

Formal and legal basis for the participation of the Maritime Border Guard Regional Unit in counteracting non-military emergency situations in Polish maritime areas

Abstract

Polish maritime areas - both those forming part of the territory of the Republic of Poland and those located outside it - are covered by appropriate state jurisdiction ensuring that Polish interests in these waters are taken care of. The subject-matter diversity of legally protected values requires systemic action by competent entities. The security of Polish maritime areas in military (defence) as well as non-military (protection) terms at the national level is guaranteed by the naval forces of the Republic of Poland. The aim of this article is to present the role of the Maritime Border Guard Regional Unit (MOSG) - against the background of systemic solutions and existing threats - in counteracting non-military emergency situations in Polish maritime areas. As a result of the conducted research it should be assumed that the scope of statutory tasks and powers in combination with the personnel and equipment potential of the MOSG makes this unit of the Border Guard the main non-military component of the maritime forces of the Republic of Poland.

Keywords

maritime safety, maritime forces of the Republic of Poland, national maritime border protection system.

The Maritime Border Guard Regional Unit (MOSG) seated in Gdańsk is a field organisational unit of the Border Guard (SG) established on 16 May 1991 under the *Act of 12 October 1990 on the Border Guard* (hereinafter: Border Guard Act). The Border Guard was established in place of the reformed Border Protection Forces (WOP) and took over, together with its human resources and logistic potential, the tasks related to the management of the state borders of Poland. It remains in official subordination to the minister in charge of internal affairs and performs the tasks imposed on it, mainly concerning the protection of the state border on land and sea, the organisation and control of border traffic and the prevention and counteraction of illegal migration. The Border Guard is based on a centralised structure consisting of: Headquarters, 9 regional units, 97 outposts (serving 69 border crossings) and 2 divisions of the Border Guard¹. The Commander-in-Chief of the Border Guard is the central body of government administration, the local bodies of the Border Guard are the commanders of regional units, outposts and divisions. The current functioning of the discussed formation is determined (in the last 30 years) by:

- political changes taking place in the Republic of Poland (police-migration character of Border Guard operations),
- political and administrative changes occurring in the surroundings of the Republic of Poland (number of neighbouring states and relations with them),
- concluded international agreements (treaty obligations, especially concerning the European Union (EU) and the Schengen area, and - with regard to the area of Border Guard operations discussed in this study - conventions concerning the maritime environment),
- type, scale and intensity of existing threats to state security (serious cross-border crime).

These factors successively influenced the competences granted to the Border Guard, its organisational structure (number of field units and the scope of their official responsibility) and equipment. They also necessitated the participation of the Border Guard in specialised foreign trainings and expert exchanges improving the qualifications of officers and ensuring the standardisation of procedures and integration of activities of international border services. The Polish Border Guard actively participates in various forms of cooperation with national and foreign partners, offering them its support or reinforcing its own operations with external assets. The cooperation almost entirely covering the scope of responsibilities statutorily attributed to the Border Guard is the participation in the European

¹ Data obtained from the study *Border Guard. Statistical information for Q1 2022*, Warsaw, April 2022.

Border and Coast Guard², which is formed by the European Border and Coast Guard Agency (Frontex) together with the national authorities of the Member States responsible for border management. However, Frontex does not have the competence to combat the smuggling of goods.

The Border Guard primarily performs the tasks set out in the Border Guard Act and the *Act of 12 October 1990 on the Protection of the State Border*, which does not exhaust the powers granted to it. The tasks and competences of this formation are also set out in a number of national and international legal regulations, for example in acts concerning foreigners, states of emergency, public communication and other areas of internal security, as well as in various forms of agreements and international customary norms.

The aim of the article is to present the role of the MOSG - against the background of constitutional arrangements and existing threats - in counteracting non-military emergency situations in Polish maritime areas. On the basis of the conducted research with the application of institutional-legal and comparative analysis and conclusions from participatory observation, the author assumed a hypothesis that the scope of statutory tasks and powers combined with the personnel and equipment potential of the MOSG makes this unit of the Border Guard the main non-military component of the maritime forces of the Republic of Poland.

The research problem is contained in the question: what role does the MOSG play in the system of maritime security of the state in the aspect of counteracting non-military threats? The specific questions boil down to: what is the statutory scope of tasks and powers of the MOSG and the degree of their consistency, as well as what are the professionalism and usefulness of the resources of this unit?

Origins, resources and area of service responsibility of the MOSG

The Maritime Border Guard Regional Unit (MOSG) was established on 1 August 1991 on the basis of the reformed Maritime Border Ship Brigade subordinated to the Navy (MW). The organisational structure of the MOSG corresponded to the entrusted area of service responsibility coinciding with the range of the Polish maritime areas and consisted of a branch headquarters and three divisions located in Świnoujście, Kołobrzeg and Gdańsk. The newly-established division had to cope with considerable staffing problems, especially in the division's headquarters,

² See: *Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624.*

where the number of posts was a dozen or so percent complete, as well as those resulting from the professional qualifications of officers not fully corresponding to the statutory tasks of the Border Guard. The shortage also concerned the main divisions carrying out border, operational investigation and procedural activities. At that time, in accordance with the imposed scope of duties and a structure based on the activity of border control outposts and watchtowers, the Pomeranian Regional Unit of the Border Guard in Szczecin, the Baltic Regional Unit of the Border Guard in Koszalin and the Kashubian Regional Unit of the Border Guard in Gdańsk, renamed from the former WOP brigades, functioned. The adopted concept of consolidating the forces and resources of the Border Guard directed towards the protection of the state's maritime border resulted, in the first place, in the Kashubian Regional Unit of the Border Guard taking over the border tasks of the Baltic Regional Unit of the Border Guard. A dilemma then arose as to the appropriateness of the name of the branch, 'Kashubian', especially as the vision of handing over border activities along the entire coast to a branch based in Gdańsk³ emerged. The partial dysfunctionality of the MOSG and the intention to gradually integrate the potential of the Border Guard used on the maritime border decided on the reorganisation of the field structures of the Border Guard units and the development of a new model (system) for the protection of the state's maritime border⁴. The streamlining of operational effectiveness resulted in the incorporation of units and tasks of the Kashubian Regional Unit of the Border Guard and part of the Pomeranian Regional Unit of the Border Guard in June 1992 into the scope of service responsibility of the MOSG⁵.

Currently, the MOSG carries out its tasks in Polish maritime areas and in the territory of three voivodeships: Zachodniopomorskie, Pomorskie and part of Warmińsko-Mazurskie. It secures the country's 511-kilometre-long maritime border and a 170-kilometre-long section of the land border. To carry out its statutory tasks it uses nine Border Guard outposts based in: Szczecin, Świnoujście, Kołobrzeg, Ustka, Władysławowo, Gdynia, Gdańsk, Krynica Morska and Elbląg, as well as two Border Guard divisions deployed in Świnoujście (Pomeranian)

³ The headquarters of the Kashubian Border Guard Regional Unit and the Maritime Border Guard Regional Unit were located in the barracks complex of the Kashubian WOP Brigade in Gdańsk in Nowy Port.

⁴ The last stage in the unification of the system of securing the maritime border was the takeover by MOSG in 2013 from the Nadodrzański Border Guard Regional Unit with its seat in Krosno Odrzańskie of the Border Guard Outpost in Szczecin. Subsequent changes introduced had the character of internal restructuring of the already completed Gdańsk branch.

⁵ Cf. G. Goryński, *MOSG na drodze do Unii Europejskiej* (Eng. MOSG on its way to the European Union), "Przegląd Morski" 2003, no. 10, pp. 5–24.

and Gdańsk (Kashubian)⁶. The Polish coast has 32 ports and 49 marinas with 18 border crossings of varying status in terms of the border traffic handled there⁷. Approximately 1,600 officers and 350 civilian employees are on duty in the MOSG. For official activities there are used road, off-road and specialised vehicles (conducting surveillance, control of border traffic), seaworthy aircraft (a helicopter and two aeroplanes) and about 50 vessels of various marine prowess, intended for surveillance, patrol-intervention and search-and-rescue operations. The decision-making process and the management of operations at various organisational levels of the MOSG is significantly supported by the Automated Radar Surveillance System for Polish maritime areas. It is made up of, inter alia, radar, optoelectronic and data-processing installations, allowing for comprehensive imaging of the situation on the surface and in the air space (up to 500 m), which ensure optimisation of the response (location, identification and verification of the threat, tasking and intervention time). The system enables effective cooperation with the MW, two maritime offices (in Szczecin and Gdynia), the fisheries administration and the Maritime Search and Rescue Service (SAR). MOSG officers use modern, specialised detection and pyrotechnical equipment while on duty, and have at their disposal professional armament and incapacitating devices, as well as equipment for conducting interventions in the marine environment. Dogs trained to detect drugs and explosives are also used to carry out official tasks.

Environmental conditions for the implementation of statutory tasks and powers of the MOSG

In Article 1(1) of the Border Guard Act, the tasks confirming the strategic designation of this formation (which manages the Polish state borders) are indicated, including border protection, border traffic control and counteracting illegal migration. In the second point of the aforementioned article, categories of tasks have been defined, inter alia concerning the protection of the interests (rights) of the Republic of Poland in the maritime environment. These include:

- combating crime in connection with the crossing of the country's maritime border or the movement of legally regulated goods across the border (migration, customs and fiscal, sanitary, document reliability, protection of cultural and environmental goods, foreigners and other offences),

⁶ www.morski.strazgraniczna.pl/mor/ [accessed: 20 VI 2022].

⁷ *Ordinance of the Council of Ministers of 18 June 2001 on the determination of sea and fixed air border crossings and the type of traffic permitted through these crossings.*

- ensuring safety in international maritime traffic and public order within the territorial range of a maritime border crossing point⁸,
- supervision of the operation of Polish maritime areas and of the observance by ships of the regulations in force in these areas,
- preventing the movement of narcotic drugs and psychotropic substances, radioactive substances and weapons, ammunition, explosives and explosive precursors across state borders without the required authorisation,
- cooperating with other bodies and services in identifying and countering terrorist threats,
- carrying out security checks:
 - a) in means of international maritime transport,
 - b) within the territorial range of a maritime border crossing point.

The Border Guard is obliged to enforce compliance of users of Polish maritime areas with the law in force in the area, which it does mainly by monitoring the situation, detecting and identifying negative incidents and taking appropriate interventions.

In the area of internal sea waters and territorial sea, the actions of the Border Guard are taken to eliminate threats to state defence and the inviolability of the state border, as well as in cases where a vessel:

- embarks or disembarks persons in contravention of the applicable regulations,
- loads or unloads goods outside the places designated for that purpose,
- leaves the port without border control,
- establishes communication with the coast for criminal purposes,
- fishes or otherwise illegally exploits waters and the seabed,
- enters an area that is closed or unsafe for navigation or fishing,
- anchors outside a designated area,
- breaches navigational and transport safety regulations,
- violates sanitary or environmental protection regulations.

In the contiguous zone, the Border Guard performs tasks aimed at preventing violations of Polish customs, fiscal, illegal immigration and sanitary regulations on the territory of the Republic of Poland, as well as tasks related to the prosecution, detention and punishment of perpetrators of violations of these regulations, if they occurred on the territory of the Republic of Poland or this obligation results from international agreements.

⁸ The territorial coverage of a maritime border crossing point includes areas in ports and harbours where border control of persons, goods and means of transport is carried out, as well as places of loading and unloading of vessels or their movement or stopping. See in more detail: *Ordinance of the Minister for Internal Affairs and Administration of 13 August 2008 on the method of establishing the territorial range of border crossing points.*

In the Exclusive Economic Zone, Poland is competent to identify, manage, exploit and protect natural resources (living and mineral) on the seabed, in the interior of the land underneath and in the waters covering it. Poland also exercises authority over the following: the construction and use of artificial islands, structures and other devices (e.g. energy facilities), marine scientific research and the protection and preservation of the marine environment. These rights are guarded by the maritime administration supported by the implementation capacity of the MOSG⁹.

Supervision over the observance of regulations concerning non-military security of Polish maritime areas is exercised in the area of their activity by two directors of maritime offices (field organs of maritime administration subordinate to the minister in charge of maritime economy). Using, inter alia, the maritime inspection which is part of the maritime office, they perform, through appropriate inspections, tasks related to:

- maritime security,
- port and maritime security, particularly the prevention of incidents of a terrorist nature and the elimination of their consequences,
- the use of seaways and of ports and harbours,
- safety of exploration, identification and exploitation of mineral resources of the seabed,
- protection of the marine environment from pollution by ships,
- life saving,
- underwater operations and recovery of property from the sea.

These tasks, in relation to any vessel staying in Polish sea areas, may be performed by the marine inspection in co-operation with the Border Guard, using its forces and resources. In case of the absence of a marine inspection inspector on a Border Guard vessel, the commander of the vessel may carry out inspection activities on his own, on behalf of the local sea administration body¹⁰.

Ensuring the safety of Polish maritime areas consists, among other things, in eliminating, reducing or avoiding threats that destructively affect the possibility of using the bodies of water within them. Usage should be identified with: the practice of navigation, the use of living and mineral marine resources, the operation of hydrotechnical facilities, tourism and scientific and exploration activities.

⁹ The scope and forms of cooperation between maritime offices and the Border Guard are defined in the *Ordinance of the Minister of Transport and Maritime Economy of 20 August 1999 on cooperation between maritime offices and the Navy and the Border Guard*.

¹⁰ The powers of the maritime inspection are regulated by the *Act of 21 March 1991 on maritime areas of the Republic of Poland and maritime administration* (Articles 50-54).

The Polish maritime areas are subject to state legislative, executive and judicial jurisdiction, but its scope varies in terms of its competence over persons, events and things realised in the different zones of these areas. The internal maritime waters and the territorial sea included in the territory of the Republic of Poland are subject to full jurisdiction with the exception of international legal provisions obliging Poland concerning, for example, the right of innocent passage and diplomatic immunity or immunity of vessels of the armed forces and in the service of another state or related to the regulation of armaments. The sovereignty of the Republic of Poland in the contiguous zone and in the Exclusive Economic Zone is considerably limited, but nevertheless imposes an obligation on specialised state services to protect the rights of the Republic of Poland and to look after Polish interests there. The MOSG, due to the potential it has at its disposal, is involved in Polish maritime areas especially in search and rescue activities, supporting the Tax and Customs Service (SCS), the Navy and the Air Force (SP), as well as authorities of the maritime administration and the sea fisheries administration.

The Maritime Search and Rescue Service was established in 2002 to search for and rescue any person in distress at sea, as well as to ensure safety and combat threats and neutralise pollution at sea. In performing its tasks, SAR cooperates with the organisational units of the MW, the State Fire Service, the Border Guard, the Police and health care¹¹. The MOSG, together with the 1st Aviation Division (based in Gdańsk) of the Border Guard Aviation Office, participates in SAR support activities; moreover, representatives of the Border Guard take part in the work of the SAR Council, functioning at the minister in charge of maritime economy as an opinion-giving and advisory body.

The MOSG provides professional support to the SCS performing its statutory tasks in internal sea waters, territorial sea and the adjacent zone. It is mainly provided during the apprehension of sea vessels, when there is an increased execution risk (planned actions - assistance) or in the situation of ineffectiveness of the SCS vessel undertaking intervention actions (incidental situation - assistance)¹². SCS officers, in the case of actions justifying the detention of a person, use the support of the nearest Border Guard or Police unit, to which detained persons should be immediately led (disposal of rooms intended for detainees)¹³. The local Border

¹¹ See Article 118(1) and (2) of the *Act of 18 August 2011 on maritime safety*.

¹² See Article 136(6) and (7) of the *Act of 16 November 2016 on the National Revenue Administration*.

¹³ See Chapter 4 of the *Ordinance of the Council of Ministers of 22 February 2017 on the performance of certain activities by officers of the Customs and Fiscal Service and cooperation of the Customs and Fiscal Service with the Police and the Border Guard*.

Guard authorities are furthermore authorised to perform the tasks of the customs authorities concerning, inter alia:

- checks on the condition of goods,
- the acceptance of customs declarations for the placing of certain goods under the export or release procedure,
- the release of goods where the said declarations are accepted,
- control of the required documents and their authenticity.

These tasks are performed by the Border Guard authorities at the entry of goods into and exit of goods from the EU customs territory at maritime border crossings (Dziwnów, Gdańsk - Górkki Zachodnie, Hel, Jastarnia, Łeba, Mrzeżyno), in fishing ports (Dźwirzyno, Nowa Karczma, Rowy) and in 27 fishing harbours, in connection with sports swimming and sea fishing¹⁴.

The MOSG co-operates with the Border Guard with regard to the protection of the state border in the airspace of the Republic of Poland. Article 19 of the Border Guard Act obliges the Border Guard organisational units to provide the Air Force Command and Guidance Centre or the Mobile Air Operations Command Unit with information concerning:

- detection of aircraft - piloted and unmanned aerial vehicles (in particular aeroplanes, helicopters, gliders, hang-gliders, balloons, probes) flying across the state border at an altitude of up to 500 m,
- observed aircraft malfunctions and distress signals,
- planned low-altitude flights of aircraft in the border area.

By virtue of statutory provisions, the MOSG was also obliged to provide assistance to aircraft in emergency situations in the border area. The discussed cooperation is carried out by this branch within the area of its official responsibility, i.e. also within the Polish maritime areas¹⁵.

The cooperation of the MOSG with the MW, apart from mutual transmission of information of their official interest, assumes, inter alia, the performance by the Border Guard vessels of actions securing areas excluded from navigation due to maritime exercises and the neutralisation of unexploded devices.

The MOSG has also been incorporated into the national system for the protection of shipping and seaports, the legal basis of which is the Act of 4 September 2008 on

¹⁴ See: the *Notice of the Minister of Development and Finance of 4 October 2017 on the announcement of the consolidated text of the Ordinance of the Minister of Finance on the authorisation of other government administrative bodies to perform certain tasks of customs authorities.*

¹⁵ See: the *Notice of the Minister of Internal Affairs and Administration of 26 June 2020 on the announcement of the consolidated text of the Ordinance of the Minister of Internal Affairs and Administration on detailed principles of cooperation between the Border Guard and the Air Force and the Navy of the Armed Forces of the Republic of Poland in the field of state border protection.*

the protection of shipping and seaports. Based on its provisions, the Border Guard participates in:

- agreeing the security assessment and the security plan for ports and port facilities where border crossings have been established (Articles 18, 20 and 21),
- mitigating or removing the serious and imminent threat to ships, port and port facilities and associated infrastructure posed by the use of a ship or ship's facility as a means of a terrorist attack, as well as preventing such a threat (Article 27),
- verifying the legitimacy and harmlessness of the presence in port facilities of persons and of imported goods in international trade (Articles 38 and 39).

The authorities for sea fisheries are the Minister in charge of fisheries and the Chief Sea Fisheries Inspector (central government administration body, GIRM). They cover the territory of the Republic of Poland and the Exclusive Economic Zone with their activities. By virtue of Article 107(3) of the *Act of 19 December 2014 on Maritime Fisheries*, the GIRM, in the performance of the tasks entrusted to it, cooperates, inter alia, with the organisational units of the Border Guard. In practice, this cooperation concerns:

- monitoring of fishing activities of fishing vessels,
- carrying out control and inspection of vessels engaged in commercial as well as recreational fishing and research, in terms of compliance with applicable regulations, including international agreements and arrangements to which Poland is a party,
- detaining and bringing a fishing vessel to a port in case of a justified suspicion of an infringement of the sea fishing regulations in the Polish maritime areas,
- counteracting poaching.

The MOSG in Polish maritime areas also performs tasks resulting from agreements on international cooperation within the framework of the European Border and Coast Guard and the Baltic Sea Region Border Control Cooperation (BSRBCC). They focus on supporting the security of maritime borders, combating cross-border crime, as well as on prevention, improving cooperation and exchanging best practices, with particular emphasis on illegal migration and violations of regulations in force in maritime areas. Officers of the MOSG also perform the tasks of the Border Commissioner (PG) on the Baltic section of the Polish-Russian state border (Commander of the MOSG) and the Deputy Border Commissioner (Deputy Commander of the MOSG) appointed by the President of the Council of Ministers of the Republic of Poland, as well as auxiliaries appointed by the PG (selected heads of departments and commanders of posts and Commander of the Kashubian Division of the Border Guard). These functions, as well as the tasks and powers

assigned to them, result from the provisions contained in the agreement on legal relations on the Polish-Soviet state border and cooperation and mutual assistance in border matters¹⁶. They concern the effective security of the state border and procedures including the prevention and resolution of border violations.

The effective and efficient performance of the tasks imposed on the MOSG, in addition to the officers' service attitudes (qualifications and commitment), the equipment used, domestic and foreign cooperation, and social support, is also influenced by the scope of the powers entrusted to it. The adequacy of the powers, based on their consistency with the stated tasks relating to the maritime environment, can be systematised as follows:

- control-checking powers (e.g. performing border checks on persons, means of transport, baggage and cargo, including specific forms thereof, personal checks and use of analytical and detection equipment),
- administrative-regulatory powers (e.g. issuing visas and decisions on refusal of entry into the territory of the Republic of Poland, detention and withdrawal of harmful materials from the state border, imposing fines by way of a penalty ticket¹⁷),
- operational and investigative powers (e.g. operational control, controlled delivery, use of legalisation documents),
- procedural powers (e.g. conducting pre-trial proceedings in the form of an investigation or enquiry),
- preventive and protective powers (e.g. security checks, use of direct coercive measures and firearms)¹⁸.

When enforcing the lawful use of internal sea waters, the territorial sea, the adjacent zone and the Exclusive Economic Zone, commanders of Border Guard vessels have the right to summon a vessel to reduce its speed or to take the indicated course, to stop for inspection, to carry out inspection, as well as they have the right to force a vessel to call at the indicated port. If the vessel, despite the summons, does not stop, does not abandon the unlawful action and attempts to escape, the commander of the Border Guard vessel has the right to take effective measures in order to stop the vessel, including the use of firearms. On-board weapons

¹⁶ *Agreement between the Government of the People's Republic of Poland and the Government of the Union of Soviet Socialist Republics on legal relations on the Polish-Soviet state border and cooperation and mutual assistance in border issues, signed in Moscow on 15 February 1961.*

¹⁷ See: *Ordinance of the Minister of the Interior of 18 April 2014 on offences for which Border Guard officers are entitled to impose fines by way of a penalty ticket.*

¹⁸ On the powers of the Border Guard see in more detail: M. Ilnicki, *Służby graniczne w walce z terroryzmem. Polskie warunki ustrojowo-prawne* (Eng. Border services in the fight against terrorism. Polish political and legal conditions), Toruń 2011, pp. 124–132.

may only be used in exceptional situations and as a measure of last resort, when other measures are not sufficient to stop the vessel or compel obedience. The use of weapons should not be aimed at sinking the vessel. It should be preceded by firing a warning shot into the air, followed by a shot ahead of the bow and astern of the vessel. In the absence of the desired response, the commander of the SG vessel may order the vessel to open fire. These rules also apply during pursuit conducted on the high seas (in the conditions of the Baltic Sea - outside the territorial waters of the coastal states). In the situation of firing at a Border Guard vessel, weapons may be used without warning¹⁹. MOSG officers, in case of reasonable suspicion, are furthermore entitled to require the operator of a vessel in water traffic to submit to a test for the content of alcohol or an intoxicant in his/her body²⁰.

MOSG competence in countering non-military emergencies in Polish maritime areas

The key powers of the MOSG listed in this paper and the tasks it carries out represent the activities of this unit narrowed down to the maritime environment²¹. Their common aim is to counter undesirable phenomena, events, attitudes and their consequences. These have harmful, destructive effects on the functioning of the state and are therefore unacceptable and often prohibited under threat of punishment. The statutory obligations of the MOSG assign it a leading or supporting role in enforcing compliance with the law by users of Polish maritime areas, protecting life at sea, exploiting marine resources, combating cross-border crime, including terrorism, and ensuring the security of international maritime communications. Taking care of the undisturbed functioning of the state's maritime border, as well as navigation and ports, and the use of Polish maritime areas in accordance with the national interest, is primarily based on a well-functioning system of maritime safety. When discussing maritime security in non-military terms, reference should be made to threats occurring in reality, albeit with varying degrees of probability. In order to better illustrate them in generic terms, the author of this article proposes the following classification:

¹⁹ The use of firearms in the maritime environment against vessels is regulated under the provisions of the Border Guard Act. They define the cases and conditions for the use of on-board weapons on board Border Guard vessels when required for reasons of state defence or the inviolability of the state border.

²⁰ See Article 86a of the *Act of 18 August 2011 on maritime safety*.

²¹ The MOSG's official duties also include securing the coastal border area and operating the air border crossings at Szczecin-Goleniów and Gdańsk-Rębiechowo.

- operational threats (e.g. navigational errors leading to collision of vessels or damage to port facilities, running aground or entering areas closed to navigation, sinking of vessels or causing marine casualties, lack of qualification or psycho-physical disposition required of the crew, poor technical condition of vessels);
- environmental hazards (e.g. spills of harmful chemicals in transit, discharge of ship-generated pollutants into the sea, spoiled goods, unacceptable cargo, spread of epidemic plant, animal and human diseases, fires, unsealing of submarine pipelines or release of post-war toxic warfare agents and fuels deposited on the seabed);
- hazards of an economic nature (e.g. unauthorised exploitation of living and mineral marine resources, exceeding of allocated catch limits, non-compliance with protection periods for marine fauna, unlawful use of marine resources and energy facilities, destructive impact on critical marine infrastructure, offshore installations, maritime transport, pipelines and cables laid on the seabed);
- threats of a criminal nature (e.g. cross-border crime, including trafficking in persons and illegal migration, trafficking in arms and drugs, smuggling of goods with a high accumulation of profits, terrorism, sea piracy and armed robbery²² and other unlawful acts committed at sea and in ports against ships, goods, crew and passengers, ports and port facilities, as well as against maritime and energy critical infrastructure, proliferation of weapons of mass destruction)²³.

The aforementioned threats may contribute to the occurrence of emergency situations in the marine environment²⁴ – connected with the non-observance of legal norms and commonly recognised principles of using maritime areas, as well as with the disturbance of technological processes and functional requirements that violate the safety of this environment and harm the interests of the Republic

²² On the terms “terrorism”, “maritime piracy” and “armed robbery in a maritime environment”, see in more detail: M. Ilnicki, *Służby graniczne w walce z terroryzmem...*, pp. 43–45.

²³ M. Ilnicki, *Wykorzystanie potencjału ochronnego państwa na rzecz bezpieczeństwa polskich obszarów morskich* (Eng. Exploiting the protective potential of the state for the safety of Polish maritime areas), in: *Edukacja dla bezpieczeństwa. Paradigmaty kultury bezpieczeństwa* (Eng. Education for security. Paradigms of safety culture), A. Lyman, M. Ilnicki (eds.), Poznań 2016, pp. 185–194.

²⁴ On the nature and conceptual scope of the term “emergency situation”, see in more detail: A. Makowski, M. Ilnicki, *Ausserordentliche Lage bei friedlichen Bedingungen für das Funktionieren der Meeresumwelt – ein Versuch, den Begriff zu definieren* (Eng. Exceptional situation in peaceful conditions for the functioning of the marine environment - an attempt to define the term), “Rocznik Bezpieczeństwa Morskiego” 2020, vol. 14, pp. 93–107.

of Poland. At this point, the author's definition of an emergency situation, which includes the marine environment, can be used. It is (...) *a situation adversely affecting the functioning of the state, endangering the safety of people, the natural environment or the public interest, requiring the taking of above-standard measures to secure, protect and restore the accepted level of social relations and the technical-functional suitability of the legally protected environment*²⁵. In the considerations presented herein, it should be interpreted broadly, also taking into account circumstances related to crisis management and justifying the introduction of states of emergency.

The assumption made will allow for the designation of further tasks and powers statutorily, although not explicitly, assigned to the MOSG. These include indications in:

- the *Act of 29 August 2002 on martial law and the powers of the Commander-in-Chief of the Armed Forces and the principles of his subordination to the constitutional bodies of the Republic of Poland* concerning the prohibition or restriction of the carriage of persons or goods in maritime transport and the rationing of the movement of Polish and foreign vessels in internal maritime waters and territorial sea (Article 26), as well as the operation of maritime border crossings and documents authorising the crossing of the state border (Article 28);
- the *Act of 21 June 2002 on the state of emergency* concerning participation in proceedings for the seclusion of persons (Article 17) and the conduct of warning interviews (Article 19), as well as restrictions on the movement of vessels in internal sea waters and territorial sea (Article 21);
- the *Act of 18 April 2002 on the state of natural disaster* concerning participation in preventing or removing the effects of a natural disaster (Article 17) and restrictions on the movement of vessels in internal waters and territorial sea (Article 24);
- the *Act of 26 April 2007 on crisis management* concerning participation in undertakings included in the National Crisis Management Plan and the National Programme for the Protection of Critical Infrastructure, relating to the security of Polish maritime areas (details are not public);
- the *Act of 10 June 2016 on anti-terrorist activities* concerning the special use of firearms as part of counter-terrorist activities (Article 23).

²⁵ Ibid, p. 104.

Summary

Coastal states exercise their sovereignty over the maritime areas under their jurisdiction in accordance with the international law of the sea and their own concept of safeguarding the state interests there based on relevant national formal legal regulations. The effectiveness of protective measures is largely due to the state's ability to enforce compliance in the maritime areas under its jurisdiction. This function is assigned to various institutions (formations) with precisely defined competences. In Poland, during peacetime, the MOSG plays an important role in maintaining legal order in the discussed sea areas. Its counterparts in European countries are services of a police or military nature with a varied range of tasks and powers entrusted to them. For example, in Spain it is the Guardia Civil, in the Netherlands the Royal Gendarmerie, in Germany the Federal Police, in Sweden the Coast Guard, in Russia the Federal Border Service and in Denmark the Navy.

Countering incidents generating emergencies in the maritime environment is closely related to the monitoring of bodies of water (by vessels and aircraft and shore-based observation stations), performing interventions at sea (e.g. boarding, stopping a ship, searching a ship and apprehending criminals, sea pursuit to the territorial waters of another state, enforcing orders with the use of on-board weapons), carrying out specialised inspections in ports or marinas (e.g. radiometric or pyrotechnical) and making decisions on the admissibility of the movement of people, goods and means of transport (verification at sea border crossings). In Polish legal and organisational conditions, only the Border Guard - the main non-military component of the maritime forces of the Republic of Poland - has such broad competences²⁶.

The potential resulting from the professionalism of the staff and the technical resources it possesses enables the MOSG to carry out cases assigned not only to the internal affairs department, but also to the ministries of economy and sea fisheries, public administration, national defence and public finance. This proves the role played by this unit in the state security system, focused mainly on Polish maritime areas.

²⁶ On the naval forces of the Republic of Poland, see in more detail: *Strategiczna Koncepcja Bezpieczeństwa Morskiego RP* (Eng. Strategic Concept for the Maritime Security of the Republic of Poland), Warszawa–Gdynia 2017, pp. 19–39.

Bibliography

Goryński G., *MOSG na drodze do Unii Europejskiej* (Eng. MOSG on its way to the European Union), "Przegląd Morski" 2003, no. 10, pp. 5–24.

Ilnicki M., *Służby graniczne w walce z terroryzmem. Polskie warunki ustrojowo-prawne* (Eng. Border services in the fight against terrorism. Polish political and legal conditions), Toruń 2011.

Ilnicki M., *Wykorzystanie potencjału ochronnego państwa na rzecz bezpieczeństwa polskich obszarów morskich* (Eng. Exploiting the protective potential of the state for the safety of Polish maritime areas), in: *Edukacja dla bezpieczeństwa. Paradygmaty kultury bezpieczeństwa* (Eng. Education for security. Paradigms of safety culture), A. Lymar, M. Ilnicki (eds.), Poznań 2016, pp. 185–194.

Makowski A., Ilnicki M., *Ausserordentliche Lage bei friedlichen Bedingungen für das Funktionieren der Meeresumwelt – ein Versuch, den Begriff zu definieren* (Eng. Exceptional situation in peaceful conditions for the functioning of the marine environment - an attempt to define the term), "Rocznik Bezpieczeństwa Morskiego" 2020, vol. 14, pp. 93–107.

Strategiczna Koncepcja Bezpieczeństwa Morskiego RP (Eng. Strategic Concept for the Maritime Security of the Republic of Poland), Warszawa–Gdynia 2017.

Straż Graniczna. Informacja statystyczna za I kwartał 2022 r. (Eng. Border Guard. Statistical information for Q1 2022.), Warszawa, April 2022.

Internet sources

www.morski.strazgraniczna.pl/mor/ [accessed: 20 VI 2022].

Legal acts

Agreement between the Government of the People's Republic of Poland and the Government of the Union of Soviet Socialist Republics on legal relations on the Polish-Soviet state border and cooperation and mutual assistance in border issues, signed in Moscow on 15 February 1961 (Journal of Laws of 1961, no. 47, item 253).

Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (Official Journal of the EU L 295/1 of 14 November 2019).

Act of 16 November 2016 on the National Revenue Administration (i.e. Journal of Laws of 2022, item 813, as amended).

Act of 10 June 2016 on anti-terrorist activities (i.e. Journal of Laws of 2022, item 2632).

Act of 19 December 2014 on maritime fisheries (i.e. Journal of Laws of 2022, item 540, as amended).

Act of 18 August 2011 on maritime safety (i.e. Journal of Laws of 2022, item 515, as amended).

Act of 4 September 2008 on the protection of shipping and sea ports (i.e. Journal of Laws of 2022, item 2257).

Act of 26 April 2007 on crisis management (i.e. Journal of Laws of 2023, item 122).

Act of 29 August 2002 on martial law and on the competences of the Commander-in-Chief of the Armed Forces and the principles of his subordination to the constitutional bodies of the Republic of Poland (Journal of Laws of 2022, item 2091).

Act of 21 June 2002 on the state of emergency (i.e. Journal of Laws of 2017, item 1928).

Act of 18 April 2002 on the state of natural disaster (i.e. Journal of Laws of 2017, item 1897).

Act of 21 March 1991 on maritime areas of the Republic of Poland and maritime administration (Journal of Laws of 2022, item 457, as amended).

Act of 12 October 1990 on the protection of the state border (i.e. Journal of Laws of 2022, item 295).

Act of 12 October 1990 on the Border Guard (i.e. Journal of Laws of 2022, item 1061, as amended).

Ordinance of the Council of Ministers of 22 February 2017 on the performance of certain activities by officers of the Customs and Fiscal Service and cooperation of the Customs and Fiscal Service with the Police and the Border Guard (Journal of Laws of 2017, item 386).

Ordinance of the Minister of Internal Affairs of 18 April 2014 on offences for which Border Guard officers are entitled to impose fines by way of a penalty ticket (i.e. Journal of Laws of 2020, item 1437).

Ordinance of the Minister of Finance of 31 March 2010 on the authorisation of other government administration bodies to perform certain tasks of customs authorities (Journal of Laws of 2017, item 1963).

Ordinance of the Minister of Internal Affairs and Administration of 13 August 2008 on the manner of determining the territorial range of border crossings (Journal of Laws of 2018, item 952).

Ordinance of the Minister of Internal Affairs and Administration of 29 December 2004 on detailed principles of cooperation between the Border Guard and the Air Force and the Navy of the Armed Forces of the Republic of Poland in the field of state border protection (i.e. Journal of Laws of 2020, item 1212).

Ordinance of the Council of Ministers of 18 June 2001 on the determination of sea and fixed air border crossings and the type of traffic permitted through these crossings (i.e. Journal of Laws of 2015, item 1534).

Ordinance of the Minister of Transport and Maritime Economy of 20 August 1999 on cooperation of maritime offices with the Navy and the Border Guard (Journal of Laws 1999, no. 75, item 850).

Notice of the Minister of Internal Affairs and Administration of 26 June 2020 on the announcement of the consolidated text of the Ordinance of the Minister of Internal Affairs and Administration on detailed principles of cooperation between the Border Guard and the Air Force and the Navy of the Armed Forces of the Republic of Poland in the field of state border protection (Journals of Laws of 2020, item 1212).

Notice of the Minister of Development and Finance of 4 October 2017 on the announcement of the consolidated text of the Ordinance of the Minister of Finance on the authorisation of other government administrative bodies to perform certain tasks of customs authorities (Journal of Laws of 2017, item 1963).

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