

DIRECTORS OF MARITIME OFFICES AS LOCAL MARITIME ADMINISTRATION BODIES

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ABSTRACT

This study examines the roles of directors of maritime offices as local maritime administration bodies. The publication is divided into three thematic areas. The first concerns the placement of directors of maritime offices within the system of autonomous government administration bodies, as defined by the Act of 23 January 2009 on the Voivode and Government Administration in the Voivodeships. The second thematic area focuses on the legal position of directors of maritime offices, as specified by the Act of 21 March 1991 on Maritime Areas of the Republic of Poland and Maritime Administration. The third thematic area outlines the competences of maritime administration bodies, including those of directors of maritime offices, whose powers extend beyond the above-mentioned Act. The publication concludes with an assessment of the currently applicable legal regulations regarding the subject matter. The aim of this review article is to systematise the fundamental issues concerning directors of maritime offices as local maritime administration bodies. The main research hypothesis posited by the author is that directors of maritime offices possess extensive competences as local maritime administration bodies. The research methods employed include analysis of legal texts and dogmatic analysis. The research is national in scope.

Keywords: maritime office, directors of maritime offices, autonomous government administration, local maritime administration bodies, competences

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INTRODUCTION

The subject of directors of maritime offices as local maritime administration bodies, as presented in this article, is infrequently discussed in legal literature. Typically, this topic is addressed only in general administrative law textbooks and a limited number of academic articles. The author's objective is not to bridge this gap but rather to systematise the fundamental issues related to the topic, such as the position of directors of maritime offices within the system of autonomous government administration, their legal status, and, importantly, the scope of their competences as derived not only from the Act of 21 March 1991 on Maritime Areas of the Republic of Poland and Maritime Administration,¹ but also from the Maritime Code,² the Act of 5 August 2015 on Work at Sea,³ and the Act of 16 April 2004 on the Protection of Nature.⁴

DIRECTORS OF MARITIME OFFICES IN THE SYSTEM OF AUTONOMOUS GOVERNMENTAL ADMINISTRATION BODIES

Autonomous governmental administration bodies, including directors of maritime offices, are defined in Article 56(1) of the Act of 23 January 2009 on the Voivode and Governmental Administration in the Voivodeships.⁵ According to this regulation, local government administration bodies that are subordinate to a competent minister or a central government administration body, as well as the heads of state legal entities and other state organisational units performing government administration tasks within the voivodeships, are considered autonomous government administration bodies. This provision establishes a closed list of autonomous administration bodies. If a new body is to be established, an amendment to the provision is required.⁶

In the case of autonomous administration, as the name of this group of bodies suggests, there is no element of dependence or subordination to the voivode, the principal representative of the Council of Ministers in the region. The voivode is not

¹ Consolidated text, Journal of Laws of 2024, item 1125.

² Act of 18 September 2001 – Maritime Code, consolidated text, Journal of Laws of 2023, item 1309.

³ Consolidated text, Journal of Laws of 2023, item 2257.

⁴ Consolidated text, Journal of Laws of 2024, item 1478.

⁵ Consolidated text, Journal of Laws of 2023, item 190. In accordance with Article 56(1) of the Act of 23 January 2009 on the Voivode and Governmental Administration in the Voivodeships, apart from the directors of maritime offices, the autonomous government administration bodies include: heads of military recruitment centres, directors of fiscal administration chambers, heads of tax offices, heads of fiscal-customs offices, directors of regional mining offices, directors of regional offices of measures, directors of regional assay offices, directors of statistical offices, directors of inland navigation offices, border and county vets, Border Guard commanders, commanders of Border Guard outposts and divisions, state border sanitary inspectors, and regional directors for nature protection.

⁶ Piątek, P., in: Drembkowski, P., Ślusarczyk, M. (eds), *Ustawa o wojewódzie i administracji rządowej w województwie. Komentarz*, Legalis, 2022; thesis 11 to Article 56; Zimmermann, J., *Prawo administracyjne*, Warszawa, 2022, p. 263.

the superior of this segment of the administration and, therefore, does not manage or coordinate its activities. The legislator has assigned these powers to competent ministers or central governmental administration bodies, equipping them with various means of influence. These include, *inter alia*: (1) determining the internal organisation of autonomous administration bodies by issuing statutes or rules and regulations; (2) issuing orders, internal ordinances, instructions, guidelines, recommendations, and conduct regulations; (3) carrying out comprehensive inspections, analyses, and assessments of the activities of supervised units; (4) conducting personnel policies, including the appointment and dismissal of heads of local offices; (5) the ability to receive periodic information and reports on the work of these bodies; (6) the right to inspect documents and obtain explanations; (7) providing assistance and training for staff in autonomous administration units; and (8) coordinating the activities of autonomous administration units in the region.

However, despite the lack of direct subordination, autonomous administration is not completely independent of the voivode. As the representative of the Council of Ministers in the region and a type of overseer of all tasks related to regional governmental administration, the voivode is authorised to issue binding orders to all autonomous administration bodies operating within the voivodeship. Due to the absence of subordination, the legislator has established a verification procedure. The voivode must immediately inform the competent minister, to whom a given unit reports, of the orders he has issued. In the event of a dispute between the voivode and the supervising minister, the latter is empowered to suspend the execution of the voivode's orders and submit a request to the Prime Minister for resolution, presenting his stance on the matter. It should be noted, however, that the voivode's orders cannot pertain to the resolution of individual cases handled through administrative decisions.

Beyond the power to issue the above-mentioned orders, the voivode is also entitled to request current information and explanations regarding the activities of all governmental administration bodies operating in the voivodeship, including autonomous bodies, as well as to review the progress of individual cases (considering provisions on the protection of classified information or other legally protected secrets).

In addition to providing current information and explanations, autonomous governmental administration bodies are required by law to submit annual reports on their activities to the competent voivode. If the jurisdiction of an autonomous body extends beyond a single voivodeship, the annual report must be submitted to all affected voivodes, given their equal political status.

In particularly justified cases, the activities of autonomous bodies may be supervised by the voivode in terms of legality, economy, purposefulness, and reliability.

Autonomous governmental administration bodies are established exclusively by statute. Their creation must be justified by the national scope of their tasks or by territorial jurisdiction extending beyond a single voivodeship.⁷ A narrow specialisation, a specific area of operation, or management technique may render

⁷ Zimmermann, J., *Prawo administracyjne...*, op. cit., p. 262.

the existing administrative division of the country inadequate for the needs of specialised public administration units. In such cases, a so-called special division is created, which may not always align with the country's basic territorial division.⁸

LEGAL AND CONSTITUTIONAL POSITION OF DIRECTORS OF MARITIME OFFICES IN THE LIGHT OF THE ACT OF 21 MARCH 1991 ON MARITIME AREAS OF THE REPUBLIC OF POLAND AND MARITIME ADMINISTRATION

Directors of maritime offices are local maritime administration bodies whose activities are supervised by the minister responsible for maritime economy (currently the Minister of Infrastructure)⁹ as the supreme maritime administration body (Article 38 of the Act on Maritime Areas of the Republic of Poland and Maritime Administration). This means that these two bodies hold competences and are considered 'competence carriers' in this context. Other bodies, such as municipal councils that participate in law-making by maritime administration bodies, for example, in determining port boundaries, cannot be recognised as maritime administration bodies (Article 45(1)(2) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration). Formally, they are not part of the maritime administration structure but are municipal bodies within the local government administration framework.¹⁰

A principle of hierarchical subordination applies to the governmental administration, which includes the maritime administration, meaning that the director of the maritime office is obliged to comply with orders issued by a higher authority – the minister responsible for maritime economy (currently the Minister of Infrastructure) as the supreme administration body – regardless of the form of interference in the subordinate body's scope of discretion. The form of such interference (supervision, inspection, or any other type of assessment of the director's activities) is immaterial; as a subordinate body, the director must adhere to the guidelines and orders of the superior body.¹¹

To align the principles and directions of the activities of subordinate or supervised central government administration bodies and other offices or organisational units

⁸ Grzywacz, M., Wiktorowska, A., Wierzbowski, M., 'Terenowe jednostki organizacyjne administracji niespolonej', in: Jagielski, J., Wierzbowski, M. (eds), *Prawo administracyjne*, Warszawa, 2022, pp. 297–298.

⁹ Regulation of the Council of Ministers of 7 October 2020 on the dissolution of the Ministry of Maritime Economy and Inland Navigation, Journal of Laws of 2020, item 1732, dissolved the Ministry of Maritime Economy and Inland Navigation, and Regulation of the President of the Council of Ministers of 6 October 2020 amending Regulation on the detailed scope of activities of the Minister of Infrastructure, Journal of Laws of 2020, item 1722, entrusted the sectors of maritime economy and inland navigation to the Ministry of Infrastructure.

¹⁰ Buławski, J., 'O kompetencjach organów administracji morskiej z perspektywy teorii prawa administracyjnego', *Kortowski Przegląd Prawniczy*, 2018, No. 3, p. 49.

¹¹ Karpiuk, M., 'Niespolona administracja morska', in: Czuryk, M., Karpiuk, M., Kostrubiec, J. (eds), *Niespolona administracja rządowa*, Warszawa, 2011, p. 137.

lacking legal personality with the policy established by the Council of Ministers, the minister may issue binding guidelines and orders to the heads of central offices and other offices and organisational units. However, these guidelines and orders cannot pertain to the substance of a case resolved by way of an administrative decision (Article 34a(1) and (2) of the Act of 8 August 1996 on the Council of Ministers).¹² The director of the maritime office is not only supervised by the minister responsible for maritime economy (currently the Minister of Infrastructure) but is also subordinate to him (Article 39(1) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).¹³

This supervision involves verifying whether the intended state has been achieved and, in the event of a negative assessment, explaining the reasons for such an outcome and applying measures to restore the desired state, as well as determining the method for doing so.¹⁴

The director of the maritime office is appointed and dismissed by the minister responsible for maritime economy (currently the Minister of Infrastructure). Deputy directors of maritime offices are appointed by the minister responsible for maritime economy at the request of the directors of maritime offices (Article 39(2) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration). Only a Polish citizen who has a university education, as well as knowledge, professional qualifications, and experience in the field of maritime economy and the functioning of governmental administration, may be appointed as a director or deputy director of a maritime office (Article 39(3) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).¹⁵ The first two conditions – Polish citizenship and higher education – are strictly defined. However, the other requirements, such as knowledge, professional qualifications, and experience in the maritime economy and governmental administration, are not precisely detailed by the legislator and, in practice, may raise doubts, potentially leading to appointments based not on objective criteria but rather on party affiliation or political expediency.¹⁶

Maritime offices are established and dissolved by the minister responsible for maritime economy (currently the Minister of Infrastructure) by way of regulation. The minister, after consulting the relevant voivodes, also determines by regulation the territorial scope of operation and the headquarters of directors of maritime offices (Article 40(1) and (2) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).¹⁷

¹² Consolidated text, Journal of Laws of 2024, item 1050.

¹³ Wagner, A., 'Dyrektorzy urzędów morskich', in: Szmulik, B., Miaskowska-Daszkiwicz, K. (eds), *Administracja publiczna. Ustrój administracji państwowej terenowej*, Vol. II, Legis, 2012, thesis 6 to Article 38 of the Act on Maritime Areas of the Republic of Poland and Maritime Administration.

¹⁴ Karpiuk, M., 'Niezespolona administracja...', op. cit., p. 138; Karpiuk, M., *Samorząd terytorialny a państwo. Prawne instrumenty nadzoru nad samorządem gminnym*, Lublin, 2008, p. 123. For more on the concept of supervision see: Konarski, M., Woch, M., 'Z zagadnień nadzoru i kontroli władzy publicznej w Polsce', in: Konarski, M., Woch, M. (eds), *Z zagadnień nadzoru i kontroli władzy publicznej w Polsce*, Vol. V, Warszawa, 2015, pp. 18–23.

¹⁵ Sługocki, J., *Prawo administracyjne*, Warszawa, 2023, p. 231.

¹⁶ Karpiuk, M., 'Niezespolona administracja...', op. cit., p. 138.

¹⁷ Based on Article 40(1) and (2) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration, the Regulation of the Minister of Transport and Maritime Economy of

The minister responsible for maritime economy (currently the Minister of Infrastructure) also sets out, by statute, the organisation of a maritime office and the detailed scope of the director's activities (Article 40(3) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).¹⁸

COMPETENCES OF DIRECTORS OF MARITIME OFFICES

Directors of maritime offices exercise their competences¹⁹ with the assistance of maritime offices, which are state budgetary units (Article 39(4) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration). Budgetary units include organisational entities within the public finance sector that do not have legal personality, cover their expenditures directly from the budget, and transfer collected revenue to the state budget or a local government unit's budget (Article 11(1) of the Act of 27 August 2009 on Public Finance).²⁰

A maritime office comprises, in particular:

- (1) maritime inspection, flag inspection, and port inspection, through which the director of the maritime office performs tasks related to ship inspection;
- (2) the Vessel Traffic Service (VTS Service), which assists the director of the maritime office in monitoring ship traffic and providing information;
- (3) harbour master's offices and harbour boatswain's offices, which enable the director of the maritime office to exercise competences in harbours and marinas;
- (4) the Office for Navigation Defence, responsible for tasks related to the protection of sea harbours and maritime navigation (Article 39(5) in conjunction with Article 42(2)(1a) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).

Article 42(1) of the Act on Maritime Areas of the Republic of Poland and Maritime

7 October 1991 on establishing Maritime Offices, Their Headquarters, and the Territorial Scope of the Activities of Directors of Maritime Offices (consolidated text, Journal of Laws of 2021, item 1339), is binding. In accordance with § 1 of the Regulation, there are two maritime offices: one in Gdańsk and one in Szczecin. The Maritime Office in Słupsk was dissolved by the Regulation of the Minister of Maritime Economy and Inland Navigation of 15 January 2020 on dissolving the Maritime Office in Słupsk (Journal of Laws of 2020, item 20).

¹⁸ Based on Article 40(3) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration, Regulation No. 16 of the Minister of Maritime Economy and Inland Navigation of 16 March 2020 on granting a Statute to the Maritime Office in Szczecin (Official Journal of the Ministry of Maritime Economy and Inland Navigation of 2020, item 17), and Regulation No. 11 of the Minister of Maritime Economy and Inland Navigation of 4 March 2020 on granting a Statute to the Maritime Office in Gdańsk (Official Journal of the Ministry of Maritime Economy and Inland navigation of 2020, item 12), are binding.

¹⁹ For more on the concept of competences see: Buławski, J., 'O kompetencjach organów...', op. cit., pp. 47–52; Góralczyk, W., *Podstawy prawa i administracji*, Warszawa, 2014, p. 207; Ochędowski, E., *Prawo administracyjne Część ogólna*, Toruń, 2013, p. 253; Zieliński, M., 'Dwa nurty pojmowania "kompetencji"', in: Olszewski, H., Popowska, B. (eds), *Gospodarka. Administracja. Samorząd*, Poznań, 1997, p. 596; Matczak, M., *Kompetencja organu administracji publicznej*, Kraków, 2004, p. 38.

²⁰ Consolidated text, Journal of Laws of 2024, item 1530.

Administration states that maritime administration bodies handle matters within governmental administration concerning the use of the sea as regulated by this Act and other laws. Paragraph 2 of the same provision provides a detailed, albeit non-exhaustive, list of the tasks of maritime administration bodies.²¹ These tasks include, *inter alia*:

- (1) ensuring the security of maritime navigation;
- (2) protecting sea harbours and maritime navigation, including defence-related and military tasks, as well as non-military tasks, particularly the prevention of terrorist acts and mitigating the consequences of incidents;
- (3) overseeing the use of sea routes, ports, and marinas;
- (4) ensuring the safety of research, identification, and exploitation of seabed mineral resources;
- (5) protecting the marine environment against pollution arising from the use of the sea and the dumping of waste and other substances, insofar as not regulated by geological and mining law;
- (6) life-saving operations, conducting underwater work, and recovering property from the sea;
- (7) fire-fighting supervision in Polish maritime areas, ports, and marinas. As part of this oversight, directors of maritime offices, considering the significance of ports to the national economy, issue regulations on fire protection through ordinances, including measures to prevent and contain fires, ensuring safe traffic and berthing of ships carrying hazardous substances, as well as transshipment of specified substances. They also inspect fire-fighting facilities and equipment on ships and floating objects in their jurisdiction and approve plans for combating pollution threats in accordance with regulations for marine pollution prevention from ships, reviewing technological instructions, technological-traffic instructions and instructions for safe ship service, organisational regulations for entities performing fire protection tasks in ports, within the scope of fire protection from the side of water (Article 50(1) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration);
- (8) agreeing on decisions regarding the issuance of water permits and construction permits for structures in Polish maritime areas, the technical zone, the protective zone, and in ports and marinas;
- (9) constructing, maintaining, and protecting coastal revetments, dunes, and protective forests in the technical zone;
- (10) managing the use of State Treasury-owned forests located in the technical zone;
- (11) supervising flood protection, including the construction, expansion, and maintenance of hydro-technical structures and coastal defences in the technical zone;
- (12) designating sea routes, anchorages, and assessing their navigability conditions;
- (13) performing and supervising hydrographic measurements;
- (14) maintaining hydrographic data resources relevant to the jurisdiction of the territorially competent director of the maritime office;

²¹ Buławski, J., 'O kompetencjach organów...', op. cit., p. 50.

- (15) managing navigation markings in Polish maritime areas;
- (16) imposing fines in proceedings for pecuniary penalties related to misdemeanours;
- (17) issuing and agreeing on decisions pursuant to the provisions of the Act of 12 May 2022 on Harbour Facilities for the Reception of Waste from Ships;²²
- (18) preparing spatial development plans for internal sea waters,²³ the territorial sea²⁴ and the exclusive economic zone;²⁵
- (19) assigning names to ships;
- (20) organising maritime piloting;
- (21) planning the development of ports and marinas;
- (22) monitoring and reporting on ship traffic;
- (23) managing cargo and passenger records;
- (24) supervising equipment introduced to the market or put into use, as well as recreational vessels and water scooters, under the provisions of the Act of 13 April 2016 on the Systems of Conformity Assessment and Market Supervision;²⁶
- (25) managing the territorial sea and internal sea waters, along with the land within these waters, as referred to in the provisions of the Act of 20 July 2017 – Water Law;²⁷
- (26) performing tasks related to marine environmental protection and flood protection under the Act of 20 July 2017 – Water Law;
- (27) controlling the marine fuel delivered to and used on ships.

In analyses of Article 42(1) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration as presented in the literature, it is noted that the legislator assumed that the addressees of this Act may not be aware that the competences of governmental administration bodies cannot be defined otherwise than by statute, and that the term ‘statute’ does not refer to acts other than this

²² Consolidated text, Journal of Laws of 2022, item 1250.

²³ The maritime internal sea waters include: (1) Nowe Warpno Lake and part of Szczecin Lagoon, together with the Świna River, the Dziwna River and Kamień Lagoon, located east of the border between the Republic of Poland and the Federal Republic of Germany, as well as the Oder River between Szczecin Lagoon and the waters of the Szczecin harbour; (2) part of Gdańsk Bay enclosed by the basic line of the territorial sea; (3) part of the Vistula Lagoon located south-west of the border between the Republic of Poland and the Russian Federation on this lagoon; (4) the waters of the ports delineated by the line in the sea linking the most front-end harbour facilities in the sea, constituting integral part of the harbour system; (5) the waters between the coastline of the territorial sea, as established in accordance with the Act of 20 July 2017 – Water Law, and the basic line of the territorial sea (Article 4 of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).

²⁴ The territorial sea is an area of maritime waters that is 12 miles (22 224 meters) wide, measured from the basic sea coastline (Article 5(1) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).

²⁵ The exclusive economic zone lies outside and adjacent to the territorial sea. It includes the waters, the seabed and the interior of the earth beneath it (Article 15 of the Act on Maritime Areas of the Republic of Poland and Maritime Administration). Moreover, the internal maritime waters, the territorial sea, the adjacent zone, and the exclusive economic zone constitute maritime areas of the Republic of Poland, and the internal maritime waters and the territorial sea are part of the territory of the Republic of Poland (Article 2(1) and (2) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).

²⁶ Consolidated text, Journal of Laws of 2022, item 1854, as amended.

²⁷ Consolidated text, Journal of Laws of 2024, item 1087, as amended.

one. Furthermore, the legislator's intention was likely to emphasise that such a concise definition of the competences of governmental administration bodies in the constitutional Act is insufficient, as evidenced by the inclusion of paragraph 2, which lists these matters in thirty-five subsections. However, this list is not exhaustive, as it includes a reservation that the competences cover 'in particular' such matters. Additionally, the drafters of the Act sought to exclude 'tasks in the field of international cooperation within the scope specified in paragraphs 1 and 2', which is clarified by the addition of paragraph 3, indicating that the performance of these tasks is also the responsibility of these bodies.²⁸

The two-tier system of marine administration in Poland has been criticised in the legal doctrine. Attention has been drawn to the joint determination of jurisdiction over subject matter for both first and second instance authorities.²⁹ The author concurs with this perspective, as such a legal structure results in 'jurisdictional chaos'.

The Act on Act on Maritime Areas of the Republic of Poland and Maritime Administration dedicates significant provisions specifically to the competences of directors of maritime offices. For instance, the director of a maritime office may, by ordinance, temporarily close an area located within internal sea waters or the territorial sea for conducting navigation and fishing tests involving autonomous (crewless) ships, and may specify the rules for such tests (Article 3b(1) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration). Additionally, the director of a maritime office may, by ordinance, establish safety zones around artificial islands, structures, and facilities, or groups thereof within the meaning of a group of artificial islands, structures or facilities located no more than 1,000 metres apart, as well as cables or pipelines or groups thereof, adapted to the type or purpose of artificial island, structures and facilities or groups thereof, and cables and pipelines extending not more than 500 metres from any point of the outer edge of the entities, unless international standards or recommendations by competent international organisations permit a different range (Article 24(1) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).

In the context of activities involving the exploration, identification, and exploitation of hydrocarbons from deposits within the maritime areas of the Republic of Poland, the director of a maritime office is authorised to establish, by ordinance, a safety zone around the plant and mining facility as defined by the Act of 9 June 2011 – Geological and Mining Law³⁰ (Article 24a(1) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).

The territorially competent director of the maritime office is also empowered to issue, by decision, a permit for laying and maintaining cables or pipelines within internal maritime waters and the territorial sea, specifying their location

²⁸ Cf. Godecki, Z., 'Problemy prawne ustroju administracji morskiej', *Prawo morskie*, 2014, Vol. XXX, pp. 21–22.

²⁹ Thus Młynarczyk, J., *Prawo morskie*, Gdańsk, 2002, pp. 52–53; Kozioński, M.H., *Morskie prawo publiczne*, Gdynia, 2002, p. 63.

³⁰ Consolidated text, Journal of Laws of 2024, item 1290.

and conditions for maintenance in these areas (Article 26(1) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).

Temporary occupation of internal maritime waters or the territorial sea for implementing projects related to transport, energy, recreation, tourism, or water sports infrastructure also requires a permit, granted by decision of the territorially competent director of the maritime office (Article 27r(1) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).

Obtaining permission from the director of the relevant maritime office is also necessary for individuals or organisational units without legal personality to engage in searching for shipwrecks or their remains (Article 35a(1) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).

Having consulted the relevant municipal councils, the director of the relevant maritime office, by means of an ordinance, determines the boundaries of the technical belt³¹ in areas managed by organisational units subordinate to the Minister of National Defence; and, having obtained the opinions of these units, demarcates the boundaries of the technical belt in the area. He also determines, by means of an ordinance, the boundaries of the protective belt,³² having agreed on this with the relevant voivode and county councils in areas managed by organisational units subordinate to the Minister of National Defence; and, having obtained the opinions of these units, demarcates the boundaries of the protective belt (Article 36(5) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).

In turn, water-related legal permits, the filing or non-filing of objections to the acceptance of a water-related legal application, water-related legal assessments, decisions on construction and land development conditions, building permits, and decisions on changes to afforestation, tree cover, and the creation of hunting districts, as well as draft general county plans, local spatial development plans, and voivodeship spatial development plans regarding the technical belt, the protective belt, and sea harbours and marinas, require agreement with the director of the relevant maritime office (Article 37(3) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).³³

The director of the maritime office is the first-instance body that issues administrative decisions in matters within the jurisdiction of maritime administration bodies, handled in the course of administrative proceedings. Appeals against decisions issued by this body are addressed by the minister responsible for maritime

³¹ The technical belt is a zone of direct interaction between the sea and land, designated to maintain the shore in a condition that meets safety and environment protection requirements. Together with the protective belt, it forms part of the coastal belt, which is the land area adjacent to the sea coastline (Article 36(1) and (2)(1) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).

³² The protective belt covers the area where human activity has a direct impact on the condition of the technical belt (Article 36(2) (2) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration). The minimum and maximum widths of the technical and protective belts, along with the methods for determining their boundaries, are laid down in the Regulation of the Council of Ministers of 29 April 2021 concerning the Minimum and Maximum Widths of the Technical and Protective Belts and the Methods of determining Their Boundaries, Journal of Laws of 2021, item 871.

³³ Cf. Karpiuk, M., 'Niezspolona administracja...', op. cit., p. 146.

economy (currently the Minister of Infrastructure) as the superior body in the two-tier hierarchy of maritime administration. However, specific provisions may stipulate situations where the minister responsible for maritime economy acts as the first-instance authority. In such cases, a party dissatisfied with the decision issued by this supreme first-instance authority may request that the case be re-examined by the same body.³⁴ Decisions of appellate bodies may be further appealed to the territorially competent Voivodeship Administrative Court, which hears the case in accordance with the provisions governing proceedings before administrative courts.³⁵

After obtaining the opinions of county councils and state border protection bodies, directors of maritime offices also determine the boundaries of marinas. However, the maritime boundaries of sea harbours and their roadsteads, excluding war ports, and, after consultation with the relevant county councils, the land boundaries of sea harbours, are determined by the supreme maritime administration body, i.e., the minister responsible for maritime administration (currently the Minister of Infrastructure) (Article 45(1) and (2) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration.

As highlighted in the doctrine, the division of competences between the minister and the director of the maritime office in determining the boundaries of harbours and marinas reflects the position of these bodies within the governmental administration system. Sea harbours are of strategic importance for state security; therefore, a hierarchically higher authority is responsible for determining their boundaries. Marinas, being of lesser strategic importance, have their boundaries determined by the director of the maritime office.³⁶

Directors of maritime offices may issue legal acts in the form of ordinances or order-keeping regulations. Article 47 of the Act on Maritime Areas of the Republic of Poland and Maritime Administration stipulates that, based on authorisations granted in statutes, directors of maritime offices shall issue ordinances that must be published in the voivodeship official journal relevant to the territorial scope of the ordinance. This act of local law comes into force 14 days after its announcement, unless it specifies a different date or a date laid down by the statute on which it is based. The director of the maritime office may also issue order-keeping regulations within the scope of his competences as specified in Article 42(2) of the Act, provided it is necessary for the protection of life, health, property, national defence and security, the maritime environment, sea harbours and marinas, the technical belt, and navigation. These regulations include prohibitions and obligations regarding

³⁴ Article 127 § 3 Act of 14 June 1960 – Code of Administrative Procedure (consolidated text, Journal of Laws of 2024, item 572) stipulates that the decision issued in the first instance by the minister or the local government appeals board cannot be appealed against. However, the dissatisfied party may request that the decision be re-examined by the authority; the request for re-examination is subject to relevant regulations concerning appeals against decisions.

³⁵ For more see: Act of 30 August 2002 – Law on the Proceedings before Administrative Courts (consolidated text, Journal of Laws of 2024, item 935); Trzcińska, D., Mierzejewski, P., 'Dyrektor urzędu morskiego jako organ administracji morskiej', *Pravo Morskie*, 2006, Vol. XXII, p. 223.

³⁶ Karpiuk, M., 'Nieszpolona administracja...', op. cit., pp. 149–150.

specific conduct. Additionally, through these regulations, the director of the maritime office may create and declare zones temporarily closed to navigation, fishing, water sports, and diving within the office's territorial jurisdiction and the boundaries of internal maritime waters and the territorial sea. Order-keeping regulations should be formalised as order-keeping ordinances, which take effect on the date specified, but not earlier than the date of their announcement, and must be published in the voivodeship official journal relevant to the territorial scope of the ordinance.

If an order-keeping ordinance needs to come into force immediately, it may be published as announcements in places where it applies, broadcast on the radio, and disseminated in any customary way used in maritime navigation or in a given area. The publication date of an order-keeping ordinance is considered the date of its announcement. Subsequently, such an ordinance, initially announced in this manner, is also published in the relevant voivodeship official journal (Article 48 of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).³⁷

As rightly noted in the doctrine, contrary to the implication of the title of Chapter III of Section III of the Act on Maritime Areas of the Republic of Poland and Maritime Administration: 'Regulations Issued by the Territorial Maritime Administration Bodies', which begins with Article 47, there are no provisions in this chapter that authorise the issuance of the ordinances referred to therein. These authorising provisions are instead found elsewhere in the Act and in other legislative acts. This means that with the use of the provision of Article 47(1) and (2) of the Act the legislator only decided that provisions issued under the relevant authorisations within this statute and other current and future acts should be termed 'ordinances'.

Among the provisions of the Act that authorise directors of maritime offices to issue appropriate legal acts, only Article 3b(1), Article 24(1), Article 24a(1), Article 36(5), and Article 50a(1) include the phrase 'by means of an ordinance'. However, for instance, Article 45(2) does not contain this phrase. In such cases, there is a statutory *superfluum*, as in general it is Article 47(2) that dictates that directors of maritime offices should issue implementing regulations in the form of ordinances. Nonetheless, it could be argued that Article 47(2) is redundant and that the phrase 'by means of an ordinance' should consistently be included in all statutory provisions authorising directors of maritime offices to issue such local legal acts, as seen in the aforementioned provisions.³⁸

Under the discussed Act, directors of maritime offices are also empowered to impose fines specified in Articles 55–56c, by means of an administrative decision, which may be appealed to the competent minister for maritime economy. In principle, except for Article 56a(1) and Article 56b, the decision is immediately enforceable.

The amount of fines is determined by the director of the maritime office, taking into account the scope of the violation, the repeatability of violations, or the financial benefits obtained therefrom (Article 57 of the Act on Maritime Areas of the Republic of Poland and Maritime Administration).

³⁷ Trzcińska, D., Mierzejewski, P., 'Dyrektor urzędu...', op. cit., pp. 223–224.

³⁸ Cf. Godecki, Z., 'Problemy prawne...', op. cit., p. 22.

The competences of directors of maritime offices extend beyond the provisions of the Act on Maritime Areas of the Republic of Poland and Maritime Administration.

In accordance with Article 12 § 2 of the Maritime Code, the name given to a ship by the owner is subject to approval by the director of the maritime office competent for the ship's home port, by means of an administrative decision (with the exception of the name of a sea ship used exclusively for sports or recreational purposes with a hull length of up to 24 metres, which is not subject to approval).³⁹

In accordance with Article 39 of the Maritime Code, the director of the maritime office is authorised to maintain a register of sea vessels, commonly known as an administrative register,⁴⁰ and acts as a measurement authority responsible for measuring ships of Polish nationality and issuing measurement certificates (Article 48 § 1 of the Maritime Code).

Another significant competence of the director of the maritime office is the authority to remove a pilot from the register of pilots in the following circumstances: the pilot's death, the pilot's request, loss of the required qualifications, or loss of the right to practise as a pilot pursuant to a final and binding decision of a maritime chamber, court, or another competent authority (Article 228 § 2 of the Maritime Code).

The director of the maritime office must also be notified of the intention to recover property (a ship, cargo, or other items) sunk in Polish internal waters or the Polish territorial sea (Article 282 of the Maritime Code).⁴¹

In turn, Article 10 of the Act of 5 August 2015 on Work at Sea authorises the director of the maritime office to issue seaman's books.

According to Articles 34 and 35 of the Act of 16 April 2004 on the Protection of Nature, the director of the maritime office, provided that it is justified by the necessary requirements of overriding public interest and there are no alternative solutions, may consent to the implementation of a plan or project in maritime areas that may negatively impact the natural habitat and species of plants and animals for which the Natura 2000 area has been designated. This consent must ensure the implementation of nature compensation necessary to maintain the coherence and proper functioning of the Natura 2000 network. When issuing such a permit, the director of the maritime office specifies the scope, location, date, and method for performing the nature compensation.⁴²

³⁹ Cf. Koziński, M.H., *Kodeks morski. Konwencje międzynarodowe i akty wykonawcze*, Gdynia, 2005, pp. 37–38.

⁴⁰ Koziński, M.H., 'Rejestry okrętowe w Rzeczypospolitej Polskiej', *Prawo Morskie*, 2005, Vol. XXI, p. 259 *et seq.*

⁴¹ For more see Łuczywek, C., Pyć, D., in: Łuczywek, C., Pyć, D., Zużewicz-Wiewiórowska, I. (eds), *Kodeks morski. Komentarz*, Warszawa, 2022, pp. 974–984; Trzcińska, D., Mierzejewski, P., 'Dyrektor urzędu...', *op. cit.*, p. 226.

⁴² Nature compensation, in accordance with Article 3(8) of the Act of 27 April 2001 – Environment Protection Law (consolidated text, Journal of Laws of 2024, item 54), as amended, means a set of activities, in particular, construction works, earthworks, soil reclamation, afforestation, tree planting or the creation of vegetation clusters. These activities aim to restore the natural balance in a given area and to compensate for the environmental damage caused by projects implementation, as well as to preserve landscape values; Trzcińska, D., Mierzejewski, P., 'Dyrektor urzędu...', *op. cit.*, pp. 226–227.

CONCLUSIONS

The study of issues concerning directors of maritime offices as local maritime administration bodies has led to the following conclusions:

1. Directors of maritime offices are bodies of autonomous governmental administration, as specified in Article 56(1) of the Act of 23 January 2009 on the Voivodes and Governmental Administration in the Voivodeships. Being part of autonomous administration implies, as the name suggests, that there is no element of unification or subordination to a voivode, who acts as the main representative of the Council of Ministers in the region, but rather to the competent ministers or central governmental administration bodies.
2. Supervision over directors of maritime offices as local maritime administration bodies is exercised by the minister responsible for maritime economy (currently the Minister of Infrastructure), who serves as the supreme maritime administration body (Article 38 of the Act of 21 March 1991 on Maritime Areas of the Republic of Poland and Maritime Administration). Consequently, directors of maritime offices are obliged to comply with orders issued by this minister as a higher authority.
3. The supervision exercised by the minister responsible for maritime economy (currently the Minister of Infrastructure) over directors of maritime offices is further demonstrated by Article 39(2) of the Act of 21 March 1991 on Maritime Areas of the Republic of Poland and Maritime Administration, which states that directors of maritime offices are appointed and dismissed by the minister responsible for maritime economy (currently the Minister of Infrastructure). Deputies of directors of maritime offices are appointed by the minister responsible for maritime economy upon the request of the directors of maritime offices.
4. The competences of directors of maritime offices are extensive, supporting the positive verification of the research hypothesis presented in the article. These competences stem not only from the Act of 21 March 1991 on Maritime Areas of the Republic of Poland and Maritime Administration but also from other legislation, such as the Maritime Code, the Act of 5 August 2015 on Work at Sea, or the Act of 16 April 2004 on the Protection of Nature. For instance, directors of maritime offices are authorised to oversee fire protection in Polish maritime areas as well as in sea harbours and marinas (Article 50a(1) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration); to impose fines stipulated in Articles 55–56c of the same Act by means of administrative decisions, which can be appealed to the minister responsible for maritime economy; to maintain a register of sea vessels, commonly referred to as an administrative register (Article 39 of the Maritime Code); and to issue seaman's books (Article 10 of the Act of 5 August 2015 on Work at Sea).

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