

Małgorzata Czuryk

University of Warmia and Mazury in Olsztyn, Poland

ORCID: 0000-0003-0362-3791

malgorzata.czuryk@uwm.edu.pl

Jurisdiction of the Voivode in the Field of Crisis Management

Właściwość wojewody w zakresie zarządzania kryzysowego

ABSTRACT

The voivode is appointed to satisfy public needs at the regional level. One such need is ensuring security, and this is achieved through mechanisms specific to crisis management. In this sphere, the voivode plays a prominent role. The article aims to determine the legal status of the voivode in the area of crisis management, specifically the tasks and responsibilities of the voivode with respect to counteracting crisis situations and mitigating the consequences they entail. This objective required an analysis of the legal provisions regulating the voivode's position as a representative of the Council of Ministers in the field, as well as the voivode's responsibilities in crisis management. Two research methods were used to conduct the study under consideration in this paper: the dogmatic-legal and theoretical-legal methods.

Keywords: voivode; security; crisis management

INTRODUCTION

In addition to their numerous tasks, public administration bodies, including those operating in a particular area of the state, are obliged to guarantee security, i.e., a situation in which the level of threats does not become so significant as to interfere with the normal functioning of society and public institutions. Moreover,

CORRESPONDENCE ADDRESS: Małgorzata Czuryk, PhD, Dr. Habil., University Professor, University of Warmia and Mazury in Olsztyn, Faculty of Law and Administration, Dybowskiego 13, 10-723 Olsztyn, Poland.

security is to be ensured through mechanisms specific to crisis management. Owing to the fact that the state attaches particular significance to crisis management, it has entrusted both local authorities (voivodeship authorities of local self-government) and the authorities whose area of activity extends over the entire state (the Council of Ministers, the President of the Council of Ministers, ministers, heads of central offices) with responsibilities in this respect.

The legislator defines crisis management as the activities of public administration bodies that constitute an element of national security management, which consists of preventing crisis situations, preparing to assume control over them by means of planned activities, reacting in case of crisis situations, removing their after-effects and restoring resources and critical infrastructure.¹ It should be emphasised that in the event of a threat, the focus needs to move towards prevention rather than mitigation; although both scenarios must be considered with due diligence,² at the same time, a broad interpretation of the threat should be adopted.³

Since crisis management is a security-related activity of public administration bodies, it is also an activity of the voivode, acting as a body with managerial powers related to ensuring national security. Crisis management is directly related to the occurrence of crisis situations and their anticipation. Moreover, the legislator provided a definition of a crisis situation, which, according to Article 3 (1) ACM, should be understood as a situation adversely affecting the level of security of people, large-scale property or the environment, causing significant limitations in the activities of the relevant public administration bodies due to inadequacy of their forces and resources.⁴ Consequently, a crisis situation is a significant threat, which does not, however, determine the introduction of a state of exception but the activation of mechanisms specific to crisis management. Crisis management is, therefore, an intermediate element between the normal functioning of the state and society and this particular threat, which justifies the declaration of a state of exception in the state, significantly restricting civil liberties.

The objective of the paper is, therefore, to determine the responsibilities of the voivode when there is a significant threat to the state, although it is not so serious

¹ Article 2 of the Act of 26 April 2007 on crisis management (consolidated text, Journal of Laws 2023, item 122, as amended), hereinafter: ACM. See also M. Czuryk, *Cybersecurity and Protection of Critical Infrastructure*, "Studia Iuridica Lublinensia" 2023, vol. 32(5), p. 44; J. Kostrubiec, M. Karpiuk, D. Tyrawa, *The Status of Municipal Government in the Sphere of Ecological Security*, "Hungarian Journal of Legal Studies" 2024, vol. 65(2).

² M. Czuryk, *Activities of the Local Government During a State of Natural Disaster*, "Studia Iuridica Lublinensia" 2021, vol. 30(4), p. 122.

³ M. Karpiuk, *Glosa do wyroku Naczelnego Sądu Administracyjnego z dnia 12 lutego 2018 r. (II OSK 2524/17)*, "Studia Iuridica Lublinensia" 2019, vol. 28(1), p. 191.

⁴ See also K. Płonka-Bielenin, *Instytucja zarządzania kryzysowego w Polsce – założenia i rzeczywistość*, "Przegląd Prawa Publicznego" 2017, no. 7–8, pp. 155–156.

as to require the state of exception to be declared. The basic research method used in the paper was the dogmatic-legal method, through which the legal provisions regulating the status of the voivode were analysed, especially those imposing on this body the duties of ensuring security in the voivodeship when a crisis situation occurs. A complementary theoretical-legal method was used to analyse the literature in terms of activities in the field of public administration aimed at preventing threats that determine the emergence of crisis situations, combating them and removing the consequences that have arisen as a result of their occurrence.

LEGAL STATUS OF THE VOIVODE WITH REGARD TO CRISIS MANAGEMENT

In the region, the tasks related to crisis management are performed by the voivode, and pursuant to Article 14 (2) ACM these include: 1) directing the monitoring, planning, response and elimination of the consequences of threats on the territory of the voivodeship; 2) civilian planning; 3) managing, organising and conducting training, drills and exercises concerning crisis management; 4) requesting the use of subdivisions or detachments of the Armed Forces of the Republic of Poland (in accordance with the voivodeship crisis management plan), as well as immediate task groups composed of soldiers who have the right to hunt, in order to use them for sanitary culling of free-living (wild) animals in specific areas; 5) requesting the assistance of the Police, Border Guard or the State Fire Service for sanitary culling of free-living (wild) animals in specified areas; 6) carrying out undertakings resulting from planning documents executed within the framework of operational planning carried out in the voivodeship; 7) preventing, counteracting and removing the effects of terrorism-related events; 8) cooperating with the Head of the Internal Security Agency in preventing, counteracting and removing the effects of terrorism-related events; 9) organising the protection of critical infrastructure.⁵

The voivode performs the tasks related to crisis management with the support of the relevant organisational unit located in the voivodeship office, whose tasks under Article 14 (6) ACM include in particular: 1) collection and processing of data and assessment of threats occurring in the voivodeship area; 2) monitoring, analysing and predicting the development of threats in the voivodeship area; 3) providing the necessary information on the current state of security for the voivodeship crisis management team, the crisis management team operating in the office serving

⁵ See also P. Ruczkowski, *Zarządzanie kryzysowe*, [in:] *Publicznoprawne podstawy bezpieczeństwa wewnętrznego*, ed. M. Zdyb, Warszawa 2014, pp. 217–218; J. Kostrubiec, *Status of a Voivodeship Governor as an Authority Responsible for the Matters of Security and Public Order*, “Barometr Regionalny” 2018, vol. 16(5), pp. 37–38.

the minister in charge of internal affairs and the Government Security Centre; 4) cooperation with the district crisis management teams; 5) ensuring the functioning of the voivodeship crisis management team, including documenting its work; 6) carrying out the tasks of the permanent standby duty within the framework of state defence readiness; 7) preparing and updating the voivodeship crisis management plan; 8) preparing the voivode's recommendations to the district crisis management plans based on the analysis of threats in individual districts; 9) issuing opinions and submitting the district crisis management plans to the voivode for approval; 10) collecting and processing information on the critical infrastructure located in the voivodeship; 11) planning the support of other bodies responsible in matters of crisis management; 12) planning the use of subdivisions or units of the Armed Forces of the Republic of Poland to perform tasks of crisis management; 13) planning the support provided by public administration bodies for the performance of tasks of the Armed Forces of the Republic of Poland.

It should be emphasised that the catalogue of tasks of the organisational unit responsible for crisis management in the voivodeship office is open in character, which seems to be understandable, especially as it is not an independent structure, but merely supports the voivode in its capacity as the authority responsible for crisis management in the region. The voivode performs the tasks with the assistance of the voivodeship office and, therefore, also of the organisational units forming part of the office. The voivode assigns a statute to the voivodeship office, which specifies the names of the organisational units of the office, as well as the scope of their activities. Consequently, the voivode may supplement the statute with tasks of the organisational unit responsible in matters of crisis management other than those specified in Article 14 (6) ACM.

The voivodeship crisis management team, appointed by the voivode, serves as a body auxiliary to the voivode in ensuring the performance of crisis management tasks. According to Article 14 (8) ACM, the tasks of this team include: 1) assessing existing and potential threats that may affect public safety and predicting these threats; 2) preparing proposals for actions and submitting proposals to the voivode concerning the execution, modification or discontinuation of actions included in the voivodeship crisis management plan; 3) providing the public with information on threats; 4) commenting on the voivodeship crisis management plan. Due to the importance of the tasks performed by the voivode in the area of crisis management, the voivode is supported in this respect by both the relevant unit of the voivodeship office, the voivodeship crisis management team and the voivodeship crisis management centre.

The tasks of the voivodeship crisis management centres are defined in Article 16 (2) ACM, including: 1) keeping round-the-clock duty to ensure the flow of information for the needs of crisis management; 2) cooperation with crisis management centres of public administration bodies; 3) supervision over the functioning of the

detection and information alert system and the early warning system for the public; 4) cooperation with entities carrying out environmental monitoring; 5) cooperation with entities carrying out rescue, search and humanitarian actions; 6) documenting own actions; 7) performing the tasks of permanent duty for the needs of increasing the national defence preparedness.⁶

When the organiser of the assembly considers that the planned assembly will not cause any obstructions in the traffic flow and, in particular, will not cause any changes in its organisation, the organiser shall notify the voivodeship crisis management centre (in case the relevant municipal crisis management centre has not been established in the given municipality) of the intention to organise the assembly, not earlier than 30 days and not later than 2 days before the planned date of the assembly.⁷ Just as under the ordinary procedure, the organiser is obliged under the simplified procedure to notify the intention to hold an assembly. The responsible crisis management centre has been designated as the entity appropriate to receive such notification. The deadline for making the notification under the simplified procedure (no later than 2 days before the date of the assembly) is shorter than the deadline applicable under the ordinary procedure. Shortening the deadline clearly results from the fact that an assembly organised under the simplified procedure does not require multiple steps to be taken to organise it. Moreover, the scope of information to be indicated in the notice has been reduced in relation to that given in the ordinary procedure.⁸

If an alert, limit or target level of a substance in the air is exceeded in a given territory, the voivodeship crisis management centre shall inform the responsible authorities about the need to take measures defined in the short-term action plan, which aims at reducing the risk of such exceedances as well as their effects and duration.⁹ The basic premise obliging the development of short-term action plans is the occurrence of a risk of exceeding the norms defined by a legal provision.¹⁰ Air protection, therefore, determines the enactment of short-term action plans. Pursuant to Article 93 (1) EPL, immediately notify the public and the entities exploiting the environment, which are obliged to limit or cease the discharge of gases or dust into

⁶ See also D. Lebowa, *Strategie działania RP w kontekście sytuacji kryzysowych*, [in:] *Podstawowe płaszczyzny zagrożeń bezpieczeństwa wewnętrznego. Aspekty materialnoprawne*, eds. M. Zdyb, J. Stelmasiak, K. Sikora, Warszawa 2014, p. 104.

⁷ Article 22 (1) of the Act of 24 July 2015 – Assemblies Law (consolidated text, Journal of Laws 2022, item 1389, as amended).

⁸ A. Rzeteska-Gil, *Prawo o zgromadzeniach. Komentarz*, LEX/el. 2019, commentary on Article 22.

⁹ Article 92 (1d) of the Act of 27 April 2001 – Environmental Protection Law (consolidated text, Journal of Laws 2024, item 54, as amended), hereinafter: EPL.

¹⁰ K. Gruszecki, *Prawo ochrony środowiska. Komentarz*, LEX/el. 2022, commentary on Article 92.

the air from installations in the manner customarily accepted in the given area, of the risk of exceeding the warning, permissible or target level of substances in the air and of the occurrence of such an exceedance. The obligation to immediately notify the public and relevant entities of such exceedances (including the risk of their occurrence) stems from the need to protect life and health.¹¹

The voivode prepares (and submits for approval to the minister in charge of public administration) a voivodeship crisis management plan. According to Article 5 (2) ACM, this plan consists of the following elements: 1) the master plan containing: a) the characteristics of threats and the assessment of the risk of their occurrence, including those relating to critical infrastructure, as well as risk maps and threat maps, b) the tasks and responsibilities of participants in crisis management in the form of a safety grid, c) a list of forces and resources planned to be used in crisis situations, d) the tasks defined by short-term action plans; 2) a set of undertakings in the event of crisis situations, including: a) tasks in the field of risk monitoring, b) the mode of activation of the necessary forces and resources participating in the implementation of the planned undertakings in the event of a crisis situation, c) procedures of crisis response, defining the manner of conduct in crisis situations, d) definition of the scope of cooperation in the implementation of the planned actions in the event of a crisis situation; 3) functional annexes to the master plan defining: a) the procedures for the execution of crisis management tasks, including those related to the protection of critical infrastructure, b) organisation of communications, c) organisation of the system for monitoring threats, warning and alarming, d) the principles of informing the population about threats and ways of conduct in the event of threats, e) organisation of evacuation from threatened areas, f) organisation of rescue, medical care, social assistance and psychological assistance, g) organisation of protection against threats specific to the area, h) the list of agreements and arrangements related to the implementation of the tasks contained in the crisis management plan, i) the principles and procedure for assessing and documenting the damage, j) the procedures for activating state reserves, k) the list of critical infrastructure spots covered by the crisis management plan and located on the territory of the voivodeship, district or municipality, respectively l) the priorities for the protection and restoration of critical infrastructure.

In the case of crisis management, there is a planning principle that obliges public administration bodies, including the voivode, to undertake proper planning measures in the event of a crisis situation. Planning in the sphere of security is so crucial that it allows, in the event of threats and possible damage caused by them, to take coordinated action to restore the normal state of affairs. It makes it possible to avoid chaos and to organise actions, including through cooperation, in such

¹¹ Z. Bukowski, E. Czech, K. Karpus, B. Rakoczy, *Prawo ochrony środowiska. Komentarz*, Warszawa 2013, commentary on Article 93.

a way as to facilitate not only an effective response to the threat but also the rapid elimination of its effects, should they arise.

In a situation of particular threat, the voivode may resort to subdivisions or units of the Armed Forces of the Republic of Poland to carry out the tasks of crisis management. As stipulated in Article 25 ACM, if the use of other forces and means in a crisis situation turns out to be impossible or insufficient, as long as other provisions do not stipulate otherwise, the Minister of National Defence may place at his/her disposal subdivisions or units of the Armed Forces of the Republic of Poland at the request of the voivode, including directing them to perform the tasks of crisis management. The Armed Forces of the Republic of Poland may participate in the performance of these tasks corresponding to their professional preparation in accordance with the voivodeship crisis management plan, which is agreed with the responsible authorities specified by the Minister of National Defence. The tasks of the Armed Forces of the Republic of Poland performed in the sphere of crisis management include: 1) cooperation in the monitoring of threats; 2) assessment of the effects of developments in the area of occurrence of threats; 3) carrying out search and rescue operations; 4) evacuation of the affected population and property; 5) carrying out operations aimed at preparing conditions for the temporary stay of the evacuated population in designated places; 6) cooperation in the protection of property left in the area of occurrence of threats; 7) isolation of the area of occurrence of threats or the place where rescue operations are carried out; 8) carrying out protection, rescue and evacuation operations with regard to buildings and monuments at risk; 9) carrying out works requiring the use of specialised technical equipment or explosives held by the Armed Forces of the Republic of Poland; 10) removal of hazardous materials and disposing of them, with the use of forces and means held by the Armed Forces of the Republic of Poland; 11) elimination of chemical contamination and biological contamination and infection; 12) removal of radioactive contamination; 13) execution of activities related to repair and reconstruction of technical infrastructure; 14) cooperation in ensuring the passability of communication routes; 15) provision of medical assistance and performance of sanitary-hygienic and counter-epidemic tasks. The use of assistance from subdivisions and units of the Armed Forces of the Republic of Poland is optional.¹² Using them to carry out crisis management tasks must not lead to a limitation of the constitutional objective they have been set to achieve since the Armed Forces of the Republic of Poland serve first and foremost to protect the

¹² P. Sokal, *Ustawa o zarządzaniu kryzysowym. Komentarz*, LEX/el. 2022, commentary on Article 25.

independence of the State and the indivisibility of its territory and to ensure the security and inviolability of its borders.¹³

Each EU Member State has been required to adopt a national plan for responding to large-scale cyber security incidents and crises.¹⁴ In doing so, it should be emphasised that cyberspace is a new environment, and society is not evolutionarily adapted to function in it.¹⁵ As the entity that creates the national cyber security system, the voivode strives to ensure cyber security at the national level, including the uninterrupted provision of key and digital services, by achieving an adequate level of security of the information systems used to render these services and ensuring incident handling¹⁶ – and therefore should be given an active role in cyber security crisis management due to its position in the region. This should be noted by the Polish legislator when adapting national legislation to EU regulations.

¹³ Article 26 (1) of the Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws 1997, no. 78, item 483, as amended). See also P. Winczorek, *Komentarz do Konstytucji Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 roku*, Warszawa 2008, p. 70; B. Banaszak, *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2009, p. 152.

¹⁴ Article 9 (4) of Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No. 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive) (OJ L 333/80, 27.12.2022). On the subject of cyber security, see also S. Busetti, F.M. Scani, *Pericoli Cyber. Un'analisi dei processi di istituzionalizzazione e di Policy Making della cybersicurezza nazionale*, [in:] *Essere digitali. Le scienze della politica allo studio dell'ultima rivoluzione*, eds. S. Busetti, A. Noto, R. Romani, Teramo 2023, pp. 67–77; C. Gaie, M. Karpiuk, *The Provision of e-Services by Public Administration Bodies and Their Cybersecurity*, [in:] *Transforming Public Services – Combining Data and Algorithms to Fulfil Citizen's Expectations*, eds. C. Gaie, M. Mehta, Cham 2024, pp. 182–185; J. Kulesza, *Należyta staranność a cyberbezpieczeństwo wewnętrzne organizacji*, [in:] *Zagrożenia wewnętrzne bezpieczeństwa zasobów informacyjnych w organizacji*, ed. P. Dziuba, Warszawa 2023, pp. 91–93; K. Kaczmarek, M. Karpiuk, C. Melchior, *A Holistic Approach to Cybersecurity and Data Protection in the Age of Artificial Intelligence and Big Data*, “Prawo i Więź” 2024, no. 3, pp. 106–108; M. Nakielny, *Wybrane elementy bezpieczeństwa sieci i systemów teleinformatycznych w kontekście cyberzagrożeń*, [in:] *Działania hybrydowe a bezpieczeństwo sieci i systemów teleinformatycznych w SZ RP – wybrane aspekty*, eds. M. Marczyk, M. Stolarz, B. Terebiński, Warszawa 2021, pp. 372–382.

¹⁵ K. Kaczmarek, *Etyka a prawo w edukacji*, [in:] *Prawo w poszukiwaniu prawdy, dobra i piękna. Księga jubileuszowa ks. prof. Sławomira Fundowicza*, eds. P. Śwital, B. Kuś, E. Gulińska, Radom 2024, p. 479.

¹⁶ Article 3 of the Act of 5 July 2018 on the national cyber security system (consolidated text, Journal of Laws 2024, item 1077, as amended). See also G. Szpor, *Komentarz do art. 3*, [in:] *Ustawa o krajowym systemie cyberbezpieczeństwa. Komentarz*, eds. G. Szpor, A. Gryszczyńska, K. Czaplicki, Warszawa 2019; M. Czuryk, *Restrictions on the Exercising of Human and Civil Rights and Freedoms Due to Cybersecurity Issues*, “Studia Iuridica Lublinensia” 2022, vol. 31(3), p. 34; M. Karpiuk, *The Legal Status of Digital Service Providers in the Sphere of Cybersecurity*, “Studia Iuridica Lublinensia” 2023, vol. 32(2), p. 192; F. Radoniewicz, [in:] *Ustawa o krajowym systemie cyberbezpieczeństwa. Komentarz*, eds. W. Kitler, J. Taczowska-Olszewska, F. Radoniewicz, Warszawa 2019, p. 52.

Consequently, managing cyber security falls within the sphere of crisis management. This is also evident when its subjects are the owners and possessors, whether legal or dependent, of critical infrastructure facilities, installations or equipment, who are also operators of critical services.¹⁷

DISCUSSION AND CONCLUSIONS

The voivode is responsible for the implementation of the policy of the Council of Ministers in the voivodeship, including ensuring the cooperation of all governmental and self-governmental administrative bodies operating in the voivodeship and directing their activities in the prevention of threats to life, health or property and threats to the environment, state security and the maintenance of public order, the protection of civil rights, as well as the prevention of natural disasters and other extraordinary threats as well as combating and removing their effects.¹⁸

As stipulated in Article 26 of the Voivode and Government Administration Act, the voivode, within the framework of governmental administration tasks carried out in the voivodeship, has the right to demand current information and explanations from the governmental administration bodies operating in the voivodeship concerning their activities. Subject to the provisions on the protection of classified information or other legally protected secrets, the voivode has the right to inspect the course of any matter conducted in the voivodeship by government administration bodies, as well as by local government bodies within the scope of tasks assumed under an agreement or delegated tasks. This right also applies to crisis management.

According to Article 21 ACM, the obligation to take action in relation to crisis management rests with the authority responsible in matters of crisis management, which first receives information about the occurrence of a threat. This authority promptly informs the authorities of a higher and lower level, respectively, of the occurrence of the event, at the same time presenting its assessment of the situation and information on the planned actions. This obligation also applies to the voivode. The purpose of this provision is to prevent situations where none of the authorities

¹⁷ M. Karpiuk, C. Melchior, U. Soler, *Cybersecurity Management in the Public Service Sector*, "Prawo i Więź" 2023, no. 4, p. 21.

¹⁸ Article 22 (2) of the Act of 23 January 2009 on the voivode and government administration in the voivodeship (consolidated text, Journal of Laws 2023, item 190, as amended). See also M. Pacak, K. Zmerek, *Ustawa o wojewodzie i administracji rządowej w województwie. Komentarz*, LEX/el. 2013, commentary on Article 22; M. Ślusarczyk, [in:] *Ustawa o wojewodzie i administracji rządowej w województwie. Komentarz*, eds. P. Drebnkowski, M. Ślusarczyk, Warszawa 2022, p. 98.

is willing to engage in crisis management tasks, especially when there is a need to respond immediately to a threat.¹⁹

When it comes to security, the cooperation of many entities is necessary, and such cooperation is organised in the voivodeship by the voivode, who coordinates and directs the performance of tasks concerning the prevention of extraordinary threats, combating them and removing their effects.²⁰ This coordination is also relevant to crisis management tasks.

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¹⁹ M. Czuryk, *Status prawny samorządu terytorialnego w sferze zarządzania kryzysowego*, "Cybersecurity and Law" 2024, vol. 11(2), p. 183.

²⁰ M. Karpiuk, J. Kostrubiec, *Provincial Governor as a Body Responsible for Combating State Security Threats*, "Studia Iuridica Lublinensia" 2024, vol. 33(1), p. 119.

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ABSTRAKT

Wojewoda został powołany do zaspokajania potrzeb publicznych występujących na szczeblu regionu. Jedną z takich potrzeb jest zapewnienie bezpieczeństwa, a służyć temu mają również mechanizmy właściwe zarządzaniu kryzysowemu. W tej sferze ważne miejsce zajmuje właśnie wojewoda. Celem artykułu jest określenie statusu prawnego wojewody w obszarze zarządzania kryzysowego, a w szczególności jego zadań i kompetencji związanych z przeciwdziałaniem sytuacjom kryzysowym i usuwaniem skutków, jakie za sobą niosą. Cel ten wymagał przeanalizowania przepisów prawnych regulujących nie tylko jego pozycję jako przedstawiciela Rady Ministrów w terenie, lecz także jego właściwość w zakresie zarządzania kryzysowego. Do przeprowadzenia badań będących przedmiotem artykułu wykorzystano dwie metody badawcze: dogmatyczno-prawną oraz teoretyczno-prawną.

Słowa kluczowe: wojewoda; bezpieczeństwo; zarządzanie kryzysowe