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## CO-OPERATION AND MUTUAL SUPPORT AS A TASK FOR SELF-GOVERNMENT AND NON-GOVERNMENT ORGANIZATIONS

The virtues of democracy and the free market economy, of which people from the West are so proud, have become objects of debate concerning the causes of crises in modern societies. We have come to live in a world of inequality and stark contrasts. Such crises take on both anthropological and economic dimensions, thus appearing as crises of individuals and our civilization as a whole. Attempts are made to redefine the social contract and its concepts such as citizenship, justice, social order and the welfare state.

Today everybody expects social policy to be implemented at the levels of a municipality, county, province, region, and state. Local social policy, where a natural connection between the community's needs and the means of their satisfaction appears, is of particular significance for local and national advancement [see Kuzynowski, 2000].

The basic means of implementing the local social policy of the state are the legal norms that define citizens' rights and establish institutions (public administration, public service) responsible for their implementation – in other words, legal norms that serve to meet various social needs. The financial resources of municipalities and of central government, special social programs, local initiatives of government and non-government institutions are expected to increase the level of satisfying those needs and to aid the development of social infrastructure. The targets and the range of local and regional social policy are specific to a given community, thus development and improvement programs have

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to be implemented through programs concerning unemployment, poverty, health promotion, education, social pathology, care and guardianship etc., which are the domain of public administration see [*Zasady polityki...*, 1994; *Raport...*, 1995; Szlachta, 1995; Rakowski, 1997].

The well being of a state has to be accompanied by a balance between the institution of the state and society as a whole. Since the state and the market are not in themselves sufficient enough to satisfy people's needs and rights, some other institutions appear to be necessary, non-government organizations that form the core of civil society. Public administration is made up of two layers – central government and self-government. Societies organize themselves for many purposes; we are interested in the common good. At presently the Constitutional Tribunal is working on the formulation of the concept of the common good. Economists define it as the effect of human co-operation within the framework of social organizations, while sociologists use the concept of social capital (potential) and thus point to the importance of the institutions of civil society and of the links between them in encouraging people to support the development of such institutions. For the members of non-government organizations it is a way of expressing their citizenship and demonstrating care for others and for the community. Non-government organizations reinforce feelings of solidarity and citizenship, and consequently the foundations of democracy. Participation in organizations is for many people one of the ways of participating in democratic procedures and contributing to participation democracy.

The concept of the social capital is not clear yet; however, its most comprehensive definition is given by North [1990], for whom it includes the bonds resulting from the existence of an institutionalized social and political environment that is formed not only by the informal actions of its actors, but by the legal and formal procedures of administration units, as well. According to Bourdieu [1983] the emergence of social capital is determined by at least a minimal "objective" homogeneity of goals and identification with them. Putnam takes only into account network of social institutions with horizontal links.

The laws which are the basis of the constitutional state and the formation of civil society require the remodeling of co-operation between local self-government and non-government organizations. Co-operation, partnership, and mutual support are a new task for them in their efforts to satisfy the needs of local communities in a responsible manner. Administrative and non-government organizations have enough freedom for setting priorities and hierarchies of value for current goals. The tasks and goals of local self-government and non-government organizations are related to specified subjects.

Local self-government is a territorial self-government unit that is established by the state to work on behalf of the local community. The co-operation of various components of this system leads to the formation of various links between them. Co-operation is defined as a non-institutionalized bond between at least two independent bodies that strive toward common goals, as determined by legal norms and negotiated forms of co-operation. In such cases, both local self-government and non-government organizations bear legal responsibility for their actions and their effects. Their co-operation should take into account efficacy and profitability. These notions appear only sporadically in legal texts.

Undoubtedly, clearly formulated rules of co-operation give the actions of public administration more credibility. Public administration and authority are instruments, which are vested in the state and realized by its representatives, who are given specified functions and the relevant resources. Consequently local self-government has to be capable of performing a series of tasks and providing services for the benefit of the community. Their definition, range and character are defined by legal norms.

The Polish constitution stipulates in Art. 163 that local self-government is to perform tasks that are not reserved by the constitution or other legal acts to other organs of public authorities. In Art. 166, Item 1, of the constitution it is stipulated that public projects serving the needs of a local community are to be performed by a given unit of local self-government. Item 2 of this article provides for the possibility of transferring other public projects to local self-government units, if required by the justified needs of the state. The mode of such transference and execution is regulated in specific acts that form a part of more general acts concerning municipal, county and provincial self-government, as well as the role of central government in provinces. The prevailing goal in any public enterprise must be the satisfaction of social needs, and not profit seeking, or the individual good.

The gradual modification of the concept of administration goals from task orientation towards "productive" orientation produces a dilemma of whether administrative units should be concentrated on achieving the common good, or on its implementation.

This concept has already appeared in relation to selected administration units. At present, it is supposed to serve the needs of privatization and the entire administration. The concept of privatizing public projects is not defined in Polish law yet. Experts suggest that this issue should be treated as an alternative form of activity in relation to the form of public law, which does not imply transference of tasks by public administration, but a kind of co-operation, including partnership with non-go-

vernment organizations as complementary, not alternative, institutions. Hence, public administration should play the role of a coordinator, or an initiator of such tasks. The execution of tasks lies in the hands of non-public bodies. This seems to be a method for reducing the burden on public administration, as it does not have to perform certain tasks. The results of research in western countries show that social needs are satisfied in a more effective manner, while financial resources are used more rationally, which improves the state of public finances.

These actions may create and satisfy various forms of social needs, including activities for the public good. It is a question of making all institutionalized solutions optimally serve the local community. Therefore, the range of needs and the corresponding activities should be formulated at the lowest level possible and be based on households, local initiatives, or social activities supported by their participants. Non-government organizations are heterogeneous in their character, as they respond to varied, standard and non-standard human needs.

For the local community to benefit from the effects of social capital, it has to provide space for non-government organizations, where social bonds become social capital and are based on public trust. This phenomenon plays a significant role in developing civil society and its relation to the state. Appropriate relations with the state should be supported in normative principles of subsidiarity.

The OECD Council adopted a Recommendation on Improving Ethical Conduct in Public Services on 23 April 1998. This recommendation is based on the Set of Principles for Managing Ethics in Public Service agreed upon in the Public Management Committee, to help Member states review their ethics management systems. In this proposal the OECD Council recommends that member states take action to ensure well-functioning institutions and systems for promoting ethical conduct in the public service. This can be achieved by:

- developing and regularly reviewing policies, procedures, practices and institutions influencing ethical conduct in public service,
- promoting government action to maintain high standards of conduct and counter corruption in the public sector,
- incorporating an ethical dimension in management frameworks to ensure that management practices are consistent with the values and principles of public service,
- judiciously combining aspects of ethical management systems based on ideals with those based on the respect of rules,
- assessing the effects of reforms on ethical conduct in public service,
- using the Principles for Managing Ethics in Public Service as a reference to ensure high standards of ethical conduct.

The OECD Council instructs the Public Management Committee to analyze information provided by member states on how they apply these principles in their respective national contexts. The purpose of such analysis is to provide information on a comparative basis to support the actions of member states to maintain well-functioning institutions and systems for promoting ethics; provide support to member states to improve conduct in public service by, inter alia, facilitating the process of information-sharing and dissemination as well as promoting effective practices in member states; present a report in two years' time analyzing the experiences, actions and practices of the member states that have proved effective in a particular national context.

### **Ethical standards in public service should be clear**

Public servants need to know the basic principles and standards they are expected to apply to their work and where the boundaries of acceptable behavior lie. A concise, well-publicized statement of core ethical standards and principles that guide public service, for example in the form of a code of conduct, can accomplish this by creating a shared understanding within government and the broader community.

### **Ethical standards should be reflected in the legal framework**

The legal framework is the basis for communicating the minimum obligatory standards and principles of behavior for every public servant. Laws and regulations should state the fundamental values of public service and provide the framework for guidance, investigations, disciplinary action and prosecution.

### **Ethical guidance should be available to public servants**

Professional training should contribute to the development of the necessary judgement and skills enabling public servants to apply ethical principles in concrete circumstances. Training facilitates ethical awareness and can develop essential skills for ethical analysis and moral reasoning. Impartial advice can help create an environment in which public servants are more willing to confront and resolve ethical tensions and problems. Guidance and internal consultation mechanisms should be

made available to help public servants apply basic ethical standards in the workplace.

### **Public servants should know their rights and obligations when exposing wrongdoing**

Public servants need to know what their rights and obligations are in terms of exposing actual or suspected wrongdoing within the public service. These should include clear rules and procedures for officials to follow, and a formal chain of responsibility. Public servants also need to know what protection is available to them in cases of exposing wrongdoing.

### **Political commitment to ethics should reinforce the ethical conduct of public servants**

Political leaders are responsible for maintaining a high standard of propriety in the discharge of their official duties. Their commitment is demonstrated by example and by taking any available action at the political level, for instance by creating legislative and institutional arrangements, that reinforce ethical behavior and create sanctions against wrongdoing, by providing adequate support and resources for ethics-related activities throughout government and by avoiding the exploitation of ethical rules and laws for political purposes.

### **The decision - making process should be transparent and open to scrutiny**

The public has a right to know how public institutions apply the power and resources entrusted to them. Public scrutiny should be facilitated by transparent and democratic processes, implementation of legislature and access to public information. Transparency should be further enhanced by measures such as disclosure systems and recognition of the role of active and independent media.

### **There should be clear guidelines for interaction between the public and private sector**

Clear rules defining ethical standards should guide the behavior of public servants in dealing with the private sector, for example regarding public procurement, outsourcing or public employment conditions. Increasing interaction between the public and private sectors demands

that more attention should be placed on public service values and requiring external partners to respect those same values.

### **Managers should demonstrate and promote ethical conduct**

An organizational environment where high standards of conduct are encouraged by providing appropriate incentives for ethical behavior, such as adequate working conditions and effective performance assessment, has a direct impact on the daily practice of public service values and ethical standards. Managers have an important role in this regard by providing consistent leadership and serving as role models in terms of ethics and conduct in their professional relationship with political leaders, other public servants and citizens.

### **Management policies, procedures and practices should promote ethical conduct**

Management policies and practices should demonstrate an organization's commitment to ethical standards. It is not sufficient for governments to have only rule-based or compliance-based structures. Compliance systems alone can inadvertently encourage some public servants simply to function on the edge of misconduct, arguing that if they are not violating the law they are acting ethically. Government policy should not only delineate minimal standards, below which a government official's actions will not be tolerated, but also clearly articulate a set of public service values that employees should aspire to.

### **Public service conditions and management of human resources should promote ethical conduct**

Public service employment conditions, such as career prospects, personal development, adequate remuneration and human resource management policies should create an environment conducive to ethical behavior. Using basic principles, such as merit, consistently in the daily process of recruitment and promotion helps operationalize integrity in the public service.

Public administration is sometimes too slow in its workings in satisfying the needs of the community. A decision to co-operate is largely based on good will and the willingness of self-government organs, which should

have a feel for flexible and non-authoritarian execution of public projects.

The basis for constructing common tasks is formed through resolutions made by self-government organs. Practical forms of financial support include subsidies and grants, the former as financial support for the running costs of an organization, and the latter as financial support based on project assessment and exactly specified procedures reminiscent of tenders. It has to be mentioned, however, that the procedures defined in the Public Order Act are not well suited to the idea of subsidizing non-government organizations.

Several legal acts in force contain concepts and legal formulations, such as subsidizing, or contracting interpreted as delegating a task; see the Public Finances Act of November 26, 1998 (Dziennik Ustaw, No. 155, Item. 1014, Art. 69, Par. 4 Point d and Art. 71):

- subsidizing interpreted as delegating public projects (Art. 118 of the Public Finances Act as amended on May 7, 1999; Dziennik Ustaw, No. 49, Item 485),
- contracts concluded by municipalities pursuant to Art. 9, Point 1, of the Municipal Self-government Act, by counties pursuant to Art. 5 and 6 of the County Self-government Act, and by provinces pursuant to Art. 8 of the provincial Self-government Act,
- contract charging pursuant to Art. 12a of the Social Aid Act dated November 29, 1990 (Dziennik Ustaw, No. 98, Item 64, Art. 414 with later amendments),
- written order as agreed by a municipality and county in the field of social aid pursuant to the Social Aid Act, Art. 47, Point 2, and Art. 47b, in relation to the social aid to bodies mentioned in Art. 47, Point 1,
- contracts concluded pursuant to the Public Orders Act (Dziennik Ustaw, No. 98, Item. 119, Art. 773).

Presently, the issue of setting up resources to finance the participation of non-government organizations in public projects is gaining ground. The following are of particular significance:

- the contracting of non-government organizations by public administration,
- regulations concerning material support for non-government organizations from public bodies and individuals that are consistent with current trends in this field,
- adopting the principle of partnership (not that of a petitioner) between non-government organizations and public administration units,
- closer co-operation between the two sides for the common good through consultation and coordination at the local level,

– conducting sociological and legal research on the views of the local community concerning the effects of the current social policy and meeting the collective and individual needs of its members.

The idea of sustainable development, emphasized strongly in the UN [see Głabicka, 2001] and EU reports, is closely related to local development. This issue will certainly become one of the most important problems in the activity of states, public administration and non-government organizations, both national and international ones.

Looking ahead and taking into account the social role of non-government organizations in the European Union, we should be paying attention even now to the fact that the principle of subsidiarity is taking on a special dimension. This is linked to the mutual relation and complementary activities of the EU and its member states and regional self-government and non-government organizations. The subsidiarity principle, along with the principle of partnership, should be applied to the administration of structural funds in the question of developing priority tasks for financing, implementing projects adopted and managing them on a partnership basis. Subsidiarity applies to the following relations: EU institutions – state, state – region, region – self-government organs, and social partners, including non-government organizations that are active locally.

Legal regulations dealing with the specific character of non-government organizations, the adoption of the subsidiarity and partnership principle in the light of a lack of other legal regulation and the insufficient attention paid by legislature to the contemporary role of non-government organizations in making the state more socially friendly lead to a need for a modern act concerning voluntary and public services that would comprehensively regulate the co-operation between public administration units and non-government organizations.

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