and effectively (Wojarska, 2012). More and more importance is being attached to skills, qualifications and effective operations performed by local level authorities, seen as elements that define the competitive advantage of a territory they are in charge of (Kot, 2001).

Bartkowski and Gąciarz (2012) draw attention to the fact that some authors claim the continuation of power favours effective performance of local governments. However, others suggest that continuation of authority leads to bureaucratic effectiveness of the actions carried out by local governments (formal and procedural compliance), while the normative isomorphism of those who stay in power results in their limited creativity in search for alternative developments.

The authors of the *Report on the state of local governance. Increasing dysfunctions, principal dilemmas and required actions* (Bober et al., 2013), based on own analyses, came to the conclusion that the current functioning of local governments in Poland implicates a continual growth of dysfunctions, including bureaucratic ones, which are defined as the inefficiency of an administrative institution caused by the dominant position of clerks in the life of local government units. Dysfunctions of local governments have not appeared out of a sudden. Instead, they have been developing for a long time and increasing gradually, while their negative consequences are felt more acutely in circumstances which are critical for these authorities.

The important role of authorities in issuing decisions regarding individual cases in the scope of public administration has been recognized by the initiators of the systemic project titled 'Good governance – an efficient state', implemented by the Ministry of Administration and Digitization under Action 5.2 HC OP, the aim of which was to improve the quality of

legal regulations and administrative decisions issued by local government units, and to improve the quality of decisions resolving disputes by the organs supervising and controlling local government units such as Local Government Appeal Boards.

The legal foundation for the operation of Local Government Appeal Boards (the Polish abbreviation SKO) is the Act of 12 October 1994 on the Local Government Appeal Boards (Official Journal of 2001, No 79, item 856, with subsequent amendments) and ordinances adopted on the basis of the aforementioned act. In compliance with this act, local government appeal boards are higher-level bodies in individual cases in the scope of public administration which are within the competence of local government units, and competent to examine appeals against decisions, complaints about rulings, demands to reopen the proceedings or requests to declare the invalidity of decisions, pursuant to the Act of 14 June 1960 – the Code of Administrative Procedure (*Kpa*) (Official Journal of 2013, item 267) and the Act of 29 August 1997 – the Tax Ordinance Act (*Op*) (Official Journal of 2012, item 749 with subsequent amendments). Local government appeal boards can adjudicate in other cases as well, as stipulated in separate acts of laws.

Research Objectives and Methods

The principal aim of this research was to assess the institutional efficiency of local government on the basis of decisions and rulings issued in individual cases in the scope of public administration by heads of local governments in villages (aldermen, in Polish: *wójt*) or in towns (mayors, in Polish: *burmistrz, prezydent*) or organs that they authorized. The data analyzed in our study consisted of appeals against decisions and complaints about rulings issued by the aforementioned authorities and organs, which were submitted to the Local Government Appeal Board in Olsztyn. The area under the local competence of this board of appeals, in accordance to the Ordinance of the Prime Minister of 17 November 2003 pertaining to the territorial jurisdiction of local government appeal boards (Official Journal no 198, item 1925), comprises 15 administrative districts (in Polish: *powiat*), i.e. bartoszycki, działdowski, etcki, giżycki, gołdapski, kętrzyński, lidzbarski, mrągowski, nidzicki, olecki, olsztyński, piski, szczycieński, węgorzewski, and 1 town with district status, i.e. Olsztyn, inclusive of communes (in Polish *gmina*) within this territory.

Pursuant to the provisions of the Code of Administrative Proceedings, a party has the right to appeal against a decision of the first instance admin-

istrative organ, which is the head of local government, to the second instance organ, which is the local government appeal board. The analysis included the number of appeals and complaints, their structure in terms of the type of matters, the type of resolutions, including detailed decisions by the local government appeal board, as the second instance body. The time period spans the years 2007–2013. The data were obtained from annual reports of the Local Government Appeal Board in Olsztyn (*Informacja o działalności Samorządowego Kolegium Odwoławczego w Olsztynie*).

Research Results

The administrative cases examined by the Local Government Appeal Board in Olsztyn during the analyzed time period were dominated by the ones connected with social service, family benefits, child benefit advance payments, education, housing benefits and social matters. In 2007–2013, they represented about 52% of all cases (42,270 cases). This may be a consequence of a high number of decisions issued in these matters, but also – as concluded by the SKO representatives – of the appealing party being highly inclined to initiate this procedure when dissatisfied with the consequences of the decision issued by the first instance body (Table 1).

Table 1. Number and types of administrative cases in 2007–2013

No	Type of cases	Number of cases in years						
		2007	2008	2009	2010	2011	2012	2013
1.	procedurally covered under the Tax Ordinance regulations	978	880	1007	1092	1187	1267	1230
2.	economic activity	2	10	9	8	12	6	6
3.	spatial planning and development	751	980	708	643	640	647	691
4.	social aid, family benefits, child benefit advance payments, education (scholarships, grants, etc.), housing benefits, social matters	1499	2271	2291	2830	3104	3086	4115
5.	real estate management (excluding perpetual usufruct fees), transformation of perpetual usufruct to right of ownership, geodesic and cartographic law	321	380	286	218	234	263	259
6.	environmental protection, nature, conservation protection of animals, waste management, maintenance of order and cleanliness in communes	183	194	222	240	226	210	239

Table 1 continued

No	Type of cases	Number of cases in years						
		2007	2008	2009	2010	2011	2012	2013
7.	water law	26	26	25	35	37	45	33
8.	agriculture, forestry, inland fisheries, hunting	2	11	6	4	4	1	2
9.	trade, commerce, selling and serving alcoholic beverages	17	54	33	27	32	29	18
10.	law on road traffic, public roads, road transport	322	350	317	228	193	260	478
11.	mining and geological law	4	9	19	19	31	15	10
12.	execution of administrative decisions	60	63	34	48	32	24	19
13.	others, remaining cases, including complaints and proposals examined under provisions of Part VIII of the Code of Administrative Procedure (Kpa)	242	117	151	123	117	128	136

Source: the authors, based on *Report on the operation of the Local Government Appeal Board in Olsztyn* for the time period of 2007–2013.

Because of the nature of the institution such as the Local Government Appeal Board, it mostly examines cases which are appeals to decisions and complaints about rulings passed by the first instance body. In line with the Code of Administrative Proceedings and Tax Ordinance, appeals and complains are lodged to the appeal board through the first instance organ which has issued a given decision or ruling. Cases directly filed to the appeal board pertain to changes in annual fees for perpetual usufruct or requests to declare the invalidity of administrative decisions.

With respect to the number of cases examined by the SKO in Olsztyn, the ones connected with issuing decisions as the second instance organ dominate (Table 2). In 2007–2013, the SKO in Olsztyn examined from 2740 cases in 2008 to 4376 cases in 2013 that were associated with appeals to decisions passed by heads of local government units (e.g. mayors).

Interestingly, the institutional efficiency of local authorities can be identified by the way in which the appeals are resolved by the Local Government Appeal Board. The number of appeals itself does not necessarily equal the number of inadequate decisions made by mayors, i.e. violating some binding laws or making procedural mistakes.

Table 2. Total number of cases resolved by the SKO in Olsztyn in 2007–2013

No	Types of resolution	Number of cases in years						
		2007	2008	2009	2010	2011	2012	2013
1.	passed by the SKO as the second instance body	3027	2740	3624	3350	3929	3916	4376
2.	passed by the SKO as the first instance body	472	1191	1415	1460	1541	1575	1685
3.	decisions issued by the SKO having examined complaints for not handling cases in time	70	65	63	94	83	68	117
4.	others	203	519	411	364	418	411	473

Source: the authors, based on *Report on the operation of the Local Government Appeal Board in Olsztyn* for the time period of 2007–2013.

Table 3. Adjudication in cases examined by the SKO in Olsztyn as the second instance organ

No	Type of resolutions	Number of cases in years						
		2007	2008	2009	2010	2011	2012	2013
1.	decisions upholding the decisions appealed to the board (Art. 138 § 1 item 1 of Kpa and Art. 233 § 1 item 1 of Op)	810	1050	1049	1065	1268	1584	1884
2.	decisions reversing the first instance decisions and adjudicating cases <i>in meritum</i> and decisions reversing the first instance decisions and discontinuing the proceedings (Art. 138 § 1 item 2 of Kpa, Art. 233 §1 item 2a of Op)	278	264	240	406	463	442	401
3.	decisions reversing and remanding the first organ decisions (Art. 138 §2 of Kpa, Art. 233 §2 of Op)	1686	1158	1777	1529	1756	1491	1745
4.	decisions discontinuing the appeal/complaint proceedings (Art. 138 §1 item 3 of Kpa, Art. 233 § 1 item 3 of Op)	48	26	40	42	58	33	28
5.	others	205	242	518	316	384	366	318

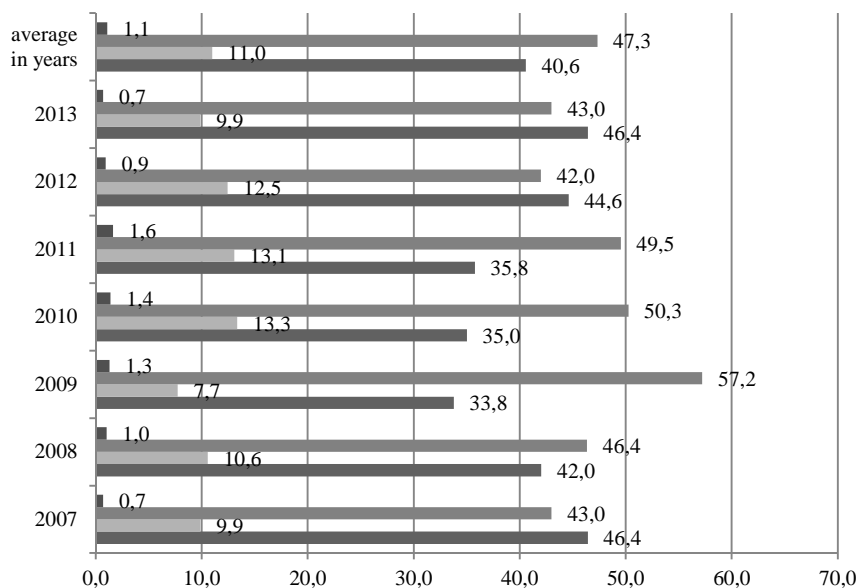
Source: the authors, based on *Report on the operation of the Local Government Appeal Board in Olsztyn* for the time period of 2007–2013.

The analysis of the data concerning the rulings of the SKO in Olsztyn implicates that while there was an increasing number of decisions passed by the SKO which sustained the appealed decisions, the cases when deci-

sions of aldermen or mayors were reversed were relatively numerous (Table 3).

A closer look at the structure of rulings passed by the SKO in Olsztyn demonstrates a rather negative tendency from the point of view of the institutional efficiency of local authorities (Figure 1).

Figure 1. Structure of case processing by the SKO in Olsztyn as the second instance organ



■ decisions discontinuing the appeal/complaint proceedings (Art. 138 §1 item 3 of Kpa, Art. 233 § 1 item 3 of Op)

■ decisions reversing and remanding the first organ decisions (Art. 138 §2 of Kpa, Art. 233 §2 of Op)

■ decisions reversing the first instance decisions and adjudicating cases in merit and decisions reversing the first instance decisions and discontinuing the proceedings (Art. 138 § 1 item 2 of Kpa, Art. 233 §1 item 2a of Op)

■ decisions upholding the decisions appealed to the board (Art. 138 § 1 item 1 of Kpa and Art. 233 § 1 item 1 of Op)

Source: the authors, based on *Report on the operation of the Local Government Appeal Board in Olsztyn* for the time period of 2007–2013.

On average, the total¹ share of reversed decisions of the first instance bodies in 2007–2013 was 53.8%. Unfortunately, this percentage never dropped to less than 50% in any of the years within the analyzed time period. The highest share of the decisions issued by mayors that were reversed relative to the filed appeals/complaints occurred in 2009. In that year, the percentage of the decisions by the first instance bodies which were reversed by the SKO was 64.9%. The highest share of the SKO decisions sustaining appealed decisions in relation to the lodged appeals/complaints was noted in 2007. Unfortunately, even then it was just 46.4%. Moreover, it would be unjustifiable to claim that this ratio was improving. In truth, the opposite tendency appeared.

In 2012, the Ministry of Administration and Digitization initiated a move to diagnose issues pertaining to appeals against decisions of the first instance authorities (implicating individual communes). This diagnosis was based on the data of 2011. Although one of the aims of the diagnostic process was to improve the quality of decisions of organs supervising and controlling the local government units, such as Local Government Appeal Boards, some of the appeal boards in Poland did not submit reports to the ministry. Basing on the assessment performed, the ministry identified local government units which had the highest percentage of decisions reversed by appeal boards and suggested that they should participate in trainings that would improve the quality of acts of local law and administrative decisions issued by local authorities. In the province of Warmia and Mazury, 66 out of 116 communes were implicated.

Conclusions

The set of data contained in this article contributes to a broader scope of detailed studies regarding the institutional efficiency of individual local government units in Poland, in specific areas of their activity, for example in economic, social, administrative and educational fields.

The results of the analyses of secondary data collated in this paper indicate that there is a considerable problem of inadequate institutional efficiency in the area of administrative decisions taken by local authorities. Meanwhile, it is difficult to identify any positive changes leading to improved quality of decisions and rulings in individual cases in the scope of

¹ (1) decisions reversing the first instance decisions and adjudicating cases *in meritum* and reversing the first instance decisions and discontinuing the proceedings (Art. 138 § 1 item 2 of Kpa, Art. 233 §1 item 2a of Op) as well as (2) decisions reversing and remained the first instance decisions (Art. 138 §2 of Kpa, Art. 233 §2 of Op)

public administration. During the analyzed time period of 2007–2013, the share of reversed decisions of the first instance organs was as high as 53.8%. Unfortunately, this percentage never declined to less than 50% in any of the analyzed years. It is also impossible to observe any gradual improvement in the value of this ratio. In fact, a reverse tendency is observable.

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