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SUSTAINABLE PUBLIC PROCUREMENT AS AN INSTRUMENT OF IMPLEMENTATION OF SUSTAINABLE DEVELOPMENT. THEORETICAL AND PRACTICAL APPROACH

Abstract. Promoting the idea of sustainable development is a result of an intellectual effort of representatives from various fields of science, who see the need for shaping development in a more conscious manner and taking into account the natural limitations of the Earth. Despite more than thirty years of experience, still efficient methods of action for sustainable development are being sought. It is associated with the institutionalization of the idea and introduction of instruments for its practical implementation in management. Sustainable public procurements (SPP) are an example of such instrument. In the paper, based on research conducted and literature studies, theoretical and practical aspects of implementation of SPP are analyzed in detail. The study shows, that despite the introduction of legal regulations in this area, the use of SPP so far has not become an effective instrument for the implementation of sustainable development. However, observed progress has given hope for improvement of the situation in the future.

Keywords: sustainable public procurements, sustainable development, management

ZRÓWNOWAŻONE ZAMÓWIENIA PUBLICZNE JAKO INSTRUMENT WDRAŻANIA ZRÓWNOWAŻONEGO ROZWOJU. PODEJŚCIE TEORETYCZNE I PRAKTYCZNE

Streszczenie. Popularyzacja idei zrównoważonego rozwoju jest efektem intelektualnego wysiłku reprezentantów różnych dziedzin nauki, którzy dostrzegają potrzebę kształtowania rozwoju w sposób bardziej świadomy i uwzględniający przyrodnicze ograniczenia Ziemi. Pomimo ponad trzydziestu lat doświadczeń wciąż poszukuje się metod skutecznego działania na rzecz zrównoważonego rozwoju. Jest to związane z instytucjonalizacją idei i wprowadzaniem instrumentów jej praktycznej implementacji do zarządzania. Przykładem takiego instrumentu są zrównoważone zamówienia publiczne (ZZP). W artykule na podstawie przeprowadzonych badań i studiów literatury są analizowane

teoretyczne i praktyczne aspekty stosowania ZZZP. Badania wykazują, że pomimo wprowadzenia w tym zakresie regulacji prawnych stosowanie ZZZP jak dotąd nie stało się skutecznym instrumentem wdrażania zrównoważonego rozwoju. Jednak obserwowany postęp daje nadzieję na poprawę sytuacji w przyszłości.

Słowa kluczowe: zrównoważone zamówienia publiczne, zrównoważony rozwój, zarządzanie

1. Introduction

The second half of the twentieth century witnessed a period of rapid economic development based on newer and newer technologies, which all shared the common feature; a strong dependence on fossil fuels, especially crude oil. This applied not only to industry, but also agriculture, which experienced just then the green revolution. It was also a period of very rapid growth of the human population, which during this time more than doubled. Due to the development of science and its technological application new, unknown to nature chemical substances have been synthesized, which are often toxic and carcinogenic, and also the pressure on natural resources has increased. The population explosion entailed on the other hand increased demand for goods and services which was also associated with an increased pressure on the natural environment, mainly in connection with the unrestrained consumption. These overlapping processes led to changes in economic conditions, affected the ways and means of satisfying human needs, which was accompanied by growing social inequality and increasing frustration associated with this. The ascertainment of these facts provoked a discussion on a new model of development, which would be possible to apply at all levels of decision-making, starting from the local and ending at the global level. In this context, from the perspective of the past 50 years, the publication of the Brundtland Commission Report "Our Common Future" in 1987 should be regarded as a breakthrough event in the discussion on the problems of the development in the world. This document not only contained factual and accurate assessment of the existing situation, but also marked the direction of the desired changes. The importance of the message undoubtedly stems from the definition of development proposed in the report, which was called sustainable development. The report, maintained in the spirit of moderate anthropocentrism, tended to regard social, economic and natural issues as elements co-creating the system, whose harmonious development is essential for not diminishing the possibility of meeting human needs, also for the next generations. The research on sustainable development, conducted for many years by the Author, seems to lead to the following conclusion: So far, the action in favour of sustainable development has not become a criterion for everyday, routine decisions and individual choices of economic entities and governments. The implementation of sustainable development requires adequate institutional dressing embedded in the legal system. This is the domain of governments and

parliaments of individual countries and bodies of international institutions. Sustainable public procurement is a form of such interaction. The paper verifies the following research hypothesis: The introduction of sustainable procurement is a form of institutionalization of sustainable development effectively promoting social and environmental behaviour of economic entities. The study refers to provisions of law of selected countries and the European Union and uses literature studies and observations made during the implementation of the GPPinfoNET project under the LIFE + mechanism in the years 2010-2011 and the subsequent verification of its results.

2. The institutionalization of sustainable development

The issue of institutionalization of sustainable development was already indicated in chapter 12 of the Brundtland Commission Report¹. The Agenda 21 adopted in 1992 in Rio de Janeiro in Part IV dedicated to funding measures for sustainable development was another attempt to institutionalize activities in this field at a global scale. It quickly became clear, however, that this was an abortive attempt. In 2002 the World Summit on Sustainable Development took place in Johannesburg. While the meeting in Rio de Janeiro was focused on the issues of the natural environment, the focus of the debate in Johannesburg clearly shifted towards social issues – inequality, health, and access to education. The next summit, the Rio+ 20 organized in 2012 brought a demand for the development of green economy. The growing importance of the concept was reflected in references to sustainable development introduced by states into their constitutional provisions. This applies both to highly developed countries (Switzerland – 1999, 2003 – Sweden and France – 2004) and underdeveloped (Eritrea – 2004, 2008 – Ethiopia, Nepal and Thailand – 2009)². The Polish Constitution of 1997 contains the relevant provision in Article 5. It has become increasingly common also to invoke sustainable development in other regulations on various aspects of social and economic life. This also applies to the sphere of public finances.

3. Public procurement for sustainable development

Public procurement (PP) constitutes a specific form of implementation of tasks within the realm of public finance. It includes detailed arrangements for public spending procedures, on

¹ Our Common Future, World Commission on Environment and Development. Oxford University Press, 1987, p. 254-285.

² Bukowski Z.: Zrównoważony rozwój w systemie prawa. Dom Organizatora, Toruń 2009, s. 346.

the ways of selecting contractors and the rules of contracting. Due to the amounts spent the considerable potential of PP was noticed as an instrument for the implementation of sustainable development through the implementation of the so-called sustainable procurement. This category includes two types of contracts: green public procurement (GPP) and socially responsible public procurement (SRPP). They have become the subject of scientific observation and investigation in the 1990's along with the increasing interest in implementing sustainable development. In addition to fairly well recognized issues related to green supply chain management and environmental management, new issues emerged associated with corruption, bribery and unfair contracting. Scholars also started to pay attention to human rights, safety and health aspects at the workplace, or philanthropic behaviour³. The application of the public procurement rules is mandatory, in particular for, entities of the public finance sector, as well as others of a similar nature or controlled in a certain way by entities of the public finance sector, if they purchase goods, services or construction works.

In 2002, the OECD adopted a recommendation on green public procurement⁴. Following the Johannesburg Summit, a Marrakech Taskforce for sustainable procurement was set up with the aim of promoting practices in the field of sustainable public procurement, including the pro-social and pro-ecological public procurement. An appropriate policy on public procurement was launched in many OECD countries (United States, Japan, Canada, Australia, and South Korea) as well as in rapidly developing countries (such as China, Thailand, and Philippines).

In the case of the EU, the potential of GPP was for the first time stressed in the Commission Communication on Integrated Product Policy of 2003⁵, which recommends the Member States to adopt national action plans on GPP by the end of 2006. The new European legislation on PP explains how public purchasers can include environmental considerations in their procurement processes and procedures.

At the global level, in order to strengthen actions for sustainable development, at the initiative of the United Nations and in connection with the adoption of the new Sustainable Development Goals the Sustainable Public Procurement Principles were published in 2015. These include⁶:

³ Carter C., Jennings M.: Social responsibility and supply chain relationships. "Transportation Research Part E: Logistics and Transportation Review", vol. 38, No. 1, 2002; Carter C., Jennings M.: The role of purchasing in corporate social responsibility: a structural equation analysis. "Journal of Business Logistics", vol. 25, No. 1, 2004; Carter C.: Purchasing social responsibility and firm performance: the key mediating roles of organizational learning and supplier performance. "International Journal of Physical Distribution & Logistics Management", vol. 35, No. 3, 2005.

⁴ OECD, Recommendation of the Council on Improving the Environmental Performance of Public Procurement, 2002.

⁵ COM(2003) 302 final, Communication from the Commission to the Council and the European Parliament Integrated Product Policy Building on Environmental Life-Cycle Thinking. Brussels, 18.06.2003.

⁶ The Sustainable Public Procurement Programme of the 10-Year Framework of Programmes (10YFP SPP Programme) Principles of Sustainable Public Procurement, March 2015.

Principle 1: Good public procurement is sustainable public procurement.

Principle 2: SPP implementation needs leadership.

Principle 3: SPP contributes to broad policy goals.

Principle 4: SPP engages all stakeholders.

Principle 5: SPP implementation is based on sound organizational management principles.

Principle 6: SPP monitors its outcomes and results.

According to the OECD estimates⁷ the countries belonging to this organization spend on PP from 6 to 25% of the national GDP, while in the EU countries this share is on the average 16% of GDP. This seems to confirm that PP stimulates socially responsible and environmentally friendly behaviour of the public sector and this way affects the behaviour of other economic entities in the country and abroad (e.g., within the common market). Appropriate actions have been taken both by national governments and on the international level. It is worth mentioning the legislative engagement of the European Union. This has supplemented the general regulations on PP with detailed solutions on social and environmental issues. In the EU, GPP was introduced by Directive 2004/18/EC which was repealed by the Directive of the European Parliament and of the Council 2014/24/EU of 26 February 2014 on public procurement. This Act was preceded by the publication on 20 December 2011 of the European Commission Communication *Public procurement for a better environment*⁸. In addition, extensive public consultations were conducted in connection with the development by the European Commission of *Green Paper on the modernization of EU public procurement policy – Towards a more efficient European Procurement Market*⁹. After 2004, the activity of the EU in promoting measures for sustainable public procurement through the legal system was very high. Overview of all relevant acts is beyond the scope of this study.

The regulations impose on Member States the obligation to ensure that contractors during the implementation of the contract observe obligations in the field of environmental, social and labour law laid down in the EU and national regulations, collective agreements or relevant international agreements.

Green public procurement (GPP) is a process in which public authorities seek to procure goods and services whose impact on the natural environment during the entire life cycle is smaller when compared to goods and services with the same primary function that would otherwise be procured in order to satisfy the same needs. Life cycle costs should cover the purchase price and associated costs (Delivery, installation, commissioning...), operating costs (including energy, spare parts, maintenance) and the end-of-life costs, such as the costs of

⁷ OECD, *Going Green: Best Practices for Sustainable Procurement*, 2009.

⁸ COM(2008) 400, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions *Public procurement for a better environment*. Brussels, 24.07.2008.

⁹ COM(2011) 15, *Green Paper on the modernisation of EU public procurement policy: Towards a more efficient European Procurement Market*. Brussels, 27.01.2011.

decommissioning, removal and disposal. This means that GPP can be a source of financial savings resulting from the lower cost of using goods and services throughout their whole life cycle than if public authorities were guided exclusively by the amount of the purchase price. The new regulations are not only to implement the targets of the Europe 2020 strategy for smart, sustainable and inclusive growth¹⁰, but also to make better use of contracts by contractors to support common social goals such as protection of the environment, better resource efficiency and greater energy efficiency, combating climate change, promoting innovation, employment and social inclusion, as well as to provide the best possible conditions for providing high quality public services.

Socially Responsible Public Procurement (SRPP) refers to the stages of public procurement which include one or more of the following aspects: The promotion of decent work, respect for human rights and labour rights, support for social inclusion (including the disabled), social economy and SMEs, promotion of equal opportunities and the principle “accessible and designed for all”, the inclusion of sustainability criteria with regard to the issue of fair and ethical trade while respecting the rules of the Treaty for the European Union (TFEU) and the directives on public procurement¹¹.

A method of taking into account social aspects may in practice vary depending on the type of order. The ordering party may also choose to buy goods and services which satisfy the specific needs of specific social groups (e.g., disadvantaged persons and affected by social exclusion, disabled people)¹². The social aspects can be understood as measures taken to ensure compliance of procurement procedures with the basic principles and rules on non-discrimination, equal treatment of e.g., women and men, or with national legislation in the field of social policy. They can also take the form of provisions aimed at integrating the unemployed or disadvantaged people and combating social exclusion. The Communication cites the possibilities of linking the social aspects of public procurement at different stages of tendering procedures, from the description of the subject matter of the contract, through specifying the requirements for contractors, tender evaluation criteria up to the stage of the implementation of the contract.

¹⁰ COM(2010) 2020, EUROPE 2020: A strategy for smart, sustainable and inclusive growth, Brussels, 3.3.2010.

¹¹ Buying Social: A Guide to Taking Account of Social Considerations in Public Procurement. European Commission, Brussels 2011.

¹² COM(2001) 566 final, Interpretative communication of the Commission on the Community law applicable to public procurement and the possibilities for integrating social considerations into public procurement. Brussels, 15.10.2001.

4. Sustainable public procurement in Poland

In the current 2014-2020 financial perspective Poland takes into account the GPP, inter alia, in the Energy Security and Environment Strategy – the perspective to 2020 and in the Innovation and Economic Efficiency Strategy for the years 2012-2020 “Dynamic Poland” (SIEG), these documents are an attempt to strengthen measures for sustainable development through the use of GPP.

Studies conducted in recent years in Poland, however, showed the existence of a number of barriers to the use of green public procurement and the lack of knowledge of existing regulations in this area. This is confirmed by observations made in connection with the GPPinfoNET 2010-2011 Project which was realized within the LIFE+ fund. Its purpose was to reach public entities with information on the possibilities to use the aspects of environmental protection in public tenders, and spreading the knowledge of the Polish and EU legal regulations concerning GPP¹³. Research conducted among Polish participants demonstrated that in the year 2011 as many as 80% of the project participants did not know that the *National Action Plan on Sustainable Procurement* existed. Only 10% of organisations had participated in a public tender with the implementation of the GPP procedure. Polish participants of the project have identified several barriers in using GPP, which include, among others:

- higher values of ecological orders in relation to situations when ecological criteria are not used,
- unsystematic law in this respect,
- apprehension of realising the tender in a non-standard way,
- low ecological awareness of the society and the authorities (mentality),
- lack of information,
- problems with interpretation of legal regulations,
- lack of guidelines and appropriate publicising of the GPP idea.

The most frequently indicated barrier was the lack of appropriate legal regulations, generating concerns of potential allegations of not applying the principles of competitiveness when choosing certain products or services. The need to formulate objective decision criteria was also indicated in the context of assuring transparency of procurement and protection against allegations of corruption. In terms of the knowledge of the provisions related to the GPP Polish public sector entities did not differ significantly from their counterparts in other countries. This was confirmed by the results of research carried out on a sample of 280 public

¹³ Burchard-Dziubińska M., Jakubiec T.: Green Public Procurements (GPP) as an Instrument of Implementation of Sustainable Development. Analysis of the Experience of the Łódź Region Local Government. “Comparative Economic Research”, No. 3(15), 2012.

procurement practitioners from 20 countries, described by S. Brammer¹⁴. “The (...) influence focuses concerns familiarity with sustainable procurement. In order for an organisation to be able to effectively implement SP, it is necessary to understand the concept of SP and related government policies”¹⁵. A recent survey found that 83 per cent of purchasing professionals considered themselves ill equipped to deliver sustainability through procurement¹⁶. Taking the above findings as reference it is worth checking what has changed since then. Certainly the awareness of the rules allowing/stimulating the use of GPP has grown. There are also all kinds of handbooks and guides. It is worth noting that the list of products for which concrete specifications were formulated has greatly expanded. It was one of the demands of the participants of the GPPinfoNET project. Currently GPP criteria include the following 19 product groups: office buildings – design, construction and management; roads – design, construction and maintenance; computers and monitors; paper for copying and graphic paper; cleaning agents and cleaning services; transport; furniture; electricity; food and catering services; textiles; gardening products and services; wall plates; associated energy management; street lighting and traffic lights; interior lighting; bathroom fittings; toilets and urinals; image processing devices; electrical and electronic equipment used in the health sector; water and sewage infrastructure¹⁷.

Information on the share of sustainable public procurement in total PP is obtained by examining a randomly selected sample of contract notices. For the first time such a study was carried for the needs of the National Action Plan on Sustainable Public Procurement by the Public Procurement Office in 2006. Based on the analysis of 400 randomly selected contract notices it was found that 4% of them were of “green” nature or contained the criteria of an environmental nature¹⁸. At that time, socially responsible public procurement contracts were not examined.

The most recent statistical data on green and socially responsible public procurement in Poland are contained in the National Action Plan on sustainable procurement for the period 2017-2020 published by the Public Procurement Office in 2016. In order to estimate the share of GPP and SRPP a random sample of public procurement notices for the years 2013-2015 was used¹⁹ table 1 provides information about the results.

¹⁴ Brammer S., Walker H.: Sustainable procurement in the public sector: an international comparative study. “International Journal of Operations & Production Management”, vol. 31, No. 4, 2010.

¹⁵ Ibidem, p. 456.

¹⁶ Snell P.: Struggle with sustainability. „Supply Management”, 16 November 2006, News section.

¹⁷ <https://www.uzp.gov.pl/baza-wiedzy/zrownowazone-zamowienia-publiczne/zielone-zamowienia>.

¹⁸ Krajowy Plan Działań w zakresie zrównoważonych zamówień publicznych na lata 2017-2020, Urząd Zamówień Publicznych, Warszawa 2016. KPD_ZZP_2017_2020. PDF. <https://www.uzp.gov.pl/baza-wiedzy/zrownowazone-zamowienia-publiczne>, 15.03.2017, s. 43.

¹⁹ Krajowy Plan Działań w zakresie zrównoważonych zamówień publicznych na lata 2013-2026. Urząd Zamówień Publicznych, Warszawa 2012. KPD_ZZP_2013_2016. PDF. <https://www.uzp.gov.pl/baza-wiedzy/zrownowazone-zamowienia-publiczne>, 15.03.2017, s. 30-35.

Table 1

The percentage of GPP and SRPP in total public procurement and their value (PLN bn) in Poland in the years 2010-2016

Type of contract	2010	2011	2012	2013	2014	2015	2016
The share of GPP in PP	9.0	12.0	12.0	12.1	9.25	11.4	20*
The value of GPP	16.8	18.82	15.9	17.33	12.32	13.26	-
SRPP	2.83	2.04	2.90	4.5	3.10	4.08	10*
The value of SRPP	N/A	N/A	N/A	6.44	4.13	4.74	-

* Plan

Source: Author's own compilation based on KPD_ZZP_2013_2016, p. 43-45; KPD_ZPP_na_lata_2013-2020_projekt_dokumentu, p. 30-35.

Given that the aim is to stimulate the growth of green procurement, so that by 2020 half of the public procurement contracts would be of ecological character, the current state can be considered as unsatisfactory. In the years 2006-2015 the share of GPP in total public procurement increased by 7.4 percentage points. Even 20% share seems unlikely, although it was already planned for 2016. In relation to SRPP the assessment is also critical, as the share of less than 5% is far below expectations and plans. The total amount spent on sustainable procurement in the years 2013-2015 reached the highest level in 2013 when, according to estimates PLN 23.77 billion were spent. This year also saw the highest level of total public procurement expenditure (143.2 billion PLN). In the following years both the amount spent on sustainable procurement and total public procurement declined (in 2014 public procurement amounted to PLN 133.2 billion, while in 2015 to PLN 116.3 billion).

5. Conclusions

Despite the many positive results of the work of scientists and specially appointed committees the changes in production and consumption patterns are taking place rather slowly. Natural resources are still being consumed faster than they can be restored, social inequality has not diminished and even in some sections is deepening, more and more people are experiencing the effects of adverse changes in the natural environment. It became clear that without incentives and coercive measures significant progress in the implementation of sustainable development will not be possible. Sustainable public procurement is likely to become an important instrument for the implementation of sustainable development. However, this requires strengthening of legislative, educational and implementative measures at both the international and national level. The involvement of the European Commission in this field is enormous. Not always, however, this translates into an increase in the number of sustainable public procurement contracts in the Member States. At European level, the main idea of GPP is to set clear and ambitious environmental criteria for products and services. This will allow the public sector entities to use uniform standards in this area, which can

significantly reduce concerns about the departure from the criterion of the lowest price as the sole criterion for decision-making and ward off suspicions of corruption. The consistency of criteria used by Member States is a prerequisite for the smooth functioning of the common market and reduction of competition within the Community. This would also reduce the costs of implementation of sustainable public procurement, which is particularly worth emphasizing because it involves public funds. A similar conclusion also applies to SRPP, although in this case the potential seems to be lower.

The hypothesis set forth in the introduction that the introduction of sustainable procurement is a form of institutionalization of sustainable development effectively promoting social and environmental behaviour of economic entities, has been verified. It should be noted, however, that progress in the implementation of sustainable procurement in the world is taking place too slowly to achieve significant progress. Impulses sent to the economy have a chance to start a positive change in the behaviour of economic entities and increase the production volume corresponding to the highest ecological and prosocial standards.

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