



Functioning of local government units during the state of emergency and the state of natural disaster in Poland

Fungovanie jednotiek miestnej samosprávy počas svtavu núde a stavu prírodnej katastrofy v Poľsku

Antoni OLAK¹, Bożena KONECKA-SZYDEŁKO², Sławomir STEFAŃSKI³

¹Faculty of Management and Economics-Department of National Security

²University of Rzeszów, Faculty of Health Sciences and Psychology

³Dyrektor Podkarpackiego Oddziału Okręgowego Polskiego Czerwonego Krzyża, Państwowa Akademia Nauk Stosowanych

The manuscript was received on 12.12.2025 and was accepted after revision for publication on 15.12.2025

Abstract:

The article analyses the functioning of local government units during a state of emergency and a state of natural disaster. He points out that despite the existing legal regulations, this system remains inconsistent and causes difficulties in practical application. The government may impose additional obligations and restrictions on local governments, without clearly specifying the rules of cooperation.

Local government units (LGUs) are obliged to cooperate with the government administration and perform tasks related to public safety. In emergency situations, the executive authorities are given greater powers, while the activities of the decision-making bodies are restricted. In a state of natural disaster, local governments participate in rescue operations and removal of the effects of threats, which affects their financial and organizational functioning. The article also highlights systemic problems, such as the lack of clarity of regulations and the lack of a coherent model of cooperation between the government and local government.

Keywords: *state of emergency, state of natural disaster, crisis management*



Functioning of local government units during the state of emergency and the state of natural disaster in Poland

A.OLAK., B. KONECKA-SZYDEŁKO., S. STEFAŃSKI

Abstrakt:

Článok analyzuje fungovanie jednotiek miestnej samosprávy počas stavu núdze a stavu živeľnej pohromy. Poukazuje na to, že napriek existujúcim právnym predpisom zostáva tento systém nekonzistentný a spôsobuje ťažkosti v praktickej aplikácii. Vláda môže uložiť miestnym samosprávam ďalšie povinnosti a obmedzenia bez toho, aby jasne špecifikovala pravidlá spolupráce.

Jednotky miestnej samosprávy (JS) sú povinné spolupracovať s vládou správou a plniť úlohy súvisiace s verejnou bezpečnosťou. V núdzových situáciách sú výkonným orgánom udelené väčšie právomoci, zatiaľ čo činnosť rozhodovacích orgánov je obmedzená. V stave živeľnej pohromy sa miestne samosprávy zúčastňujú záchranných operácií a odstraňovania následkov hrozieb, čo ovplyvňuje ich finančné a organizačné fungovanie. Článok tiež zdôrazňuje systémové problémy, ako je nedostatok jasnosti v predpisoch a nedostatok uceleného modelu spolupráce medzi vládou a miestnou samosprávou.

Kľúčové slová: stav núdze, stav živeľnej pohromy, krízový manažment

1. Introduction

The Act on the State of Natural Disaster provides for far-reaching decentralization. Actions to prevent or eliminate the effects are directed by different entities, depending on the size of the area where the state of natural disaster has been introduced. The introduction of a state of natural disaster also results in changes in the area of local government functioning. During a natural disaster, the powers and obligations of public authorities may be modified, and this State of Emergency Act provides primarily for a number of restrictions on freedoms and rights of human and citizen that may be introduced, but most of them do not affect the functioning of the bodies of local government units. The prerequisites for its introduction are threats to the constitutional system of the state, the security of citizens or public order.

In states of emergency (emergency and natural disaster), local government units (LGUs) operate within their existing structures, but with extended competences. The mayor/president of the city manages local activities during a natural disaster and may issue instructions to auxiliary bodies and heads of municipal units. In the event of ineffectiveness of local governments, the government may appoint a commissioner.

As a reminder, the term "self-government" should be understood as the performance of tasks on their own responsibility by entities separate from the state, which carry out their tasks independently, without the interference of the state. In the science of law, there are various types of self-government, among which there is local self-government. It is formed by a local and regional community living in a specific unit of administrative division of the state. The essence of local government is to perform specific public tasks in a given area. Article 169(1) of the Constitution of the Republic of Poland states that local government units perform their tasks through decision-making and executive bodies. On the other hand, Article 164(1) of the Constitution of the Republic of Poland states that the basic unit of local government is the commune. The basis of functioning, as already mentioned, is the municipality, which performs its own tasks, i.e. in its own name and on its own responsibility.

Fuctioning of local government units during the state of emergency and the state of natural disaster in Poland

A.OLAK., B. KONECKA-SZYDEŁKO., S. STEFAŃSKI

The municipality also performs tasks commissioned by government administration bodies. Every country, regardless of its geographical location and time, political system or wealth, is exposed to all kinds of dangers and crises. In order to protect itself from them, it creates legal regulations that form the basis for actions for specific bodies, institutions, inspections, guards. These actions are intended to prevent and mitigate the effects of these dangers and crises. Legal regulations in this area should always be clear, clear and, very importantly, fully transparent. The obligations incumbent mainly on state administration bodies, which relate to the security of the state and its inhabitants, must be structured in such a way that in emergency there are no doubts as to the scope of responsibility of each of them.

2. State of emergency

The state of emergency in accordance with the Constitution of the Republic of Poland is introduced on the basis of an act, at the request of the Council of Ministers, by way of a regulation of the President of the Republic of Poland. The prerequisites for its introduction are threats to the constitutional system of the state, the security of citizens or public order.

The President, at the request of the Council of Ministers, may introduce a state of emergency on part or all of the territory of the state by means of a regulation, which is Article 230(1) of the Constitution of the Republic of Poland. A state of emergency may be introduced in the event of a threat to the constitutional system of the state, the safety of citizens or public order, and is introduced for a period not exceeding 90 days. The state of emergency may be extended only once, with the consent of the Sejm and for a period not exceeding 60 days.

If the state of emergency is introduced in an area larger than one voivodeship, the Prime Minister is the coordinator of actions in accordance with the Act. If, on the other hand, it is a part or one voivodeship, the control and coordination of activities is exercised by the voivode. In connection with the introduction of the state of emergency, no additional tasks are imposed *ex lege* on local government units, and the bodies of these units are not automatically granted or deprived of any competences at the time of the introduction of the state of emergency.

Changes in the legal conditions for the operation of the bodies of local government units may occur in connection with the restriction of certain freedoms and rights of human beings and citizens. The Act of 21 June 2002 on the state of emergency also allows for the suspension of commune, county or voivodeship self-government bodies if they do not demonstrate sufficient effectiveness in performing public tasks or carrying out activities resulting from the provisions on the introduction of the state of emergency. According to the Senate's amendment to the State of Emergency Act adopted by the Sejm, the Minister of Foreign Affairs is to notify the UN Secretary General and the Secretary General of the Council of Europe of the introduction and lifting of the state of emergency.

A state of emergency is unquestionably a state of "high caliber" in relation to a state of natural disaster. In addition to many powers of the ruling power and

Fuctioning of local government units during the state of emergency and the state of natural disaster in Poland

A.OLAK., B. KONECKA-SZYDEŁKO., S. STEFAŃSKI

restrictions in relation to citizens, preventive censorship, control of the contents of parcels and letters, control of telecommunication correspondence and telephone conversations, etc., may be introduced, among other things, during its validity. However, it should be noted here that the introduction of a state of emergency should take place in truly peculiar situations, given the fact that the public authority has sufficient possibilities to deal with the threats constituting the prerequisites for the introduction of this state of emergency in the ordinary mode.

The restrictions on rights and freedoms adopted when the state of emergency was introduced resulted in the bodies of local government units becoming obliged to issue decisions on the prohibition of gatherings, decisions refusing to allow mass events and decisions on the prohibition of artistic or entertainment events. It should be noted, however, that the regulations shaping the legal status during the state of emergency do not precisely, which is what the restriction of the right to information is supposed to consist of, and above all, they do not introduce a ban on making public information available to the indicated extent, but only introduce an unspecified restriction on this access.

An important note here: entities covered by the Act of 6 September 2001 on access to public information have been imposed the obligation to issue decisions refusing to provide information on activities carried out in the area where it has been subject to a state of emergency in connection with the protection of the state border in order to prevent and counteract illegal migration. However, it should be remembered that in the event of the introduction of a state of emergency, we are dealing with the cooperation of executive authorities.

In the event of the occurrence of any of the prerequisites contained in Article 230(1) of the Constitution of the Republic of Poland, the initiative to introduce a state of emergency belongs to the Council of Ministers, which adopts a resolution in this regard and submits a request to the President of the Republic of Poland on what restrictions will apply in the state of emergency to be introduced, is first determined by the President of the Republic in a regulation state of emergency or extending its duration, but during the state of emergency, the Polish legislator took care to maintain the political position of the Sejm in the system of public authority.

In the event of a state of emergency, it is possible to adopt or repeal the decision of the President of the Republic of Poland, as well as to exercise all the powers provided for the normal functioning of the state. However, this does not change the fact that the Prime Minister has a special role (in the case of introducing a state of emergency in more than one voivodeship) or a voivode (in the case of introducing this state in the area of one voivodeship). These entities are entrusted with activities restoring the constitutional system of the state, the security of citizens (including public order), taking into account the coordination and control of the functioning of government and local government administration.

During the state of emergency, local and regional authorities are marginalised. In a state of emergency, it is important that local government bodies and units do not meet the criterion of sufficient effectiveness in the performance of public tasks, which has been established in an unspecified manner. However, the authority of local government units on this basis may only be established for a period not longer than the duration of the state of emergency, and the state of suspension ceases by operation

Fuctioning of local government units during the state of emergency and the state of natural disaster in Poland

A.OLAK., B. KONECKA-SZYDEŁKO,, S. STEFAŃSKI

of law on the day of the lifting of the state of emergency (or with the expiry of the time specified by the Prime Minister). In a situation where local government bodies are not sufficiently effective in performing public tasks or performing tasks entrusted to them under the provisions on the introduction of a state of emergency, the Prime Minister, at the request of the competent voivode, may suspend these bodies, introducing a commissary board in their place (... in the person of the Government Commissioner, Article 12 of the Act of 21 June 2002 on the State of Emergency).

A government commissioner is always appointed and dismissed by the Prime Minister at the request of the voivode, and here it is worth knowing that in a state of emergency this does not take place through the minister competent for public administration. On the day of appointment, the Government Commissioner takes over the performance of tasks and competences of suspended bodies of a commune, county or voivodeship.

This means that these issues have been regulated in the State of Emergency Act, that they are not identical. The very premise of suspending the authorities, i.e. not demonstrating the assessed effectiveness in the performance of public tasks or in the implementation of activities resulting from the provisions on the introduction of the state of emergency, allows the government administration to have much greater discretion, because the concept of "insufficient effectiveness" is undefined, and the boundary between effective and insufficiently effective action is extremely fluid, which creates a danger of abuse of this instrument, thus More so that the control of its use is very limited.

Pursuant to Article 11(1), during the state of emergency, the President of the Republic of Poland, at the request of the Prime Minister, may decide to use units and sub-units of the Armed Forces of the Republic of Poland to restore the normal functioning of the state, if the forces and means used so far have been exhausted. On the other hand, the establishment of a commissioner's board takes place only after the objections have been presented to these bodies and they have been called upon to submit without delay a programme for improving the situation of the local government unit.

The Act on the State of Emergency also introduces/provides for a number of restrictions on the freedoms and rights of human beings and citizens that may be introduced, so let us know that most of them do not affect the way the bodies of local government units function, although of course they do affect their residents.

3. State of natural disaster

As we have already mentioned in the introduction, the state of natural disaster is a state of special danger, which is why the actions of public authorities, including local authorities, are subject to a special, exceptional legal regime. This uniqueness of the legal regime consists primarily in the expansion of the powers of the authorities, including those interfering with the sphere of freedom and rights of man and citizen specified in Article 228, paragraph 3 of the Constitution of the Republic of Poland. The state of natural disaster is a constitutional institution. The legislator lists two reasons why the introduction of a state of natural disaster turns out to be

Fuctioning of local government units during the state of emergency and the state of natural disaster in Poland

A.OLAK., B. KONECKA-SZYDEŁKO,, S. STEFAŃSKI

necessary: preventing the effects of a disaster (preventive actions) and removing these effects (rescue operations). The procedure for introducing and abolishing the state of natural disaster, as well as the rules of operation of public authorities and the scope of restrictions on freedoms and rights of human beings and citizens during a state of natural disaster, are determined by the Act of 18 April 2002 on the state of natural disaster.

According to Chapter XI of the Constitution of the Republic of Poland, the scale of the threat in a state of natural disaster must be of an extraordinary nature, while there are no international standards defining the manner of functioning of public authorities in states of emergency. The Act of 18 April 2002 on the State of Natural Disaster defines a natural disaster as a natural disaster or a technical failure during which public authorities operate within the existing organizational structures of the state and within the scope of their competences, subject to the provisions of the Act. Let us remember here that there is no provision in the Constitution of the Republic of Poland referring to "terrorist threats", and this issue was added by the legislator in the Act on the State of Natural Disaster in Article 3(2) defining a natural disaster or technical failure that may cause events in cyberspace and terrorist activities.

By analogy to the states of emergency already mentioned here, in this material, the authority authorized to declare a state of natural disaster is the Council of Ministers, not the President of the Republic of Poland. This is very obvious, given that the Council of Ministers, the Prime Minister or the minister responsible for internal affairs are responsible for internal security, and in particular crisis management in the country. Moreover, in the case of a regulation of the Council of Ministers introducing a state of natural disaster, its review by the Sejm of the Republic of Poland is not required. During a state of natural disaster, actions carried out to prevent the effects of a natural disaster or their removal (in the case of one voivodeship or throughout the country) shall be directed by the minister competent for public administration or another minister, to the scope of action which includes the prevention of the effects of a given natural disaster or their removal, and in case of doubts as to the competence of the minister or in the case of: when several ministers are competent, then the minister is appointed by the Prime Minister.

In this regard, special attention should be paid to Article 13 of the Act on the State of Natural Disaster, according to which the above-mentioned Minister may, within the framework of measures taken to prevent or eliminate the consequences of a natural disaster, issue binding regulations to state administration bodies. However, with the exception of the Council of Ministers, the Prime Minister and Deputy Ministers, the Council of Ministers is also entitled to issue binding regulations to local government bodies. Granting the power to declare a state of natural disaster to the collegial body of the highest state administration (the Council of Ministers) makes it the sole decision-making body in this area, which in practice may prove to be dangerous, but also harmful for citizens, but also for the state, which is, importantly, responsible for the incompetence of its own bodies.

It is important to remember that the recognition of the Council of Ministers must be balanced by its responsibility not only for not declaring this state of natural disaster, but also for the delay in issuing the relevant regulation, which has recently been a very common situation in Poland.

Fuctioning of local government units during the state of emergency and the state of natural disaster in Poland

A.OLAK., B. KONECKA-SZYDEŁKO,, S. STEFAŃSKI

If there are grounds for declaring a state of natural disaster and the associated threat is taken into account, the Council of Ministers must issue a regulation on this matter, as its members may potentially be held liable before the State Tribunal. However, this type of liability for a constitutional offence is unclear, as the Constitutional Tribunal, as well as the legislator, have not established a corresponding obligation to declare a state of natural disaster.

The introduction of a state of natural disaster also results in changes in the functioning of local government. During a natural disaster, the powers and responsibilities of public authorities are/may be modified. The existing limitations on the principle of independence of individual local government units during a state of emergency are set out in the provisions of the Law on the State of Natural Disaster, set out in Chapter 2, which regulates the principles of the functioning of public authorities. The provisions of the Act on the State of Natural Disaster exceptionally introduce certain changes in the activities of public administration bodies during a state of natural disaster, which is an obvious consequence of the introduction of this state of emergency.

The exceptions defined by this Act primarily mean the adaptation of the structures, organization and competences of public authorities to the need to combat the emerging threat. The powers related to the management of activities aimed at preventing the consequences of natural disasters or their elimination within the framework of local self-government are exercised by monocratic bodies in the municipality, depending on its status – the mayor of the municipality, the mayor or the mayor of the city, and necessarily in the district by the mayor, who is also the chairman of the district council. In the voivodeship, this type of competence is exercised by the voivode, who is also the supervisory authority over the activities of local self-government bodies at all levels.

Such a division does not cause any great controversy, but it is reasonable to assign a greater role to the voivodeship self-government, which should be implemented *de lege ferenda* in a special law, which is the Act on the State of Emergency and Natural Disasters. Therefore, the bodies managing activities carried out with the aim of preventing the effects of a natural disaster or their elimination under Article 8 of the U.S.K.Ż. (state of emergency and natural disaster), depending on the area covered by the state of emergency, are: the head of the municipality, the mayor or the president of the city, the mayor, the voivode or the minister responsible for public administration.

If a state of natural disaster is declared in several municipalities, the head of the municipality (mayor, city chairman), who manages activities in his area aimed at preventing or eliminating the consequences of a natural disaster, reports to the head of the district. Similarly, the legislator has ensured the subordination of district heads performing their duties in this area. Specifically, if a state of natural disaster is declared in several districts within a voivodeship, the district head performing the duties of a district head under the Act on the State of Natural Disaster reports to the voivode. This is key at this point in our analysis: in the event of a state of natural disaster, the municipality has the most extensive responsibilities. During a state of emergency, the voivode, with management powers, carries out field actions that restore the normal functioning of public structures.

In the event of the inability of the voivode to manage or insufficiently manage the activities carried out to prevent or eliminate the consequences of a natural disaster, the minister referred to in Article 8, point 4 of the Act on Voivodeship and Regional Policy may suspend the powers of the voivode referred to in paragraphs 1 and 2 of the Act on Voivodeship and Regional Policy and appoint a representative to manage these

Fuctioning of local government units during the state of emergency and the state of natural disaster in Poland

A.OLAK., B. KONECKA-SZYDEŁKO., S. STEFAŃSKI

activities. When managing operations in a municipality to prevent or mitigate the consequences of a natural disaster, the head of the municipality (mayor, city chairman) may issue binding regulations, and the heads of fire protection units operating in the municipality may adopt them. Fire protection units include: organizational units of the State Fire Service, organizational units of the Military Fire Protection, factory fire departments, factory rescue services, city professional fire departments, district/city professional fire departments, local rescue departments, voluntary fire departments, voluntary fire departments, voluntary fire departments associations and other rescue units.

The power to issue binding regulations allows the executive body of a municipality to prevent the consequences of a natural disaster more effectively and efficiently or to mitigate them if they occur. In fact, regulations issued by the head of a municipality (mayor, city chairman) do not oblige the addressee to implement them.

The head of an organizational unit operating in the municipality may refuse to implement them if, in his opinion, they are unjustified; in such a case, the measures of the municipality remain ineffective. The head of the municipality (mayor, city chairman) then informs the superior authority or supervisory body, which takes the appropriate decision. There is no automatic implementation of the regulation by an entity addressed that originates outside the organizational structure of the municipality but operates exclusively on its territory.

The legal power of the mayor to issue binding regulations to the executive bodies of municipalities within the district is contrary to the Polish Constitution, since the principle of subordination does not apply to local government units (or their bodies). The district is therefore not a superior structure to the municipality; it is only a local government unit with a wider area of competence, which also has additional powers. As already mentioned, the head of the municipality (mayor, city mayor) is not subordinate to the mayor and the mayor cannot authoritatively interfere with the autonomy of the municipal body. The issuance of binding regulations, as already mentioned, constitutes an interference prohibited by the Constitution.

Pursuant to Article 15(1) of the Constitution, the territorial system of the Republic of Poland ensures the decentralization of public authority. On the other hand, Article 16(2) of the Constitution states: that local government participates in the exercise of public authority, and the local government performs a significant part of public tasks under the laws in its own name and on its own responsibility. In this way, the Constitution of the Republic of Poland establishes the principle of decentralization of public authority and the independence of local government units in the performance of public tasks.

The system of public administration presented above makes the hitherto autonomous and independent local government units part of a centralized administrative system, but it should be noted that this structure has only a temporary and extraordinary guarantee of an appropriate high degree of efficiency of the tasks performed in the state of emergency. Speaking of extraordinary measures that should be applied in order to eliminate the threat justifying the introduction of a state of natural disaster, attention should be paid to Chapter XI of the Constitution of the Republic of Poland. This threat and its specificity, as a specific threat, does not preclude the above-mentioned emergency measures from taking advantage of solutions provided for under ordinary legislation (e.g. the Act on Crisis

Fuctioning of local government units during the state of emergency and the state of natural disaster in Poland

A.OLAK., B. KONECKA-SZYDEŁKO,, S. STEFAŃSKI

Management or the Act on Preventing and Combating Infections and Infectious Diseases in Humans).

A very important provision that significantly affects the functioning of a citizen in states of emergency is Article 233(3) of the Constitution of the Republic of Poland, which contains a closed catalogue of rights and freedoms that may be limited during a state of natural disaster. According to its wording, the act defining the scope of restrictions on the freedoms and rights of a human being and a citizen in a state of natural disaster may restrict the freedoms and rights specified in: in Article 22 of the Constitution of the Republic of Poland (e.g. freedom of economic activity), Article 41(1), (3) and (5) of the Constitution of the Republic of Poland (personal freedom), Article 50 of the Constitution of the Republic of Poland (inviolability of housing), Article 52(1) of the Constitution of the Republic of Poland (freedom of movement and residence in the territory of the Republic of Poland), Article 59(3) of the Constitution of the Republic of Poland (right to strike), Article 64 of the Constitution of the Republic of Poland (right to property), Article 65(1) of the Constitution of the Republic of Poland (freedom of work), Article 66(1) of the Constitution of the Republic of Poland (right to safe and hygienic working conditions) and Article 66(2) of the Constitution of the Republic of Poland (right to rest).

The doctrine indicates that all these rights are not absolute and are subject to restrictions even when there is no state of emergency. Article 233(3) of the Constitution of the Republic of Poland, on the other hand, introduces the possibility of limiting them under special conditions indicated in Article 228(5) of the Constitution of the Republic of Poland, more lenient than those indicated in Article 31(3) of the Constitution of the Republic of Poland.

The development of constitutional provisions in the scope of restriction of human and civil rights and freedoms took place on the basis of Articles 20–26 of the Civil Code. The rights that are subject to derogation during a state of natural disaster are primarily labor rights, rights related to running a business or rights related to freedom of movement. The legislator indicated in Article 232 of the Constitution of the Republic of Poland that the duration of the state of natural disaster may not exceed 30 days, however, the time range of its validity may be determined in two ways: 1) by specifying the day on which the state of natural disaster will cease to be in force and: 2) by specifying the number of days during which this state will be in force, but it is permissible to extend the state of natural disaster.

This power is vested in the Council of Ministers, which may do so with the prior consent of the Sejm, and this seems to be the right solution. Not always a period of 30 days will be sufficient to remove the consequences of the events that caused the introduction of this state.

It is important to note here that there is no appropriate regulation that would indicate the maximum period for which this state of affairs can be extended and how many times this procedure can be repeated. In extreme circumstances, this may lead to a situation where the state of natural disaster will be extended indefinitely or it will be extended periodically, creating a situation of a kind of dictatorship of the Council of Ministers supported by the majority of the Sejm. Therefore, the political regulation understood in this way is flawed, and certainly requires change/correction and clarification.

Fuctioning of local government units during the state of emergency and the state of natural disaster in Poland

A.OLAK., B. KONECKA-SZYDEŁKO,, S. STEFAŃSKI

However, it must be stated that the state of natural disaster is not subject to the control of the Sejm among all states of emergency, according to the regulation of the Council of Ministers. The legislator did not grant the Sejm any legal means enabling it to control the proclamation or abolition of the state of natural disaster. Nevertheless, the regulation provided for in Article 228(6) and (7) of the Constitution should be taken into account. These regulations remain common to all three states of emergency. Taking into account the above-mentioned regulations, it is justified for the Sejm to have the possibility to respond to the state of natural disaster by analogy with the other two states of emergency. Therefore, *de lege fundamentalis ferenda*, the legislator should establish parliamentary control over the proclamation of the state of natural disaster.

It should also be noted that the introduction of one of the states of emergency allows, on the one hand, to focus on averting the threat, and on the other hand, to protect citizens from using the institutions of states of emergency to manipulate the electoral procedure. Universal elections of public authorities will make sense in conditions that ensure full freedom of expression of their will by voters.

4. Summary

Summarizing the analysis of normative acts regulating the functioning of the state in states of emergency, it should be noted that the legislator has generally transparently defined the mechanisms for introducing restrictions on the constitutional rights and freedoms of man and citizen. These regulations usually correspond to the constitutional principle of proportionality, which should be the basic point of reference when assessing the admissibility and extent of interference with the area of individual rights. The application of a phase-in model of restrictions contributes to a flexible response of public authorities to the dynamically changing nature of threats and allows for appropriate adaptation of legal measures to their actual scope.

At the same time, an analysis of the existing rules leads to the conclusion that it would be appropriate to clarify the criterion of "sufficient efficiency" in the performance of public tasks by local authorities in acts on states of emergency. The lack of a clear normative definition of this concept increases the risk of conflicts of competence and legal conflicts, and may also lead to arbitrary restrictions on the scope of local government autonomy through excessive interference by the government administration.

Interpretative doubts regarding the limitation of the autonomy of local governments during the state of emergency are closely linked to the need to protect superior goods such as state security, the protection of the democratic constitutional order, the life and health of citizens, and public order and security. The implementation of public tasks in conditions of particular threat sometimes leads to a temporary transformation of relations between government and local administration towards greater centralisation. However, this construction is exceptional and temporary, and its legitimacy is based on the assumption of increasing the effectiveness of state measures in emergency situations.

Particularly critical is the absence of separate provisions in the State of Emergency Act concerning judicial review of decisions to suspend local government bodies and the appointment of government commissioners.

The lack of specification of the mechanisms for reviewing the legality of such decisions leads to a weakening of the constitutional guarantees of local government

Fuctioning of local government units during the state of emergency and the state of natural disaster in Poland

A.OLAK., B. KONECKA-SZYDEŁKO., S. STEFAŃSKI

autonomy and raises significant doubts as to the extent of the legal protection to which these entities are entitled. In practice, this leads to the need to seek protection of the rights of local governments in court proceedings on the basis of general principles, which, however, does not always guarantee effective and timely control of the actions of the executive.

It should be emphasized that even in the conditions of a state of special threat, it is unacceptable to ignore the basic principles of the political system, which are the basis of the organization of public administration in the field. The performance of tasks in the area of national security must not lead to the abuse of administrative discretion, the violation of the principles of sound management of public funds or the use of measures of excessive interference in the area of individual rights and freedoms.

A particularly important shortcoming of the current regulations is the absence of a normative definition of the maximum period for which the state of natural disaster can be extended, as well as the absence of a limit on the number of permissible extensions.

Such a legislative loophole creates a potential risk of abuse, leading to the actual maintenance of the state of emergency and the concentration of power in the hands of the Council of Ministers, which is legitimised by the parliamentary majority. This solution should be assessed as incompatible with the principles of a democratic state and requires unambiguous legislative intervention.

In addition, it should be noted that the regulation of the Council of Ministers establishing the state of natural disaster is not subject to mandatory control by the Sejm of the Republic of Poland, which raises serious reservations from the point of view of the principle of balance and mutual control of the authorities. An analysis of the provisions of the Law on the State of Natural Disasters in the field of regulating the activities of local public authorities leads to the conclusion that some of the normative interpretations used are contrary to the Constitution of the Republic of Poland, in particular the principle of decentralization of public power and the constitutionally guaranteed independence of local self-government.

The principle of decentralisation of public power requires respect for the position of local governments as independent entities that act on their own responsibility and within the limits set by law. Provisions that interfere with that status in an excessive or disproportionate manner cannot be considered compatible with the axiology of a democratic state governed by the rule of law.

Finally, it should be pointed out that the regulations on states of emergency show the characteristics of legislation created under time pressure and under the influence of short-term political and social conditions. This leads to many ambiguities and normative gaps that encourage a broader interpretation of the provisions and increase the risk of arbitrariness of the actions of public authorities, which should be critically assessed in the light of rule of law standards.

References

- [1] Karpiuk M., *Miejsce Rady Ministrów w aferze bezpieczeństwa publicznego*, [w:] M. Karpiuk, K. Walczuk (red.), *Prawo bezpieczeństwa publicznego*, Wyzd. Prawa i Administracji UWM, Warszawa 2013, s. 42.

Fuctioning of local government units during the state of emergency and the state of natural disaster in Poland

A.OLAK., B. KONECKA-SZYDEŁKO,, S. STEFAŃSKI

- [2] Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r. Dostęp online: ISAP – Internetowy System Aktów Prawnych, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU/U/D19970483Lj.pdf> (dostęp:09.12.2025r.).
- [3] Kostrubiec J., *Status of a Voivodship Governor as an Authority Responsible for the Matters of Security and Public Order*, „Barometr Regionalny. Analizy i Prognozy” 2018, nr 5, s. 39. ISSN: 1644-9398.
- [4] Piekło M., *The Functioning of Local Government Units during the State of Emergency and the state of natural disaster and the competences of the President of the Republic of Poland*, 2023, vol. XIII "Miscellanea", p. 152– 167.
- [5] Polinceusz M., *State of natural disaster – combating special threats in the light of the principle decentralization of public power*, [in:] M. Czuryk, K. Dunaj, M. Karpiuk, K. Prokop, *State security. Legal and Administrative Issues*, Faculty of Law and Administration, UWM, Olsztyn 2016, p. 77.
- [6] Prokop K., *States of Emergency in the Constitution of the Republic of Poland*, [in:] W. Kitler, M. Czuryk, M. Karpiuk (ed.), *Legal aspects of the national security of the Republic of Poland. General Part*, Warsaw 2013, p.189–190.[7] Szymański T., Jędrejek G., *Salus Rei Publicae Suprema Lex*, Diocezjalne Publishing House in Sandomierz, Lublin 2002, p. 17. ISBN: 83-88897-10-5.
- [8] Act of 6 September 2001 on Access to Public Information (i.e. Journal of Laws of 2022, item 902). Online access: ISAP-Internet System of Legal [online] [cit 09-12-2025] available from: [Acts.https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20220000902/O/D20220902.pdf](https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20220000902/O/D20220902.pdf).
- [9] Act of 21 June 2002 on the State of Emergency (i.e. Journal of Laws of 2017, item 1928). Online access: ISAP – Internet System of Legal Acts, [online] [cit 09-12-2025] available from: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20021130985>,
- [10] The Act of 26 April 2007 on Crisis Management (i.e. Journal of Laws of 2023, item 122). Online access: ISAP – Internet System of Legal Acts, [online] [cit 09-11-2025] available from: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu20070890590>
- [11] Act of 5 December 2008 on the prevention and control of infections and diseases infectious in humans (i.e. Journal of Laws of 2023, item 1284, as amended). Online access: ISAP – Internet System of Legal Acts, [online] [cit 09-12-2025] available from: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20082341570/U/D20081570Lj.pdf>
- [12] Wilk J., *The Functioning of Local Government Units in the State of Emergency exceptional*, LEX Legal Information System 2021, practical commentary. Online access: Legal Information System electronic version), [online] [cit 09-12-2025] available from: <https://www.wolterskluwer.com/pl-pl/solutions/lex>,
- [13] Winczorek P., *Commentary on the Constitution of the Republic of Poland of 2 April 1997 year*, Wolters Kluwer / "State and Law", Warsaw 2008, p. 247. ISBN: 978-83-7601-186-1.

Fuctioning of local government units during the state of emergency and the state of natural disaster in Poland

A.OLAK., B. KONECKA-SZYDEŁKO,, S. STEFAŃSKI

Autors:

¹**Antoni Olak, Honorary. Prof.:** Rev. B. Markiewicz PANS in Jarosław: Faculty of Management and Economics-Department of National Security; WSPiA in Lublin: Department of International Relations, Poland, -mail: antonio130 @vp.pl;

²**Bożena Konecka-Szydelko,** , Voivodeship Sanitary and Epidemiological Station in Rzeszów, 35-959 Rzeszów, 16 Wierzbowa Street, University of Rzeszów, Faculty of Health Sciences and Psychology. 35-310 Rzeszów, 1a Warzywna Street, ,e-mail: bozena.konecka-szydelko@sanepid.gov.pl

³**Sławomir Stefanski,** Dyrektor POO (Podkarpackiego Oddziału Okręgowego) Polskiego Czerwonego Krzyża, Państwowa Akademia Nauk Stosowanych (PANS) im. St. Pigoń w Krośnie Zakład Zielenictwa, e-mail: slawomi_stefanski@wp.pl;