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**Green Public Procurements (GPP) as an Instrument of
Implementation of Sustainable Development. Analysis of the
Experience of the Łódź Region Local Government.**

Abstract

This paper discusses the situation on the Polish green public procurements (GPP) market, with special emphasis on the results of a GPPinfoNET project realised in the Łódź region. The identification of the main barriers hindering the application of GPP in the Polish practice is the departure point to formulating recommendations concerning organisational and legal changes which would make it possible to increase the share of GPP in the Polish economic practice. Implementation of green public procurement is considered as an important element of sustainable development.

1. Introduction

The realisation of sustainable development necessitates wide engagement of various social groups and authorities of all levels. It involves including appropriate criteria in decision-making processes related to production, consumption or realisation of public procurements. The public procurement market in OECD countries is estimated to be 12% of GDP on average; however, only 57% of the states within this group use the definition of green procurement. This paper discusses the situation on the Polish GPP market, with special

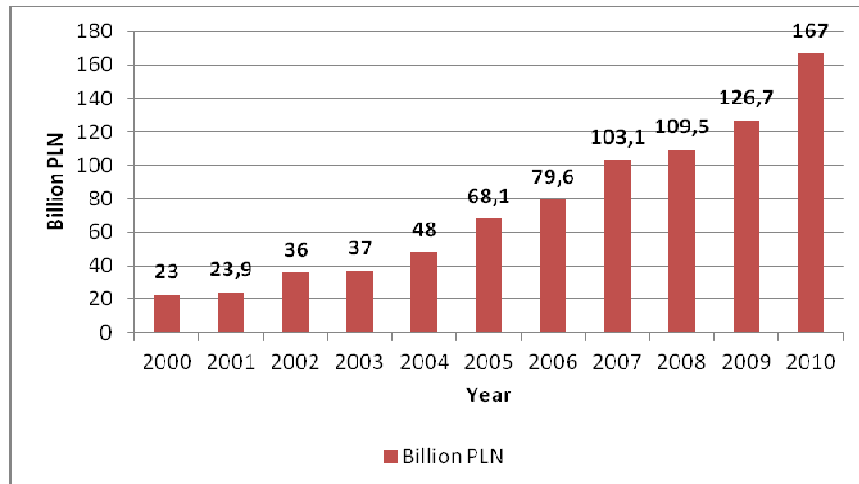
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emphasis on the results of a GPPinfoNET project realised in Poland in the Łódź region. The identification of the main barriers hindering the application of GPP in the Polish practice is the departure point to formulating recommendations concerning organisational and legal changes which would make it possible to increase the share of GPP in the Polish economic practice. This should contribute to the wider implementation of sustainable development in Poland and help reduce the gap between Poland and the leaders in the implementation of green public procurement in the EU market. The EU's Renewed Sustainable Development Strategy commits to "aiming to achieve by 2010 and EU average level of Green Public Procurement equal to that currently achieved by the best performing Member States". On this basis, in 2008 the EU Commission's Communication on Public Procurement for a Better Environment proposed a target of 50% of all the EU's public procurement tendering procedures to be "green" by 2010 – "where green means compliant with endorsed common GPP criteria".

2. Public procurement market in Poland

Subsequent reports of the Public Procurement Office, indicate that the public procurement market shows a growth trend (fig. 1) and it is a substantial source of the GDP. In 2010 it reached the value of PLN 167 billion, which means a 32% increase in relation to 2009, when the value of public procurements was PLN 126.7 billion. The works constituted 43%, supplies 20%, and services 37% of the value of the contracts awarded. Its functioning is based on the Act of 29 January 2004 - Public Procurement Law (Journal of Laws of 2010, No. 113, item. 759; No. 161, item. 1078 and No. 182, item 1228 and of 2011, No. 5, item 13, No. 28, item 143 and No. 87 item 484) and 15 other legal acts (Annex 1).

Figure 1. Public procurement market in Poland in years 2000-2010

Source: Reports of Public Procurement Office.

The need to comply with regulations spread over various acts and regulations related to them, the need to assure compliance of the Polish law with the EU regulations, and frequent modifications of the law make officials get lost in the legal complexities. Only in 2010 the regulations of the Public Procurement Law act were modified five times, and the huge documentation (with numerous enclosures), required in the case of procurements exceeding 14,000 Euros, changes public procurement procedures into a genuine obstacle course. Currently in Poland orderers give their orders on the basis of an individual (each-time) assessment (Paragraph 22 item 1 of the Public Procurement Law) of the tenderer's qualifications, knowledge and experience, as well as their technical and human-resource potential and their economic and financial situation. Documenting the compliance with the above-mentioned requirements is always the tenderer's responsibility, while their assessment is the responsibility of the orderer. It must be emphasised that infringement of the procedures is liable to legal responsibility as provided in the Public Finance Act and to responsibility for infringing financial discipline. Assuring appropriate supervision of realisation of projects realised by central and local authorities is a problem. The Supreme Audit Office has indicated irregularities in project supervision in as many as 53% of all audits conducted. The situation is made more difficult by incoherent interpretation of legal regulations by courts of justice (Górnicki 2011, p. 27)

3. Green public procurements in Poland

The Polish Public Procurement Office has already twice developed action plans concerning sustainable public procurements, involving green procurements. The first one concerned the period of 2007 – 2009, and the other - 2010 – 2012.

The National Action Plan on Sustainable Procurement is a response to recommendations included in international documents in accordance with the provisions of *the Act on rules of conducting development policy*, and is also coherent with the *National Development Strategy 2007-2015*. The main goal of the *National Action Plan on Sustainable Public Procurement* is promotion of solutions for contract award procedures which can positively influence the eco-innovations and pro-social behaviour. Given the above, we can conclude that the objectives of the National Action Plan in this regard are consistent with the objectives of the *Strategy for Innovation and Effectiveness of the Economy* to be developed by the Ministry of Economy, and the *Strategy for Energy and Environmental Safety* to be developed by the Ministry of Economy in cooperation with the Ministry of Environment in accordance with the Plan of Arrangement of Development Strategies, adopted by the Council of Ministers on 24 November 2009 (National Action Plan on Sustainable Public Procurement 2010-2012, p. 3).

Green public procurement (GPP) means a policy under which public entities introduce environmental criteria and/or requirements into procurement process (contract award procedures) and seek solutions which minimise a negative impact of goods/services on the environment and consider the entire life cycle of products, and thus influence the development and dissemination of environmental technologies. Purchasing environmentally-friendly goods and services also sets a good example and influences the market by stimulating the industry to develop environmentally-friendly products and technologies. In case of certain types of goods, works and services, the impact can turn out to be particularly significant due to the fact that public procurement constitutes a high share of market segments. More “green” character of goods and services should be determined based on the life cycle, so that GPP will affect the entire supply chain and will lead to a wider application of environmental standards in private purchase [Manual *Ecological Procurement*].

The general, the objectives adopted in Poland concerning activities within GPP include:

- increase in the level of green public procurement at national level to 20% (based on the methodology of PPO);

- boost the market development by creating demand for products meeting high environmental standards and innovative environmental technologies on the part of public administration (National Action Plan on Sustainable Public Procurement 2010-2012, p.22).

Detailed objectives include:

- increase in GPP awareness, measured by the number of trained persons and increase the level of contract awarding procedures integrating environmental considerations (increase in the GPP percentage to the level of 20%, increase of trained persons by 20%);
- increase in number of units applying a verified environmental management system (EMS), (e.g. EMAS or PN-EN ISO 14001:2005) (by 20% in relation to the current state);
- increase in number of national products certified by the Polish Ekoznak and/or EU Ecolabel (by 50% in relation to the current state).

The following tools will be applied to meet the objectives specified in the Action Plan:

- training and conferences addressed to awarding entities/tenderers popularising green public procurement in consideration of Life Cycle Costing, environmental management systems, and eco-label criteria;
- preparing publications, informative materials, analyses, criteria developed based on the GPP Toolkit, and their popularisation;
- launch of a website dedicated to green public procurement;
- popularisation among awarding entities of criteria developed for specific product groups within eco-label systems (Ekoznak, Ecolabel);
- supporting trade initiatives aimed at limiting the negative impact of goods and services on the environment;
- popularisation of environmental management systems (such as EMAS, PN-EN ISO 14001:2005) and their relation to procurement (confirmation by the tenderers of meeting requirements of the awarding entity).

Monitoring changes in the scope of green public procurement will be executed by means of the following benchmarks:

- quantitative and monetary share of procurement integrating environmental aspects based on the methodology of the PPO;
- number of Polish entities registered in EMAS;
- number of Polish entities having the certificate PN-EN ISO 14001: 2005.
- number of Polish products labelled with the Polish Ekoznak;
- number of Polish products labelled with the EU Ecolabel;
- number of participants of training events and conferences directly or indirectly;

- related to green public procurement;
- number of entries on the website www.zielonezamowienia.gov .

On 1st December 2011 a meeting of the Advisory Group on Green Public Procurement was organised in Warsaw by the European Commission (DG Environment) with organisational support of the Polish Public Procurement Office. During the meeting, preliminary results of analysis of greening public procurement in the EU Member States were presented.

Despite ambitious plans and the precise formulation of operating methods the scale of green public procurement in Poland is not impressive. That is why valuable contribution to investigate why it is so, GPPinfoNET project was implemented in Lodz.

4. The GPPinfoNET 2010 – 2011 project

The GPPinfoNET project was realised within the LIFE+ project. Its purpose was to reach public entities with information on the possibilities to use the aspects of environmental protection in public tenders, and spreading the knowledge of the Polish and EU legal regulations concerning GPP. The project was coordinated by the Cremona province in Italy, and other entities involved in the project also included the Liguria and Sardinia regions, the Italia Local Agenda 21 Association and the Ecosistemi organisation. In Poland, the institutional partner and the project coordinator was the City of Łódź in cooperation with the European Regional Eco-Hydrology Center of the Polish Academy of Science (Europejskie Regionalne Centrum Ekohydrologii PAN) under the UNESCO auspices. The most measurable effect was creating a platform to exchange information on using GPP as an instrument of environmental protection and sustainable development of towns and regions.

In the Łódź region, 38 subjects joined the cooperation within the GPPinfoNET network. Other partners included: Public Procurement Office, The Union of Polish Metropolises, Regional Fund for Environmental Protection and Water Management in Łódź, four higher education institutions and universities, local governments from the Łódź region and NGOs. Proceedings and reports on training meetings and workshops are available on the following websites: http://uml.lodz.pl/miasto/czystosc_i_ekologia/ekologiczne_zamowienia_publiczne, [http://gppinfo.net.it/?p=EuropeanNetworks – Poland&lang=en](http://gppinfo.net.it/?p=EuropeanNetworks-Poland&lang=en).

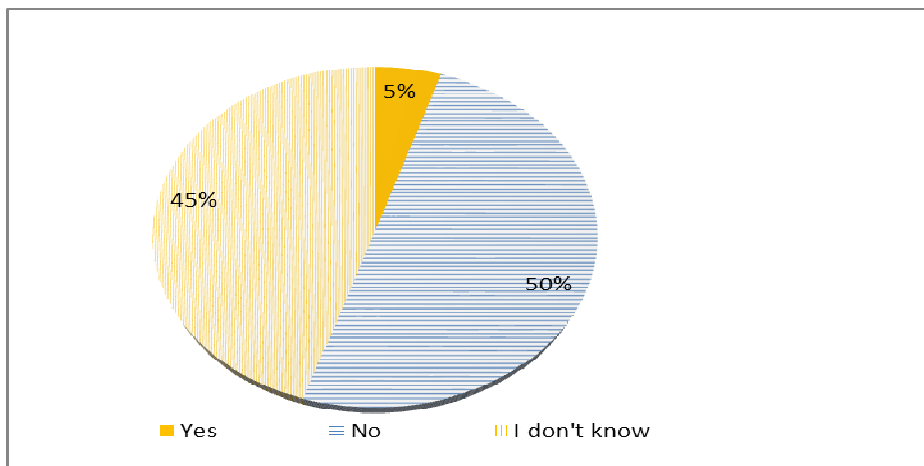
The conversations and surveys conducted during the meeting indicate that the most promising areas of GPP implementation are considered to be the following:

- technologies for rational water management;
- actions for reducing waste and strategies for waste management;
- using ecological signs;
- implementation of environmental management systems;
- product life cycle analyses.

A detailed analysis of responses to survey questions leads to formulating several interesting conclusions.

Before participating in the GPPinfoNET meetings as many as 50% respondents did not have any knowledge of the possibilities to use ecological criteria in public procurements, 45% had some knowledge of it, and only 5% considered they had sufficient knowledge.

Figure 2. Knowledge about GPP before the project



Source: Report on results of the evaluation survey delivered the second meeting of the Lodzkie GPP Network (20 respondents) – The Green Public Procurement Conference 26.10.2010 in Lodz.

As many as 80% of the project participants did not know that *The National Action Plan on Sustainable Procurement* existed. Only 10% of organisations had participated in a public tender with the implementation of the GPP procedure.

The inferior knowledge of GPP is, however, understandable, if we get acquainted with the concerns expressed by the respondents in relation to the decision criteria other than the lowest price. The list of barriers in using GPP includes, among others:

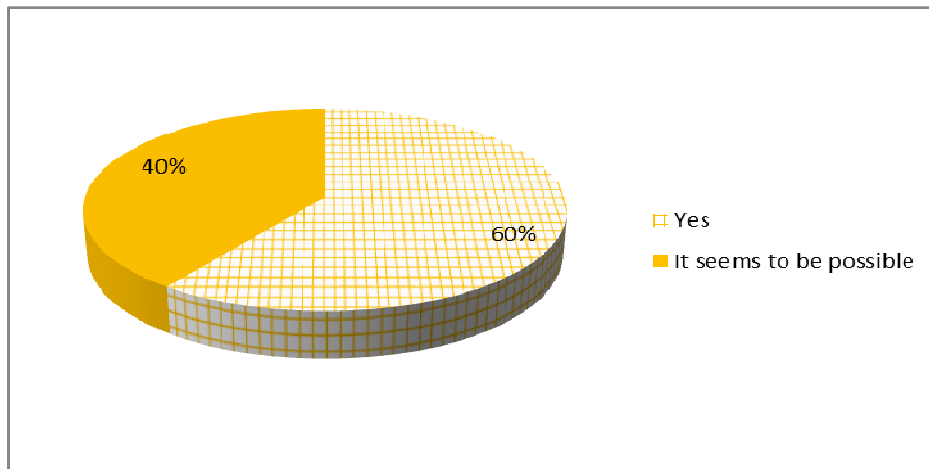
- higher values of ecological orders in relation to situations when ecological criteria are not used,

- unsystematic law in this respect,
- apprehension of realising the tender in a non-standard way,
- low ecological awareness of the society and the authorities (mentality),
- lack of information,
- problems with interpretation of legal regulations,
- lack of guidelines and appropriate publicising of the GPP idea.

The most frequently indicated barrier was the lack of appropriate legal regulations, generating concerns of potential allegations of not applying the principles of competitiveness when choosing certain products or services. The need to formulate objective decision criteria was also indicated in the context of assuring transparency of procurements and protection against allegations of corruption.

The respondents also emphasised the vast potential related to GPP in the area of implementation of ecological policy and the actual reduction of environmental pressure (95% of positive responses). GPP was also considered to be an important instrument of supporting the local market by stimulating eco-innovation, as well as an opportunity to promote one's ecological image (60% indications).

Figure 3. Possibility of using green procurement in strengthening local markets, stimulating eco-innovation and promotion



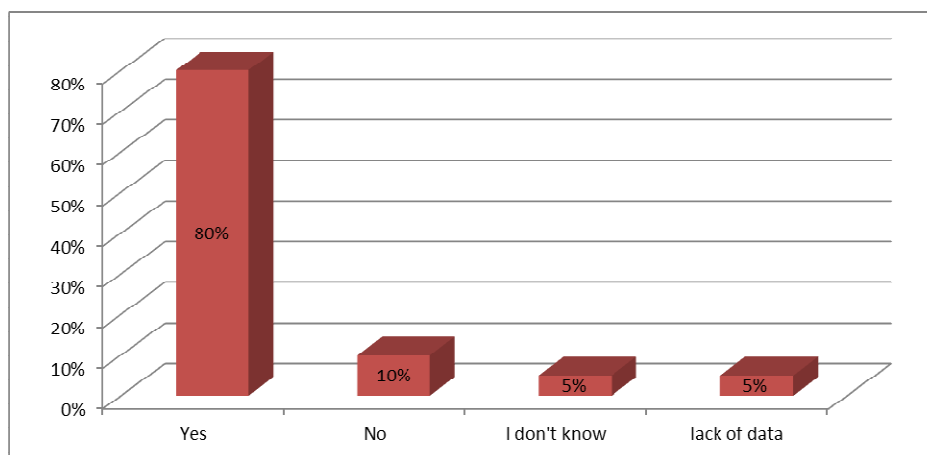
Source: Report on results of the evaluation survey delivered the second meeting of the Lodzkie GPP Network (20 respondents) – The Green Public Procurement Conference 26.10.2010 in Lodz.

Project activities also helped to investigate the perception of the effects of green public procurement in the field of environmental protection. To the question: do you think that Green Public Procurement will be able to support

activities related to the implementation of environmental protection in institutions represented by you, the majority of respondents indicated “yes” (80%). The main reasons for selecting the respondents as indicated by the presented view, saying that this:

- will be decrease the amount of hazardous waste,
- effect of scale will be used what can increase the supply for ecological products,
- will be realized higher value added concerning of the ecological results,
- the environmental awareness will be built in greater scope.

Figure 4. Possibility of supporting activities related to the implementation of environmental protection by using green procurement



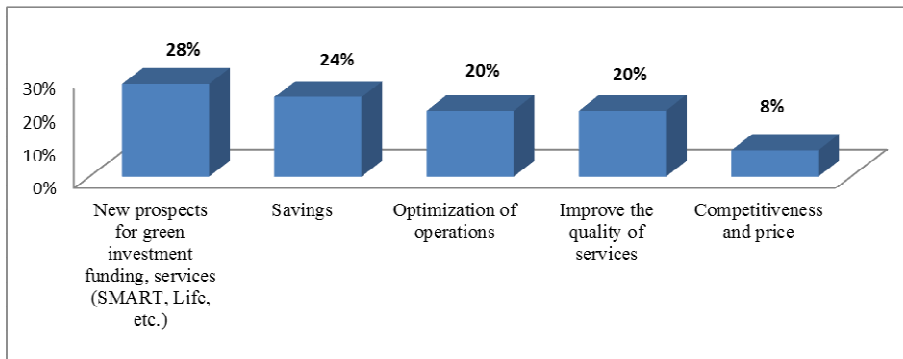
Source: Report on results of the evaluation survey delivered the second meeting of the Lodzkie GPP Network (20 respondents) – The Green Public Procurement Conference 26.10.2010 in Lodz.

Large number (90%) of respondents strongly felt the need for the dissemination of knowledge and the promotion of green public procurement, on the grounds that the possibilities afforded by this instrument of development policy, both in terms of environmental protection, promotion and building a high quality of life have a good perspectives.

The project also considered the possibility of using GPPinfoNET knowledge regarding the use of green public procurement in the context of an approach based on the concept of a Europe 2020 strategy based on an approach which integrates smart growth, sustainability and social inclusive. Tools of implementing the Europe 2020 strategy in the context of the use of the know-how of green public procurement, were taken under the discussion. It investigated that a great opportunity is using GPP in the new funding

prospects for green investments, services - which will decide on European competitiveness and quality of life of Europeans (28% of responses).

Figure 5. Areas of intervention offers the greatest potential for efficient use of green public procurement



Source: Report on second phase results GPP2- evaluation survey of GPPinfoNET – Green Public Procurement in European Cities 28-29.12.2011 (17 respondents) in Lodz.

The project GPPinfoNET gave also very practical effects for the administration procedures of the City Lodz office in terms of legislative solutions. On 6 December 2011 The City of Lodz have adopted decree of the Mayor of the City on the new rules for planning and implementing public procurement for the City of Lodz. The new rules allow a more clear and in direct way to use environmental criteria relating to quality, functionality and application of best available technologies in the field of environmental impact, including operating costs referring to the LCA approach during determining the tender specification and verification of bids.

Moreover, the approach based on sustainable development, rational use of resources and responsible treatment of the space in which we live, including the promotion of innovative solutions, eco and public procurement which are giving limitation in scope of the environmental impact has been reflected in the adopted by the City Council of Lodz on 25th of June 2012 – the Strategy for Integrated Development of Lodz 2020 +. It is a good example on how seed capital of knowledge in relation to sustainability can be effectively put in main strategic planning documents giving a good basis for implementing real sustainable development.

Green public procurement were also identified during the public consultation of “Policy for municipal economy and environment protection” which is operational document of the Strategy for Integrated Development of Lodz 2020 + and included in this document as a tool for sustainable development and environmental protection. Also the City of Lodz is planning to

implement the statistic indicator of GPP which will show the possibilities of that kind of approach.

5. Conclusions

The presence of GPP in public procurement procedures in Poland is still very low, which results mainly from two reasons. The first one is undoubtedly low awareness among potential orderers of the possibilities and the need to apply ecological criteria in public procurement. It is, without doubt, caused by the still low ecological awareness of the entire society, as well as that of authorities of different levels, when electing whom the citizens usually are not interested in ecological policy. The changes observed in this respect are happening very slowly. The other reason is related to the legal system. The “over-regulation” of procedures, frequent changes of the laws and the distinctly felt lack of confidence between the orderer and the tenderer, induce the orderer to try to reduce the number of risks to a minimum. This translates into a practice of selecting offers only from the point of view of the lowest price, which has been observed in Poland for many years. Electronic auctions or tenders are relatively seldom used. To an extent it may result from the instruction of the Central Anti-Corruption Office relating to procedures with consideration for other criteria than the price. These concerns are confirmed by research conducted in the Łódź region within the GPPinfoNET project. Therefore, the introduction of the requirement to apply ecological criteria in procurement procedures within selected industries and for selected products must be considered to be very advantageous. External obligation, e.g., from the EU level, may be an impulse for actions which in a longer perspective may be favourable for promoting eco-innovation and development of markets for environmentally-friendly products. Authorities of different levels may play a significant role in that, not only by applying GPP in their own procurements but also by promoting good practices. It is worth emphasising that thinking in the terms of the entire product life cycle terms may be profitable. It has been known for a long time that the lowest purchase price does not guarantee equally low running costs. That is why using solely the price criterion, so frequent in the Polish public procurement practice, must be considered short-sighted and socially detrimental. It is not a problem resulting from the law, which allows using other offer assessment criteria, such as functionality, technical parameters, running costs or service and maintenance. The biggest problem is still the mentality of decision-makers. Therefore, the future of GPP in Poland depends to the largest extent on the introduction of an obligatory requirement to include ecological issues in the

system of public procurement, and on the success of educational actions. This will be particularly necessary in the face of the required cost cutting caused by the prolonged economic downturn in Europe. Green public procurement, because of its nature and potential scale can be a very important element in the implementation of sustainable development. In Poland, the success in this area is far from both the possibilities and social expectations.

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Strategia Bezpieczeństwo energetyczne i środowisko, (Strategy of Energy Safety and Environment), Biuletyn Informacji Publicznej. Ministry of Economy, Warsaw 2012

Annex 1. Legal framework of public procurement in Poland

PUBLIC PROCUREMENT LAW

Act of 29 January 2004 - Public Procurement Law (consolidated text)

SECONDARY LEGISLATION

Regulation of the Prime Minister of 10 May 2011 on non- price mandatory tender evaluation criteria with respect to certain types of public contracts (Journal of Laws No. 96, item 559)

Regulation of the Prime Minister of 26 October 2010 on report on contract award procedure (Journal of Laws, No. 223, item 1458)

Regulation of the Prime Minister of 22 March 2010 on the rules regarding the procedure for examining the appeals (Journal of Laws No.48, item 280)

Regulation of the Prime Minister of 15 March 2010 on the amount of and the manner for collecting the registration fee for the appeal, kinds of costs in the appeal procedure and the manner for their calculation (Journal of Laws No. 41, item 238)

Regulation of the Prime Minister of 16 October 2008 on the standard forms of notices placed in the Public Procurement Bulletin (Journal of Laws, No. 12, item 69)

Regulation of the Prime Minister of 28 January 2010 on the list of priority and non-priority services (Journal of Laws, No. 12, item 68) Annexes

Regulation of The Prime Minister of 30 December 2009 on the types of documents which may be requested by the awarding entity from the economic operator and forms in which these documents may be submitted (Journal of Laws, No. 226, item 1817)

Regulation of The Prime Minister of 23 December 2009 on the average exchange rate of Polish zloty against Euro being the basis for converting the value of public contracts (Journal of Laws, No. 224, item 1796)

Regulation of The Prime Minister of 23 December 2009 on the value threshold of contracts and design contests which imposes an obligation of dispatching the notices to the Office for Official Publications of the European Communities (Journal of Laws, No. 224 item 1795)

Regulation of the Prime Minister of 10 September 2007 amending the regulation on the scope of information included in annual report on the conducted contract award procedures, its standard form and the manner of submission (Journal of Laws No. 175, item 1226)

Regulation of the Prime Minister of 25 August 2006 on the scope of information included in annual report on the conducted contract award procedures, its standard form and the manner of submission (Journal of Laws No. 155, item 1110)

Regulation of the Prime Minister of 2 July 2007 on the manner of conducting the qualifying procedure for members of the National Appeal Chamber, the manner of appointing the qualifying committee, as well as detailed scope of the qualifying procedure (Journal of Laws No. 120, item 820)

Regulation of the Prime Minister of 22 March 2004 on the amount of remuneration of the Chairman, Vice Chairman and other members of the Council of Public Procurement (Journal of Laws, No. 49, item 470)

LEGISLATION RELATED TO PUBLIC PROCUREMENT

Act of the 19th December 2008 on Public-Private Partnership

Act of the 9th January 2009 on Concession for Works or Service

Streszczenie

ZIELONE ZAMÓWIENIA PUBLICZNE (ZZP) JAKO INSTRUMENT WDRAŻANIA ZRÓWNOWAŻONEGO ROZWOJU. ANALIZA DOŚWIADCZEŃ WŁADZ LOKALNYCH W REGIONIE ŁÓDZKI

W artykule przedmiotem analizy jest sytuacja na polskim rynku zielonych zamówień publicznych, ze szczególnym uwzględnieniem efektów projektu GPPinfoNET realizowanego w regionie łódzkim. Punktem wyjścia do sformułowania rekomendacji dotyczących zmian organizacyjnych i prawnych służących popularyzacji ZZP jest identyfikacja głównych barier hamujących stosowanie takich zamówień w polskiej praktyce gospodarczej. Wdrażanie zielonych zamówień publicznych jest traktowane jako ważny element realizacji zrównoważonego rozwoju.