

HEALTH RESORT BLOCK SUBSIDY AS A SOURCE OF ECONOMIC REVENUE FOR SPA LGU'S

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Abstract. In Article 49 of the Spa Act it is explicitly stated that the spa subsidy is payable to the municipality which performs the tasks defined in Article 46 of that Act. It should be agreed here that the spa subsidy not only fulfils the function of financing own tasks, but also contains an incentive function, which from the point of view of the division of public resources between the government administration and the self-government administration is a secondary function. Therefore, if so, it should not limit the function of task financing. Moreover, it should be pointed out that a subsidy from the state budget is not an appropriate form of financing own tasks, which is commonly pointed out in the literature. Despite those reservations, the Health Resort Act in Article 49 clearly defines this type of income of the health resort community earmarked for financing of tasks mentioned in Article 46 of the Health Resort Act as a subsidy.

Keywords: spa resort government unit; resort subsidy; own tasks of LGU's

INTRODUCTION

The health resort commune performing its tasks mentioned in Article 46 of the Act on health resort medical treatment, health resorts and health resort protection areas and on health resort communes¹ receives a subsidy from the state budget in the amount equal to the revenues from the spa fee collected in the spa in the year preceding the base year, in accordance

¹ Journal of Laws of 2021, item 1301 [hereinafter: u.l.u.].

with the Act on revenues of local government units.² The minister competent for public finance, after consultation with the representation of local self-government units, shall determine, by way of an ordinance, the procedure and deadlines for the determination and transfer of subsidies, guided by the need to secure funds for the implementation of the tasks of spa municipalities.

1. DIFFERENCES BETWEEN A BLOCK GRANT AND A SUBSIDY

A grant is gratuitous and non-refundable financial assistance provided by the state to certain entities for the accomplishment of their tasks. A grant is therefore a financial support of discretionary nature. An entity that applies for a grant must meet certain conditions. The body which grants the subsidy deals with the distribution of the funds granted to the entity. Subsidies can be divided into subject, object and purpose subsidies.

A subsidy is a free and non-refundable financial aid granted by the state to selected entities (e.g. local government units) to support their activities. Subsidy is a legal claim and is not of discretionary character. The funds received from subsidies may be spent voluntarily. Subsidies can be divided into general and specific (for specific activities). A subsidy can be given to individuals, private companies or local governments. Subsidies can be granted to all entities, as long as it is specified in the budget. The subsidy may be in a general form, where the state simply provides financial support to some entity, e.g. for the implementation of a project or goal. If the local government receives a subsidy, the state provides funds for the purpose, for example, related to the construction of a municipal swimming pool or some other project, which was envisaged by the local authorities in the implementation of projects [Borodo 2013].

A grant, similarly to a subsidy, is also a non-returnable form of financial support, it is free of charge and is given by the state to other entities in order, of course, to support their activity and structural development. However, a subsidy, as opposed to a grant, is discretionary in nature, which means that the entity that applies for a subsidy must meet certain requirements, and the funds may be distributed at the discretion of the authority that awards the subsidy. A subsidy and a grant differ in that the former is a legal claim. If the budget provides for a subsidy for a given entity, it must implement it, while the funds are already at the disposal of the body that received the subsidy, unlike in the case of a grant. The funds from the grant are distributed by the granting authority [Sołtyk 2021].

² Journal of Laws of 2016, item 198, 1609 and 1985 and of 2017, item 730.

Grants come from public funds, and the way they are used is under special control. Therefore, the grantor is obliged to control the spending of the grant and the grantee is obliged to use the received grant only for the tasks specified in the grant agreement [Owsiak 2022].

2. SPECIFICS OF FINANCING HEALTH RESORT UNITS WITH THE USE OF A HEALTH RESORT BLOCK SUBSIDY

Among the forms of compensating for development barriers and securing funds for the implementation of specific tasks, as well as those encouraging the maintenance and establishment of health resorts, the following should be mentioned: target subsidies for the implementation of health resort and municipal infrastructure meeting the requirements stricter than those stipulated by law, and the right to charge a health resort fee. Each health resort community receives a subsidy from the state budget in the amount equal to the revenues from the health resort fee collected in the health resort in the year preceding the base year. In order to receive the subsidy, the health resort of the health resort must submit an application to the competent provincial governor by 31 March of the budget year, showing annual receipts from the fee, as of 31 December of the year preceding the base year [Czarnecki 2017a; Idem 2017b; Idem 2017c, 118-20]. In accordance with the general directive arising from the principle of allocation of public resources according to tasks, the legislator, while imposing the indicated tasks on the resort municipalities, also assigned them an additional source of own income in the form of a resort fee [Nieżgoda 2012]. Undoubtedly, revenues from the spa fee would not be sufficient to implement all the tasks listed in Article 46 of the Spa Act, but also the revenues from this fee do not have to be earmarked exclusively for the implementation of the tasks set out in this provision, because the spa fee is undoubtedly the municipality's own income, which may be spent on any (arbitrary) purpose (tasks).

In Poland, the legal nature of the health resort subsidy was not defined in any legal act, hence its legal status, due to its impreciseness, has been the subject of much controversy for several years now [Wołowiec 2002, 63-67]. Additionally – apart from subsidies and the spa fee (tax), the legislation of the European Union countries tries to compensate both the development barriers of the spa communes (resulting from the necessity to meet restrictive environmental standards) and to support their development through such fiscal and tax policy instruments as: local tourist tax, tax on second homes, increased shares in tax revenues, preferential credits for the construction of recreational, sports and spa infrastructure, adoption of the principle that fees and penalties for economic use of the environment are the income of spa municipalities, subsidies for gas prices, or reliefs

in income taxes of an investment and stimulus nature, and subsidies for ecological investment solutions in the area of energy management [Golba 2001, 56-64; Nowak-Far, 2010, 37-58].

While the issue of the health resort fee does not give rise to any doubts as to its nature and the directions (objectives) of its spending, the health resort subsidy, and in particular its legal status in the system of the commune's revenues is not entirely clear. The Health Resort Act clearly speaks of a health resort subsidy, and not of any other form of budgetary revenue of the health resort district, and such a definition of the district's revenue has certain legal consequences. Article 49(2) u.l.u. stipulates that the Minister competent for public finance shall specify, by way of an ordinance, the manner and deadlines for determining and transferring the subsidy, guided by the need to secure funds for the performance of the health resort gminas' tasks. Such regulation of the Minister of Finance was issued on 9 June 2006³ and in it the deadlines and principles for transferring the health resort subsidy from the state budget to the health resort district were determined. However, in spite of the issue of implementing regulations to the Act on the health resort in the scope relating to the health resort subsidy, it is not entirely clear whether in a legal sense we are actually dealing with a subsidy or perhaps a subsidy. A controversial issue is the scope of the statutory authorization for the Minister of Finance to issue a regulation, which is limited only to issues related to the mode and timing of the spa subsidy transfer. Some authors think that in the case of the health resort subsidy we are dealing with a subject subsidy, while others believe that it is in fact a purpose subsidy. The resolution of this issue is of fundamental importance for spa municipalities especially in terms of the purpose, accounting for the spa subsidy and controlling how the subsidy funds are spent [Golba 2020].

The subsidy especially subjective or purposeful is always connected with the public task. A public task is any action of the administration that it performs on the basis of the laws. A public task is, among others, providing or ensuring the provision of services to residents and other entities. It should be noted that the tasks indicated in Article 46 of the Act on Health resorts fall within the scope of own tasks, although undoubtedly they have a broader dimension due to the specificity of the health resort gminas. It would be difficult to find in the Act on local self-government such tasks as those mentioned in Art. 46 of the health resort act. The health resort subsidy not only performs the function of financing its own tasks, but also contains an incentive function which, from the point of view of the division

³ Regulation of the Minister of Finance on the mode and deadlines for determining and transferring subsidies from the state budget to the health resort district, Journal of Laws of 2006, No. 103, item 705.

of public resources between the government administration and the self-government administration, is a secondary function. Therefore, if so, it should not limit the function of task financing. Moreover, it should be pointed out that the subsidy from the state budget is not an appropriate form of financing own tasks, which is commonly pointed out in the literature [Wołowiec 2021, 120-28]. Despite these reservations, the Health Resorts Act in Article 49 clearly defines this type of income of the health resort community earmarked for financing the tasks listed in Article 46 of the Act as a subsidy. There is no doubt that maintaining therapeutic functions requires that the health resort gminas incur expenses on tasks that take into account the specific needs of the health resort treatment.

3. SPECIFIC TASKS FOR HEALTH RESORT LOCAL UNITS UNDER THE HEALTH RESORTS ACT

In Article 49 of the Health Resorts Act it is stipulated that a health resort commune performing the tasks referred to in Article 46 of the Act receives a subsidy from the State Budget in the amount equal to the revenues from the health resort fee collected in the health resort in the year preceding the base year. The Act in Article 46 of the u.l.u. specifies that these tasks include in particular: 1) land management, taking into account the needs of spa treatment, protection of deposits of natural medicinal raw materials and construction or other activities prohibited in individual zones of spa protection; 2) protection of natural conditions of the health resort or the area of health resort protection and meeting the requirements on admissible standards of air pollution, noise intensity, discharge of sewage into waters or into the ground, waste management, emission of electromagnetic fields, as referred to in separate regulations; 3) creating conditions for the operation of spa treatment facilities and equipment and the development of municipal infrastructure to meet the needs of those residing in the municipality for spa treatment; 4) creation and improvement of municipal and technical infrastructure intended for spas or areas of spa protection.

The concept of health resort subsidy appeared in Polish legislation for the first time in 2005 in Article 49 of the Act on health resorts. In subsequent legal regulations referring to health resorts the issue of subsidies for health resorts was not mentioned again. In Europe, on the other hand, the institution of the health resort subsidy has been known and applied for many years. Germans, Austrians, French or Hungarians support their health resorts and even tourist resorts with public funds. The legal nature of the subsidy differs in those countries. It is most often of a targeted subsidy (Germany), but also occurs in the form of a subject subsidy (France) or an object subsidy (Hungary). Its character depends on the purpose

of socio-economic policy of a given country. The notion of subsidy, as one of the categories of municipalities' income, is defined in the Act on revenues of local government units (abbreviated: u.d.j.s.t.). This Act in Article 3 stipulates that the revenues of local government units include: own revenues, general subvention and targeted subsidies from the state budget. As follows from the wording of Article 8 of the u.d.j.s.t. own tasks of local government units and tasks in the scope of government administration and other tasks entrusted by statute may be financed by earmarked subsidy, which in this case constitutes revenue of the LGU [Wołowiec 2004].

The Spa Act specifies in Article 46 the tasks of the spa municipalities as additional own tasks. This provision states that the health resort commune and the commune with the status of the health resort protection area, apart from the tasks provided for in the Act of 8 March 1990 on communal self-government, perform its own tasks related to the preservation of the health resort's therapeutic functions. The health resort commune performs these tasks on general principles from its own revenues, but it is also entitled to charge a health resort fee for their performance on a basis and to receive a health resort subsidy on a basis equal to the revenues from the health resort fee collected in the spa in the year preceding the base year, within the meaning of the Act on revenues of territorial self-government units [Paczuski, 1991, 85-95].

4. LEGAL CONTROVERSY OVER SUBSIDIES AND GRANTS

Some authors are of the opinion that in the case of the health resort subsidy we are dealing with a subject subsidy, while others are of the opinion that it is in fact a purpose subsidy. The resolution of this issue is of fundamental importance for local self-government units (resort municipalities) especially in terms of the purpose, accounting for the resort grant and controlling the way the grant funds are spent [Sikora 2014, 107-24; Korczak 2018, 99-118]. In financial law, the definition of subsidies is provided in Article 126 of the Public Finance Act. According to this definition, subsidies are funds from the state budget, the budget of local government units and from state purpose funds allocated on the basis of this Act, separate acts or international agreements, for financing or co-financing of the implementation of public tasks, subject to specific settlement rules.

The act on public finance in Article 127-130 divides subsidies into subject, object, purpose subsidies. Pursuant to Article 131 of the Act on Public Finance, a subjective grant is a means for an entity indicated in a separate law or international agreement, exclusively to subsidize the current activities in the scope specified in a separate law or international agreement. Entity subsidies are benefits realized from the state budget funds, on the basis

of separate legal norms (laws other than the Budget Act or international agreements). These benefits are subject to special rules of accounting and are intended to subsidize the current activity of the statutorily designated entity, within the scope specified in a separate law or international agreement. The special character of a subject subsidy results from the fact that: 1) the grant must be based on a clearly formulated provision of law (in the rank of an act) or international agreements; 2) the subsidy is provided for the performance of public tasks, i.e. it may be provided to finance or co-finance public tasks; 3) subsidies are subject to specific settlement rules which are defined by the law on the basis of which they are awarded.

However, all these factors must occur together. The formal basis for awarding a subsidy is the annual Budget Act which includes a list of entities receiving subsidies. The basic function of a subsidy is to balance income and expenses of the subsidized unit without specifying the purpose for which the subsidy funds should be used. The basic purpose of such a subsidy is to maintain the grantee's efficiency and liquidity. For this reason, subject subsidies are sometimes called general subsidies. The requirement of a statutory legal basis for awarding a subsidy is justified first of all by the specific legal nature of this institution. Beneficiaries of such subsidies may be both the public finance sector units and entities not belonging to this sector. The institution of subsidy does not apply to budget entities, as their legal structure is based on the principle of full financing of budgetary expenditure.

In the financial law it is commonly acknowledged that subsidizing of current activities of a specific entity, as a departure from equal access to public funds, violates the essence of competitiveness, not always justifiably favoring some entities at the expense of others, and sometimes even taking the form of financing a permanently deficit entity. Can the subsidy for the health resort be classified as a subsidy for entities? Does it meet the criteria for such a subsidy? It seems that the health resort subsidy meets many conditions and legal criteria of an entity subsidy, but is it really an entity subsidy? Before we will try to answer this question, it is worth to look at the characteristics of a subject subsidy in order to exclude or recognize whether the spa subsidy has the legal attributes of such a subsidy.

Pursuant to Article 130(3) of the Public Finance Act, the amounts and subject matter of these subsidies shall be determined by the Budget Act. On the other hand, the Minister of Finance determines the rates of subject subsidies by way of an ordinance issued in the execution of the Act and determines a detailed manner and mode of awarding and accounting for these subsidies, including the form of submitting applications, informing about their acceptance or rejection, the conditions for transferring and accounting for the subsidy, the deadline for returning the subsidy, taking into account

the total amount of subsidy for individual purposes specified in the Budget Act and having regard to ensuring openness and transparency of management of state budget funds. Does the health resort subsidy to some extent meet the criteria of a subsidy in question? There is rather no doubt that the health resort subsidy cannot be classified as a subject subsidy, because it does not in any case meet the requirements specified in Article 131 of the Public Finance Act. So is it a subject subsidy or perhaps an earmarked subsidy?

Targeted subsidies are funds intended for: financing or co-financing of: 1) tasks in the field of government administration and other tasks assigned to local government units by laws; 2) statutory tasks, including tasks in the area of state patronage over culture, performed by units other than local government units; 3) current own tasks of local government units; 4) tasks commissioned to non-governmental organizations; 5) costs of investment implementation; 6) subsidies to interest on bank loans within the scope specified in separate acts.

Thus, the essence of an earmarked subsidy is to provide a beneficiary with financial resources earmarked to finance (co-finance) a specific task (objective or undertaking), as a result of which the beneficiary will incur expenditure the amount and type structure of which are determined by the body providing the subsidy. A grant, especially a subjective or earmarked grant, is always linked to a public task. The concept of a public task has been evolving over time, but it has certain characteristic components that make it possible to distinguish it from other non-public tasks. It seems that the basic criterion for recognizing the task as a public task should be bearing responsibility for its implementation by the public administration (local government or government) even when the contractor is located outside the structures of the administration. A public task is any activity of the administration which it performs on the basis of statutes. A public task is, among others, rendering or ensuring the rendering of services to inhabitants and other entities. Examples of such activities of the administration in carrying out public tasks can be e.g. supply of utilities (electricity, water etc.), waste collection and disposal, organisation of public transport, construction and maintenance of roads, city lighting, care services, education, construction of social housing etc.

5. NATURE OF THE SPA RESORT GRANT – LEGAL CONDITIONS

Generally, the legal norms constituting the basis for granting purpose-specific subsidies for own tasks to local government units are contained in many statutory provisions. In the case of the health resort municipality this norm is expressed in Article 49 of the u.l.u. As it has already been

mentioned, a purpose-specific subsidy is always connected with the performance of a public task performed under the Act. The Act on Public Finance in Article 128(1) provides that the granting of purpose-specific subsidies to local government units is determined by separate acts. Undoubtedly, the tasks set out in Article 46 of the Act on Public Finance belong to the category of public tasks that may be performed only by the resort community. Article 128 of the Public Finance Act limits the amount of the subsidy, stipulating that the subsidy may not exceed 80% of the cost of performing the task, unless otherwise stipulated by separate laws. As far as the tasks specified in Article 46 of the Act are concerned, these are both current and investment tasks. These tasks cannot be valued directly. The Health Resort Act does not stipulate that the amount of the health resort subsidy may exceed 80% of the costs of task execution, as it is done, for example, in Article 115(2) of the Social Welfare Act, which would mean that the subsidy should not cover more than 80% of the costs of execution of the health resort task. However, taking into account other statutory provisions with a similar construction of the subsidy, it should be assumed in this case that the legislature did not limit the amount of the health resort subsidy to 80% of the costs of the task, but applied a different criterion, consisting in the subsidy being equal to the revenues from the health resort fee collected in the health resort in the year preceding the base year within the meaning of the Act on revenues of local government units. Also in view of the fiscal aspect of the principle of adequacy, it should be pointed out that the criterion adopted by the legislature when calculating the amount of the health resort subsidy does not directly refer to expenditures resulting from the performance of the health resort community's specific tasks, but only to the amount of the health resort fee collected.

It should also be pointed out that Article 46 of u.l.u. characterises the tasks of the health resort community which include, apart from its own tasks as provided for in the Act on Municipal Self-Government, also additional tasks related to maintaining the health resort's therapeutic functions. The tasks of maintaining the health resort's functions listed there are not a closed catalog and in many cases they overlap with the basic tasks of the commune and their definite territorial or objective separation (e.g. into those carried out in zones "A", "B", "C" or some other part of the town of the health resort) is very difficult. Moreover, it is not possible to determine unequivocally which tasks are those that are performed under Article 46 of the Health Resort Act and which under Article 7 of the Act on Municipal Self-Government (e.g. maintenance of greenery, sewage disposal, waste management, creation and improvement of municipal infrastructure), as the health resort and municipal functions performed for the benefit of the local community overlap. It is also not possible to precisely describe

the infrastructure and to determine the amount of expenditures on its maintenance, with a division into those for residents and those for visitors. In this case, however, it is important to answer the question as to who this infrastructure is created for in the first place: whether for the residents themselves or for visitors and tourists. The health resort subsidy is undoubtedly also a supplement to financial outlays on the maintenance of health resort infrastructure and a compensation for restrictions resulting from the establishment of health resort protection zones “A”-“C”, as well as a compensation for granting preferences to economic entities operating in these zones (e.g. tax breaks) and an incentive to obtain the status of a health resort, which would indicate that it also has an incentive function.

Therefore, assuming that in the case of the health resort subsidy we are dealing with an earmarked subsidy, it should be specified under what rules the subsidy should be granted and accounted for. In Article 150 of the Act on Public Finance it is specified that the authorizer of the budgetary part or the administrator of funds referred to in Article 127(2), when awarding a targeted subsidy, including to a unit of the public finance sector, in the event when separate regulations or an international agreement do not specify the procedure and rules for awarding or settling the subsidy, shall conclude an agreement which specifies in particular: 1) a detailed description of the task, including the purpose for which the grant was awarded and the deadline for its performance; 2) the amount of the grant awarded; 3) the deadline for using the grant, not longer than by 31 December of the given budgetary year; 4) deadline for and manner of accounting for the grant awarded; 5) deadline for return of the unused portion of the grant, not longer than 15 days from the day of the completion of the task as specified in the agreement, and in the case of a task carried out abroad – 30 days from the day of its completion as specified in the agreement; 6) the mode of control of the task performance; the agreement may stipulate that control will be carried out in accordance with the principles and procedures set out in the regulations on control in the government administration.

When authorising the Minister of Finance to issue implementing regulations in Article 49(2) of the Health Resort Act, the legislator stipulated that the Minister would specify the procedure and deadlines for determining and transferring the subsidy, guided by the need to secure funds for the execution of the health resort districts’ tasks. In the regulation, the Minister of Finance specified that the municipality submits an application for a subsidy for the execution of its own tasks related to the preservation of the curative functions of the health resort to the locally competent voivode, indicating in it annual receipts from the health resort fee as of 31 December of the year preceding the base year. Moreover, in the application the municipality shows: 1) the fee rate, set by the municipal council, in force in the year

preceding the base year; 2) number of man-days for which the fee was collected; 3) the amount of revenue from the fee collected in the year preceding the base year.

Analyzing the content of this provision, it is clear that it does not contain any elements of a subsidy agreement, which were defined in Article 150 of the Public Finance Act, but it also cannot contain such elements, because the Minister of Finance would have to go beyond the scope of the authorization given to him by the Spa Act. In view of this situation, the deadline for using the spa subsidy and the manner of its settlement should be included in the agreement.

In financial law the construction of an agreement is an exceptional institution, since the legal basis for collecting budget revenues and making expenditures is an administrative decision of a competent authority. Although the law allows the agreement as a form of making public expenditures, e.g. for granting a purpose-specific subsidy or granting a loan from the state budget by the Minister of Finance, as it is emphasized in the legal and financial literature, the adoption of this legal form in public finance is not justified primarily because the subsidy beneficiary does not have any influence on shaping the contents of the subsidy agreement. The contents of the subsidy agreement are determined by the subsidy-granting authority, which results directly from the literal interpretation of Article 150 of the Public Finance Act, which provides that the authorising authority concludes an agreement in which it unilaterally determines the conditions for the subsidy. This solution is undoubtedly inconsistent with the regulations governing liability for improper management of funds from a specific subsidy, which provide for liability on the basis of public law, rather than civil contractual liability (*ex contractu*). As follows from Article 150 of the Public Finance Act, an obligatory element of the subsidy agreement is to specify the date and manner of accounting for the subsidy provided and the deadline for returning the unused part of the special-purpose subsidy.

The subsidy agreement should be described with particular precision. Describing the subsidy in the subsidy agreement means specifying precisely the amount of the subsidy, the purpose or the description of the material scope of the task for the performance of which the subsidy funds are transferred. This is important not only from the point of view of observing the statutory principles of spending public funds in an economical and effective manner. If a description of an earmarked subsidy is formulated in general terms, the provider of the subsidy may be held accountable for a breach of public finance discipline.

What is punishable on the part of the subsidy beneficiary is, among other things, misuse of the subsidy. Even a mere temporary use of the subsidy in contravention of the subsidy agreement and the purpose specified

therein is not permissible. For the subsidy to be considered misused, it is not necessary to wait for the subsidy recipient to submit a complete factual and financial account or for a decision to be issued specifying the amount to be returned and the date from which interest is to be accrued. Transfer of a subsidy in violation of the rules or the procedure of its award is not connected with depletion of public funds, which in practice would be difficult to demonstrate, but concerns primarily a violation of procedures. The essence of a breach of financial discipline is not depletion of public finances as such, but a violation of the elementary order of public finances.

In the case of the health resort subsidy, doubts may be raised by the common practice of awarding the health resort subsidy during the budget year and including in it tasks that have already been carried out with the beneficiary's own funds. The temporal construction of the health resort subsidy is such that the municipality submits the application for the subsidy by 31 March of a given year and the amount of the subsidy is calculated on the basis of the revenues from the health resort fee collected in the year preceding the base year. As a rule, the municipality receives the subsidy in the second half of the year by August 31 of a given year, and thus can perform tasks for which the implementation time actually falls in four months of a given year. By defining the structure of calculating and awarding the spa subsidy in such a way, the Minister of Finance not only created exceptionally difficult conditions for carrying out the tasks settled by the spa subsidy, but also led to a situation where the municipality, in executing the subsidy agreement, could breach the provisions of the Public Finance Act.

6. *DE LEGE FERENDA* CONCLUSIONS

When formulating conclusions *de lege ferenda*, one should consider either changing the structure of granting and accounting for the health resort subsidy, or a different position of the health resort subsidy in the system of communal revenues. Practice shows that in spite of the fact that the health resort subsidy undoubtedly has the features of a targeted subsidy, it is awarded and accounted for like a subsidy. For correct calculation, allocation and settlement of the health resort subsidy it is necessary to either amend the regulation of the Minister of Finance regarding the procedure and deadlines for the health resort subsidy transfer in respect of the deadline for submission of the application for the subsidy and the deadline for subsidy transfer, or to recognise that the health resort subsidy is in fact a health resort subsidy, as in principle the health resort subsidy fulfils this role.

This view may also be supported by the fact that legal and financial literature more and more often stresses that targeted subsidies from the state budget to co-finance or finance current own tasks should play a limited role

among the sources of revenues of the local government unit. On the other hand, local governments should finance current own tasks from their own revenues as far as possible. There is hardly any doubt that the tasks of the spa resort community fall into the category of own tasks. They are tasks of a special nature, the performance of which is exclusively attributed to the health resort gminas. Health resort gminas belong to one of the two categories of gminas that perform tasks of a special nature. Additional duties were imposed on these communes, and their financing must be of an independent and creative nature, i.e. the self-governing bodies must be guaranteed the right to decide to some extent on the scope and manner of execution of the statutorily defined task, or at least on the manner of its execution and financing.

The doctrine is also unanimous in its view that the institution of a special-purpose subsidy transferred from the state budget to the budgets of local government units constitutes a significant restriction of their financial independence. The principle of limited use of targeted subsidies as a source of financing self-government tasks has also been expressed in Article 9 Clause 7 of the European Charter of Local Self-Government drawn up in Strasbourg on 15 October 1985, from which it follows that, from the point of view of the autonomy of local communities, a general (block grant) or even a sector-specific grant is a more preferable form of providing funds to such communities than specific grants. If, therefore, the spa subsidy by its very essence actually plays the role of a subsidy and in practice is difficult to account for as a specific grant, one should think about its free accounting by the municipality or other legal definition.

CONCLUSIONS

The definition of a subsidy has been formulated by the legislator in Article 126 of the Act on public finances, according to which subsidies are funds from the state budget, budgets of local government units and state purpose funds, which are subject to specific settlement rules, are granted on the basis of the Act on public finances, separate acts or international agreements, are intended to finance or co-finance the implementation of public tasks. It should be noted that in accordance with the above definition of a grant, each subsidy transfer from the state budget, LGU's or state purpose funds is accompanied by the implementation of a public task. Moreover, the subsidy must always be of monetary nature. The principles and procedures for the award of a grant should be understood as all the legislators' requirements concerning the determination of the amount of the grant, the determination of the group of entities to which the grant will be awarded, the manner of its use, as well as the manner of its settlement and control

of the commissioned task. It should be noted that the indicated requirements must be justified by the applicable laws.

The word “subsidy” derives from medieval Latin, where *dotatio* meant “providing” someone with material goods. In modern languages the term: “subsidy” is used interchangeably with the term: “subsidy”. Both the first and the second word in the vernacular are used to describe specific cases of providing someone or providing someone with money, which are public funds coming from the budget or a special purpose fund. According to dictionary definitions, a subsidy is “a gift, donation, bequest made by a donor, founder to a donor”. In turn, the word subsidy is used to describe “financial assistance provided by the state to businesses, institutions, individuals”. In the vernacular, the term “grant” has the character of a basic concept, while “subsidy” turns out to be a special kind of such a grant in its general meaning. Thus, in the vernacular, grant absorbs the term subsidy.

The origin of grants and subsidies from the budget or special purpose fund determines that their granting has its source in the provisions of the financial law. The science of finance recognizes them as the so-called transfer expenditures. The science of public finance distinguishes between: § real expenditures (real, purchasing or otherwise: direct expenditures); § transfer (transfer) expenditures. Real expenditures (direct expenditures, purchasing expenditures) are purchases of goods and services resulting from private law regulations, payment of wages and salaries, and investment expenditures (purchases or financing of the investment ordered) for the needs of public finance sector units. They are mostly characterized by equivalence of payments made in exchange for benefits received by a public unit. Such expenditures are not financial transfers, which are the expression of unilateral (non-reciprocal) and, as a rule, non-equivalent benefit (no equivalent). External transfers are an expression of the provision of public funds to private entities and may be related to the pursuit of important social or economic objectives by public authorities. Grants and subsidies are not the only type of transfer expenditure. They also include awards, benefits, scholarships and other expenditures paid from the budget based on public law norms.

The general provisions include a definition of subsidy as such and definitions of three types of subsidies (targeted subsidy, subject subsidy, and subject subsidy). The second element of the subsidy law provisions are the special provisions of the Acts or, as assumed by the Act, the provisions of international agreements, which contain the relevant “subsidy titles”. The term “subsidy title” should be understood not only as a legal basis for using a specific subsidy, but also as the regulations specifying the amount of the subsidy, the manner and mode of its award, its purpose, and the manner and mode of accounting for it.

The analysis of the subsidy law proves the existence of deficiencies and inaccuracies, both in the case of certain titles of subsidies and in the case of deficiencies in common regulations. An obvious example of this is the fact that the Public Finance Act does not provide a clear legal basis for issuing an administrative decision on returning a subsidy to the self-government budget. Against the background of reforms of the local government law and reforms of the financial law, the postulates raised at the occasion of earlier amendments of three consecutive Acts on public finance should be repeated, so that the structure of the law on subsidies would be clearly described in the Act. Proper grouping and supplementing in one law of general and common norms concerning subsidies will discipline the authors of new special laws to express *de lege ferenda* complete titles of subsidies. It should also result in correcting and completing incomplete subsidy titles in the current legislation and executive acts [Sekuła and Fandrejewski 2011, 64-71].

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