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Functioning of Local Government Units in the Light of the Law of 5 December 2024 on Civil Protection and Civil Defence

Abstract

The Act on Civil Protection and Civil Defence, which came into force on 1 January 2025, introduced, after a short vacatio legis, a number of tasks related to the organisation and financing in the field of civil protection and civil defence for local government units. Among these, the preparation of emergency plans, the maintenance of the readiness of the municipal elements of the systems for the detection of hazards and the notification, warning and alerting of hazards, education or civil defence should be pointed out first and foremost. It also identifies the civil protection authorities at the level of local self-government units of the mayor (mayor, city president), the head of the district authority and the voivodship marshal. The provisions of the Act concerning the functioning of local self-government units in the field of civil protection and civil defence have been analysed.

Keywords: public administration, local government, municipality, county, voivodship, civil protection, civil defence.

Introduction

The role of the systemic solutions introduced by the Act is evidenced by the statements of political decision-makers, such as Deputy Prime Minister W. Kosiniak-Kamysz: "This is a landmark law for security, and the construction of civil defence and civil protection infrastructure is an absolute priority

for the government"[1]. Local self-government is one of the pillars of the civil protection and civil defence system[2]. However, the mandatory nature of many of the tasks may pose a challenge for local government units. This issue constitutes the main research hypothesis.

In my work, I used research techniques adequate to the subject and characteristics of research on public administration. The following research methods and techniques, corresponding to the sciences of politics and administration, were used to verify the research thesis: comparative method, descriptive method and document analysis. The adopted research methodology allowed conclusions to be drawn confirming or denying the thesis and research questions posed in the introduction. The results of the research were discussed on the basis of the leading research method applied: the analysis of the formal and legal conditions of the functioning of local government units in the field of civil protection and civil defence tasks, as defined in the Act on Civil Protection and Civil Defence of 5 December 2024[3].

Local self-government as part of the state's public administration system

Local self-government, which is an organisation established for the participation of the public in the execution of state administration, as an idea commonly permeated the legislation of individual states in the second half of the 19th century, laying the foundations for the modern construction of local self-government[4]. In Poland, on the other hand, its beginnings can be traced back to around the 10th century when communities gathered in ter-

[1] *Ustawa o ochronie ludności i obronie cywilnej - fundament systemu ochrony społeczeństwa - Ministerstwo Obrony Narodowej - Portal Gov.pl*, Ministerstwo Obrony Narodowej, https://www.gov.pl/web/obrona-narodowa/ustawa-o-ochronie-ludnosci-i-obronie-cywilnej---fundament-systemu-ochrony-spoleczenstwa, [accessed: 8.01.2025].

[2] *Minister Tomasz Siemoniak: Samorząd terytorialny jest jednym z filarów systemu ochrony ludności i obrony cywilnej - Ministerstwo Spraw Wewnętrznych i Administracji - Portal Gov.pl*, Ministerstwo Spraw Wewnętrznych i Administracji, https://www.gov.pl/web/mswia/minister-tomasz-siemoniak-samorzad-terytorialny-jest-jednym-z-filarow-systemu-ochrony-ludnosci-i-obrony-cywilnej, [accessed: 8.01.2025].

[3] Ustawa z dnia 5 grudnia 2024 r. o ochronie ludności i obronie cywilnej (Dz.U.2024.1907).

[4] Z. Niewiadomski, *Geneza i istota samorządu terytorialnego*, [in:] *Samorząd terytorialny. Ustrój i gospodarka*, Bydgoszcz 2001, p. 143.

ritorial communities called "opolanie", whose functioning was based mainly on kinship or neighbourhood ties[5].

Over the course of history, the concept of local government, including local government, has evolved, leading to a variety of theories, concepts and models defining its essence[6][7]. However, the common denominator of these approaches remains such features as self-governance, extensiveness and multifaceted nature of own tasks, the detailed thematic scope of which is defined primarily by the so-called self-government acts, i.e. the Act of 8 March 1990 on gmina self-government[8], the Act of 5 June 1998 on poviat self-government[9] and the Act of 5 June 1998 on voivodeship self-government[10].

In the Polish political system, these tasks are defined in Article 166 of the Constitution of the Republic of Poland[11] as public tasks aimed at satisfying the needs of the local community (own tasks) and other public tasks (commissioned tasks). Territorial self-government units (JST), constituting the basis for the implementation of the principle of decentralisation of public administration, function under a three-tier division: at the level of communes, poviats and voivodeships. Territorial self-government units perform the tasks entrusted to them both independently and through various organisational forms, such as municipal companies, unions of territorial self-government units, associations or by contracting tasks to other entities.

Power within territorial self-government units is exercised by the inhabitants in an indirect manner – through the executive and controlling bodies.

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[5] M. Karpiuk, *Samorząd terytorialny a państwo: prawne instrumenty nadzoru nad samorządem gminnym*, Lublin 2008, p. 18-19.

[6] J. Panejko, *Geneza i podstawy samorządu europejskiego*, Warszawa 1990.

[7] Compare: T. Bigo, *Związki publiczno-prawne w świetle ustawodawstwa Polskiego*, Warszawa 1990; *Samorząd terytorialny jako forma upodmiotowienia społeczności lokalnych*, B. Dolnicki [ed.], Warszawa 2023; H. Izdebski, *Samorząd terytorialny. Pionowy podział władzy*, Warszawa 2020; J.K. Friend, W. Neil Jessop, *Local government and strategic choice: an operational research approach to the processes of public planning*, Oxford-New York 1977; K.J. Helnarska, *Ewolucja samorządu terytorialnego w państwach członkowskich Unii Europejskiej*, Toruń 2012; *Samorząd terytorialny w Polsce – reforma czy kontynuacja?*, J. Itrich-Drabarek, E. Borowska, A. Morawski, D. Przastek [eds.], Warszawa 2015; *Potrzeba zmian w samorządzie terytorialnym*, J. Podgórska-Rykała, C. Trutkowski [eds.], Warszawa 2023; W.H. Snape, *How to Find out about Local Government*, Oxford 1969.

[8] Ustawa z dnia 8 marca 1990 r. o samorządzie gminnym (Dz.U.1990.16.95).

[9] Ustawa z dnia 5 czerwca 1998 r. o samorządzie powiatowym (Dz.U.1998.91.578).

[10] Ustawa z dnia 5 czerwca 1998 r. o samorządzie województwa (Dz.U.1998.91.576).

[11] Konstytucja Rzeczypospolitej Polskiej z 2 kwietnia 1997 r. (Dz.U.1997.78.483).

At the municipal level, the executive body is the mayor of the municipality[12], and the municipal council (or city council) is the controlling body. At the district (powiat) level, the executive body is the district management board, headed by the head of the district (starosta), elected from among the councillors. The executive board consists of the district chief administrative officer as chairman, a deputy district chief administrative officer and 3 to 5 members. The district executive carries out the tasks laid down in resolutions of the district council and by law with the assistance of the district office and district organisational units such as the district employment offices.

Analogous solutions operate at the voivodship level, where the executive body is the voivodship board chaired by the voivodship marshal. The board, which has five members, carries out the tasks of the voivodeship with the assistance of the marshal's office and the voivodeship's organisational units and legal persons. The voivodship Marshall, as the head of the marshal's office, is responsible for organising the work of the board, managing the current affairs of the voivodship and representing the voivodship in the external arena. The provincial board is elected by the provincial assembly within three months of the announcement of the election results, which emphasises its connection to the democratic mandate given by the local community.

The political and constitutional context of the civil protection and civil defence act

The primary objective of the Law on Civil Protection and Civil Defence (hereinafter: c.p.c.d.a.) is to meet the public need to ensure a safe and resilient civilian environment in the face of contemporary military threats. In the context of the current geopolitical situation, it is envisaged to create the above framework particularly related to potential actions by the Russian Federation. The legal act focuses on protecting the security of citizens while not infringing on their fundamental civil liberties[13].

[12] In the following sections of the study, I will use the term "mayor" ("wójt"), while also referring - by analogy to the legislator in the Municipal Self-Government Act - to "the mayor" ("burmistrz") and "the city president" ("prezydent miasta").

[13] *Projekt ustawy 854 Druk nr 749-A*, *2024,* https://orka.sejm.gov.pl/Druki10ka.nsf/0/EC8E814DD446F21EC1258B9C003D4619/%24File/664-uzasadnienie.docx, [accessed: 8.01.2025].

The Act establishes a comprehensive system of civil protection in the Republic of Poland, based on three essential elements: a) public administration bodies responsible for the implementation of civil protection tasks, referred to as 'civil protection authorities'; b) entities implementing civil protection tasks, referred to as 'civil protection entities'; c) resources, comprising forces and means dedicated to the performance of these tasks, referred to as 'civil protection resources'.

This system is based on the synergy between civil protection authorities and entities, the tasks assigned to them and the relevant resources, which is the foundation of its functioning. The draft law clarified: 1) the scope of civil protection tasks in both peacetime and wartime conditions; 2) the public administration bodies and entities responsible for the implementation of civil protection tasks; 3) principles of planning activities in the area of civil protection and civil defence; 4) the rules for the functioning of the threat detection system, as well as procedures for warning, notifying and alerting of potential dangers; 5) the standards for the use and registration of facilities intended for collective protection; 6) the organisation and functioning of civil protection, including procedures for the appointment of personnel responsible for its implementation; 7) mechanisms for financing civil protection and civil defence activities.

The structure of the civil protection system has been constructed on the basis of already existing resources and mechanisms in order to use them effectively. Entities such as the State Fire Service, volunteer fire brigades, crisis management structures, the emergency notification system, the State Medical Rescue Service, medical facilities and non-governmental organisations play a key role in this system.

Bodily tasks of territorial self-government units in the light of the civil protection and civil defence act

Article 9. Paragraph 1. of the Civil Protection Act indicates that the territorial civil protection authorities are, in the first place, the territorial civil protection authorities. At the level of municipalities, these are mayors and at the level of district government, starosts.

In the next paragraph, the c.p.c.d.a. identifies provincial marshals as the other civil protection authorities, assigning them a slightly different na-

ture of duties. Thus, the legislator applied a solution consistent with previous system regulations, firstly distinguishing between the local character of municipal and county units and the regional character of the self-governing voivodeship. Secondly, by transferring at the level of the last tier of local government the tasks of the scope covered by the Act from the local government to the voivode, representing the government administration in a dualistic voivodship authority. This solution was sustained in further regulations of the c.p.c.d.a., as e.g. in par. 3 and 4 of the quoted article, where it is the wójt, starosta and the voivode who are primarily responsible for the execution of civil protection and civil defence tasks on the area of gmina, powiat and voivodship respectively (and the marshal of the voivodship within the scope of his/her competence). Interestingly, the bodies representing the level of powiat and voivodship self-government are indicated here not in the same way as the organic laws (Act on Powiat Self-Government and Act on Voivodship Self-Government). Thus, the c.p.c.d.a. does not mention the executive bodies of the powiat, i.e. the powiat management board, but only the starost. Similarly, at the level of the self-governing voivodeship, only the marshal of the voivodeship instead of the voivodeship board.

Chapter 2 on the organs of civil protection and the Government Civil Protection Team lists precisely the tasks of heads of counties and starostes:

Table 1. Tasks of civil protection authorities at the level of local government executive bodies in the field of civil protection and civil defence.

Tasks of civil protection authorities at the level of local government executive bodies in the field of civil protection and civil defence		
MUNICIPAL GOVERNMENT	DISTRICT GOVERNMENT	VOIVODSHIP GOVERNMENT
Article 10 (1) The tasks of **the mayor** (mayor, city president) are:	Article 11 (1) The tasks of **the starost** are:	Article 12 (1) The tasks of the **provincial marshal** are:
1) to direct and coordinate within the area of the municipality, within the scope of its competence, the performance of civil protection and civil defence tasks by civil protection and civil defence entities, insofar as these activities are not performed by the territorial civil protection authority referred to in Article 9, paragraph 1, item 1, letters b-d; 2) to supervise, within the scope of his competence, the performance of civil protection and civil defence tasks by civil protection and civil defence entities within the municipality; 3) to organise cooperation between civil protection and civil defence entities in the area of the municipality; 4) assessing the performance of civil protection and civil defence tasks in the area of the municipality by civil protection entities with which he has concluded an agreement or in respect of which he has issued a decision on recognition as a civil protection entity; 5) concluding an agreement or contract with the starost on cooperation in the execution of civil protection or civil defence tasks;	1) directing and coordinating, within the scope of his/her competence, the execution of civil protection and civil defence tasks by civil protection entities in the county, if these activities are not performed by the territorial civil protection authority referred to in Article 9, paragraph 1, item 1, letters c-d; 2) to supervise, within the scope of his/her competence, the execution of civil protection and civil defence tasks by civil protection and civil defence sub-entities in the county; 3) coordinating cooperation between services, inspections and guards in the execution of civil protection and civil defence tasks in the district area 4) to organise cooperation between municipalities in the field of civil protection and civil defence in the district area; 5) providing assistance to the municipalities that are part of the district in the execution of civil protection and civil defence tasks, in particular involving: (a) obtaining and utilising the necessary civil protection resources and financial means, (b) directing, at the request of a mayor (mayor, town mayor), the civil	1) supervising, within the scope of its competence, and coordinating the execution of civil protection and civil defence tasks by civil protection and civil defence entities; 2) providing assistance, including financial assistance, to districts that are part of the voivodship in the execution of civil protection and civil defence tasks; 3) concluding an agreement or contract with the starost on cooperation in the execution of tasks of civil protection or civil defence; 4) assessing the performance of civil protection and civil defence tasks by the civil protection entities with which he has concluded an agreement or in respect of which he has issued a decision on recognition as a civil protection entity;

6) providing support in the preparation of civil protection entities for the performance of civil protection and civil defence tasks in the area of the municipality, including the provision of equipment and means of protection; 7) creating and maintaining, in the area of the municipality, civil protection resources and infrastructure necessary for the performance of civil protection and civil defence tasks and water supply; 8) making recommendations to civil protection and civil defence entities on the types and quantities of civil protection resources maintained by these entities; 9) keeping records of civil protection entities and resources in the municipal area; 10) Agreeing with the district (municipal) commander of the State Fire Service on the municipality's resources to be co-operated in the district area; 11) designating, concluding agreements and issuing decisions on recognition as a civil protection entity; 12) providing emergency assistance with civil protection entities in the municipality area; 13) drafting inputs to the provincial evacuation plan for the municipal area; 14) to plan and organise training, exercises and other forms of education in the field of civil protection and civil defence and to support educational programmes aimed at preparing to respond to potential threats in the municipal area;	protection resources at his/her disposal to activities in the municipality in emergency situations, (c) strengthening local initiatives for building community resilience, d) providing emergency assistance in the district area; 6) issuing recommendations, referred to in Article 59 (1), to mayors (mayors, city presidents) of municipalities located in the district area; 7) assessing the performance of civil protection and civil defence tasks in the county area by civil protection entities with which it has concluded an agreement or in respect of which it has issued a decision on recognition as a civil protection entity; 8) concluding an agreement or contract with the head of the district (mayor, city president) on cooperation in the performance of civil protection or civil defence tasks; 9) to establish and maintain, in the district area, civil protection resources and infrastructure necessary for the implementation of civil protection and civil defence tasks and to provide access to water; 10) to support civil protection entities with equipment and means of protection; 11) making recommendations to civil protection and civil defence entities on the types and quantities of civil protection resources maintained by these entities; 12) keeping records of civil protection entities and resources in the district;	5) planning and organising training, exercises and other forms of education in the field of civil protection and civil defence and supporting educational programmes aimed at preparing to respond to potential threats and strengthening social resilience; 6) establishing and maintaining civil protection resources; 7) Making recommendations to civil protection and civil defence entities on the types and quantity of civil protection resources maintained by these entities; 8) keeping records of civil protection entities and resources; 9) coordinating the provision of subordinate infrastructure for civil protection and civil defence; 10) designating, concluding agreements and issuing decisions on recognition as a civil protection entity; 11) ensuring the functioning of the marshal's office in times of war; 12) applying to the provincial governor for the granting of mobilisation allowances for civil defence;

15) reinforcing awareness of local threats among councillors and employees of municipal organisational units and chairpersons of executive bodies of municipal auxiliary units, including through training and exercises in civil protection and civil defence; 16) notifying, warning and alerting the population of threats in the municipal area; 17) maintaining the readiness of the municipal elements of the hazard detection, notification, warning and alert systems; 18) planning the number and capacity of collective protection facilities and ordering the inspection of a building to ensure that the conditions for collective protection facilities are met or can be met; 19) designating, concluding agreements and issuing decisions on the recognition of a building facility as a protective structure and organising emergency shelter sites; 20) issuing and revoking orders for the provision of protective structures, providing assistance in preparing protective structures for use and informing the population about the location of collective protection facilities; 21) entering data into the Central Register of Collective Protection Facilities, hereinafter referred to as the 'Central Register of Collective Protection Facilities';	13) designating, concluding agreements and issuing decisions on recognition as a civil protection entity; 14) organising the provision of humanitarian aid in the county area; 15) drafting input to the provincial evacuation plan for the district area; 16) planning and organising training, exercises and other forms of education in the field of civil protection and civil defence, including approval of plans for exercises drawn up by mayors (mayors, city presidents), evaluation of these exercises and support of educational programmes aimed at preparation for responding to potential threats in the county area 17) organisation and maintenance of district elements of threat detection systems and notification, warning and alarming of threats; 18) countering disinformation that lowers social resilience in the county area; 19) planning the number and capacity of collective protection facilities and ordering the inspection of the building to ensure that the conditions for collective protection facilities are met or can be met; 20) designating, concluding agreements and issuing decisions on the recognition of a building facility as a protective structure and organising places of temporary shelter; 21) issuing and revoking orders for the provision of protective structures, providing assistance in preparing protective structures for use and informing the population about the location of collective protection facilities;	13) drawing up information every 2 years on the state of preparations of the voivodship self-government for the execution of civil protection and civil defence tasks and presenting it to the voivodship assembly.

22) financing and co-financing the maintenance, modernisation and construction, on the territory of the municipality, of the infrastructure necessary for the performance of civil protection and civil defence tasks, including protective structures; 23) ensuring the functioning of the municipality office in times of war; 24) to apply to the starost for the granting of mobilisation allowances for civil defence; 25) to draw up, every 2 years, information on the state of preparation of the municipality for the execution of civil protection and civil defence tasks and to present it to the municipal council.	22) Entering data into the Central Records of the CAB; 23) financing and co-financing the maintenance, modernisation and construction of the infrastructure necessary for the implementation of civil protection and civil defence tasks, including protective structures; 24) ensuring the functioning of the starosty in wartime; 25) applying to voivodes for granting mobilisation allowances for civil defence, including allowances based on applications of heads of villages (mayors, city presidents); 26) preparing information every 2 years on the state of the district's preparations for the execution of civil protection and civil defence tasks and presenting it to the district council.	

Source: Own study.

As can be seen immediately, there is a disproportion between the tasks dedicated to the commune and district and the provincial government. This is consistent with the rest of the constitutional order, where at the local level (commune and district), it is these entities that perform the role of public administration bodies independently of each other. On the voivodeship level, on the other hand, we deal with administrative dualism and the division of tasks between the self-governing voivodeship and the government administration represented by the voivode together with the joint administration. Again, some of the tasks at the voivodeship level, which are carried out at appropriate levels by the communes and poviats, are indicated here as the responsibility of the voivode and not the voivodeship self-government. Nevertheless, the tasks in the comprehensive commencement of the Act between municipalities and counties appear to be similar in the doctrinally appropriate scope for these self-government units (there, where tasks exceed the capacity of a single municipality, as a rule they are carried out at the county level).

Some of the tasks indicated directly in the table on the municipalities' side are performed in cooperation or in agreement with the district (city) chief of the State Fire Service. At the county level, the district chief executes, with the assistance of the district (city) chief of the State Fire Service, also part of the statutory tasks indicated in Article 11(3))[14].

In addition, Art. 17.1 provides another sphere of involvement of self-governments, listing among the categories of civil protection entities, in addition to composite and non-complex administration and organisational units (e.g. organisational units of social assistance), as well as self-government inspections and guards (e.g. building supervisory bodies or municipal guards). In addition to the already broad catalogue of civil protection entities, in order to ensure the performance of civil protection or civil defence tasks, the locally competent mayor (mayor, town president), starost or voivodship marshal may designate as civil protection entities subordinate to them organisational units and commercial law companies with a majority share of public finance sector units in which they hold shares (Article 18(1)). At this point, attention should be drawn to the legislator's use of the already existing system mechanisms for the functioning of territorial self-government, i.e. cooperation of public administration with the non-governmental sector[15]. In order to ensure the performance of the tasks indicated by the Act, self-governments may in fact conclude agreements with, inter alia, non-governmental organisations performing tasks of civil protection or civil defence. Such cooperation has been taking place in other areas of public benefit activity on an obligatory basis (e.g. by creating annual cooperation programmes) on the basis of the Act on Public Benefit Activity and Volunteerism since 2004[16]. Therefore, it

[14] These tasks are: 1) coordinate the performance of civil protection and civil defence tasks by civil protection and civil defence entities performing rescue tasks in the district area; 2) analysing potential threat situations and assessing the risk of their occurrence; 3) notifying, warning and alarming the population about threats in the district area; 4) record the district civil protection resources; 5) popularise knowledge on civil protection and civil defence among the inhabitants of the administrative district, including the shaping of awareness of risk situations and desired social behaviour; 6) apply to voivodes for granting mobilisation allowances for civil defence, including allowances based on applications of heads of villages (mayors, town presidents) for rescue personnel.

[15] And with the entities indicated in Article 3, paragraph 3 of the Act of 24 April 2003 on public benefit activity and voluntary work (Journal of Laws of 2024, item 1491 and 1761), implementing the tasks of civil protection or civil defence.

[16] Ustawa z dnia 24 kwietnia 2003 r. o działalności pożytku publicznego i o wolontariacie (Dz.U.2003.96.873).

is not a mechanism unknown to local governments. Moreover, the c.p.c.d.a. justifiably realizes the doctrinal monopoly of authority by having the ability to directly recognize as a civil protection entity also by administrative decision (Article 20). The mayor designates as a civil protection entity, enters into agreements, or issues decisions on recognition as a civil protection entity with respect to entities relevant to the implementation of civil protection and civil defense tasks at the municipal level, the district governor at the local level exceeding the municipal boundaries, and the provincial marshal within the jurisdiction of the provincial government (Article 21(1)-(3)).

Article 33 of the law requires the mayor to create and maintain civil protection resources necessary for emergency and humanitarian assistance, including, in particular, water supplies and the means to store, trans-port and treat them, backup sources of energy and fuel, clothing, food supplies, sanitary and hygienic supplies, medicinal products and medical devices, and stationary and mobile temporary accommodation. The head of the village (mayor, city president), the district governor and the provincial governor, shall provide the civil protection resources necessary to carry out civil protection and civil defense tasks for at least 3 days of the duration of the emergency[17]. Municipalities may carry out these duties on their own or commission them by entering into an applicable agreement.

The mechanism of cooperation between local governments in the form of an agreement was also provided by the legislator for directing and coordinating the execution of civil protection and civil defense tasks by civil protection entities subordinate to and supervised by mayors, starosts and voivodship marshals, respectively (Article 58). These authorities also control the performance of tasks by entities with which they have concluded an agreement or with respect to which they have issued the decision referred to in Article 20(2) (Article 62). Inspection is carried out in terms of legality, economy, expediency and reliability (Article 63(1)).

In order to verify readiness and increase the effectiveness of task performance and consolidate knowledge and skills, civil protection bodies shall

[17] In terms of: 1) providing access to water and food; 2) providing access to medical products and first aid, qualified first aid and health care services; 3) supporting the implementation of rescue tasks; 4) providing notification, warning and alerting of the population; 5) ensuring public safety and order; 6) providing communications with civil protection authorities and civil protection entities; 7) operation of collective protection facilities (Article 33(3)).

conduct civil protection and civil defense drills at least once a year, on the basis of civil protection and civil defense drill plans (Article 53 (1)). The exercise plan shall be drawn up by the competent civil protection authority, and approved, in the case of the mayor of a village (mayor, city president) by the district governor. In turn, in the case of the mayor of a city with county rights, the starosta and the provincial marshal - the provincial governor.

In addition to actual and preventive measures, the law also provides for civil protection and civil defense education. It includes, in particular, the transfer of knowledge about potential and current threats affecting security and the rules of conduct in emergency situations[18]. The participation of local governments in this regard is evident in light of Article 57 (1), which provides for extracurricular classes and other forms of education in the field of civil protection and civil defense to be organized for the civil protection authority (including municipal, county and provincial local governments within the scope of their jurisdiction).

While the division of tasks in the law is systematically divided among the three levels of local government, the situation is different when it comes to notifying the public of an existing threat. This is because the obligation to take action to notify, warn and alert the population rests with the public administration body (or civil protection entity) that first became aware of the occurrence of a threat (Article 67(1)). No less an additional task in this regard rests with the district governors. The task of maintaining the elements of hazard detection systems and hazard notification, warning and alarm systems owned by the State Treasury is carried out by the starost as a commissioned task of government administration (Article 70 (3)). On the other hand, all units of local government at their disposal will have at their disposal to ensure the continuity and security of the functioning of the state administration and the protection of the population and civil defense the Safe State Communications System (Article 74 (1))[19].

Collective protection facilities (Article 82) with a category of shelter or concealment (Article 83 (2)) are used to protect the population from threats arising from natural disasters, terrorist events or acts of war. The district gov-

[18] Education in civil protection and civil defense in the educational system is carried out in accordance with the rules set forth in the education act (ustawa z dnia 14 grudnia 2016 r. – Prawo oświatowe (Dz.U.2017.59)). For: art. 56 c.p.c.d.a.

[19] The interior minister organizes and supervises the SBLP as its operator.

ernor may designate, by order, construction facilities under his authority or under the authority of subordinate organizational units, recognizing them as protective structures, which may also apply to the planned construction facility (Article 86). Also, in order to ensure the implementation of civil protection and civil defense tasks, the mayor, head of the district or the governor may conclude an agreement with the owner or manager of the property to recognize the building as a protective structure (Article 87, paragraph 1). And even, if it is justified by the necessity to carry out tasks of civil protection and civil defense, recognize a building structure as a protective structure by administrative decision (Article 88). As can be seen, this issue is done bypassing the provincial level of local government in favor of ceding this range of tasks to the government administration.

A certain distinction in the tasks of local governments is also evident through Article 95 with the specification of urban areas. Well, underground structures located within the administrative boundaries of cities used for transportation purposes, including road and rail, in particular, sunken subway, underground streetcar and underground rail facilities, shall be designed and constructed in such a way as to ensure that the technical conditions and technical conditions of use for the protective structure are met.

This is different from the above preventive situation in the case of the introduction of a state of emergency or war. Indeed, if the number of shelters and hiding places is insufficient to ensure the protection of the population, the mayor (mayor, city president), district governor or governor shall organize places of ad hoc shelter (Article 102 (1)). Such action may be taken by administrative decision if the owner of the property covered by the order referred to in paragraph (2)(1), or on which places of temporary shelter are to be made, is an entity other than the State Treasury or a local government unit (Article 102(4)).

With the imposition of martial law and during wartime, civil protection tasks become civil defense tasks within the meaning of Article 61(a) of the First Additional Protocol to the Geneva Conventions of August 12, 1949 (Article 117). At that time, the mayor (mayor, city president) and district head of civil defense in the area of the municipality and district, respectively (Article 118(2)). And although in the field of civil defense at the provincial level, tasks have in many cases been assigned to government bodies, in light of Article 135 (1), the mobilization ration of civil defense is assigned by the

provincial governor (competent for the seat of the civil defense entity), on his own initiative or at the request of the head of the municipality (mayor, city president), starosta or provincial marshal (after coordination with the locally competent head of the military recruitment center). At the same time, the head of the village (mayor, city president) applies for a civil defense mobilization assignment through the head of the district governor Article 135 (2)[20].

Financing of civil protection and civil defense

Financing of civil protection and civil defense tasks at the level of municipalities, counties and provincial governments is planned within the budgets of municipalities, counties and provincial governments, respectively (Article 154(1)). These tasks may be financed within the framework of a special purpose reserve (based on Article 26 (4) of the Crisis Management Act of April 26, 2007). The legislator, realizing the scope of the imposed tasks of the category of own tasks on local governments, assumes that they are either financed or subsidized in the form of an earmarked grant from the state budget (Article 154(3)). In turn, in order to finance tasks assigned to government administration, in the field of civil protection and civil defense, local government units receive purpose grants from the state budget in the amount ensuring the implementation of these tasks up to 100% of the cost of the task (Article 154(4)-(6)).

The basis for financing the implementation of civil protection and civil defense tasks is the Program for Civil Protection and Civil Defense (Article 7 c.p.c.d.a) and the law itself assumes financing of civil protection and civil defense at the level of municipal, county and provincial governments within the budgets of municipalities, counties and provincial governments, respectively (Article 154).

The municipal councils, at the request of mayors, mayors or city presidents, will have to include funding in the budget for the implementation of tasks in this regard (Article 10(1) u.o.l.o.c). Similarly, at the county level,

[20] At the same time, the tasks of the mayor, district governor and provincial marshal with regard to applying for the granting of mobilization allowances for civil defense are carried out as delegated tasks of government administration. For: article 135, paragraph 9 c.p.c.d.a.

the legislator provides for the participation of the county council in the financing of statutory tasks (Article 11, paragraph 2) and of the provincial assembly at the level of the provincial government (Article 12, paragraph 2).

Municipal councils, at the request of mayors, mayors or city presidents, will have to include funding in the budget for the implementation of tasks in this regard (Article 10(1) c.p.c.d.a.). Similarly, at the county level, the legislator provides for the participation of the county council in the financing of statutory tasks (Article 11, paragraph 2) and the provincial assembly at the level of the provincial government (Article 12, paragraph 2).

The maintenance and replenishment and creation of civil protection resource depots, including flood control depots (or by contracting to provide the necessary civil protection resources) has become the own task of local governments. As the law indicates, only the Creation and maintenance by the mayor (mayor, president of the city), district governor and provincial marshal of civil protection resources intended for the implementation of civil protection tasks with respect to threats exceeding the area of the municipality, district and province, respectively, is carried out as a commissioned task of government administration (Article 33 u. 5), which involves a different form of financing for local governments in light of such a division of the category of tasks. This is because doctrinally such a division carries the consequences of financing independent own tasks, as opposed to commissioned tasks. In addition (as an own task), the district governor provides assistance to municipalities that are part of the district in carrying out civil protection and civil defense tasks, if the resources and capacities of these municipalities have been exhausted or are insufficient to carry out the tasks. Adequately happens in relation to counties at the level of the local government province (Article 34). At the same time, it should be emphasized that the law stipulates (Article 35) that the provincial governor provides support to municipalities and counties in the implementation of civil protection and civil defense tasks, providing them with in-kind or financial resources for their implementation (in accordance with the Program for Civil Protection and Civil Defense and beyond). Also, when the civil protection resources provided for response and implementation of tasks on the territory of a municipality or county are insufficient, these tasks are also carried out with the help of civil protection resources dispatched from the territory of the province and eventually with the help of civil protection resources dispatched from the territory of the country (Article 36).

Challenges for local authorities in the implementation of civil protection and civil defence tasks

Local government units may face numerous challenges in the implementation of their statutory duties. The law promulgated on 23 December 2024 has already entered into force on 1 January 2025[21], mandating the implementation of many obligations for them. This seems to be a rather short vacatio legis given the substance of the Act based not only on its substantive content but also on the explanatory memorandum to the Act. A major impediment to the implementation of mandatory, and in many cases new, obligations is the lack of implementing regulations indicated directly in the Act. As late as the beginning of January, i.e. one week after the Act came into force, there was only one implementing act[22]. A challenge for local authorities in implementing the statutory provisions may be the duties related to the Civil Protection and Civil Defence Resource Register, the designation of collective protection facilities or the training of dal officials. An element that is not taken into account in many regulations is the failure to distinguish in the division of responsibilities, the size of local authorities (with their potential financial, infrastructural or personnel resources) in particular at municipality level.

The challenges of implementing the Act already start at the prevention stage, such as the planning process contained in Chapter 5. While in the light of Article 38. the civil protection authorities take into account 'static' plans, extracts or procedures[23], it is already the provisions of Article 39 indicating

[21] Pursuant to Article 212, the Act shall enter into force on 1 January 2025, except for: (1) Articles 16, 156, 198 and 199, which shall enter into force on the day following the date of promulgation; (2) Articles 76(5) and 78(2), which shall enter into force one year after the date of promulgation; (3) Articles 11(3)(3), 45-48, 189 and 211, which shall enter into force on 1 January 2026; (4) Article 187, which shall enter into force on 1 January 2027.

[22] Zarządzenie nr 166 Prezesa Rady Ministrów z dnia 27 grudnia 2024 r. w sprawie organizacji i trybu pracy Rządowego Zespołu Ochrony Ludności (M.P.2024.1109).

[23] These authorities shall include in the plans referred to in Article 5 of the Act of 26 April 2007 on crisis management): 1) plans for evacuation of the population; 2) extracts from the Central Register of Resources, the Central Register of OZO and the Register of Civil Defence; 3) lists of spare water intakes or the method of supplying water in the event of damage to the water supply; 4) lists of sources of energy; 5) location of storage facilities for civil protection resources; 6) locations of humanitarian assistance; 7) procedures for requesting humanitarian and emergency assistance and the method of providing such assistance.

plans for the evacuation of the population covering the issues of moving the population from the endangered place and accepting it in a safe place in the situation of a threat of war, in the case of an anticipated natural disaster, in time of war and in the event of a natural disaster – that may cause more trouble for local authorities. Doubts may relate to the scope of persons to be evacuated in a given area in a population evacuation plan. This is because the legislator does not indicate the starting point for the analysis – whether the 'number of persons' is to refer only to residents or also to the potential number of people not staying permanently (such as tourists, students, employees from the peripheral municipalities). The plan, as a document of local law, should be a permanent element and taking into account fluctuations in the number of people taken as a reference point can be problematic. This is all the more so as the mayor and the district chief administrative officer (starosta) draw up, for the area of the municipality and the district respectively, contributions to the provincial population evacuation plan (Article 43(1)). When juxtaposed with subsequent elements of the plans, further uncertainties may arise regarding the identification of land, water and air transport infrastructure to be used during an evacuation, the accommodation of the evacuated population, the identification of the forces and transport resources necessary to carry out and secure an evacuation in the area and the protection of the property left behind.

In order to improve the skills in civil protection and civil defence, training courses for personnel in civil protection and civil defence shall be organised in offices serving civil protection authorities and in other offices, organisational units of local government units and bodies of auxiliary units of the municipality. These trainings shall be conducted at least: 1) for persons performing the function of the territorial civil protection authority – within 3 months from the date of assumption of this function and then at least once a year; 2) for persons performing the function of a civil protection authority other than those specified in point 1 and for persons performing tasks related to civil protection or civil defence for secretaries of state and undersecretaries of state in offices serving civil protection authorities – within 6 months of assuming this function or position; 3) for persons performing tasks related to civil protection and civil defence – not less than once a year; 4) for persons holding civil defence mobilisation assignments – within 6 months of receiving a civil defence mobilisation assignment.

To the annual frequency of the above trainings one should add also those trainings which are provided for in the system of trainings of civil servants' pragmatics (at the level of local self-government this pragmatic is the Act on local self-government employees) and other trainings resulting from the nature of the given positions, in order to have a full picture of the additional obligation. Also from the civil servant's point of view, given the obligatory and free of charge nature of such training, this becomes another element of the employee's duties (these are also duties resulting from the implementation of the tasks included in the Act by the self-governments[24]). From the point of view of the local government – the Act narrows down the group of entities that will be able to carry out training (among other things, they must have their own infrastructure or have at least two employees - Article 50). The civil protection authorities themselves may (for the time being) also optionally conduct training on civil protection and civil defence for civil protection entities, associations and entrepreneurs as well as the public (Art. 52(1)).

The Act also includes an extensive chapter on collective protection facilities, which are protective structures – shelters and hiding places, and places of temporary shelter (and a category of buildings suitable for adaptation as places of temporary shelter). The legislation indicates that local authorities in their area of jurisdiction are to plan the necessary number and capacity of collective protection facilities, taking into account, in particular, the population residing in the area and the anticipated types of threats. The capacity of collective protection facilities is to provide shelter (Article 90): (1) within the administrative boundaries of cities in all collective protection facilities for at least 50%, including in protective structures for at least 25%; (2) outside the administrative boundaries of cities in all collective protection facilities for at least 25%, including in protective structures for at least 15%, of the anticipated population residing in the planning area during an emergency. The question of the methodology for determining the 'predicted population' therefore recurs. An additional difficulty for local authorities in meeting this criterion may be the fact that, in carrying out the current survey of buildings, buildings without underground storeys and single-family dwellings are excluded (Article 91(2)). It can be concluded that the issue of collective protec-

[24] Ustawa z dnia 21 listopada 2008 r. o pracownikach samorządowych (Dz.U.2008.223.1458).

tion facilities will be the biggest organisational challenge for local authorities and that the local authorities themselves are facing a serious review of their buildings and, if necessary, the adaptation of public edifices.

Conclusions

The Law on Civil Protection and Civil Defence, which comes into force on 1 January 2025, was introduced with a relatively short vacatio legis, which limited the time for local government units to prepare for the implementation of new obligations and tasks. Despite these difficulties, the regulations contained in the Act deserve recognition, particularly in the context of the normative treatment of the protection of cultural property in the event of armed conflict.

The new regulations eliminate a legal loophole that appeared in the area of civil defence functioning as a result of the entry into force of the Act of 11 March 2022 on Homeland Defence. The civil protection and civil defence system, as envisaged in the Act, will be based on the long-standing experience of the national rescue and firefighting system and on cooperation between the public administration and non-governmental organisations. However, the central administration emphasises the leading role of local self-government bodies, which are the basic pillar of civil protection activities.

The law clarifies the scope of responsibilities of local government bodies, giving a special role to mayors, district governors and provincial marshals. The mayors were obliged, among other things, to plan and organise training and exercises in the field of civil protection, to support educational programmes on responding to threats, and to finance and modernise the infrastructure necessary to perform tasks in this area, including protective structures. According to the Act, it will also be the responsibility of the mayors of municipalities to regularly present information to the municipal council on the state of preparations for the implementation of civil protection and civil defence tasks, which is to be updated every two years. It can be concluded that the issue of collective protection facilities will be one of the biggest organisational challenges for local authorities.

The financing of tasks in the field of civil protection and civil defence will be realised both within the framework of local government budgets and thanks to targeted subsidies from the state budget, which can cover up to 100% of the costs of realising these tasks. The Act also provides for the possi-

bility of using the earmarked reserve specified in the Crisis Management Act.

The basic tasks of local authorities under the new regulations include: ensuring the safety of the population, recognising and monitoring threats, warning and alerting the population, creating civil protection resources and preparing them to function under conditions of armed conflict. According to the law, civil protection structures are to be transformed into civil defence structures in times of martial law or war, reflecting a key principle of the system at both local and national levels.

A method that allows one to measure the socio-organisational effect and the causal relationship between the observed changes and the action taken (the introduction of the Local Government Employees Act in 2008) is the counterfactual method. It makes it possible to answer the question of whether the implemented change (public intervention) had the desired effect. It is advisable to extend the results of the research with the above method after the period of the Act's validity selected by the researcher, in order to demonstrate as precisely as possible its impact not only on the systemic position, but also on the functioning of local government units within its scope.

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Funkcjonowanie jednostek samorządu terytorialnego w świetle ustawy z dnia 5 grudnia 2024 r. o ochronie ludności i obronie cywilnej

Streszczenie

Ustawa o ochronie ludności i obronie cywilnej, która weszła w życie z dniem 1 stycznia 2025 roku, wprowadziła po krótkim vacatio legis, szereg zadań związanych z organizacją i finansowaniem w zakresie ochrony ludności i obrony cywilnej dla jednostek samorządu terytorialnego. Wśród nich wskazać należy przede wszystkim przygotowanie planów na wypadek zagrożenia, utrzymanie gotowości gminnych elementów systemów wykrywania zagrożeń oraz powiadamiania, ostrzegania i alarmowania o zagrożeniach, edukacji czy obrony cywilnej. Wskazuje też organy ochrony ludności na poziomie jednostek samorządu terytorialnego wójt (burmistrz, prezydent miasta), starostę i marszałka województwa. Analizie zostały poddane przepisy ustawy dotyczące funkcjonowania jednostek samorządu terytorialnego w zakresie ochrony ludności i obrony cywilnej.

Słowa kluczowe: administracja publiczna, samorząd terytorialny, gmina, powiat, województwo, ochrona ludności, obrona cywilna.