Risk Management in Managerial Control of Local Self-Government Entities

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Abstract: *Local government is now one of the most important political institutions of modern states including Poland. It is confirmed by both of the Worldwide Declaration of Local Self-Government and the European Charter of Local Self-Government. It sometimes is even recognized as the fourth power in the country, next to the three powers of Montesquieu's classification. Local government units (JST in Polish) carry out their activities in accordance with the regulations contained in the legislation. There are set of tasks and tools that could be used. It should be noted that purpose of any organization and business activity, including local government, is to achieve its task accomplished and to preserve the possibility of further operation. The achieving of goals may be affected by circumstances arising from the action of external forces (strategic risk) or binding with the specificity of local government units (operational risk). An essential element in the functioning of local governments has become a risk management. This area became part of the internal management control processes in Poland and it should be implemented in any unit. However, in many cases, risk management comes down to control the correctness of implementation a few procedures. In the end, it does not control the effects of adverse events that occur in the functioning of local government units actually. It becomes necessary to indicate the direction of constructing such a risk management procedures to make them similar to actions are taken in enterprises..*

Keywords*: risk management; Local Self-Government; insurance; financial control in Poland*

1. Introduction

Risk management is a well-known and commonly used element of company management. Diversity of definitions applied to describe the properties of this activity results mainly from the accepted concept (understanding) of risk and the goals set by an organisation. The authors of this study focus on LSGEs which define their risk categories based on the pre-set goals and occurring threats. A subject of primary importance is the procedures used in managerial control, when referring to the property owned by LSGEs. The purpose of the present study is to examine the possibilities of using elements of managerial control in the procedure of risk management in LSGEs.

Detailed analyses should look at the cost of proper functioning of risk management procedures, so it is vital to determine their expected outcome. The authors suggest introducing particular changes in the regulations in force so that both information and knowledge acquired in the process of risk management is of better quality and permits precise operations..

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2. The local self-government in Poland

A local self-government is defined as a model of democratic local authority, which ensures universal participation of urban and rural inhabitants in the exercise of public authority in a country (Ginsbert-Gebert, 1992). According to the European Charter of Local Self-Government, a local self-government denotes the right and the capacity of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interest of the local population[1].

Principal regulations concerning local self-governments are included in the Constitution of the Republic of Poland, which states in article 16, section 1: "*the whole of inhabitants of basic territorial division entities constitutes under the law a self-governing community*." The constitution recognises territorial self-government as an element of public authority system. [2]

As a result of the reform introduced by the local self-government act of March 8th 1990 and the bill of March 22nd 1990 on local bodies of general government administration in the Republic of Poland, a dual model of local public administration system was forged. There are two sectors of local administration: the government sector (based on centralism principle and professional civil service) and the self-government sector (based on decentralisation principle). The self-government division was based on communal self-government. Among post-socialist countries this solution was definitely a pioneering one. The reform of state administration, initiated in 1990, was finalised in full in January 1999. The changes in the country's territorial organisation denoted the second stage of the decentralisation reform, commonly referred to as self-government reform. As of Jan 1st 1999 a new, three-level territorial division of the state was introduced in Poland. Within this model, a commune (gmina) is at the basic level, a district (poviat) is at the intermediate level and a province (voivodeship) is the highest one. In 1999 16 voivodeships, 308 land poviats, 65 city poviats, and 2489 gminas (Regulski, 2006) were established. Additionally, in 2002 7 new poviats were set up. All the above constitute a specific socio-economic system which consists of (Jastrzębska, 1997):

- inhabited area
- authority i.e. democratically elected bodies
- organisational entities of a gmina, poviat and vivodeship.

The purpose of the reform creators was to really enable local communities to deal with tasks concerning them. It was thus assumed that the relations between the state and self-government would be based on the principle of subsidiarity. According to this principle, central public authority bodies should only carry out such tasks which cannot be properly performed by local and regional self-government communities or individual entities. Consequently, as long as it is possible, local self-governments should carry out particular tasks which have a public character (Piotrowska-Marczak, 1998). Distribution of tasks between various levels of authority and administration depends on (Borodo, 1997):

- constraints on decentralisation indicated by principles of economy and thrift,
- possibility of establishing a local (regional) market within the range of meeting communal needs
- founding the operations on local (regional) manufacturing resources

According to legal regulations, it is possible to distinguish several spheres of autonomy of local self-government entities (further on referred to as LSGEs) (Jastrzębska, 1999):

- its own property and property rights
- establishing laws on the area of a LSGE
- legal entity
- judicial protection of independence
- the right to undertake operations
- allocating a source of income
- formal and factual separation of local budgets from the state budget
- the right to manage its own affairs
- limited scope of surveillance of a *gmina, poviat* and *voivodeship* operations,
- establishing self-government administration with the purpose of achieving the entities' objectives.

3. Risk within functioning of local self-government entities

In order to examine the process of risk management, risk is divided into *strategic* and *operational* risk and risk of project[3]. Strategic risk occurs independently of the LSGEs and results from the influence of external forces which this entity cannot control but it can constrain this risk by taking certain steps. Operational risk is the part of total risk which is specifically

[1] European Charter of the Local Self-Government Art. 3 sect. 1

[2] art. 16 sect. 2 and art.163 of Constitution of Republic of Poland

related to the LSGEs' daily operations(Jennison, 2004). Risk of project is associated with the process of change or development programme (implementation of new projects), including activities carried out once or exceptionally.

The authors want their solutions to address precisely the property owned and managed by LSGE. Therefore operational risk becomes the prime area of interest to them, and additionally the occurrences solely resulting from physical risk (fires, accidents, failures, infringement of regulations concerning health care and personal safety, as well as risks caused by natural phenomena, such as catastrophes, disasters, floods etc.)

LSGEs often own valuable property. Apart from buildings which perform the public function (e.g. schools, offices, culture centres, recreation centres) LSGEs also manage the whole of the infrastructure which enables normal functioning of a given community (bridges, waterworks and sewage system, floodbanks). Owning and managing such valuable property is the source of threats related to these operations. It has to be stressed that it refers not only to the already possessed property, but also to the planned investments which are aimed at enhancing the exercise of duties of LSGEs (table 1) .

Table 1 Types of threats connected with possessed property and infrastructural investments.

Project life stage	Types of threats
Preparatory	Technological, credit, tender
Construction	overinvestment, time, efficiency, political (legal), force majeure, environmental
Exploitation	effectiveness, overinvestment, accidents, political, financial

***Source*: (Zioło, 2010)**

The forces of nature , especially broadly understood catastrophic threats are among the most relevant threats to the owned property. They entail damaging powers of nature which can ravage the property in possession of a local self-government entity. In extreme cases, such as floods, the property may be extensively damaged. Moreover, catastrophic threats may also affect the property and resources which are not owned by local self-government entity, but by private individuals and entities. In such cases the local self-government entity can be held responsible for not providing appropriate safety infrastructure.

LSGEs have public financial means at their disposal to realise public objectives concerning current needs and investments. Identifying and assessing the risks related to the operations carried out by LSGEs depends on the subjects analysing this risk. Different points of view will be presented by the ruling elite and by the citizens, who are public services recipients (Jastrzębska, 2011). In many areas the activities of local authority affect the functioning of the whole community because acceptable level of risk can be approved, reduced or increased by suitable regulations or decisions. However, decisions are sometimes made too late, only after a given threat has occurred. Such situations are frequently perceived by the citizens as proof of the local authority's ineffectiveness. It may also be the sign of lack of appropriate action or incorrect and ineffective management of LSGEs. This in turn can be interpreted as the cost of the local authorities' mistakes (Bounds, 2010). This is why the attempted definition of risk with reference to a local self-government entity should encompass both the subjectivity of risk perception on the one hand and the social dimension of the decisions on the other[4].

An individual image of risk related to a given subject is created while bearing in mind the *risk determinants* (knowledge, system of values, social-cultural background or the subject qualities)and risk realisation determinants (occurrence of a fortuitous event, the law, undertaken actions, occurring processes). Each subject perceives these determinants in an individualistic way, thus shaping their own image of risk. Even if the subjects share convergent goals, it is hard to standardise the types of risk that are related to their activities. As a result," risk as an individual phenomenon[5] results from subjectively rational activities of a given subject, which describes a possible, future, unacceptable state of this subject's qualities, or of an object remaining in a certain relation to this subject (Michalak, 2009).

[4] It must also be remembered, that wrong realisation or lack of action with regard to catastrophe prevention causes additional threats for LSGEs. For instance, the possibility of gmina citizens suing the gmina for improper flood protection measures (since July 2010 such class actions are possible to be initiated). In May 2011 17 citizens and entrepreneurs of Sandomierz affected by the flooding of 2010 initiated a class action. They claim over 1m PLN compensation from the the voivode and the gminas for negligence concerning engineering works and chaotic rescue action.

[5] The concept results from, and is simultaneously contrary to the concept of risk as a social phenomenon: this is a state (states) of subjects' (objects') properties believed (normatively defined) to be undesirable qualities on the grounds of the given culture, therefore unacceptable, and hence to be avoided.

The simplest measurements or quantification attempts are based on the ratio between the likelihood of a given phenomenon and the assessed level of loss (Kowalewski, 1998). In relation to threats occurring in the local authorities' operations, however, the notion introduced by Peter M. Sandman (Sandman, 1993) should be more suitably applied:

risk = hazard x outrage

According to his concept, risk analysis cannot be brought down to the technical dimension (referred to as "hazard" in the formula) but it should also comprise the indicator relating to those who participate in risk assessment because they are influenced by this phenomenon (the factor denoted as "outrage"). In the case of the LSGEs it means the citizens living in the area of its operations. For instance, while a decision to build a nuclear power plant is perceived by the decision makers as positive activity, even if backed by experts' opinions of its reliability, may at the same time cause serious objections on the side of the local inhabitants. They will not be convinced by anything, not even state-of-the-art safety systems. Therefore the person in charge of the local self-government entity should consider this especially with regard to the possibility of continued activity (such posts are obtained through elections). It is not easy to gauge "social indignation". One of the possible methods is polling the public opinion ("Warsaw Barometer[6]", operating in Warsaw since 2003, is just one of the examples).

4. Risk management in managerial control of LSGEs

Risk management is perceived as one of the key elements of almost any organisation management (companies, associations, foundations, authorities etc.) However, economies of today's world, where the pace of change and generating and receiving information is very fast, forces such entities to properly situate risk management within the organisational structures of enterprises, self-government offices etc. as well as the appropriate construction of the whole process. This in turn enforces the use of suitable techniques and methods as well as the need to verify the qualifications and competences of the people responsible for managing the given organisation.

In the sphere of public finance, however, the most important issue is control, traditionally understood as activities aimed at inspecting the previously performed operations as for the prior requirements for their completion (Kowalczyk, 2010). the technical scope of such control procedure can be summed up as a comparison of the actual state against the state resulting from the plans assumed (requisite state). Based on the *ex post* analysis of the occurring states, there are attempts at identifying errors while processes and activities are corrected and regulated so that the desired outcome is reached (Kowalczyk, 2010). This kind of control is not so much aimed at analysing past events as reaching certain results in the future. Therefore the prime task of control is the identification and analysis of the actions which may have a negative impact on the intended goals and their proper handling. Thus interpreted control means the same as risk management the aim of which is to ensure undisturbed pursuit of certain objectives (Ziajka, 2011).

In the recent months the need to apply risk management procedures is increasingly mentioned in the case of the running of public finance sector entities, including local authorities. At present, managing the catastrophe risk is reduced to signing business insurance contracts which often copy the previous security scope or options, and do not bring about evolutionary changes in the quality of insurance cover (M. Janowicz-Lomott, K. Łyskawa, 2010).

Such risk management practices are inadequate. Within the subject literature risk management is stressed as good management practice and constitutes the basis for creation of proper organisational order. It is a combination of processes and structures implemented by the managers to ensure the information flow, management, directing and monitoring of the organisation's activities which aim at reaching the set goals. Therefore in risk management proper management of resources, protection of the organisation and its clients as well as attention paid to the organisation's assets and environment and maintaining a good reputation are considered as relevant (Jennison, 2004). The internally initiated organisation's response to risk, called "internal control", may take one of the following forms (HM Treasury, 2004):

- tolerating the risk
- responding to risk in the proper manner, in order to limit it to the acceptable level or to make use of it actively while considering uncertainty as an opportunity to gain benefits
- transferring the risk
- terminating of activity giving rise to the risk.

[6] Warsaw Barometer is conducted on the random, representative focus group of the capital city dwellers. Respondents are individually interviewed by pollsters in their homes. Each poll covers 1100 people over 15 years of age. The maximum statistical error is +/- 3%

Table 2 Comparison of the laws regulating the management of risk LSGE

Finance control	**Management control**
Processes for the gathering and distribution of public funds and property management (article 47 section 1 of “old” bill)	The management control in the public finance sector states the general measures taken to ensure that the objectives and tasks related to manner consistent with the law, effective, cost-effective and timely (article 63 ection 1 the bill from 2010)
The finance control includes: 1. managing of conducting a preliminary evaluation of purposefulness of the financial commitments and making expenditures; 2. research and comparison of the facts to the required processes in relation to collection and gathering of public funds, undertaking finance commitments and making expenditures from public funds, public trading and reimbursement of public funds; 3. managing of finance management and application of procedures relation to the processes referred which appeared in point 2 (article 47 section 2 of “old” bill)	The management control ensures especially: 1. business compliance with the law and internal procedures 2. effectiveness and efficiency 3. reliability of the reports 4. resource protection 5. upholding and promoting the principles of ethical values 6. effectiveness and efficiency of information flow 7. risk management (article 63 ection 1 the bill from 2010)

In Poland emphasis has been put on financial control according to the regulations of the public finance bill which was in force between 1999 and 2005 and its amended version of 2006-2009[7]. The bill defined the basic aims of financial control, which denotes expenditure analysis, manner and form. The assumption was that there would be no actions taken to support the management of an entity[8]. It was the imperfection of financial control that led to introduction of managerial control in its place by the new public finance bill of 1st Jan 2010[9]. However, according to the Communication of the Ministry of Finance (Communication No.11z June 26, 2006 r) of the internal audit standard includes:

- internal environment
- risk management
- control mechanisms
- information and communication
- monitoring and evaluation.

It shows us that risk management is appeared in 2006, even though we are talking only about financial control. The same list of information we could find in the report of Deloitte from the same year. There is a few issues joined with the Standards of Internal Audit that we use in this days.

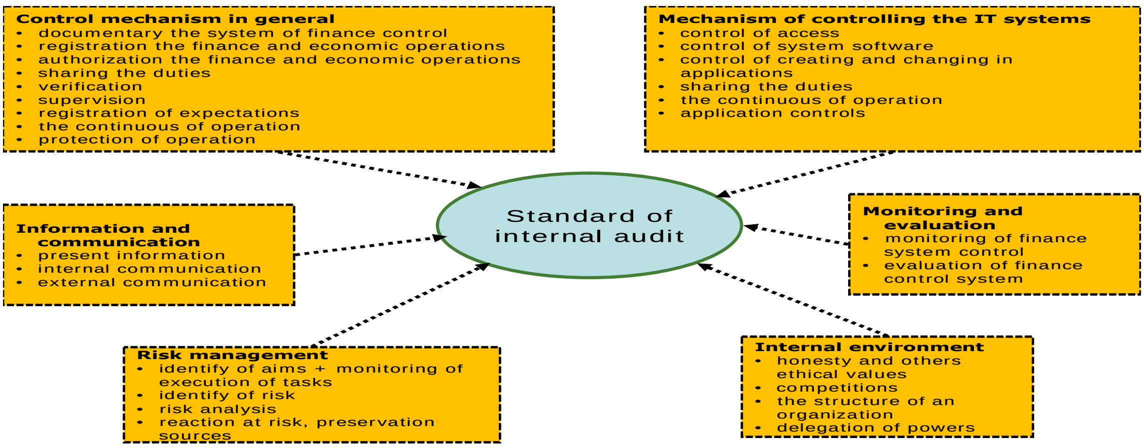

***Figure 1** Standards of Internal Audit.*

[7] The Public Finance Act of 26th Nov 1998 (Law Gazette of 1998, No. 155, p. 1014 incl. later amendments)
[8] According to art. 35 of this act financial control in public finance sector entities refers to public means collection and allocation processes and property management.
[9] The Public Finance Act of 9th Aug 2009 (Law Gazette of 2009, No. 157, p. 1240 incl. later amendments)

Managerial control is a broader term than the obligatory financial control carried out by these entities so far, as it emphasises the remaining areas of LSGE's activity, i.e. legal, organisational, informative, human resources and procedural. Thus, managerial control , including risk management, should support rational and effective general management of the LSGE, just as it is done in private organisations.

Ensuring the application of adequate, effective and efficient managerial control in LSGEs lies among the responsibilities of a *gmina* or town mayor, city president, *starosta* of a *poviat* and the *voivodeship* marshal (Art 69, sect. 1 p. b of the public finance bill). Considering the regulations of the bill of 17th Dec 2004 on liability for violation of public finance discipline (Law Gazette of 2005, No 14, pos. 114, art. 5, sect. 2, art. 11, sect. 2, art. 16, sect. 2 i art. 17, sect. 1−3, 5), mayors, city presidents, *starostas* and *voivodeship* marshals will have to prove that they do not only conduct activities in terms of managerial control, but that they are also carried out properly. Moreover, the evaluation of managerial control will be carried out by the former internal control bodies (audit committees) and external bodies (regional audit offices, Supreme Audit Office).

The basis for creation of managerial control standards in Poland[10] was supplied by, among others, the reports of Committee of Sponsoring Organisations of the Treadway Commission (COSO*) Internal Control - integrated framework* and *Enterprise Risk Management.* They both refer directly to the idea of risk management which should be the most essential in the activities undertaken by particular entities.

5. Challenges of cohesive risk management

Risk management consists in many intertwined procedures, actions and legal acts within a LSGE. Therefore the shaping of risk management process in a LSGE should begin with formulating a risk management policy in a LSGE, which defines the aims, methods and instruments of risk management in the light of LSGE objectives, which vary according to their categories (*gmina, poviat, voivodeship*). Besides, the policy defines the structure of risk management (who does it, what they are responsible for, what the stages and principles are of risk management process organisation).

An issue worth considering is how the process of risk management should be organised. Should a single person or a team of people deal with it? Is it enough to entrust an internal auditor with risk management (applicable with LSGEs where internal audits are obligatory) or whether a specialist should be offered a separate post, or maybe it would be more beneficial to make use of professional assistance of qualified consultants? It has to be asserted, though, that regardless of the accepted concept, risk management should refer to each person in the organisation, as it is not a one-off operation. After the initial identification and assessment of risks the ultimate challenge for LSGE becomes a continuous process of reviewing and enhancing risk management.

The risk management model should encompass all the necessary elements (identification, assessment etc.), but it also points at the process not being isolated from the surrounding environment. The knowledge and experience gained by one part of the organisation should be passed on to other parts, which also leads to correction of actions taken or to issuing new laws or administrative decisions. In this way the authorities of a given entity are involved in modifying risk management ((HM Treasury, 2004).

Treating risk management as a cohesive process which is supposed to result in appropriate administrative decisions is unfortunately fraught with obstacles. They can be related to numerous factors, the most important of which have been discussed below (Bounds, 2010):

- *The process of risk management is a complex one* and results from combination of various threats as well as particular organisational entities. Fighting some of the threats may cause others to occur. Incorrect structure of risk management organisation in a LSGE (responsibility fragmentation) may make risk identification and addressing ineffective.
- *There is a danger of political activity influencing the risk management process in the public sector.* The social dimension of risk can be connected with political activity. The outcome can be especially visible when catastrophe risks occur thus forcing hasty political decisions (e.g. moving people and resources in time of approaching flood, assigning ad hoc financial assistance from reserves for protective operations) may deregulate former risk management processes.

[10] The minister of Finance announcement No 23 of 16th Dec 2009 regarding managerial control standards for the public finance sector. (Ministry of Finance Law Gazette of 2009 No 15, p. 84)

- *The danger of wrong risk assessment in the initial stage of implementation of risk management process.* Inappropriate identification and assessment of risk may lead to inappropriate regulatory actions (laws or administrative decisions).
- *Subjectivism in constructing risk.* The concept of risk as a construct reflects in full the problem of perception of risk in the public sector which frequently differs from the experts' opinions.
- *The problem of lack of communication and acceptance for risk management procedures.* Even if the assessment of risk is correct and suitable procedures implemented, the social perception of the risk can differ from the concept presented by the local authorities (especially if the self-government community suspects elements of political decisions in the procedures created by the authorities). Parallel to this, it may be impossible or unprofitable to fulfil the community members' expectations.

6. Risk management of LSGEs in practice: the City of Cracow case study

Let us take an attempt at identifying risk based on the documents found in the Cracow Municipal Council. One of them contains a regulation that "*the prime goal of the municipality is to serve the local community*"(Cracow Municipal Council, 2008). In practice it comes down to activities consisting in organising and (or) providing administrative, social and communal services, maintenance of public infrastructure (roads, greenery, recreational objects etc.), management of communal property (buildings, land, issuing administrative decisions or raising funds to cover the costs of objectives realisation). The very document defines five types of threats which the municipality must face:

1. illegal actions
2. data safety violation in records (of accounts, personal, real estate and others)
3. lack of effectiveness, wasting resources
4. citizens' (clients') dissatisfaction
5. lack of transparency, susceptibility to corruption

However, analysis of the actions undertaken by the Cracow Municipal Council raises numerous doubts as for the real realisation of risk management. The document which is essential to conducting an external audit[11] enumerates actions which enable achieving the desired objective of the audit (these are: assessment of functioning of the organizational system within the audited area or the assessment of control system adequacy, efficiency and effectiveness), but they are far from meeting the expectations regarding risk management procedures[12]. The document *Strategic Plan*…. points at the internal auditor "evaluating effectiveness of internal control system through risk analysis and systematic and independent (of the managers responsible for building this system) research". Consequently, in audit reports can be found very interesting lists of studied phenomena ("risk" category alone enumerates 299 items), and "risk maps" in particular (Cracow Municipal Council, 2011). It is vital to stress, however, that the document in question does not assess the risks or offer guidelines as for addressing them in the future.

It is also worth stating that auditors meet managers and especially employees of particular entities. Owing to that they have a unique opportunity to define threats (in terms of both procedures and property losses or civil liability) relating to particular posts at various levels in the Municipal Council. However, the model of information on achieving internal audit objectives[13] focusses mainly on procedural correctness rather than searching for actual threats and their importance for particular entities..

7. Conclusion

Defining the standards of managerial control and internal audit information models is a positive sign, accompanied by management process which is strongly supported by analytical documents of a given entity. On the other hand, the practice of composing these documents, when analysed, shows low effectiveness of risk management activities carried out by LSGEs.

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[11] The City of Cracow President's directive No 156/2008 of 25th Jan 2008 regarding introduction of regulations for internal audit.

[12] The Minister of Finance's announcement regarding internal control standards, after defining the five elements of managerial control (incl. goals and risk management) it is remarked that the task of primary importance is devising a system of setting goals and tasks for an entity a system for monitoring achievement of those goals and task realization.

[13] The Minister of Finance announcement No 25 of 18th Dec 2009 regarding model information on achieving internal audit objectives. (Ministry of Finance Law Gazette of 2009 No 15, p. 85)

Internal audit documents are open to publication, which should be used to the benefit of building up social acceptance for the decisions taken. Nonetheless, a modification of documents issued in the form of announcement from Ministry of Finance seems necessary. New audit documentation models should contain information indispensable not only to identify risk correctly, but also assess and address the risk properly. For instance, questions raised on threats relating to the owned property or civil liability on account of the activities conducted or decisions taken can become a perfect opportunity for extended conversations between employees and auditors. This may already be seen as preventing some of the existing threats.

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