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The Provision of Safety in Water Areas: Legal Issues

Zapewnienie bezpieczeństwa na obszarach wodnych. Aspekty prawne

ABSTRACT

Threats in water areas have forced the legislator to address the issues related to the safety of people staying in these areas, who are required to exercise due diligence in order to protect the life and health of themselves and others. Due diligence is a fundamental factor in providing security. Along with diligence, to perform water rescue it was appropriate to conduct an analysis of threats, including an identification of the places where the safety of people using water areas for swimming, bathing, practising water sports, and recreation, could be endangered. The analysis was conducted by entities who are professionals in the field of water security, i.e. the Police and the bodies authorised to perform water rescue.

Keywords: threats; security; swimming; bathing; water sports; rescue

INTRODUCTION

As one of the fundamental human needs, the need for safety applies also to people staying in water areas, where special caution is needed due to threats arising from the failure to observe the rules for the use of inland waters, coastal waters, and swimming resorts for water sports and recreation. Due to the status of water areas, and their intensive use for swimming, bathing, sports, and recreation, safety becomes particularly important, and the provision of safety is one of the main obligations of the entities managing these areas. Strict obligations aimed at ensuring

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safety are also imposed on people staying in water areas. Hence, the solutions are twofold. On the one hand, people staying in such areas are required to observe the safety conditions and, on the other hand, the entities managing water areas have to secure such conditions.

In addressing the need for establishing the conditions for the safety of people using water areas, the legislator decided to regulate these issues, thereby establishing the basis for penalising undesirable behaviour which violates safety.[1] Legal solutions concerning safety in water areas facilitate the identification of the entities responsible for the safety of people using these areas for swimming, bathing, sports, or recreation, and oblige those using inland and coastal waters, as well as other places for swimming, sports, and recreation, as well as people staying in these areas, to behave properly.

RESEARCH AND RESULTS

1. The notion of safety in water areas

The legislator does not define the concept of safety in water areas, but only points out what it should look like. The legislator does so in Article 4 (1) of the SPSWA Act, but without formulating an exhaustive list. Under this provision, ensuring safety in water areas shall, in particular, take the form of: 1) threat analysis encompassing the identification of places where there is a threat to the safety of people using such an area for swimming, bathing, practising sports or recreation, which should be conducted in cooperation with the police[2] and the entities operating in a given area authorised to perform water rescue; 2) marking and securing the areas, facilities, and equipment intended for swimming, bathing, practising sports or recreation in water areas; 3) prophylactic and edu-

[1] The legislator did so in the Act of 18 August 2011 on the safety of people staying in water areas (Journal of Laws 2020, item 350, as amended), hereinafter: the SPSWA Act.

[2] In accordance with Article 1 (1) of the Act of 6 April 1990 on the Police (consolidated text, Journal of Laws 2019, item 161, as amended), the Police was established as a uniformed and armed formation serving society, and designated to protect the safety of people, and to maintain public security and order. The basic obligation of the legislator is to create conditions securing the actual protection of each human being against violence, brutality, and also behaviour violating legally protected goods. As far as the achievement of this objective is concerned, the greatest reliance rests on the Police, since the most important tasks and competences are entrusted to this organisation. See W. Kotowski, *Ustawa o Policji. Komentarz*, Warszawa 2012, p. 142. The Police is one of the organisations entrusted by the legislator with tasks concerning the provision of public security and order. To perform these functions, it may use intrusive instruments, including those limiting the freedoms and rights of human beings and citizens. See M. Karpiuk, *Pomoc Sił Zbrojnych Rzeczypospolitej Polskiej udzielana Policji*, "Wojskowy Przegląd Prawniczy" 2018, no. 1, p. 36.

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cational activities concerning safety in water areas, in particular, in the form of a) marking dangerous places, b) supervising dangerous places, including places commonly used for swimming, exercised in cooperation with the police and the entities authorised to perform water rescue, and c) raising awareness on the use of water areas and, especially, conducting educational campaigns addressed to pupils and students; 4) providing information and warning about weather conditions, as well as other factors which might cause difficulties or pose threats to the health and life of humans; 5) ensuring conditions facilitating the organisation of assistance and rescue for victims of accidents, or those who are at risk of the loss of their life or health. Safety in water areas is perceived from the perspective of analytical, protective, prophylactic, educational, informational, organisational, and rescue actions.

Safety in water areas is one of the security domains the aim of which is to prevent threats and eliminate their outcomes.[3] Combating threats and eliminating their

[3] M. Karpiuk, *Activities of the local government units in the scope of telecommunication*, "Cybersecurity and Law" 2019, no. 1, p. 45. In the safety domain, see also M. Czuryk, J. Kostrubiec, *The legal status of local self-government in the field of public security*, "Studia nad Autorytaryzmem i Totalitaryzmem" 2019, no. 1, pp. 33–47; M. Karpiuk, *Organisation of the National System of Cybersecurity: Selected Issues*, "Studia Iuridica Lublinensia" 2021, vol. 30(2), p. 234; M. Czuryk, *Bezpieczeństwo jako dobro wspólne*, "Zeszyty Naukowe KUL" 2018, no. 3, p. 15; A. Pieczywok, *Wychowanie do odpowiedzialności na przykładzie funkcjonariuszy formacji bezpieczeństwa i porządku publicznego*, [in:] *Odpowiedzialność dyscyplinarna funkcjonariuszy formacji bezpieczeństwa i porządku publicznego*, eds. A. Pieczywok, M. Karpiuk, Warszawa 2016, p. 9; M. Karpiuk, *Konstytucyjna właściwość Sejmu w zakresie bezpieczeństwa państwa*, "Studia Iuridica Lublinensia" 2017, vol. 26(4), p. 10; A. Pieczywok, *Działania społeczne w sferze bezpieczeństwa wewnętrznego*, Lublin 2018, pp. 13–16; M. Karpiuk, *The Local Government's Position in the Polish Cybersecurity System*, "Lex localis – Journal of Local Self-Government" 2021, vol. 19(3), p. 612; J. Gierszewski, A. Pieczywok, *Społeczny wymiar bezpieczeństwa człowieka*, Warszawa 2019, p. 22; M. Karpiuk, *Miejsce samorządu terytorialnego w przestrzeni bezpieczeństwa narodowego*, Warszawa 2014, pp. 28–34; J. Gierszewski, K. Drabik, A. Pieczywok, *Bezpieczeństwo kulturowe w trakcie zmian społecznych*, Warszawa 2020, pp. 13–14; M. Czuryk, *Właściwość Rady Ministrów oraz Prezesa Rady Ministrów w zakresie obronności, bezpieczeństwa i porządku publicznego*, Olsztyn 2017, p. 9; M. Karpiuk, *Safety as a legally protected value*, "Zeszyty Naukowe KUL" 2019, no. 3, pp. 3–4; K. Chałubińska-Jentkiewicz, *Cyberodpowiedzialność*, Toruń 2019, pp. 15–24; M. Karpiuk, J. Kostrubiec, *The Voivodeship Governor's Role in Health Safety*, "Studia Iuridica Lublinensia" 2018, vol. 27(2), p. 65; M. Karpiuk, *Służba wojskowa żołnierzy zawodowych*, Olsztyn 2019, pp. 15–17; J. Kostrubiec, *Status of a Voivodship Governor as an Authority Responsible for the Matters of Security and Public Order*, "Barometr Regionalny" 2018, vol. 16(5), pp. 35–40; M. Karpiuk, T. Włodek, *Wygaśnięcie mandatu wójta na skutek skazania na karę grzywny za niedopełnienie obowiązków z zakresu zarządzania kryzysowego. Glosa do wyroku Sądu Rejonowego w P. z dnia 18 kwietnia 2019 r. (II K 1164/14)*, "Studia Iuridica Lublinensia" 2020, vol. 29(1), pp. 273–288; M. Czuryk, *Activities of the Local Government During a State of Natural Disaster*, "Studia Iuridica Lublinensia" 2021, vol. 30(4), pp. 112–122; O. Shevchuk, N. Matyukhina, O. Babaieva, A. Dudnikov, O. Volianska, *The human right to security in the implementation of the concept of the "right to health protection"*, "Juridical Tribune" 2021, vol. 11(3), pp. 539–540.

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outcomes allows the ensuring of safety as one of the fundamental human needs.[4] Safety is particularly important, not only for the fulfilment of social needs, but also for the unhindered functioning of public institutions. In the narrow perspective, in terms of water safety, this mainly refers to combating the threats occurring in designated water areas, including accidents. Safety in water areas is associated with swimming, bathing, sports, or recreation practised there, and concerns people using these areas, facilities, or equipment located there.

2. Water areas

In accordance with Article 2 (1) of the SPSWA Act, a water area is interpreted as inland or coastal water within a strip not exceeding one nautical mile from the coastline, as well as a swimming resort, a place occasionally used for swimming, a swimming pool, and other facilities with basins of a total area of more than 100 m^2 and a depth of more than 0.4 m at the deepest point, or a depth of more than 1.2 m. Therefore, this notion will include inland and coastal waters, as well as other places used for swimming, practising water sports, and recreation.

Waters are divided into surface and ground waters, and inland waters are those excluding interior sea waters and territorial sea waters.[5] This categorisation is only of a geographical nature, and prescribes the scope of the application of water law.[6] In accordance with Article 26 of the WL Act, coastal waters, in turn, encompass the area of surface waters from the coastline, the external limit of which is marked by a distance of one nautical mile on the sea side, counting from the baseline,[7] and excluding the maritime internal waters of Gdańsk Bay, and the adjacent territorial sea waters.

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[4] J. Kostrubiec, *The Role of Public Order Regulations as Acts of Local Law in the Performance of Tasks in the Field of Public Security by Local Self-government in Poland*, "Lex localis – Journal of Local Self-Government" 2021, vol. 19(1), p. 115; O. Shevchuk, O. Bululukov, O. Lysodyed, V. Mamonova, Y. Matat, *Human right to virtual reality in the healthcare: Legal issues and enforcement problems*, "Juridical Tribune" 2021, vol. 11 (Special Issue), pp. 308–309.

[5] Articles 18–19 of the Act of 20 July 2017 – Water Law (consolidated text, Journal of Laws 2018, item 2268, as amended), hereinafter: the WL Act.

[6] P. Szuwalski, *Komentarz do art. 19*, [in:] idem, *Prawo wodne. Komentarz do wybranych przepisów*, LEX/el. 2019.

[7] The baseline of the territorial sea is formed by a line connecting the relevant points marking the lowest water level along the coast, or other points marked in accordance with the rules set out in the United Nations Convention on the Law of the Sea prepared in Montego Bay on 10 December 1982 (Journal of Laws 2002, no. 59, item 543) – Article 5 (2) of the Act of 21 March 1991 on the maritime areas of the Republic of Poland and maritime administration (consolidated text, Journal of Laws 2019, item 2169, as amended). The detailed course of the territorial sea baseline is stipulated in the Regulation of the Council of Ministers of 13 January 2017 on the detailed course of the baseline, the external limit of the territorial sea, and the external limit of the zone adjacent to the Republic of Poland (Journal of Law 2017, item 183).

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3. The obligations and requirements concerning the provision of safety in water areas

In Article 3 of the SPSWA Act, the legislator stipulates the obligations imposed on people staying in water areas, enumerating among them the necessity to: 1) become familiar with the rules for the use of specific areas, facilities, or equipment, and to observe these rules; 2) observe mandatory and prohibitory signs placed by entities authorised to perform water rescue;[8] 3) become familiar with, and adjust their activity plans to, their capabilities and the current weather conditions; 4) use equipment suitable for the type of practised activity, in the appropriate technical condition, and in accordance with its purpose and the rules for its use; 5) immediately inform the responsible rescue services, or the entities authorised to perform water rescue, about any accident, the disappearance of a person, or any other event which can affect people's safety. The obligations enumerated in Article 3 of the SPSWA Act fall within the concept of "due diligence", which should be exercised for the protection of the life and health of persons staying in a water area, as well as others present there. Therefore, persons who do not observe due diligence are responsible for their own safety and for that of others staying in the water area.

Before a given area, facility, or piece of equipment is used, people should not only familiarise themselves with the rules for their use, but also observe such rules. This obligation is directly linked with another obligation, i.e. the implementation of the rules for the use of a specific area, facility, or piece of equipment, imposed on the entity managing the designated water area. However, even if a competent entity has failed to establish such rules, it does not mean that the area, facility, or piece of equipment may be freely used. In particular, this does not relieve people staying in water areas from the obligation to observe due diligence and to use the area, facility, or equipment with caution, and according to its intended purpose. The use of the area, facility, or equipment must not put in danger the health and life of a person or persons.

Persons staying in water areas are required to observe the mandatory and prohibitory signs. The observance of such signs, placed by entities authorised to per-

[8] In accordance with Article 12 (1) of the SPSWA Act, the entities authorised to perform water rescue are the entities which obtained the authority of the minister responsible for internal affairs to perform water rescue, and are entered in the register of units cooperating with the system of the National Emergency Medical Services. The system was established to perform State tasks in the form of assistance and help provided to every person subjected to a sudden health risk – Article 1 of the Act of 8 September 2006 on the National Emergency Medical Services (consolidated text, Journal of Laws 2019, item 993, as amended). See also D. Tyrawa, *Logistyka systemu ratownictwa medycznego w świetle struktury terytorialnej*, [in:] *System ratownictwa w Polsce*, eds. M. Ciecierski, M. Czuryk, M. Karpiuk, Warszawa 2016, p. 81. Rescue measures must be provided to every person whose life or health is in danger when a sudden threat occurs. This relates to any extraordinary circumstances basically causing the loss of life or health of a human being. See S. Poździoch, *Komentarz do art. 1*, [in:] *Ustawa o Państwowym Ratownictwie Medycznym. Komentarz*, ed. S. Poździoch, LEX/el. 2013.

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form water rescue, allows the rules concerning the safety of persons swimming, bathing, or practising sports or recreation in water areas, to be complied with. The obligation to observe mandatory and prohibitory signs is directly linked with the obligation to place such signs in the proper and well-visible places. Failure to comply with the obligation to place the appropriate signs in the designated water area by the water-rescue bodies, or the damaging of these signs resulting in their illegibility, does not exempt people staying in water areas from their obligation to exercise due diligence.

Adjusting one's personal predispositions to the conditions prevailing in a specific area is important from the point of view of safety in water areas. Therefore, under Article 3 (3) of the SPSWA Act, the legislator obliged persons using a water area to adjust their activity plans to their capabilities and the current weather conditions. Recklessness, irresponsibility, thoughtlessness, overestimation of one's own abilities, all pose a serious threat, not only to the persons using the water area (place, facility or equipment) but also to those staying there. Even if a person is highly skilled, his or her safety can be endangered when confronted with difficult weather conditions or elements.

Improperly used or faulty equipment can also be a life-threatening problem. This is one of the causes of a large number of accidents, including fatalities. Therefore, special attention is drawn to the use of equipment in the correct technical condition, fit for the specific type of the practised activity, and in compliance with its intended purpose and instructions for use.

The informational obligation to immediately notify the responsible rescue entities about an accident, or the disappearance of a person, and about other extraordinary events which can affect the safety of persons, is imposed on people staying in water areas. The objective intended to be achieved under this obligation is to ensure the safety of people staying in the water area by the immediate provision of information to the entities, which are thus able to immediately undertake the rescue measures.

A list of persons responsible for the provision of safety in water areas is given in Article 4 (2) of the SPSWA Act. Under this provision, these are: 1) in a national[9]

[9] A national park is formed to preserve biological diversity, resources, and formations, and components of an inanimate nature, as well as landscape values, to rehabilitate the proper state of resources and elements of nature, and to restore the damaged habitats of plants, animals or fungi – Article 8 of the Act of 16 April 2004 on nature conservation (consolidated text, Journal of Laws 2018, item 1614, as amended). A national park protects not only nature, but also landscape values, and hence the ecological, aesthetic, or cultural values of the area, including the topography and components of the environment formed by the forces of nature or human activity. See judgement of the Voivodeship Administrative Court of 24 November 2010, IV SA/Wa 1630/10, LEX no. 758848.

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or landscape park[10] – a director of such a park; 2) in the area where sports or recreational activity is practised – a natural person, a legal person, or an organisational unit not having any legal personality but conducting activity in this scope; 3) in other areas – a locally responsible administrator (a commune administrator, a city mayor). Hence, the above-mentioned entities managing the water area are responsible for the safety of people staying in such areas according to their competences specified in Article 4 (2) of the SPSWA Act; however, the municipal executive authority is responsible even if this area is not situated within a national or landscape park, or if any activity in the domain of sports or recreation is not practised there – unless this activity is conducted by a municipal authority.

The obligations of the entity managing the designated water area are stipulated in Article 5 of the SPSWA Act. In accordance with Article 5 (1) of the SPSWA Act, this entity should display, in generally accessible spots, information regarding: 1) the rules for the use of the designated water area; 2) any restrictions on the use of the designated water area; and 3) the method for reporting accidents and emergency telephone numbers. This information makes the use of the water area safe and compliant with its intended purpose. It helps to avoid threats to health or life while swimming, bathing, practising sports or recreation. The obligation to provide emergency telephone numbers and locate them in a visible place is meant to facilitate the entities authorised to perform water rescue to quickly reach the place of the accident and assist the injured.

The subsequent obligations imposed on the entity managing the designated water area are stipulated in Article 5 (2) of the SPSWA Act, and include: 1) for a swimming resort, a swimming pool, or other facilities with basins with a total area of more than 100 m^2 and a depth of more than 0.4 m at the deepest point, or a depth of more than 1.2 m: a) the segregation of the zone for those who can or can't swim, and b) the isolation of a paddling pool for children; 2) ensuring permanent supervision exercised in the designated area by lifeguards; 3) creating an observation post in the designated water area; 4) providing rescue equipment and aids, as well as signalling and warning devices (visual and audible); 5) clearing the bottom of the area designated for swimming or bathing from any objects which

[10] In accordance with Article 16 (1) of the Nature Conservation Act, a landscape park encompasses an area protected due to its natural, historical, cultural, and landscape values to preserve and popularise these values within the framework of sustainable development (J. Kielin-Maziarz, *Zasada zrównoważonego rozwoju – uwagi na tle jej miejsca w Konstytucji RP*, "Krytyka Prawa. Niezależne Studia nad Prawem" 2020, vol. 12(1), pp. 224–225). An important element, as regards the form of nature protection, i.e. a landscape park, is the objective for which it is established, i.e. the preservation and popularisation of values present in the park's area within the framework of sustainable development. Therefore, the assumption made by the legislator not only does not exclude contact between human beings and nature in the park, but also facilitates this contact with the observance of sociological culture (K. Gruszecki, *Komentarz do art. 16*, [in:] idem, *Ustawa o ochronie przyrody. Komentarz*, LEX/el. 2017).

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might cause injury, or other types of accidents; 6) publicising the rules for the use of the designated area; and 7) ensuring the provision of information on the admissibility of or prohibition from using the designated water area.

The segregation of the zone for those who can or can't swim, as well as the isolation of a paddling pool for children, in the case of swimming resorts, swimming pools, and other facilities with basins of the statutory area and depth, is to ensure the safety of people using such facilities, and, at the same time, to enable those who can swim to practise swimming, bathing and water recreation, without bothering one another or posing a threat.

The zones for those who can or can't swim, as well as a paddling pool in swimming resorts and places occasionally used for swimming, are marked with buoys (beacons). The zones for those who can't swim with a water depth of not more than 120 cm – with red buoys (beacons), zones for those who can swim with a water depth up to 4 m – with yellow buoys (beacons), an isolated paddling pool for children with a depth of water up to 40 cm – with white buoys (beacons), and are additionally surrounded by mesh reaching from the water level to the bottom.[11]

The permanent supervision exercised by lifeguards, being persons with the appropriate qualifications, and professionally dealing with the safety in water areas, is an important element of safety provided in designated water areas. This type of supervision has to be exercised by the number of lifeguards taking care of the safety of people commensurate with the size of the supervised water area.

The legislator has defined the minimum requirements concerning the number of lifeguards to ensure permanent surveillance on the designated water area, i.e. 1) in the case of swimming resorts: a) in inland waters, per each 100 m of coastline – one lifeguard on the land side and one lifeguard on the side of the water, stationed on a boat or a platform facilitating observation, and placed outside the zone for those who can swim, b) at the seaside, per each 100 m of coastline – teams of three lifeguards, including at least one lifeguard on the side of the water; 2) in places occasionally used for swimming – two lifeguards; 3) for swimming pools: a) those with basins with a length up to 25 m – one lifeguard, b) having basins with a length of 25–50 m – two lifeguards, c) those with basins with a length of more than 50 m – three lifeguards; 4) for other facilities with basins with a total area of more than 100 m^2, and a depth of more than 0.4 m at the deepest point, or with a depth of more than 1.2 m – at least one lifeguard.[12] These are the minimum

[11] § 2 of the Regulation of the Minister of Internal Affairs of 6 March 2012 on the manner of marking and protecting water areas and examples of prohibitory and mandatory signs, as well as information boards and flags (Journal of Laws 2012, item 286, as amended).

[12] § 2 of the Regulation of the Minister of Internal Affairs of 23 January 2012 on the minimum requirements concerning the number of lifeguards exercising the permanent surveillance on the designated area (Journal of Laws 2012, item 108, as amended).

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requirements which need to be applied. However, the entity managing the designated water area has to consider the fact that, due to the large number of people using the places designated for swimming or bathing, the provision of safety might be difficult with the minimum number of lifeguards, but the entity is required to do so.

The creation of an observation post for a designated water area facilitates faster response to occurring threats, and to the violation of the rules for the use of this area, and the prevention of accidents. An observation post allows better reconnaissance of the area and tracking the behaviour of larger groups of people staying in that area. This, in turn, helps to effectively check whether people staying in the water areas are observing the rules for the use of a specific area, facility, or equipment, as well as the mandatory and prohibitory signs placed in the designated area.

Rescue equipment and aids, including signalling and warning devices (visual and audible) should be placed in the designated area. The equipment should be provided by the entity managing the water area. Rescue equipment and aids are necessary to ensure the safety of people staying in water areas, because without the equipment rescue actions could not be conducted or would be much more difficult, or could have limited efficacy, or would be delayed. Signalling and warning devices facilitate threat avoidance, and a faster response, or the immediate provision of information on the threat.

Other requirements concerning the elements of equipment for designated water areas have been established by the legislator for swimming resorts, swimming pools, and other facilities with basins with a total area of more than 100 m^2, and a depth of more than 0.4 m at the deepest place, or with a depth of more than 1.2 m.[13] They depend on the threats (their type, scope, and intensity) which can occur in these places.

People's safety is also endangered when objects dangerous in the context of activities practised in the designated water area, such as swimming or bathing, are present on its bottom. Considering the above, under Article 5 (2) (5) of the SPSWA Act, the legislator imposed on the entity managing the designated water area the obligation to clear the bottom of the space designated for swimming or bathing from all objects which could cause an injury or another type of accident. This type of pollution can be dangerous to the life and health of people swimming, bathing, or practising sports and recreation in such places.

Informational activities are highly important in water safety; therefore, a significant role should be attributed to the publicisation of the rules for the use of the designated water area. A threat or accident can be avoided when the water area or

[13] These requirements are stipulated in the Regulation of the Minister of the Internal Affairs and Administration of 27 February 2012 on the requirements concerning the rescue equipment and aids, signalling and warning devices as well as medical equipment, medicaments and sanitary articles which should be provided to the designated water areas (Journal of Laws 2012, item 261, as amended).

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equipment located there is used properly (i.e., according to its intended purpose), and when any restrictions prescribed for that area are observed. The objective of this solution is to protect people against threats, including bodily injury or health disorders, and, consequently, to avoid rescue activities. The dissemination of these rules falls within the schedule of obligations of the entity managing the water area.

The provision of information on the admissibility of or prohibition on the use of the designated water area is meant to contribute to safety. All entities which are duty-bound to provide safety in water areas can undertake coordinated preventive measures if they have up-to-date information in this regard. If this area is used by people when they are not allowed to do so, and the appropriate entity is informed about it, this entity, when authorised to do so by the legislator, can undertake the proper restrictive measures.

In the framework of the flow of information among the entities responsible for matters of water safety, the entity managing the water area should be informed, i.a., about damaged equipment, or the lack of proper signs, or about other neglect affecting safety in the water area. However, while this obligation does not directly arise from the law, such information should be provided in the framework of cooperation for the safety of people staying in water areas. This should be the direction of cooperation for water safety.

Persons under the influence of alcohol or another intoxicating substance pose a special threat to people staying in water areas; therefore, under Article 6 of the SPSWA Act, the entity managing the designated water area, or the person authorised by this entity, may not admit a given person to this area, or may ask such a person to leave the area if his or her behaviour clearly demonstrates that he or she is under the influence of alcohol or another intoxicating substance. So, this type of behaviour is sufficient to assume that such a person is under the influence of alcohol or another intoxicating substance. Article 6 of the SPSWA Act mentions intoxication with alcohol or another substance, but not the condition after the consumption of alcohol or the use of the intoxicating substance.

The state of intoxication occurs when (1) the blood-alcohol content exceeds 0.5 per mille or results in an alcohol concentration exceeding this value, or (2) the alcohol content in 1 dm^3 of exhaled breath exceeds 0.25 mg or results in an alcohol concentration exceeding this value.[14] As far as the effects on the central nervous system are concerned (especially psychomotor-activity deficiency), the state after

[14] Article 115 § 16 of the Act of 6 June 1997 – Penal Code (consolidated text, Journal of Laws 2019, item 1950, as amended). In defining the notion of intoxication, the legislator assumes two alternative criteria for this condition, i.e. the alcohol content in the blood and the alcohol content in the exhaled breath. The above does not mean that the first of these criteria is only valid if a blood test is run, because testing the exhaled air also involves an indirect analysis of blood running through the lung alveoli, i.e. the blood-alcohol content. See decision of the Supreme Court of 14 November 2013, V KK 137/13, LEX no. 1396795.

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the use of the intoxicating substance is the condition causing the same result as the consumption of alcohol leading to intoxication.[15]

In Article 7 of the SPSWA Act, the legislator provided that a person in a condition resulting from the consumption of alcohol, or the use of a substance with similar effects, is not allowed to operate, in waterway traffic, any vessel or another floating object not being a mechanical vehicle. The condition after the consumption of alcohol occurs when the alcohol content in the body ranges, or causes the alcohol content in the exhaled breath to range, from 0.1 mg to 0.25 mg of alcohol in 1 dm^3, or when the alcohol concentration in the blood is from 0.2‰ to 0.5‰.[16] The condition after the use of a substance with effects similar to alcohol (including narcotic drugs) is a state which, in terms of effects, is equivalent to the condition after the consumption of alcohol.[17] A vessel, or another floating object not being a mechanical vehicle, operated in waterway traffic by a person who is under the influence of alcohol or another substance with similar effects, poses a very serious threat to other participants in waterway traffic, and to such a person. Therefore, under Article 7 of the SPSWA Act, the legislator has introduced a prohibition on the operating of any floating vessels in waterway traffic.

CONCLUSIONS

Water quality is an important aspect of the safety of people swimming and bathing, and practising water sports or recreation. This refers to waters, swimming resorts, places occasionally used for bathing, and swimming pools, as well as waters present in the basins of other facilities, freshwaters and salt waters (including, the sea and brine waters), and thermal waters. These waters have to be compliant with the minimum microbiological, physical, and chemical requirements.

Water rescue has an important role in the safety of people staying in water areas. In accordance with Article 12 (1) of the SPSWA Act, water rescue can be performed by the entities which have obtained the authorisation of the minister responsible for internal affairs to perform water rescue, and are entered in the register of units cooperating with the system of the National Emergency Medical

[15] Judgement of the Supreme Court of 7 February 2007, V KK 128/06, LEX no. 257849.

[16] Article 46 (2) of the Act of 26 October 1982 on upbringing in sobriety and alcoholism prevention (consolidated text, Journal of Laws 2019, item 2277, as amended). The presence of alcohol in the exhaled breath at up to 0.25 mg/l means that a person with this result has consumed alcohol, but does not mean that such a person is intoxicated. See judgement of the Supreme Court of 24 April 2007, IV KK 112/07, OSNwSK 2007, no. 1, item 926.

[17] Judgement of the Supreme Court of 7 February 2007, KK 128/06, LEX no. 257849.

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Services maintained by the regional governor in electronic form.[18] This authorisation is given in the form of an administrative decision.[19] The minister assesses whether such entities satisfy the statutory requirements, i.e. if they guarantee the proper protection of people staying in water areas, and therefore, whether they are able to guarantee their safety.

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[19] A public administration authority handles the matter by issuing an opinion, meaning that its purpose is to resolve an administrative matter being the subject of administrative proceedings. See A. Skóra, *Ogólne postępowanie administracyjne. Zarys wykładu*, Elbląg 2015, p. 69.

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ABSTRAKT

Zagrożenia występujące na obszarach wodnych zmusiły ustawodawcę do uregulowania kwestii dotyczących bezpieczeństwa osób przebywających na tych obszarach, które to osoby są zobowiązane do zachowania należytej staranności w celu ochrony życia i zdrowia własnego oraz innych osób. Należyta staranność będzie zatem podstawowym czynnikiem pozwalającym na zapewnienie bezpieczeństwa. Obok tej staranności ważna jest analiza zagrożeń, w tym identyfikacja miejsc, w których występuje zagrożenie dla bezpieczeństwa osób wykorzystujących obszar wodny do pływania, kąpania się, uprawiania sportu wodnego lub rekreacji, której dokonują podmioty zajmujące się profesjonalnie bezpieczeństwem wodnym, zatem Policja oraz podmioty uprawnione do wykonywania ratownictwa wodnego.

Słowa kluczowe: zagrożenia; bezpieczeństwo; pływanie; kąpanie się; sporty wodne; ratownictwo