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SOCIAL HOUSING ASSOCIATIONS AS AN EXAMPLE OF SOCIAL HOUSING MANAGEMENT - CASE STUDY

Abstract:

The article raises the issue of public governance in the w context of the housing economy. The characteristics of tasks, which were imposed upon units of the local government at the municipal level in this respect, have been presented herein. Local government units, responsible for meeting diverse needs of the community, play a significant role in creating the quality of life of the citizens. Within the aspect of the housing economy, this task relates to two planes: building new flats and managing the already existing housing stock. The article presents models of managing the housing resources that are used in Poland, with particular emphasis on social housing associations. This solution involves the transfer of the municipal property management into the hands of private partners. The essence of this approach is exemplified by Zakład Gospodarki Mieszkaniowej Towarzystwo Budownictwa Społecznego w Częstochowie sp. z o.o. (i.e. Department of Housing Management Social Housing Association in Czestochowa LLC). This article is based on a review of reference books and on the own study carried out in 19 Polish cities as well as the case study.

Keywords:

public governance, local government units, social needs, public tasks, social housing associations

JEL Classification: M21

Introduction

Public administration institutions perform an extremely important role in the economic and social development of the country or region, providing services to citizens, economic entities or other groups of stakeholders. Those offices function in an environment that is subject to extremely dynamic, often unexpected changes, both on the economic, social and cultural plane (Flieger, 2016). The greatest problem of the contemporary local government administration is the implementation of entrusted public tasks in a skilful, successful and efficient way. In fact, the assessment of government and local administration is carried out in such categories. This implies the necessity to optimize the use of the available resources and to adjust the undertaken actions to the more and more demanding environment (Sałek, 2012). It forced the need for the modernization of administration, because many traditional tools of politics are becoming ineffective in the contemporary world. Therefore, public governance uses instruments and methods which have been mostly used by commercial organizations. However, it should be remembered that territorial units may only operate in a way that is similar to a business entity (Niedziółka, 2010). Good Governance is an example of the concept of management, which is dedicated to the rationalization of the functioning of local government units (LGUs), in order to support the fulfilment of obligations towards the local community. One of the public tasks of LGUs is adopting a policy in favour of meeting the housing needs of the citizens. This ought to be particularly manifested in preventing homelessness, promoting the development of social housing and supporting the activities of citizens who aim at obtaining their own housing (Art. 75 (1) of the Constitution of Poland). The article discusses a solution used in Poland - Social Housing Associations (SHAs, abbreviated in Poland as *TBS*), which are used to implement the task of managing the housing resources.

The concept of public governance

The traditional bureaucratic model has been negated in most European countries and replaced with an approach referred to as the New Public Management – NPM (Krynicka, 2006). Models of public management evolved in response to the challenges brought about by the processes of reforming public management. These processes increased the emphasis on the economic aspects of spending public funds, on the improvement of the quality of public services and ensuring greater effectiveness of actions of public organizations. The public management reform assumed that implementing new management concepts would affect the more effective execution of tasks which the country completes towards its citizens (Kozuch, 2004). The New Public Management introduced a managerial approach to the management of the public sector. The novelty of that model of management involved adapting management methods and techniques used in the private sector to conditions of the management of public organizations.

In response to the criticism of the NPM, The New Governance was established, which replaced the notion of administration with management while obliging public administration institutions in order to achieve the maximum effectiveness in the process of setting and obtaining strategic goals. According to NG, the functioning of public offices must be based on the individual responsibility of their employees. Citizens are treated as clients, whose voice needs to be taken into consideration. Therefore, institutions should participate in the dialogue with stakeholders on the basis of high ethical standards.

The concept of Good Governance derives directly from The New Governance and is a method of practical application of principles of public governance. It is a management model which enables to achieve economic and social results expected by the citizens. Good Governance is promoted by the Polish state as the most suitable for building high quality and effectiveness of the Polish administration (Flieger, 2016). This model is based on the following principles, essential for the effective implementation of public tasks of the LGUs:

- participation – all citizens participate in the governing process indirectly or directly,
- law and order – governance is based on and within the law,
- transparency – making decisions and implementing them takes place in accordance with the established rules and procedures and information about them is public,
- responding to needs – territorial units take into account the needs of all stakeholders, which are satisfied whenever possible on an ongoing basis,
- consensuses – the necessity of reaching them results from the number of stakeholders, points of view as well as individual and group interests,
- equality and including all members of the community in the process of governing,
- effectiveness – the effects of governance correspond to the social needs, while they are achieved with the best resource allocation and with consideration of the sustainable development,
- responsibility to all stakeholders for the decisions and actions for the implementation of public tasks.

The aforementioned concepts of management, dedicated e.g. to local governments are a key factor in creating the value of services provided for the indicated groups of stakeholders. Their objective is to support the process of satisfying the needs of a given community, including their housing needs. These are special needs, because satisfying them relates to the fundamental sense of safety. In order to carry out the municipality's own tasks in accordance with the concept of public governance, a cooperation between the unit of local government and a private partner is possible. An example of such a solution is social housing associations.

Social Housing Associations (SHAs) – creation and organizational – legal characterization

As already mentioned, the implementation of one of the most important public tasks, that is to meet the collective housing needs of the population, belongs largely to the local authorities. Creating conditions for meeting the housing needs of the municipal community is in fact one of the statutory own tasks of municipalities.¹ Assigning this task to municipalities entails for them the necessity to undertake comprehensive measures in terms of the management of the housing stock. The responsibility of local government units for creating those conditions to satisfy the housing needs of the community leads to the fact that local authorities are constantly looking for new and economically more favourable opportunities and ways to fulfil those obligations (Nowak, Ulfik, 2014).

The completion of tasks of the municipality, including the creation of conditions to meet the housing needs of the local community, usually takes place on the basis of the housing stock of the municipality, which in turn may be formed from premises owned by the municipality, municipal legal persons or commercial companies established with the participation of the municipality except for social housing associations, as well as premises which are in autonomous possession of those entities. A legal definition of the term „municipal housing stock” is found in the regulations of Art. 2 (1) item 10 of the Law of 21 June 2001 on the protection of the rights of tenants, municipal housing stock and on amending the Civil Code. In addition to the notion of the municipal housing stock, in the law there is also a general concept of the public housing stock, including the residential resources of the municipality (which are part of the public stock) and flats owned by other public entities. However, it should also be noted that the statutory definition of the public housing stock, aside the municipal housing stock, includes only dwellings that are owned by other units of the local government and the State Treasury and the property of local and state legal persons, except for the premises which are in autonomous possession by those entities, as well as premises owned by companies with the share of the State Treasury and the property of companies with the share of the county and voivodeship (Bończak-Kucharczyk, 2013).

One of the entities involved in the implementation of the generally understood obligation to fulfil the housing needs of the population, were supposed to be since 1995 social housing associations, intended as institutions which carry out tasks of the social housing association. Social housing associations, abbreviated in Poland as *TBS*, are independent economic entities with legal personality, whose scope of activity includes construction, purchasing and exploitation of the premises for rent. The legal basis for the creation and operation of *TBS* is the Law of 26 October 1995 on certain forms of supporting the housing construction (Dz. U. (i.e. *The Journal of Laws of the*

¹ Art. 4 (1) of the Law of 21 June 2001 on the protection of the rights of tenants, municipal housing stock and on amending the Civil Code (Dz.U. (i.e. *The Journal of Laws of the Republic of Poland*) no. 31 of 21.02.2005, item 266 as amended).

Republic of Poland) of 1995 No. 133, item 654, as amended).² This Law also defines the scope of activity of the Association, as well as its organizational – legal form.

The main and obligatory scope of operation of the SHA is to build residential houses and to exploit them on the basis of lease. In order to achieve this aim, the legislator took care to create a system of financing investment-construction enterprises undertaken as part of the government program to support housing construction, a system which, alongside other entities, included social housing associations. We are talking about the introduced by law and described in detail herein procedure of repayable financing of social housing enterprises, as well as other forms of help of financial institutions in the implementation of the program to support housing construction.

The scope of activity of the SHA, in addition to building and exploiting residential houses, also includes other activities related to the fulfilment of the obligation to satisfy collective housing needs, jointly referred to as the non-obligatory subject of action, to which belong the following:

- 1) the purchase of residential and non-residential premises and buildings in order to extend, superstructure and reconstructure, which will result in the creation of residential houses;
- 2) carrying out renovation and modernization of objects intended for the fulfilment of the housing needs on the basis of lease;
- 3) renting business premises which are situated in the buildings of the association;
- 4) managing, on the basis of commission contracts, residential and non-residential properties which are not its property;
- 5) managing common properties which constitute the fractional part of its shared ownership;
- 6) undertaking other activities related to the housing construction and the accompanying infrastructure, including the construction or purchase of buildings in order to sell the residential premises or premises of some other purpose that are situated in those buildings.

Social Housing Associations may be created in the form of limited liability companies, joint-stock companies or cooperatives of legal persons. As a consequence, these entities comply with the regulations of the Code of Commercial Companies³ or the Law of 16 September 1982 – the Cooperative Law⁴, taking into account the specific rules resulting from the regulations of paragraph 4 of the Law of 26 October 1995 on certain forms of supporting the housing construction. The last ones result in the

² Uniform texts of the law, taking into account successive amendments, have been published in the following Journals of Laws: of 2013 item 255 and of 2015 items 1169 & 1582.

³ i.e. Dz.U. (*The Journal of Laws of the Republic of Poland*) of 2013 item 1030, as amended.

⁴ Dz. U. (*The Journal of Laws of the Republic of Poland*) of 2003 No. 188, item 1848, as amended.

obligation to appoint supervisory boards in associations or the obligation to include association in the name; apart from indicating its organizational form, the words „social housing association” (abbreviated in Poland as *TBS*) should appear in the name.

Another significant principle of the functioning of the SHA, resulting from the regulations of the law on certain forms of supporting the housing construction, is the provision that the income of the association cannot be divided among partners or members, and the total should be allocated to its statutory activity.

The organizational – legal form of the SHA is not essential for the fulfilment of the designated for associations functions, since the law does not diversify their activity in terms of their organizational form. However, provisions of agreements or statutes of particular associations are significant for the diversification of the scope of their activities. An important component of the agreement or statute of the SHA is to determine the area of its activity. Just as the SHA does not have to be a municipal company, so the area of its operation does not have to correspond with the area of the municipality. Yet it is essential that the municipality or municipalities on whose territory the SHA functions, are entitled to introduce their representatives to the supervisory board of the association, in the number that is defined in its statute, thus obtaining some influence on the actions and decisions of the association.

Relations between LGUs and SHAs

The relations between the local government units (LGUs) and social housing associations (SHAs) may be examined in the context of the regulations of the Law of 21 June 2001 on the protection of the rights of tenants, municipal housing stock and on amending the Civil Code, where from the definition of the municipal housing stock it follows that the composition of that stock does not include premises owned by social housing associations.

Excluding the property resources of SHAs from the housing stock of the municipality leads to the fact that the municipality does not have any domineering powers towards those premises, even when it is a sole owner of the association. Therefore, the municipality can not include the premises owned by the TBS in multiannual programs of managing the municipal housing stock, as well as it can not enact for them the principles of renting, which it is obliged to do in relation to its own resources, in accordance with the regulations of the Law on the protection of the rights of tenants, municipal housing stock and on amending the Civil Code. It follows from the previous considerations that the municipality does not affect, among other things, the amount of rent from the lease of residential premises in the stock of the SHA, which is determined by associations independently, while maintaining the statutory limitations (controlled rent), which impose an obligation to use the economic rent, i.e. the one which covers all the operating costs and renovation and the repayment with interest of the loan used to finance the investment-construction enterprises.

The relations between the local government units and the SHAs, resulting from the provisions of the act on certain forms of supporting the housing construction, are not

directly affected by the provisions of the act, but are based on agreements concluded between equal parties to the agreement, regardless of whether the municipality is the partner of the association or not.

Agreements concluded between municipalities and social housing associations are to serve the widely understood implementation of the obligation to meet the collective housing needs of the population. The simplest model of the cooperation between the municipality and the SHA in this field may take the form of the contract of lease by the municipality of premises from the stock of the SHA, intended for rent to entitled persons. In this case, the rules with regard to the lease of premises from the municipal housing stock exceptionally apply to the premises owned by the SHA, including the criteria for allocating the flats, selecting the tenants and the amount of rent. The subtenants of such premises may be charged by the municipality with the rent lower from the one that the municipality pays to the owner of the premises (Bończak-Kucharczyk, 2014).

Agreements between social housing associations and the municipality, in addition to the lease of the premises, can also concern issues generally related to the optional subject of action of the association. Related to the SHA provisions of the law on certain forms of supporting the housing construction state that associations, apart from building and using their buildings, may also conduct another activity in the field of housing, including renovation and modernization of their resources, purchasing residential buildings and expanding them, as well as renting business premises, managing the housing stock, acting as a substitute investor or realizing the construction of dwellings intended for sale. However, it needs to be remembered that the funds obtained from such a broad spectrum of activity may only be used for the statutory objectives of the association. The existence of so many collaboration opportunities makes the SHA a useful and cost-effective tool for the implementation of the statutory obligation of municipalities, which is to satisfy the collective housing needs of the citizens (Szczepanik 2013).

As mentioned before, the development of mutual relations between the municipality and the SHA takes place by means of concluding agreements between equal parties, regarding the subject of cooperation, its scope and conditions. Based on the legally defined areas of operation of social housing associations, particularly those which constitute the optional subject of their activity, municipalities may conclude contracts of mandate which entrust associations with the administration and management of the municipal housing stock. Proper execution of this contract is facilitated by assigning associations the possibility to carry out renovations, modernize and expand residential premises, as well as the opportunity to act as a substitute investor.

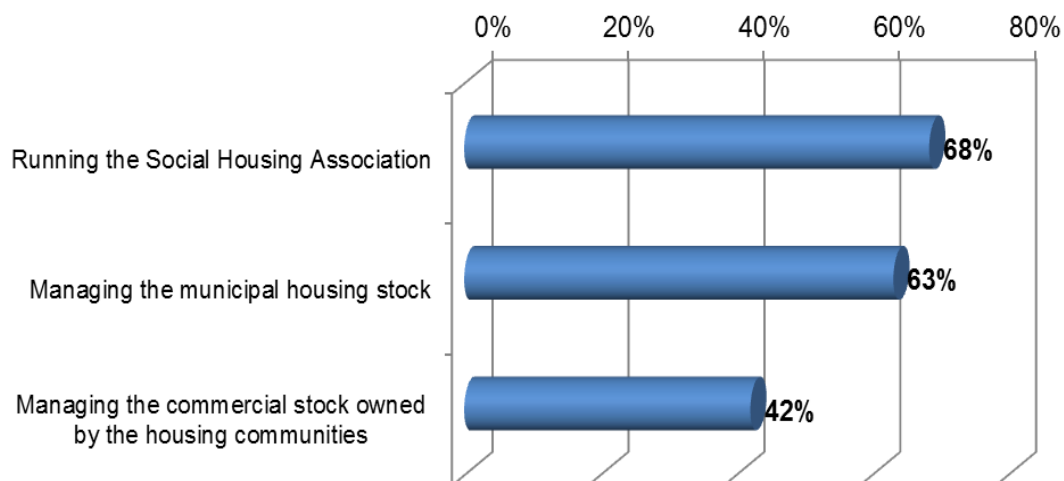
Supervision and control of the municipality over the performance of municipal tasks delegated to the SHA may be carried out by the representatives of the municipality in the supervisory board of the municipal association, and if it functions in the form of a limited liability company, on the basis of the investigating powers of the partner resulting from the provisions of Art. 212. § 1. of the Commercial Code.

Models of managing the housing stock

The law on the ownership of the premises explicitly allows the possibility to entrust a natural or legal person with the management of the common property, recognizing it as one way of determining the management of the property. In practice, various models of creating and managing the housing stock are adopted in municipalities. They may be differentiated depending on the function which they perform. These functions include:

- running the social housing association,
- managing the municipal housing stock of the municipality,
- managing the commercial stock which is owned by the housing communities.

Figure 1: Models of functioning of the SHAs in the examined cities in Poland



Source: own study.

Especially for the publication, a situation in 19 cities has been analysed – urban counties in the Silesian Voivodeship – the data is illustrated in fig 1. It has been established that 68% of municipalities have decided to conduct their own social housing association. By analysing the available data, it may be concluded that the dominant model is where the Municipality owns a partnership, which combines functions of the social housing association and the administrator of the municipal housing stock – it related to 63% of municipalities. A less popular solution is to commission the municipal social housing association to manage the stock of housing communities, which concerned 42 % of municipalities.

According to the authors, the last of the models is yet the most effective for the fulfilment of the obligation of the municipality which is the creation and management of the housing stock. This model enables the municipality, by means of staffing the board of the company, a direct implementation of the policy of the city in terms of maintaining and developing the housing stock. In this case, it is sufficient to entrust the board with

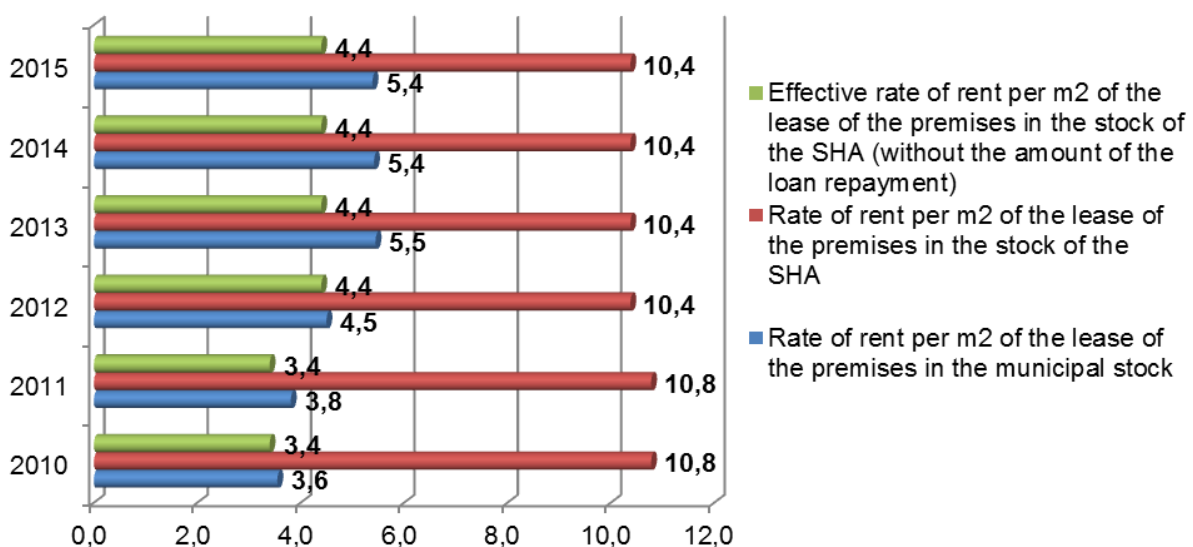
specific tasks so that difficult and often impossible to follow contract procedures are avoided – commissioning the management to an external entity or conciliation – the necessity to convince the housing communities which vote at meetings to certain solutions.

ZGM TBS in Czestochowa sp. z o.o. (The Department of Housing Management Social Housing Association in Czestochowa LLC) – case study

In the municipality of Czestochowa there is a limited liability company called *Zakład Gospodarki Mieszkaniowej Towarzystwo Budownictwa Społecznego w Częstochowie sp. z o.o.* (i.e. the Department of Housing Management Social Housing Association in Czestochowa LLC), which combines the running of the Social Housing Association with the management of the municipal housing stock. The municipality has 100% of the shares in the company. Regardless of that, the company manages housing cooperatives formed mainly as a result of the privatization of the former municipal housing stock.

The association, from 2010 onwards, has managed the premises built due to the loan from the *Bank Gospodarstwa Krajowego (BGK)* within the framework of the Social Housing Association.

Figure 2: Rates of rent

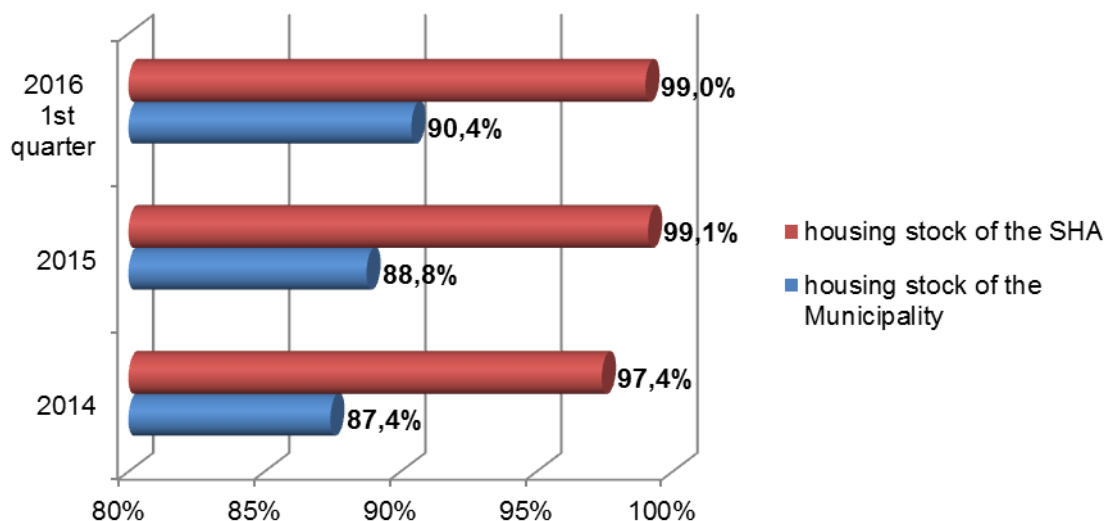


Source: own study based on the data of ZGM TBS Sp. z o.o. in Czestochowa.

Figure no. 2 shows a listing of the rent from premises leased by the TBS and the average rent per m² in municipal premises of the administrative district. This amount includes the remuneration of the owner that covers the cost of management and reconstruction of the premises without charge for the so-called independent provisions such as utilities, refuse collection, cable television etc.

The listing presents years 2010-2015. The rent for municipal dwellings was averaged with regard to a considerable diversity of rates due to a diverse standard of the premises. It follows from the analysis of the figure that the rent per m² of the premises in the stock of the TBS is maintained at the level of about 10 PLN per m², whereas the rent included in the municipal stock has increased from the amount of 3,5 PLN to 5,4 PLN per m². It is also crucial to point out what part of the rent is used to repay the loan – depending on the date of commissioning the investment, the average value ranged from 7,4 PLN to 6 PLN per m². To sum up, the effective rate of rent per square metre in the stock of the SHA (here: TBS) is lower than the averaged rent in the municipal stock.

Figure 3: Indicators of the debt collection for the premises by means of the so-called soft recovery



Source: own study based on the data of ZGM TBS Sp. z o.o. in Czestochowa.

Figure 3 presents indicators of the debt collection by means of the so-called soft recovery related to municipal resources and the SHA (TBS). Indicators of the debt collection of the municipality include municipal, social, temporary and also business premises. Attention is drawn to the range of approximately 10,5 % between the collection of municipal receivables and the collection of the debt of the SHA (TBS). This effect is a result of a worse „housing portfolio” which creates the municipal stock (e.g. social premises), yet at the same time it shows the profitability of the formation of the housing stock as part of the Social Housing Association.

Summary

It follows from the analysis of the functioning of cities in Poland that social housing associations are a popular form of supporting the process of implementing own tasks

of territorial units. This solution requires the public sector to develop methods and forms of control and to assess the functioning of the housing economy within the framework of actions undertaken by the private partner. The activities of the SHA (*TBS*) indicate that greater efficiency has been obtained in the field of the housing economy, since it is based not on administration but on management of the owned resources.

References

- BOŃCZAK-KUCHARCZYK E. (2013) *Ochrona praw lokatorów i najem lokali mieszkalnych, komentarz*. Warszawa: Wolters Kluwer SA, p. 85.
- BOŃCZAK-KUCHARCZYK E. (2014) *Zarządzanie nieruchomościami mieszkalnymi, aspekty prawne i organizacyjne*. Warszawa: Wolters Kluwer SA, p. 190.
- FLIEGER M. (2016) *Optymalizacja funkcjonowania instytucji administracji publicznej poprzez kooperację w sieci* [in] *Sieci międzyorganizacyjne, procesy i projekty w erze paradoksów*. Wrocław: Wydawnictwo Uniwersytetu Ekonomicznego we Wrocławiu, pp. 114-115.
- KRYNICKA H. (2006) *Koncepcja nowego zarządzania w sektorze publicznym*. *Prace Instytutu Prawa i Administracji Państwowej Wyższej Szkoły Zawodowej w Sulechowie*. 2006, No 2.
- KOŻUCH B. (2004) *Zarządzane publiczne. W teorii i praktyce polskich organizacji*. Warszawa: PLACET, p.72.
- NIEDZIÓŁKA M. (2010) *Przedsiębiorczość gminy a rozwój regionalny* [in] *Przedsiębiorczość a rozwój regionalny w Polsce*. Warszawa: Difin, pp. 30-40.
- NOWAK S., ULFIK A. (2014) *An evaluation of regional development in the context of economic and environmental benefit*, *Polish Journal of Management Studies*, Vol. 10, No 1, pp 74-83.
- SAŁEK, R., WIŚNIEWSKA-SAŁEK A., *Przedsiębiorczość jako determinanta stymulowania działalności*. Sekcja Wydawnictw Wydziału Zarządzania Politechniki Częstochowskiej, pp. 17-28.
- SZCZEPANIK T. (2013) *Selected Aspects of Strategic Management in Enterprises* [in] *Determinants of Modern Management Concepts in the Enterprises. Resources - Strategies – Decisions*. Vysoka škola banská-Technická univerzita Ostrava, pp. 42-51,