

INITIATING LOCAL PUBLIC-PRIVATE PARTNERSHIPS IN POLAND – SELECTED ASPECTS

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Abstract. *Joint action of many entities in the current market economy is essential. The dynamic development in many areas urges to take up activities that are not always possible to be achieved alone. Thus, it is necessary to establish cooperation between organizations having a common goal – the socio-economic development. This is especially important at the local level where the lack of financial resources is blocking the implementation of many projects. Establishing cooperation with relevant partners can therefore contribute to greater social integration and effective problem-solving as well as being able to assist in moving away from fragmented and often uncoordinated activities undertaken by different entities in the same areas. Projects implemented in partnership will also facilitate significantly establishing cooperation between institutions and organizations representing different stakeholder groups. The aim of this paper is to show the role played by public-private partnerships in Poland in the era of market uncertainty.*

Involvement of social organizations such as associations and foundations, as well as private entities in accomplishing tasks which fall into competence of public administration bodies and local governments is one of the determinants of democracy. It enables extensive civic participation in public initiatives, thus contributing to social sustainable growth as well as establishing civic society. In addition, it enhances mutual confidence among institutions representing specific sectors and awareness of shared responsibility for the citizen's quality of life.

The objective of this study to provide an overview of practical methods for establishing partnerships as well as identification of problems faced by local governments and enterprises being in partnership.

Keywords: *public-private partnership, organization, local partnership, cooperation, EU legislation.*

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1. Formal and legal authorization conferred to the partnership – introduction¹

In accordance with the Act on public-private partnership (PPP) – it is based on the cooperation agreement, made between a public entity and a private partner, intended to implement a public project, pursuant to which a private partner will bear or arrange, in full or in substantial portion, financial costs for completion of a specific project being the object of cooperation. Public-private partnership may be an implementation form for a specific venture within the scope of public assignments, in accordance with and on the conditions specified in the Act on PPP², only provided that this form brings benefits for the public interest which surpass those delivered by other methods of performing the public task or project.

PPP is a project accomplished pursuant to a long-term agreement, conducted between a public entity and a private entity, aimed at establishing infrastructure components which enable provision of public services. The groundwork for this definition is constituted by a community of activities performed by public and private sectors – founded to facilitate both partners in best pursuing their goals to which they are committed. A public partner is obliged to provide public services by law, whereas a private partner is expected to conduct business and achieve profits³.

An opportunity to combine operations by local government units with private companies was laid out in the Act on public-private partnership (PPP) of 19 December 2008⁴ and in Article 28a of the Act on principles for pursuing the development policy⁵ of 6 December 2006, being in force since 20 December 2008. This provision defines general principles for accomplishment of partnership projects and principles for selection of partners from outside the public finances sector by project promoters from within the public finances sector.

At the EU level a crucial legislation deed regulating the principles for partnership is the Council Resolution (EC) No. 1260/1999 of 12 June 1999⁶. The provisions included are general and they fail to specify the

¹ A study on the basis of the Guide for cooperation issued by the Voivodeship Labour Office in Szczecin, Szczecin 2005.

² Abbreviation: Public-Private Partnership.

³ http://www.partnerstwowpublicznoprywatne.info/ustawa_ppp.php [access date: 2010.05.28]

⁴ Public-private partnership law of 19 December 2008 (Dz.U of 5 February 2009)

⁵ Law on principles of pursuing the development policy of 6 December 2006, Art. 28a, Dz. U. Nro. **216**, item 1370.

⁶ Council Resolution (EC) No. 1260/1999 of 12 June 1999.

manner of entering into partnerships or the scope of activities performed by individual partners. Having in mind the need to specify more thoroughly the principles for operations of partnerships whose projects are co-financed from EU funds the following document was drawn up “Scope of implementation of partnership projects” which determines⁷:

- Basic requirements for partnerships;
- Assignment of partnerships among units of the public finances sector;
- Appointment of partnerships among units in the public finances sector with units from outside the public finances sector;
- Partnership with the entity failing to comply with statutory definition of the beneficiary;
- Partnership established in the course of accomplishing the project – changes in partnership;
- Financial issues in partnership projects, including the template for a partnership agreement for the benefit of the Project.

2. Types of local partnerships

There is a wide range of forms and models for partnership functioning – especially local ones, having different structures and task allocation. Their type frequently depends on a leader, who due to his leadership, on many occasions imposes his concept of the partnership. Taking into account a leader’s nature we may differentiate three categories of local partnership initiatives:

The first is a grassroots partnership comprised of local partner groups. It is set up by local social organizations and individuals. These partnerships are distinguished by great flexibility in undertaking actions. By representing local communities they may efficiently respond to all irregularities and ongoing changes occurring there. Being aware of the needs and problems they may, above all, take initiatives that favour the community. Such partnerships, however, entail numerous negative features. The basic problem is a lack of structuring and systemizing jobs by specific partners. For example, social organizations are reluctant to take up office service as assignments for partnership. Without an organizational scheme the decision making process is increasingly difficult and the way of representing the partnership outside is undefined. Local partnerships which are often created spontaneously, ad hoc, repeatedly exaggerate in idealizing

⁷ MRR “Scope for accomplishing partnership projects specified by the Managing Institution of the Operational Programme Human Capital”, Warsaw, 23 April 2009.

their activities and when confronted with the apparent deficiency of their own benefits, they cease to exist.

Another form of local partnership which most commonly comes into being in areas with a strong sector of private business, include partnerships created on the initiative of local business communities. Such partnerships operate efficiently and effectively as they have well organized internal structures as well as a rigid allocation of work responsibilities. Their activities deliver benefits to both the local community as well as the partnership as a whole. Negative factors underlying these initiatives chiefly refer to a desire to gain a bigger impact on economic issues in a given community. Partnerships geared to accomplish economic projects often see profitability as their priority. Therefore, all activities undertaken are assessed with regard to costs and as a result are not performed, even though they could have been beneficial for a local community.

A third form of local partnership with regard to type of entities comprising it includes partnerships initiated by local authorities or public sector. Partnerships of this type emerge in those areas where a local authority assumes the role of leader. It is distinguished by an excellent internal organization. It has an efficiently functioning administrative infrastructure. They are capable of implementing projects which serve the purposes of the whole local community. Though as a result it is generally viewed as an extension of the office and carries a real danger that cooperating entities may degenerate from partners to “applicants”.

Another criterion for division of partnerships is their formal and legal status. According to this criterion there are two distinct forms for functioning local partnerships. The first embraces formally organized partnerships which assume a form of business entity such as a foundation or an association. Whereas the second form refers to partnerships with an informal structure. These partnerships facilitate establishing better bonds between partners.

Partnerships are divided in terms of task accomplishment. To execute the projects jointly partnerships called clusters are formed. These are collections of independent groups which by their cooperation they create a complete entity.

Partnerships are also distinguished with regard to their manner of accomplishing projects. These are coordinating and executive partnerships.

Coordinating partnerships may accomplish numerous projects simultaneously in diverse areas and fields. Individual projects are implemented by separate operational teams. Their operations are managed and administered by project coordinators while the whole is supervised by a leader.

Coordinating partnerships must possess efficiently operating structures for information transfer, which to a large extent determines the efficient working of all operational teams. Operations conducted by local partnering teams may cover various areas of social and business environment.

Executive partnerships when operating focus only on execution of a single project or single initiative at a given time. In such partnerships all energy and resources are devoted to performance of this single, individual project. Partnerships are characterized with a simple system for management and information transfer. It is unnecessary to build an extensive and highly systemized organizational structure. Negative factors which accompany such a “team” involve, above all, the fact that local partnerships may exclusively pursue a single project at that time. Effective activities performed by these teams are solely constrained to a single area, and thus their operations are incomplete and fragmentary⁸ in nature.

3. Basic principles for building public-private partnerships

Establishment of the partnership requires a range of actions intended to specify all activities to be undertaken to ensure a rewarding cooperation among partners. Among others, they include compiling a list of potential partners, analysis of opportunities, potential and impact of partners on a local community. Also, consideration of the motivation of potential partners behind the drive to participate in the accomplishment of the common project should not be downplayed⁹.

In each case the first, critical measure to create a partnership is conducting an analysis of advantages and losses which may be possibly incurred by partners. It is necessary to agree on a common vision and value for the partnership. Additionally, all likely sources of financing should be investigated¹⁰.

⁸ *Local partnership. Guide for cooperation*, Voivodeship Labour Office, Szczecin 2005, p. 27.

⁹ Ministry of Labour and Social Policy, Labour Market Department, *Through cooperation to success. Local partnership on the labour market* (edit.) A.Sobolewski, R. Krzewicka, G. Och, J. Olszowska-Urban, J. Piekutowski, G. Podławiak, T. Sobolewski, Warsaw, 2007.

¹⁰ *Local partnership. Guide for cooperation*, Voivodeship Labour Office, Szczecin 2005, p. 27.

3.1. Identification of problems and formulating the objectives

The first principle when identifying problems and formulating the objectives for local partnership initiatives is a necessity to act at a local level. The principle determines and narrows the scope of interests and activities for local partnerships. It has a decisive bearing on the functioning of the partnership almost over the whole time of its operations.

According to this principle it is necessary to formulate a schedule for actions, given the situation of the area, its resources, potentials and weaknesses. The actions to be taken jointly have to respond to real needs of the given region, even though these needs may, at the beginning, seem to be prosaic, banal or trivial. The initiatives that do not meet local expectations should not be planned, projected or performed as they are doomed to fail. Also, it is of little significance how “momentous” these initiatives are, if they do not correspond to reality they are redundant and even harmful. After all, they do not solve any problem of the local community (as unidentified problems are unknown, therefore actions taken cannot serve as countermeasures), conversely, they may create new problems and threats. One of key issues in the process of establishing and building the local partnership is therefore – according to the principle “we act locally” – conducting the analysis of the situation prevailing in a given local environment, and then selection of such targets, mechanisms, scheme and tools for activities undertaken so that initiatives accomplished by the partnership are a real, not only superficial or promotional, means of resolving problems and threats. At this juncture another issue should be emphasized. Each partnership initiative taken as a countermeasure against local grievances and troubles, having their origins in the analysis of the predominant situation in the local social and economic environment, should be a driving force behind local growth in the community. To achieve these goals, the activities have to be viable across a specific community. So it is not enough to design an exceptionally “bombastic” project which will ideally respond to the needs and eradicate problems faced by the specific community. Unless the project in its assumptions takes into consideration local determinants prevailing in the specific area, in practice it may prove to be unviable. Thus, at that point it is necessary to explore all resources and potentials possessed by the local community. It is equally important while scheduling partnership activities to keep in mind the potential weaknesses and threats inherent in the local community which may exert a significant influence on the nature and scope of the initiative undertaken. It may appear that activities and initiatives pursued by the

partnership are totally divorced from the socio-economic reality in the territory (e.g. activities that promote professional training in an area with a high rate of unemployed with similar educational background, where there are no vocational schools and where eventually there is no demand for employees with such education on the labour market)¹¹.

In this case the partnership will break, through its activity, one of the fundamental and crucial directives for functioning local partnerships, which is conducting operations for the benefit of local communities. Instead of acting for the benefit of the community it will only benefit itself, and more precisely (some) partners centred in that area. The local community may cease to recognize it as a useful entity committed to the interests and development of the local social environment, and perceive it as a formation set up for the purposes of securing the interests of its members.

People involved in the partnership are its core value. They as well as their engagement decide whether a planned initiative delivers expected results. At the very beginning of creating the partnership it is crucial to keep in mind that all partners have to receive benefits from participation in the venture. At the inception of partnership and while accepting new entities motives driving all partners ought to be clearly specified. It is remarkably important with regard to appropriate identification of common objectives. Only on the basis of shared expectations is it possible to establish cooperation among diverse entities. All dissenting views should be identified during the phase of creating the partnership and not when accomplishing specific assignments. The significance of shared goals and expectations, which enhance partners' involvement into the project should be emphasised. On the level of building partnership, at its initial phase, it is necessary, apart from explicit motivation, to identify so-called "tacit goals" pursued by at least some participants in the partnership. They may be best identified by an external expert who is not involved in the partnership and with the use of research he discloses both tacit as well as motives driving the participants.

To achieve the best outcome, partners need to have a common goal, a similar approach to problem solving and support each other. The more similarities that exist among partners, the bigger the chance of reaching an understanding. There is a high probability that two non-governmental organizations (e.g. dealing with unemployed persons) will find a common path to achieve a goal.

¹¹ Based on MRR „Scope for accomplishing partnership projects specified by the Managing Institution of the Operational Programme Human Capital”, Warsaw, 23 April 2009.

It should be emphasized that too great a disparity among partners may hinder the accord; however in the case when these dissents come to the surface it is vital to make it possible to verify (or defend) their own conviction, views and methods applied. It is worthwhile working with a partner which imposes a superior standard in terms of management or work quality, and at the same time to ensure that the standard is possible to attain. While working the partnership a system of strong bonds and relationships among individual partners should be developed. A characteristic feature of effective partnerships is engagement in their works of various partners that are committed to the local social community in diverse areas. It appears important that the partnership involves representatives of various sectors: local self-government administration (alongside its organs being in charge of policy), institutions, companies and employees as well as NGOs and education. Potential partners should be intentionally and adequately selected from among institutions genuinely convinced of the usefulness of the founding partnership. Partnership cannot be coercively imposed by virtue of enforced decision. Institutions “coerced to partnership” will never become partners, and they may turn into adversaries. Individual partners have to be convinced of benefits coming from participating in the partnership and these benefits cannot be weaker than those achieved as a result of being outside the partnership and operating “on one’s own account”. To deliver this objective, it is necessary to define precise principles for functioning partnerships and guidelines for recruiting potential new partners. In this case it is useful to draw up agreed regulations/declaration of cooperation which should be approved by all partners¹².

A Partnership should be headed by a charismatic leader, being capable of managing and administrating all projects carried out. With regard to his position a leader is obliged to represent partnership outside. On most occasions it is an institution that holds the position of the leader.

When concluding the partnership agreement the following should be specified:

- Objective of partnership;
- Responsibilities of the project leader and partners towards third parties for liabilities incurred by partnership;

¹² Ministry of Labour and Social Policy, Labour Market Department, *Through cooperation to success. Local partnership on the labour market* (edit.) A. Sobolewski, R. Krzewicka, G. Och, J. Olszowska-Urban, J. Piekutowski, G. Podławiak, T. Sobolewski, Warsaw 2007, p. 32.

- Tasks and obligations of partners with respect to implementing the project, arising from the agreement to subsidize the project, entered into between a beneficiary and a relevant institution;
- Financial plan allocating expenses to all partnership members and principles for financial management, including cash flow and settling accounts;
- Guidelines for communication and information transfer in partnership;
- Principles for decision making process in partnership (principles for joint managements);
- Power of attorney or authorization to represent partners;
- Manner of internal monitoring and oversight of project accomplishment.

Despite documents listed above it is recommended to implement procedures which should be applied within the partnership (among others: with regard to risk and conflict management, problem identification) as well as methods for solving issues in respect to decision making and assuming the role of the leader in the partnership. Such procedures may constitute a part of the partnership agreement. In the case of the partnership involving more than three partners the description of procedures is mandatory and it should constitute a part of the partnership agreement¹³.

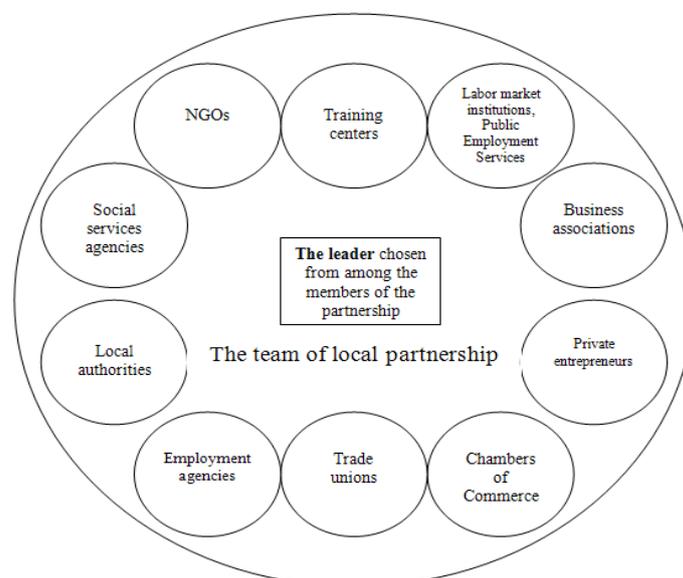


Figure 1. Potential partners gathered in a local partnership.

Source: *Local partnership. Cooperation Guide*, PARP, Szczecin 2005.

¹³ *Ibid.* p. 32.

3.2. Formulating the strategy for activities performed by public private partnerships

A strategy is closely connected with initiatives projected for implementation by the partnership.

An analysis of possibilities and limitations clearly shows “for” and “against” the potentials possessed and indicates the areas of activities where the partnerships have no chance to interfere. The areas of activities and strategic objectives set out the direction for operations of the partnership. A significant element of the strategy – information and promotion policy are related to the impact of the partnership on the external environment. Adequately determining a target group or environment for partnership initiatives, taking into consideration environments unfavourable towards the partnership, as a consequence, allows creation of an appropriate image for the partnership.

First, elementary and one of the critical initiatives undertaken following the establishment of the local partnership is to conduct a factor analysis for its functioning. Other stages of the initiative may be carried out after completing this phase. A factor analysis and drawn conclusions determine the entirety of objectives and activities scheduled for the partnership. There are a few factors behind the extreme significance of the analysis:

First, it marshals knowledge of individual partners about themselves; it points out the potentials and exposes their weak and strong points. Furthermore, the analysis enables precise recognition of the scope and manner of partners’ cooperation. It also makes possible gathering of information on potential possible platforms for cooperation.

Second, it enables formulation of a system of objectives which are intended to drive the partnership. The objectives are realistic so that they are likely to be fully implemented as they are backed by the resources of the partnership. The analysis prevents establishing unrealistic objectives that are not viable from the partners’ perspective.

Third, the analysis allows to accurately identifying the area of activities that might be accomplished by the partnership. It indicates the connections between activities planned with resources and potentials possessed by partners. It determines their viability according to the principle “look before you leap”.

Fourth, it helps to avoid chaos as the activities are carried out on the basis of the schedule which incorporated analysis results.

Fifth, it permits prediction of effects resulting from the activities undertaken.

Sixth, it reveals factors which may obstruct the activities planned and it suggests methods for liquidating and preventing their negative impact.

The analysis may be conducted with regard to individual partners separately, as well as to the partnership as a whole. An optimal solution is conducting an individual analysis at the initial phase and then a collective one. The results gained in this way are most reliable. The process of the analysis alone should be carried out in an open fashion. It is crucial that each partner has an equal right to present its views and ideas. Critical judgment as a constructive element is allowed at the phase of systemizing the analysis results for the whole partnership.

3.3. Financial issues in the partnership

The funds for the project may be allocated to partners by a beneficiary (leader), unless a partner is state budget unit. Funds finance the costs incurred by partners with regard to executing tasks specified in the partnership agreement; they are not delivering services for the benefit of the beneficiary (leader). They may be allocated in the form of an advance payment or as reimbursement of the expenses borne. All the payments made in connection with project implementation between the beneficiary (leader) and partners, are made by the use of the beneficiary's bank account opened for the project. The basis for money allocation between public partners may be e.g. an understanding (or letter of intent). If the understanding refers to transferring the assignment to another entity, not defined in legal provisions for this entity, transferring the assignment is followed by allocation of funds for its financing. If the understanding pertains to a joint implementation of the public assignment, then the costs are borne by all parties to the understanding. The provisions of the public finances law permit the assignments executed jointly by local government units to include own assignments of these units as well as assignments undertaken pursuant to the understanding.

Arising from Article 124(11) of the Public finances law¹⁴, revenues and costs related to accomplishing joint assignments by virtue of agreements or understandings between local government units are placed in the budget of the local government units which were awarded with accomplishment of these assignments. In the case of the commune which

¹⁴ Public finances law of 27 August 2009, Dz. U. No. 15, item 1240.

accomplishes public tasks included in the understanding, then it assumes the rights and obligations of the remaining communes – parties to the understanding, with regard to the tasks awarded, and communes – parties to the understanding are obliged to participate in the costs of the assignment. But if the communes set up an association with the goal of jointly completing the assignment, the association executes the public tasks in its own name and on its own responsibility, within a statutory objective to which it was brought into existence, as it possesses a legal personality. On the day when the association's charter is announced, rights and obligations of the communes involved in the association, with respect to accomplishing assignments awarded on the association, pass over to the association which conducts the financial operations on the terms and conditions specified by the public finances law for the financial operations conducted by communes.

In the case of units from the public finances sector financed from the state budget, the public finances law does not provide for such restriction, which arise from Article 124 for local government units¹⁵ – parties to such understanding may agree on partial financing of the task by the budget of each entity involved.

It is necessary to identify areas of activity and intervention undertaken by the partnership so that they are in compliance with the resources and financial potentials. Activities should be taken in favour of the project, notwithstanding it. The goals for specific actions should be accurately set out so as to evaluate their completion degree with the use of objective and measurable indices. The goals must be established so as to ensure complementary and comprehensive exploitation of all resources. Equally important is to devise a procedure for resignation from the partnership which secures the integrity of the partnership in such a way that departure of one or more partners does not initiate a domino effect and ultimate collapse of the partnership. The members of the partnership should be recognized for high professional qualifications and experience, as lack of adequate competence to works connected with project execution may, in consequence, lead to losses, including financial losses. Therefore it is recommended to engage specialists of local partnerships into the partnership activities.

All persons creating the partnership should be aware of the goal and take responsibility for their contribution and involvement. It should be kept in mind that there is a shared obligation to be concerned about benefits, as

¹⁵ *Ibid.*

the lack of them may trigger a debacle¹⁶. The parties to PPP determine their financial contribution in the agreement. Despite the financial contribution (cash) partners, both public as well as private, make in-kind contribution. Any settling accounts between the parties ought to be included in the partnership agreement.

Launch of the project in the form of public-private partnership requires a relatively long preparatory period necessary for drawing up essential documentation¹⁷.

4. Conclusions

Social and economic growth entails initiating actions that have direct impact on its condition both in Poland as well as in individual regions of the country. Adequate identification of the problems in local environments enables selection of means which perfectly address the problems and facilitate achieving the goals. One appropriate, but at the same time very challenging solution is establishing partnerships – between a public entity and private partner, for the purpose of accomplishing public assignments.

Partnerships whose type, structure and division of tasks frequently rely upon a leader, depending on the choice of the form and model of functioning, as a result may deliver advantages or losses for local communities.

Given the complex nature of the issue, establishing partnership implies embarking on initiatives intended to specify all activities to be taken in order to ensure a rewarding cooperation between partners. Beginning from the introductory negotiations through selection of partners, analysis of possibilities, identification of problems, exploring the potentials, allocation of assignments to oversight and accomplishment of tasks – to deliver objectives required which lead to social and economic growth of the local community. Pursuant to requirements for drawing up necessary documentation, the launch of the project in the form of PPP demands a relatively long preparatory period. This time should be devoted to intricate specification of details regarding cooperation as in each case of establishing a partnership; a guiding and essential objective is conducting operations for the benefit of local communities. It must be highlighted that

¹⁶ Cooperation guide 2004-2008, Coordination Office for Personnel Education, Foundation “Cooperation Fund”, Warsaw 2005.

¹⁷ M. Gasz, *Public-private partnership as an instrument for completion of public projects*, [in:] R. Przygodzka (edit.), *Public sector in present-day economy*, Białymstoku University, Białystok 2008, p. 251.

PPP comprising a public entity and private partner is charged with securing the interest and promoting growth of the local community.

REFERENCES

- [1] M. Gasz, *Public-private partnership as an instrument for completion of public projects* [in] R. Przygodzka (edit.) *Public sector in present-day economy*, Białymstoku University, Białystok, 2008.
- [2] European Commission Publication, *Guidelines for Successful Public-Private Partnerships*, Brussels 2003.
- [3] Ministry of Regional Development, *Scope for accomplishing partnership projects specified by the Managing Institution of the Operational Programme Human Capital*, Warsaw, 23 April, 2009.
- [4] *Cooperation guide 2004-2008*, Coordination Office for Personnel Education, Foundation "Cooperation Fund", Warsaw, 2005.
- [5] *Guide for cooperation issued by the Voivodeship Labour Office in Szczecin*, Szczecin, 2005.
- [6] A. Sobolewski, R. Krzewicka, G. Och, J. Olszowska Urban, J. Piekutowski, G. Podławiak, T. Sobolewski [edit.], *Through cooperation to success. Local partnership on the labour market*, Ministry of Labour and Social Policy, Labour Market Department, Warsaw, 2007.
- [7] Public-private partnerships law of 19 December 2008 (Dz.U. of 5 February 2009).
- [8] Law on principles of pursuing the development policy of 6 December 2006, Art. 28a, Dz. U. No.216, item 1370.
- [9] Public Finances Law of 27 August 2009, Dz. U. No. 157, item 1240.
- [10] Voivodeship Labour Office, *Local partnership. Cooperation Guide*, WUP Szczecin, 2005.
- [11] *Statistical Yearbook for Polish Voivodeship 2009*, Statistical Office in Białystok, Białystok, 2009.
- [12] Council Resolution (EC) No. 1260/1999 of 12 June, 1999.
- [13] http://www.partnerstwowpublicznoprywatne.info/ustawa_ppp.php [access date: 2011.01.28]
- [14] <http://www.doradca-ue.pl> [access date: 2011.01.28]