

Influence of the European Funds Officer on the effectiveness of spending EU funds

Wpływ Rzecznika Funduszy Europejskich na efektywność wydatkowania środków unijnych

dr Justyna Przedńska

Assistant Professor, Department of the Public Administration System, Administration and Economics,
Institute of Administrative Studies, Faculty of Law, University of Wrocław
E-mail: justyna.przedanska@uwr.edu.pl; ORCID: 0000-0002-3558-3969

Summary

The institution of European Funds Officer was established in July 2017 to assume responsibility for improving and streamlining the process of performing tasks related to spending EU funds. The task of the European Funds Officer is to monitor and inform individual institutions about the system of implementing proposed improvements in the fulfilment of national and regional operational programmes through his contact with the applicants, beneficiaries and other entities interested in implementing European funds. The article describes the European Funds Officer and his tasks; and presents an analysis of the activities of the Officer at the Ministry of Investment and Development, as well as the Officers appointed by the regional operational programme managing authorities, on the basis of their annual reports.

Key words: European Funds Officer, national operational programmes, regional operational programmes, managing authority

Streszczenie

W lipcu 2017 r. powołano do życia instytucję Rzecznika Funduszy Europejskich, który ma być odpowiedzialny za usprawnienie i ulepszenie procesu realizacji zadań związanych z wydatkowaniem środków unijnych. Rzecznik Funduszy Europejskich poprzez kontakt zarówno z wnioskodawcami, beneficjentami, jak i innymi podmiotami zainteresowanymi wdrażaniem funduszy europejskich ma za zadanie monitorowanie i sygnalizowanie poszczególnym instytucjom systemu wdrażania propozycji ułatwień związanych z realizacją krajowych i regionalnych programów operacyjnych. Autorka w artykule dokonuje charakterystyki Rzecznika Funduszy Europejskich oraz jego zadań, jak również na podstawie rocznych raportów przeprowadza analizę działalności Rzecznika powołanego w Ministerstwie Inwestycji i Rozwoju oraz Rzeczników powołanych przez instytucje zarządzające regionalnymi programami operacyjnymi.

Słowa kluczowe: Rzecznik Funduszy Europejskich, krajowe programy operacyjne, regionalne programy operacyjne, instytucja zarządzająca

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The decentralized model of implementing the Law of the European Union (Harding, 1996, p. 21 *et seq.*), referred to as shared management (shared management has been central to the implementation of EU policy; this includes areas where the EU expends funds, such as the Common Agricultural Policy and the Structural Funds, and areas where the EU intervenes through regulatory policy; Craig, 2012, p. 77 *et seq.*; Middelhoek, Ahlenius, Lelong, Tizzano, Gerven, 1999, pp. 79–115), which is also implemented with respect to the spending of EU funds, guarantees Member States that they can themselves both establish the principles applied for awarding, spending and settling EU funds, as well as the rights to which private entities are entitled in this

area (Łacny, 2015, pp. 25–26; Domańska, 2007, p. 325 *et seq.* Cf. Regulation (EU, Euratom) No. 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No. 1605/2002, OJ EU L 298, p. 1).

One manifestation of the model understood in this way came with the establishment of the institution of the European Funds Officer in Poland by the provisions of the Act on the amendment of the Act on the principles of implementing programmes regarding the financial cohesion policy in the 2014–2020 financial perspective and certain other Acts of 7 July 2017 (Journal of Laws of 2017, item 1475).

Genesis of the appointment of the European Funds Officer

According to the justification of 13 June 2017 of the draft amendment to the Act on the principles of implementing programmes regarding the financial cohesion policy in the 2014–2020 financial perspective and certain other Acts (Justification of the bill on the amendment to the Act on the principles of implementing programmes regarding the financial cohesion policy in the 2014–2020 financial perspective and certain other Acts with the draft secondary regulations, Sejm of the 8th term of office, form no. 1636, hereinafter the justification for the bill), the desire to amend the Act on the principles of implementing programmes regarding the financial cohesion policy in the 2014–2020 financial perspective was a result of two years of experience in implementing cohesion policy operational programmes in this financial perspective, which, in accordance with the motions and postulates submitted by the institutions and entities involved in the implementation and spending of funds, showed that improvements, simplifications and the assurance of the efficient use of EU funds were necessary (Kubicka-Żach, 2018). According to the justification of the bill, the objective of the key institutional change, namely the establishment of the European Funds Officer, was meant to streamline and improve the process of performing tasks related to spending EU funds. The European Funds Officer is to be responsible for monitoring and informing individual institutions about the system of implementing proposed improvements in the fulfilment of national and regional operational programmes through his contact with the applicants, beneficiaries and other entities interested in implementing European funds.

The tasks of the European Funds Officer

Therefore, the added Article 14a, which regulates the principles of operation of the institution of the European Funds Officer, started to apply on 2 September 2017, as a result of the Act on the principles of implementing programmes regarding the financial cohesion policy in the 2014–2020 financial perspective of 11 July 2014. According to para. 1 and 2, the managing authority is required to appoint an Officer, which, in addition to the establishment of a European Funds Officer in the Ministry of Investment and Development, meant the appointment of 16 Officers, one for each voivodship. However, the Act mentioned that this has to be a person appointed from among the employees of that institution. Furthermore, optionally, the Officer may also appoint (also from among his employees) an institution taking part in the implementation of operational programmes, in addition to the managing authority. However, in this case, para. 5 and 6 provide that the Officer appointed by the managing authority will be able to request information from the Officer appointed by another institution taking part in the implementation of the

operational programme on the tasks performed, which is justified by the overall responsibility of the managing authority for the operational programme.

Para. 3 of Article 14a of the Implementation Act indicates an open-ended list of the Officer's tasks, but the Act itself does not prejudge whether the Officer within a given institution may perform other tasks assigned to that institution. However, there must not be a conflict of interests, in which the Officer considers matters regarding activities which he performs as a part of his other official duties. According to para. 4, the responsible institution is required to ensure that the person holding the post of Officer will not perform tasks that could directly or indirectly affect the way in which he performs the tasks specified by law in Article 14a, para. 3, items 1–5. This obligation is therefore related to such a definition of the job description and designation of the scope of the Officer's tasks to assure him of an independent position with regard to the tasks he performs.

The Officer's tasks include, in particular, receiving and analysing (considering) complaints about difficulties, as well as proposals of improvements in the operational programme by the responsible institution, namely regarding the activities of both the institution in question and the implementation of the national or regional operational programme, as well as the provision of appropriate explanations on this. This obviously applies to the implementation of the national operational programmes in the 2014–2020 financial perspective, namely the Infrastructure and Environment Programme, the Smart Growth Programme, the Knowledge Education Development Programme, the Digital Poland Programme, the Eastern Poland Programme and the Technical Assistance Programme. Furthermore, the Officer is responsible for periodically reviewing the procedures in the operational programmes that apply to the respective institution, which involves the simultaneous formulation of proposals of improvements to the implementation of the given operational programme by the appropriate institution.

An important duty of the Officer is to prepare, by 31 March each year, of the annual report on his activities during the previous year and to submit the same to the managing authority, which posts a collective report on its website. However, in accordance with para. 8–10, with the exception of Chapter VIII, regarding complaints and motions, which applies accordingly, the provisions of the Administrative Procedures Code of 14 June 1960 (Journal of Laws of 2018, item 2096) do not apply to the tasks performed by the Officer. Furthermore, the provisions on proceedings before the Officer regarding the appeal procedure regulated in Chapter 15 of the Implementation Act do not apply to proceedings before the Officer, as these regulations provide a detailed specification of proceedings with respect to those applicants who have received a negative assessment of the project selected in the tender procedure (Poździk, Wołyniec-Ostrowska, 2016). However, in accordance with para. 10, the Officer will not be appointed for European Territorial Cooperation

programmes because of their international nature.

Practice of the functioning of the European Funds Officer at the Ministry of Investment and Development

The institution of Officer, whose objective is to improve the implementation of national operational programmes, as well as the Officers who are similarly appointed by the managing authorities to improve the efficiency of implementing regional operational programmes, have already been in existence for over two years. This is both long and short at the same time. It is long enough for applicants, beneficiaries and other entities interested in implementing EU funds to know about such an institution and to want to and be able to benefit from its support. On the other hand, it is relatively short for the Officers to make a real contribution to systemic changes through their recommendations of improvements.

The author's analysis of the reports, the submission and publication of which on the given managing authority's website is a statutory obligation of the Officer (Article 14a, para. 7 of the Implementation Act), suggests that either these two years are not enough at all, or the very idea of establishing such an institution was not entirely correct, or that it fails to inspire an appropriate trust of the parties to the process of spending EU funds in its current form.

According to the Report on the activities of the European Funds Officer for 2018 (Report, 2019) prepared by the Officer appointed to the Ministry of Investment and Development in order to monitor the implementation of the Officer's statutory tasks and assess the impact of his activities on the implementation of national operational programmes, it would appear that the statutory framework of the Officer's activities is not flawed.

This is because, throughout the 2018, the Officer received 135 cases (on the side-line, it should be observed that the Officer did not post an appropriate report on the website for three months of 2017), of which 55 were complaints, 48 were notices and 32 were applications (see Table 1), where most cases were received from beneficiaries (39 cases) and potential applicants (38 cases). The applicants for projects submitted 23 applications, while project participants and recipients of grants submitted 10 and 2, respectively. A reasonably numerous category, in which 23 applications were qualified, is the 'other' category which includes, among others, bidders or potential bidders, business environment institutions and final beneficiaries (most cases — 31% applied to horizontal issues; within the national operational programmes, the most frequently reported cases applied to the Smart Growth Operational Programme — 21% and the Knowledge Education Development Operational Programme — 12%. To a lesser extent, applications received concerned the Infrastructure and Environment Operational Programme — 4% and the Digital Poland Operational Programme — 3%. Matters related to the

Eastern Poland Operational Programme and Technical Assistance Operational Programme represented a marginal percentage of cases — approximately 1% each. Furthermore, 24% of cases submitted to the Officer concerned issues related with the implementation of regional operational programmes and approximately 4% concerned subjects related to the Rural Development Programme 2014–2020). In terms of problems, the largest group were those regarding project implementation — 37% (50 cases). The remaining matters applied to issues related to the possibility of obtaining the funding — 20% (27 cases), assessments of co-financing applications — 12% (16 cases), the quality of service of the institution — 6% (8 cases), control — 5% (7 cases), the organization of tenders — 4% (6 cases) and problems of potential applicants — 3% (4 cases). Additionally, 13% (17 cases) were individual cases on various topics, e.g. related to digitization and IT systems or to the appeal procedure.

The Officer also performed three actions on his own initiative. Firstly, he conducted a survey addressed to 600 randomly selected beneficiaries of national operational programmes, entitled 'Cooperation with project supervisors implemented under national operational programmes for 2014–2020 from the beneficiary's point of view'. Basing on 113 questionnaires returned, he prepared a report summarizing the survey (unfortunately, this report is not publicly available), in which he formulated recommendations for individual managing authorities. Secondly, he developed a model checklist to check the correctness of the proceedings conducted in the procedure of surveying the market/principles of competition, recommending that institutions post them on the websites of the individual operational programmes. Thirdly, together with social partners, he developed proposals of changes to the guidelines of the Minister of Development regarding the eligibility of expenditure within the European Regional Development Fund, the European Social Fund and the Cohesion Fund for 2014–2020 (Guidelines on the eligibility of expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund in 2014–2020; The guidelines specify the harmonized conditions and procedures regarding eligibility of expenditure for the structural funds and the Cohesion Fund, as well as the Youth Employment Initiative. The current version is dated 22 August 2019).

In fulfilling his statutory obligation, the Officer jointly formulated a dozen or so recommendations to the system of implementing operational programmes for institutions. These recommendations are of various nature. For example, several recommendations were submitted in the middle of 2018, which were not implemented by the end of 2018 (and there is no information on their implementation to date). This applies to the following proposals:

- 1) regarding the preparation of an on-line instructional training or a series of vlogs on the application of the principle of competitiveness when awarding contracts in projects co-financed with EU funds;
- 2) regarding the organization of workshops initiating the

cooperation of institutions on the implementation system regarding the development of good practices with respect to the award of contracts in projects co-financed with EU funds;

3) to enter the project named 'Upwards and outwards extension of the former Grunwald cinema building located at ul. Warszawska 11 in Toruń intended to build a theatre — Establishment of a "Big Stage" of the Kujawsko-Pomorskie *Impresaryjny Teatr Muzyczny* [Impresario Music Theatre] in Toruń' — onto the list of investment projects that will be taken into account first when signing the co-financing contract in the event of obtaining an additional allocation;

4) to pay overdue training and internship scholarships, and to identify, as soon as possible, the injured participants of the POWR.01.02.01-30-0146/15 project in order to help those among them who wish so by specifying a possibility to benefit from other training/internships.

In turn, after reviewing, in December 2018, the procedures which were addressed to the individual national operational programmes, the implementation of the recommendations formulated by the Officer is not currently verifiable. This applies, for instance to the following proposals:

1) for the institutions to specify a clear deadline in their procedures for checking and approving payment applications, together with a precise breakdown into individual activities and the expected time for their implementation;

2) to shorten the time set for checking successive versions of payment applications;

3) to monitor the process of verifying and confirming payment applications (Report, 2019).

It should also be added that the Ministry of Investment and Development organized quarterly information meetings which were attended by all European Funds Officers.

Activities of European Funds Officers appointed by the regional operational programme managing authorities

A slightly different picture of the activities of the Officers arises from the reports for 2018, which are available on the websites of 16 regional operational programme (ROP) managing authorities. First, it should be noted that not all institutions posted the reports on their websites; there is no report of the ROP Officer of the Dolnośląskie Voivodship or of the Officer at the ROP Managing Authority of the Świętokrzyskie Voivodship (although in this case the 2017 report was available, containing an information that no matters related to the implementation of European funds were reported to the Officer in that period, while the Officer did not submit any recommendations for improvement either).

The next issue that is worth noting is the transparency itself and the content of the posted reports. It is a singular paradox that the Officers appointed to improve the

efficiency and introduce improvements do not necessarily take particular care in providing clear information about the cases they are handling. However, the issues that cannot be resolved in this article, but which are worth considering, are a small number of cases (see Table 1) received by the Officers in the second year of their operation, their nature, as well as the reporting channels (matters reported during telephone conversations prevailed in many places; however, it does not arise from the reports whether they were just complaints and in which form the person providing the notice was then informed about the outcome or whether he/she was informed at all). Additionally, in principle, there is no optimism about the nature of recommendations that are included in the reports (or should have been be weren't included, e.g. the report of the Officer appointed to the Managing Authority of the Wielkopolska ROP).

On the one hand, beneficiaries, applicants or other entities interested in obtaining European funds do not reach out for this form of assistance where, for instance, difficulties arise under the regional operational programme being implemented. Perhaps they don't because they are unaware of these possibilities. This is because the Officers do not take too many initiatives, even of an informational nature, not to mention those improving the process of implementing European funds. It is unknown why the Ministry of Investment and Development has not undertaken any promotional activities informing about the establishment of the new institution of Officer to reach the largest possible audience. Likewise, apart from creating an appropriate tab (does not apply to the Marshal's Office of the Dolnośląskie Voivodship) on the website (which are often not easy to find, by the way), the regional operational programme managing authorities do not implement any information activities, as if they themselves did not believe in the success of appointing the Officer.

However, on the other hand, the reason for the low level of activity of the Officers, the result of which is the small number of cases they receive, can be related to the position of the Officer within the structure of the managing authority. At the regional level, the Officers should be people who look after the interests of both the applicants applying for co-financing from the given voivodship's operational programme and beneficiaries of EU funds. This means that the Officers should be experts who, in a way, look at the process of implementing European funds from the outside and simultaneously spot the problems and propose improvements in the given system. The condition of being an expert can be inferred from Article 14a, para. 1 of the Implementation Act, according to which the managing authority appoints a person to the position of Officer from among its employees. But at the same time, this provision severely restricts or even prevents the given expert from becoming an impartial Officer. One can hardly be independent of the institution from which one comes from and where one works. In turn, this can translate (the effects of which can probably be seen in the annual reports) into difficulty in proposing recommendations to improve a programme that the person in question has, in many cases,

Table 1

Number of cases received by the European Fund Officers (EFO) in 2018

Officers at the Ministry of Investment and Development, and at the ROP Managing Authorities	Number of cases, including			
	total	complaints	notices	applications
Ministry of Investment and Development	135	55	48	32
Dolnośląskie	n.a.	n.a.	n.a.	n.a.
Kujawsko-Pomorskie	40	0	39	1
Lubelskie	66	n.a.	n.a.	n.a.
Lubuskie	30	0	27	3
Łódzkie	13	n.a.	n.a.	n.a.
Małopolskie	6	n.a.	n.a.	n.a.
Mazowieckie	15	n.a.	n.a.	n.a.
Opolskie	22	0	22	0
Podkarpackie	29	9	8	0
Podlaskie	25	16	7	2
Pomorskie	12	0	12	0
Śląskie	40	13	23	4
Świętokrzyskie	n.a.	n.a.	n.a.	n.a.
Warmińsko-Mazurskie	9	0	9	0
Wielkopolskie	46	32	14	0
Zachodniopomorskie	44	16	26	2

Source: Own study based on reports on the activities of the European Fund Officers for 2018 available on the websites of the Ministry of Investment and Development (MI&D) and the regional operational programme managing authorities (IZ RPO).

contributed to. By setting such a framework for the appointment of the Officer and simultaneously granting him powers and imposing obligations on him to submit proposals for improving the process of implementing European funds, the lawmakers have condemned the Officer to perform a type of self-control, which is an extremely difficult task to fulfil (Bruczuk-Figiel, 2018).

In turn, all this can translate into very limited trust (and therefore a lack of reports) on the part of the applicants or beneficiaries as to the impartiality and objectivity of the Officer, who is, after all, an employee of the managing authority, namely, in fact the counter-party of the system of implementing the operational programme.

Conclusions

The objective of establishing the institution of the Officer was to improve contacts between the individual institutions on the one hand and the applicants and beneficiaries on the other. Meanwhile, the comments and opinions reported to the Officer were supposed to contribute to an improvement in the efficiency of implementing national and regional operational programmes which, in turn, should improve the efficiency of spending public and private funds. The Officer's role should be to indicate the barriers and to suggest potential improvements in the implementation of European funds. The Officer should look after the interests of the beneficiaries and, in case of any problems, should provide support in contacts with the individual institutions that are

implementing EU funds. The Officer should be an entity located outside the process of implementing a given programme as he is supposed to objectively and independently assess the operational programme's measures, as well as submit proposals of solutions intended to improve the procedure of its implementation.

However, the lawmakers considered it more important to position the Officer within the structure of the managing authority, also by choosing a person for this position from among the employees of the given institution. This means that, by definition, he cannot be perceived by applicants and beneficiaries as being an independent and impartial party, likely to support them in any problem situation, where the managing authority is the counterparty. After all, in a way, the Officer is a part of that authority. In this situation and with the legal framework designed this way, it appears that only time and the attitude of the given Officer can work to his favour so as to inspire trust among beneficiaries and applicants. This is because trust is a prerequisite for the entities spending public funds to submit proposals for improvements to the Officer, as well as requests for assistance in contacts or complaints, without being concerned about any negative consequences from the managing authority.

Secondly, it is also probably only time (which, in terms of the processes of implementing EU funds, is mostly gone by now) that can enable the Officer to rise to the level of self-control, noticing and recommending improvements in the procedure he had most frequently jointly created in the first place. What the managing authorities will do with the given recommendations is a different matter; it arises from the

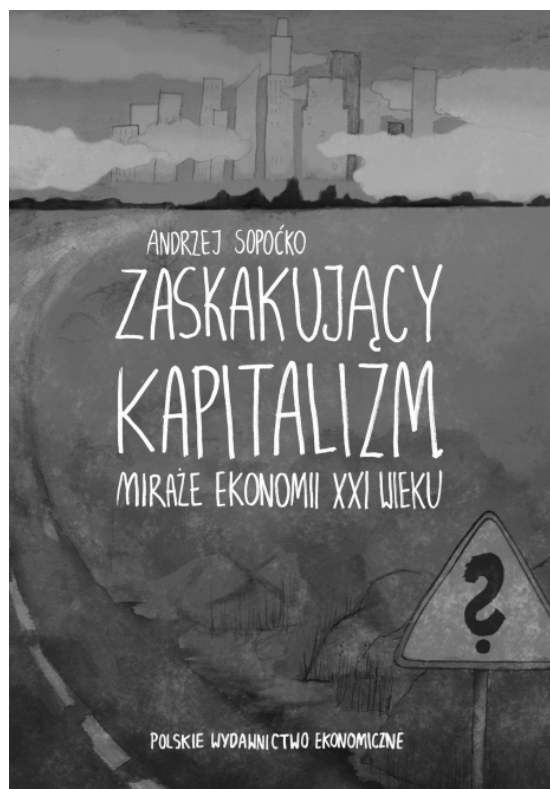
reports that, if recommendations are appearing, they will most frequently fall into the proverbial black hole. It is, of course, possible — just like the European Funds Officer at the Managing Authority of the Pomorskie Voivodship Regional Operational Programme did — that conclusions

different than mine would be drawn, namely that a relatively small number of cases suggests that both the procedures and their practical application are optimal, namely they do not suggest that any problem areas exist.

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nowość



W książce autor próbuje wyjaśnić przyczyny obecnego rozwarstwienia społecznego, przede wszystkim osłabienia klasy średniej. Obecnie, przynajmniej w krajach rozwiniętych, ta właśnie klasa ulega osłabieniu. Proces ten jeszcze nie dotknął krajów rozwijających się, ale można się obawiać, że wkrótce tam też się pojawi. Przykłady idą od góry, czyli z krajów ze światowej czołówki. Statystyki są tu niepokojące, ale jeszcze gorzej jest z analizą źródeł i procesów prowadzących do pogłębiających się różnic. Zdaniem autora za rozwarstwienie społeczne odpowiedzialne są procesy, będące zarazem *signum temporis* obecnych czasów, a więc: globalizacja, sekurytyzacja, cyfryzacja i komputeryzacja. Sposoby ich działania różnią się od siebie ale łączy jedno — w podstawowej części są zupełnie odmienne od zakorzenionych w świadomości społecznej oczekiwań i poglądów. Konstrukcję książki oparto więc na obalaniu istniejących przekonań, przedstawianych jako *miraże*.

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