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## THE DUTY TO PROVIDE PUBLIC PERSONAL AND IN-KIND CONTRIBUTIONS IN THE EVENT OF NATURAL DISASTERS IN THE POLISH LEGAL ORDER

### Introduction

The issues covered by this analysis have not yet been addressed in the literature. Usually, natural disasters are discussed from the point of view of constitutional and general principles regulating extraordinary measures – which also include a state of natural disaster [Prokop 2005, 101-22; Bryk 2011, 223-34; Miemiec 2016, 19-27], or the principles of functioning of the state when public authorities introduce such measures [Kazimierczuk 2005, 85-93; Ciekankowski and Stachowiak 2012, 375-98]. However, these issues, seen from the point of view of public burdens in the form of personal and in-kind contributions, have so far not been addressed by the academic community.

A state of natural disaster, which is characterised by exceptional unpredictability and, at the same time, the exceptional nature of this situation, combined with the threat to particularly protected goods such as life, human health and property, justifies the need for the legislator to appeal to the idea of a special sacrifice for the public interest, as reflected in the activation of the mechanism of public in-kind and personal contributions [Szalewska 2012, 526; Konarski 2020c, 95-100].

Over the centuries, the obligation to provide public contributions, also referred to as public burdens [Kasznica 1946, 124-27; Konarski 2020a, 43-46; Idem 2020b, 335-36], has developed in the Polish legal system along with civilisational changes, but despite these changes, the essence

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and nature of these burdens has not, surprisingly, changed much. For centuries, therefore, obligations of this kind have been associated with various services for the State. These services included the provision the delivery of recruits, participation in building fortifications work, the construction of roads and bridges, the performance of guard duties, the provision of means of transport, the provision of accommodation and food for the army, and the provision of various personal professional services for the state [Taźbirek 2009, 103-14; Konarski 2019, 111-31; Idem 2021a, 153-87; Idem 2021b, 17-42].

These many duties to provide public personal services also included those related to the occurrence of extreme situations, usually independent of human will, i.e. situations of disasters of natural origin, i.e. atmospheric, hydrological and geological (fires, floods, droughts, storms, typhoons, hurricanes, tornadoes, earthquakes, volcanic eruptions) or biological (epidemics of infectious diseases) [Biernacki, Bokwa, Działek, et al. 2009, 13-28; Włodarczyk 2011, 331-51; Głogowska-Gruszka, Wypych-Ślusarska, Kasznia-Kocot, et al. 2014, 186-91].

### **1. The formation of the duty**

The regulation of the prevention of and fight against these elements has been known to mankind since ancient times. The first certain epidemic of pestilences was the so called “Justinianic Plague” that had broken out in VI century in the Byzantine Empire and lasted through two centuries. It is recognized that in the years of 541-750 there had been eighteen strikes of pestilences. Two waves of the plague took place during the reign of Justinian. The first one broke out in Pelusium in 541, the second – in 558 [Wójcik 2011, 377-401].

In the Middle Ages, services in the event of natural disasters (e.g. town fires) were provided by craft guilds and religious brotherhoods [Wiśniowski 1969, 72; Samsonowicz 1984, 553-58; Litak 1997, 501-502]. In the 18th and 19th centuries, a number of normative acts were promulgated, regulating in detail the rules of conduct during natural disasters, at that time referred to as “extraordinary” disasters, and these regulations mainly addressed the issues of exterminating harmful insects, putting out

fires and fighting infectious diseases (e.g. rabies).<sup>1</sup> With the progress of civilisation, more and more casuistic legal norms relating to such factual circumstances have developed.

After Poland regained its independence in 1918, work began on legal regulations covering issues related to natural disasters, known at that time as general disasters. The first of these regulations were related to combating infectious diseases,<sup>2</sup> and the creation of the office of the Supreme Extraordinary Commissioner for combating epidemics that threatened the State with a general disaster.<sup>3</sup> The basic legal act in the field of sanitary

<sup>1</sup> See *Rozporządzenie ogniowego porządku w Lublinie ogłoszone mieszkańcom 15 czerwca 1784 r.* [Ordinance of fire order in Lublin announced to the inhabitants on 15 June 1784], State Archives in Lublin, “Akta Komisji Dobrego Porządku w Lublinie” [Records of the Good Order Commission in Lublin], fonds no. 1427, file no. 5, cards 72-75; Decree of the Imperial and Royal Governorate of Western Galicia of 22 June 1802 indicating measures to exterminate locusts, *Zbiór przepisów administracyjnych Królestwa Polskiego* [Collection of Administrative Regulations of the Kingdom of Poland], Part IV, Vol. I, Warsaw 1867, p. 555-63 (hereinafter: ZPAKP); Announcement of the Minister of the Internal Affairs of 24 May 1808 on forest firefighting, ZPAKP, p. 661-67; Ordinance of the Government Commission for Internal and Spiritual Affairs of 23 June (5 July) 1842 prohibiting the skinning of slaughtered rabid wolves, ZPAKP, p. 691-93. Cf. Jakimowicz 2014, 45-55.

<sup>2</sup> Decree of 7 February 1919 on the eradication of infectious diseases and other diseases of common occurrence, *Journal of Laws of the Polish State* No. 14, item 184; Act of 25 July 1919 on the eradication of infectious diseases and other diseases of common occurrence, *Journal of Laws* No. 67, item 402. Cf. State Archives in Lublin, “Akta gminy Potok Górny”, O chorobach zakaźnych [zarządzenia, wykazy tygodniowe chorób zakaźnych], fonds no. 26, file no. 501 (all cards).

<sup>3</sup> Act of 14 July 1920 on the creation of the office of the Chief Extraordinary Commissioner for Epidemic Control threatening the State with a general disaster, *Journal of Laws* No. 61, item 388; Regulation Chief Extraordinary Commissioner for Epidemic Control of 20 May 1931, “*Monitor Polski*” No. 127, item 192. According to the Regulation, generally applicable regulations in the field of epidemic control could only be issued with the prior approval of the Chief Extraordinary Commissioner for Epidemic Control. Cf. Regulation of the Minister of Public Health in agreement with the Minister of Internal Affairs and the Minister of Military Affairs of 5 February 1920 on extraordinary measures to combat infectious diseases, *Journal of Laws* No. 13, item 71. The Chief Extraordinary Commissioner for Epidemic Control was appointed for the period from 1 January to 31 December 1930, Regulation of the Council of Ministers of 7 February 1930 on the appointment of the office of the Chief Extraordinary Commissioner for Epidemic Control, *Journal of Laws* No. 13, item 95. Cf. The Archives of Modern

protection was the Basic Sanitary Act of 19 July 1919,<sup>4</sup> which entrusted the Ministry of Public Health with the supervision of all health matters in the State and the management of medical matters. These normative acts became the basis for the commencement of the sanitary and epidemiological system in Poland, the aim of which was to protect health safety and life of the citizens [Wardzyńska 2017, 115-29]. Further regulations concerning issues related to the subject of this analysis were introduced already after the Sanation movement associated with Józef Piłsudski who seized power in 1926. This took place in 1934 through the promulgation of the Act on the Protection against Fires and other Disasters,<sup>5</sup> and its implementing regulation a few years later.<sup>6</sup>

The first post-war provisions on public personal and in-kind contributions were issued under the new socio-economic system. Interestingly, this regulation,<sup>7</sup> although it dates back to the Stalinist era, still has the status of a valid legal act. Obviously, this regulation has been subject to numerous amendments over the years – the last one dates back to 2007 – but it should be stressed that the Polish legislator, as in many other cases, has not repealed the provisions from the period of the previous regime, often considered by the Polish legislator to be a totalitarian regime [Dubel 2016, 231-48; Poprawa 2017, 137-75].

The provisions of the Decree of 1953 and its implementing acts were not the only regulations concerning the obligation to provide personal and in-kind contributions in the event of natural disasters, as, according

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Records, “Kancelaria Cywilna Naczelnika Państwa w Warszawie” [Ministerstwo Zdrowia Publicznego], “Nominacje i dymisje w Naczelnym Nadzwyczajnym Komisariacie do spraw walki z epidemiami”, fonds no. 3, file no. 112 (all cards).

<sup>4</sup> Fundamental Sanitary Act of 19 July 1919, Journal of Laws No. 63, item 371. This Act was repealed as late as on 30 June 1939 by Act of 15 June 1939 on the Public Health Service, Journal of Laws No. 54, item 342.

<sup>5</sup> Act of 13 March 1934 on protection against fires and other disasters, Journal of Laws No. 41, item 365. This Act was repealed as late as on 28 February 1950 by the entry into force of Act of 4 February 1950 on fire protection and its organisation, Journal of Laws No. 6, item 51.

<sup>6</sup> Regulation of the Minister of Internal Affairs of 6 April 1939 on the duties of the population in the events of fires or other disasters, Journal of Laws No. 37, item 242.

<sup>7</sup> Decree of 23 April 1953 on contributions for the purposes of combatting natural disasters, Journal of Laws No. 23, item 93.

to the Act on a State of Emergency of 1983,<sup>8</sup> in the event of a natural disaster, a state of emergency could be imposed for a limited period of time on part or all of the national territory.

According to the Act on a State of Emergency, which was in force until 21 January 2003, during a state of emergency due to a natural disaster, designated entities could be obliged to provide certain personal and in-kind contributions. These entities were defined in the Act as: (i) all Polish citizens registered or residing in the territorial units of the State in which a state of emergency was imposed; (ii) state, cooperative and self-government organisational units or their parts located in the areas indicated as above; (iii) foreigners residing in the areas indicated as above, with the exclusion of those covered by the principle of extraterritoriality.<sup>9</sup> Among the personal and in-kind contributions, the Act listed the following in particular (and thus listed by way of example):<sup>10</sup> undertaking immediate rescue action, providing first aid to the injured, storing their property and securing livestock at risk of a natural disaster, keeping guards, making premises available, carrying out works and supplying tools and means of transport necessary to carry out organised social action in order to combat a natu-

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<sup>8</sup> Act on a State of Emergency of 5 December 1983, Journal of Laws No. 66, item 197.

<sup>9</sup> The concept of “extraterritoriality” originated in Austrian legislation. It is often referred to descriptively as “exclusion from national jurisdiction,” see Grzegorzczuk 2010, 51. For the first time this term was formulated in the Regulation of the Council of Ministers of 10 May 1920 on the implementation on the territory of the Republic of Poland of the Military Criminal Procedure Act for the Joint Armed Forces of 5 July 1912 (Journal of Laws No. 59, item 368), and subsequently the term is found in Circular No. 429 of 20 August 1921 on proceedings in cases of persons exercising the right of extraterritoriality, Official Journal of the Ministry of Justice of 15 September 1921, No. 18, p. 310-11.

<sup>10</sup> It should be stressed that the Act cross-referred, with regard to the fulfilment of personal and in-kind contributions, to the principles and course of their fulfilment set out in the respective (separate) acts and regulations issued on the basis thereof, such as, *inter alia* Act of 21 November 1967 on Universal Obligation to Defend the Republic of Poland, Journal of Laws No. 44, item 220; Act of 12 June 1975 on Fire Protection, Journal of Laws No. 20, item 106; Act of 20 May 1976 on the Accommodation of the Armed Forces, Journal of Laws No. 19, item 121; Regulation of the Council of Ministers of 26 May 1976 on the temporary accommodation of the armed forces, Journal of Laws No. 21, item 133; Regulation of the Council of Ministers of 11 July 1977 on fire-fighting guards, Journal of Laws No. 23, item 98.

ral disaster, performing on-call duties and conducting fire-fighting actions, making available the means and items necessary to combat a fire, making premises and means of transport available in order to combat an epidemic.

## **2. Public burdens in the event of a natural disaster in the light of the current law**

Under the current state of law in Poland, the issues related to public burdens in the event of natural disasters have been regulated since 2002 through the provisions on a state of natural disaster.<sup>11</sup> The regulation in question defines the procedure of introducing and abolishing a state of natural disaster, as well as the principles of activity of public authorities and – which is the most interesting from the point of view of this analysis – the scope of limitations on human rights and civil liberties during a state of natural disaster.<sup>12</sup>

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<sup>11</sup> Act of 18 April 2002 on a State of Natural Disaster, Journal of Laws No. 62, item 558. The draft of this Act was presented by the President of the Republic of Poland and received as a print No. 14 on 22 October 2001. A day later the draft was sent for the 1st reading at the session of the Sejm, which took place on 8 November 2001. Finally, the bill was passed at the 3rd reading on 15 March 2002 with the following voting results: 400 MPs in favour, 3 against and 1 abstention. The bill was then passed to the President and the Speaker of the Senate. Finally, after the amendments were made by the Senate and the position of the Senate was considered by the Sejm by accepting its amendments, the Act was sent to the President for signature on 19 April 2002. Three days later, on 22 April, the President signed the Act, which came into force on 22 June 2002.

<sup>12</sup> However, it should be remembered that issues related to the state a natural disaster are also regulated, *inter alia*, the Postal Law of 23 November 2012, Journal of Laws 2012, item 1529, where in Article 84(1) and (2), the legislator provided that in the case of an emergency situation, the President of the Office of Electronic Communications (hereinafter: the President of OEC), by way of a decision, may impose on a postal operator the obligation to maintain continuity of provision of postal services and/or order the postal operator to provide certain postal services free of charge in connection with removing the consequences of an emergency situation. Similar solutions are contained in Telecommunications Law of 16 July 2004, Journal of Laws No. 171, item 1800, where the legislator decided in Article 178(1)-(4) that in a situation of a particular threat, the President of OEC may, by way of decision, impose on telecommunications companies the obligation to maintain continuity or restore: supply of telecommunications network, provision of telecommunications services, limitation of certain public telecommunications services, limitation of the scope or area of use of telecommunications networks

This regulation constitutes the implementation of Article 228 of the Constitution of the Republic of Poland,<sup>13</sup> which provides for the possibility of introducing, in situations of special threats, if the ordinary constitutional measures are insufficient, an appropriate extraordinary measure, including a state of natural disaster. Furthermore, in accordance with Article 232 of the Constitution of the Republic of Poland, the Council of Ministers has been authorised to introduce a state of natural disaster in a part or in the entire territory of the State for a period not longer than 30 days, while Article 233(3) defines the general scope of possible limitations of the freedoms and rights of persons and citizens during a state of natural disaster.

According to the Polish legislator there are three different factual situations under the concept of a state of natural disaster, namely: (i) a natural disaster; (ii) a natural catastrophe; and (iii) a technical failure. A natural disaster is understood to mean a natural catastrophe or a technical failure, the consequences of which endanger the life or health of a large number of people, property of great magnitude or the environment in large areas, and aid and protection can be effectively undertaken only with the use of extraordinary measures, in cooperation between various bodies and institutions and specialised services and formations acting under unified management.

In the case of a natural catastrophe, the legislator defines this term as an event connected with the operation of forces of nature, such as: lightning, seismic activity, strong winds, intense precipitation, prolonged occurrence of extreme temperatures, landslides, fires, floods, ice phenomena on rivers and the sea, lakes and reservoirs, mass occurrence of pests, plant or animal diseases or infectious diseases of humans or the action of some other element. Technical failure is defined as a situation of sudden and unpredictable damage or destruction of a building, technical device

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and equipment, an order to provide certain publicly available telephone services from public payphones free of charge.

<sup>13</sup> Constitution of the Republic of Poland of 2 April 1997 adopted by the National Assembly on 2 April 1997, approved by the Nation in a constitutional referendum on 25 May 1997, signed by the President of the Republic of Poland on 16 July 1997, Journal of Laws No. 78, item 483.

or a system of technical devices, causing an interruption in their use or loss of their properties. It should be added that in the opinion of the Polish legislator, a natural catastrophe or a technical failure may also be caused by events in cyberspace and actions of a terrorist nature.

As a rule, a state of natural disaster may be imposed in the area where a natural disaster has occurred, as well as in the area where the effects of such a disaster have occurred or may occur. Introduction of this state for a specified period of time, but not longer than 30 days (it may be extended for a specified period of time by the Council of Ministers after the Sejm gives its consent), is aimed at preventing the effects of natural catastrophes or technical failures with features of a natural disaster and their elimination.

As far as the principles of operation of public authorities are concerned, during a state of natural disaster these bodies act within the existing organisational structures of the State and within their competences, unless the regulation in question provides otherwise. Thus, during a state of natural disaster the activities carried out in order to prevent the effects of the disaster or to remove them are directed by a *wójt* (mayor), *starosta*, voivode,<sup>14</sup> and the minister in charge of internal affairs or another minister. In the case of incapacity to manage or inappropriate management of the activities carried out to prevent the effects of the natural disaster or to remove its effects, the voivode, on his own initiative or at the request of a *starosta*, may suspend the powers of a *wójt* (mayor), and appoint a representative to manage the activities aimed at preventing the effects of the natural disaster or removing its effects.

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<sup>14</sup> It should be remembered that a voivode is also a competent authority in matters of crisis management on the territory of a voivodeship, while a *starosta* on the territory of a *powiat* district and a *wójt* on the territory of a *gmina* district. These authorities are responsible for a number of tasks in crisis management in crisis situations, i.e. such situations which have a negative impact on the level of security of people, property in considerable sizes or the environment, causing significant limitations in the activities of relevant public administration bodies due to inadequacy of their forces and resources, see Article 2, Article 14(1-2), Article 17(1-2) and Article 19(1-2) of the Act of 26 April 2007 on Crisis Management, Journal of Laws No 89, item 590. Cf. Miłkowski 2015, 41-60; Kamiński 2016, 179-90.



The provisions concerning personal and in-kind contributions, which are of most interest to us, are related to the scope of restrictions on human freedoms and rights provided by the legislator [Filaber 2010, 249-65], which apply to natural persons residing or temporarily residing in the area where a state of natural disaster has been introduced, and, respectively, to legal persons and organisational units without legal personality, having their seat or conducting activities in the area where a state of natural disaster has been introduced [Polinceusz 2013, 135-43].

The above restrictions, a broad catalogue of which has been included in Article 21(1), with regard to personal and in-kind contributions concern the obligation to provide them. Pursuant to Article 22(1) of the said regulation, if necessary, when the resources and means available to a *wójt* (mayor), *starosta*, a voivode or a representative are insufficient, it is possible to introduce an obligation to provide personal and in-kind contributions consisting in: (i) the provision of first aid to persons who have suffered accidents; (ii) active participation in rescue operations or performance of other tasks designated by the rescue operation leader; (iii) the performance of specified works; (iv) handing over owned real estate or movable property for use; (v) making premises available to evacuees; (vi) use of real estate in a specified manner or to a specified extent; (vii) taking for safe-keeping and guarding of property of injured or evacuated persons; (viii) securing animals in danger, in particular providing fodder and shelter; (ix) securing plants or seeds in danger; (x) keeping guards;<sup>15</sup> (xi) securing one's own sources of drinking water and foodstuffs against their contamination, pollution or infection, as well as making them available for the needs of evacuated or injured persons, in the manner indicated by the authority imposing the contribution; (xii) securing cultural assets in danger.

The Act provides for exemptions from the obligation to provide personal contributions, which concern: (i) persons under the age of 16 and over

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<sup>15</sup> The personal burden in the form of the citizens' duty of keeping guards has a long tradition in the Polish legal system. Detailed regulations in this respect were promulgated e.g. in the period of the Kościuszko Uprising in 1794, see Regulation of the Provisional Council [Polish: *Rada Zastępcza Tymczasowa*] of 21 April 1794 on guards kept by citizens, "Akty Powstania Kościuszki", Vol. I, collected by Szymon Askenazy, and Włodzimierz Dzwonkowski, Published by Akademia Umiejętności, Kraków 1918, 44.

the age of 60, in respect of active participation in a rescue operation or performance of other tasks designated by the rescue operation leader; (ii) performance of specified work; (iii) use of property in a specified manner or to a specified extent, and (iv) guard duties.

In addition, the legislator has exempted ill and disabled persons, as well pregnant and nursing women from the obligation to provide personal contributions with regard to contributions concerning: (i) providing first aid to persons who have suffered an accident; (ii) active participation in rescue operations or performing other tasks assigned by the leader of the rescue operation; (iii) performing specified works; (iv) using real estate in a certain manner or to a certain extent; (v) securing animals in danger, in particular providing fodder and shelter; (vi) performing guard duties.

The last category of persons exempted from the obligation to provide personal contributions are persons caring for children under 8 years of age and ill or disabled persons. In this case, these persons have been exempted from the same obligations as ill or disabled persons, pregnant women and nursing mothers, except in one case, namely to provide security for animals in danger, and in particular to provide fodder and shelter. It should be added that in duly justified cases, a *wójt* (mayor), *starosta*, voivode or a representative may refrain from imposing or exempting from the obligations indicated above also other persons and entities, due to public interest or exceptionally important interest of a given person or entity.

The obligation to provide personal and in-kind contributions is introduced by public authorities, i.e. a *wójt* (mayor), *starosta* and voivode or their representatives – in the event of incapacity to manage or inadequate management of the activities carried out to prevent or remove the effects of the disaster. The obligation introduced by these authorities may take various legal forms.<sup>16</sup> If such an obligation is introduced by a *wójt* (mayor), *starosta* or their representatives, it takes place by way of an order or a decision [Konarski 2010, 89-114; Idem 2012, 133-66]. If a voivode or a representative introduces such an obligation, it is done by way of a regulation or a decision [Ronowicz 2012, 109-42; Szewc 2007, 81-91; Kostrubiec 2020, 165-82]. Decrees and regulations are announced by posting notices

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<sup>16</sup> For more on the legal forms of action of public administration, see Starościak 1977, 229-57; Łętowski 1990, 128-209; Lipowicz 2016, 41-55.

in public places or in other locally accepted ways, as well as by announcements in the local press [Konarski 2008, 195-216].

All these three types of normative acts possible in such a situation (regulation, order, decision), should include: the legal basis, the scope and type of obligation, the obliged entities and the the place, day and time when they should appear or fulfil other obligations. The should also include the duration of the obligation and an instruction on criminal liability or other legal consequences of violating these acts.

It should be emphasised that in the case of introducing the obligation to provide personal and in-kind contributions by way of a decision, the provisions of the Code of Administrative Procedure apply,<sup>17</sup> but with certain exceptions. As regards these exceptions, it should be pointed out that such decisions are immediately enforceable upon delivery or announcement, and what is more, they may be issued orally in urgent cases and then immediately confirmed in writing. Moreover, an appeal against such decisions is lodged within a shorter period than the one provided for in the Code of Administrative Procedure, namely within 3 days from the date of delivery or confirmation in writing of the decision issued orally. Lodged appeals are subject to transfer, also within 3 days, to the appellate authority, and to examination within 7 days from the date of delivery of the appeal to this authority. The legislator has provided that in the case of decisions issued by a *starosta* and *wójt* (mayor), the body of higher rank is the *voivode*, who can revoke, in whole or in part, the regulation or decision of those bodies or representatives,<sup>18</sup> while the minister in charge of public administration can revoke, in whole or in part, the regulation or decision of the *voivode* or the representative [Dytko 2016, 77-88].

The principles and procedures for determining and paying compensation for damages incurred in connection with actions to combat natural disasters are governed by the Regulation of 8 June 1999,<sup>19</sup> which repealed

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<sup>17</sup> Act of 14 June 1960, the Code of Administrative Procedure, Journal of Laws No. 30, item 168.

<sup>18</sup> Act of 23 January 2009 on voivodes and the government administration in voivodships, Journal of Laws No. 31, item 206.

<sup>19</sup> Regulation of the Council of Ministers of 8 June 1999 on the principles and procedure for determining and paying compensation for damage sustained in connection with

the provisions of the Regulation of 16 June 1954, which had been in force until then.

In the light of the provisions of the Regulation an injured party is a natural person who, through no fault of his or her own, suffered loss of health resulting in total or partial loss of earning capacity during an organised social action to fight a natural disaster and in connection with participation in that action, as well as a natural person, a legal person, an organisational unit without legal personality, who suffered damage due to destruction, wear or loss of property during an organised social action to fight a natural disaster. Such a person is entitled to compensation up to the amount of the damage actually suffered [Boć 1971, 169-87], which is paid from the funds originating from the target reserve established for this purpose in the budgetary act for a given year [Gonet 2013, 89-100; Galiński 2018, 77-88; Burzec 2020, 35-63]. It should be stressed that the claim for compensation is time-barred after 3 years, and the limitation period begins on the day the damage occurred. If it is impossible to establish the day on which the damage occurred, the limitation period runs from the day on which the state of natural disaster was revoked in the area where the damage occurred.

The minister in charge of internal affairs is responsible for conducting the loss adjustment proceedings and payment of damages, and in order to ensure that these proceedings are conducted properly, the minister, in accordance with the regulations on public procurement,<sup>20</sup> selects the insurance company with which he concludes an agreement on conducting such proceedings. The selection of the insurance company and the conclusion of the agreement is announced by the minister, within 7 days from the date of the conclusion of the agreement, in two daily newspapers of national circulation.

The procedure for the award of compensation begins with the reporting of the damage by the injured party with a written request for compensation to the unit of the insurance company nearest to his place of residence

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actions to combat natural disasters, *Journal of Laws* No. 55, item 573. Cf. Rogacka-Łukasik 2015, 61-87.

<sup>20</sup> Act of 29 January 2004, *Public Procurement Law*, *Journal of Laws* No. 19, item 177; Act of 11 September 2019, *Public Procurement Law*, *Journal of Laws*, item 2019.

or place where the damage occurred, immediately but not later than within 30 days from the day when the damage occurred or from the day when the injured party learned about the damage or when the reason that prevented the reporting of the damage ceased to exist. The loss adjustment proceedings in respect of the reported damage are carried out without delay, while the loss adjustment activities aim at determining the actual state of damage, legitimacy of the application for compensation submitted with the notification of damage and the amount of compensation.

It should be added that in the event that, as a result of the loss adjustment procedure, the insurance company decides that the injured party is not entitled to compensation, the insurance company, when submitting the case file to the minister, attaches a justification for such a decision. Then the minister, within 14 days from receiving the file, may decide to award compensation or to refuse to award compensation. It should be emphasised that the minister, when setting the amount of compensation in the decision, is not bound by the proposal of the insurance company and the decision may differ from it. The compensation is paid by the insurance company on the basis of the final decision of the minister within 14 days from the date of delivery of the copy of the decision, in cash or by bank transfer to the bank account indicated by the injured party in the application.

## **Conclusion**

To conclude my analysis, it is necessary to draw attention to some basic issues. Firstly, as we have seen, the formation, in the Polish legal order, public personal and in-kind contributions in the event of natural disasters has a centuries-long tradition. However, it is only with modern legislation in this field that effective principles and procedures for counteracting the causes and fighting the effects of natural disasters appear. Thus, together with the legislation of the partitioning states of the 19th century, we find casuistic systematic methods referring to factual circumstances related to disasters. However, it was not until Poland regained its independence in 1918 that domestic legislation in this field could be created. Despite the fact that this legislation used legal solutions of the partitioning states,

with subsequent decades and political changes related to the political situation in the world and Europe, it consolidated its Polish character.

Secondly, it should be noted that the public obligation to provide personal and in-kind contributions in the case of natural disasters is not diametrically different from the principles and procedures of providing such contributions in the case of martial law, the announcement of mobilisation or in the event of war.<sup>21</sup> However, it is certainly necessary to carry out a systematic review of the regulations in this area in a way that is clearer for the addressees of the legal norms and to include them, preferably, into one normative act taking into account all the circumstances, principles and procedures when launching a mass action of personal and in-kind contributions is required. This is a challenge and task for the legislator.

In view of the above, as far as *de lege ferenda* conclusions are concerned, one should certainly first of all propose the unification of provisions concerning contributions in the event of natural disasters. The fact that the Decree of 1953 is in force in its present form certainly does not serve the clarity of the legal system and at the same time constitutes an unjustified relic of the worst times of the totalitarian system in the Polish legislation in force. In view of what I have said, it is necessary to immediately begin work on a modern regulation of personal and in-kind contributions in the event of a natural disaster, which will take into account both threats to state security and the requirements of the rule of law and the legal security of citizens.<sup>22</sup> In particular, the legislation in this area should be systematised without delay, taking into account the dangers associated with

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<sup>21</sup> See Regulation of the Minister of Infrastructure of 30 August 2004 on seizing or requisitioning means of transport for the State defence needs during martial law, Journal of Laws No. 200, item 2055; Regulation of the Council of Ministers of 24 August 2007 amending the regulation on personal and in-kind contributions for defence in the event of announced mobilisation in wartime, Journal of Laws No. 203, item 2081; Regulation of the Minister of Infrastructure of 19 September 2011 amending the Regulation on seizing or requisitioning means of transport for the State defence needs during martial law, Journal of Laws No. 223, item 1332.

<sup>22</sup> The role of the cooperation of communities and local authorities in the face of natural hazards should also be borne in mind, as well as education and information activities supporting the reduction of the effects of natural disasters, see Biernacki, Bokwa, Działek, et al. 2009, 67-78, 91-100.

the effects of natural disasters (especially epidemics of infectious diseases), resulting in the creation of a uniform system of state security.

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### **The Duty to Provide Public Personal and In-kind Contributions in the Event of Natural Disasters in the Polish Legal Order**

#### Abstract

The subject of the article is the problem of public burdens in the form of personal and in-kind contributions in the event of a state of natural disaster. The state of natural disaster justifies the need for the legislator to refer to the idea of a special sacrifice for the public interest, which is expressed in the activation of the mechanism of constitutional public contributions, both personal and in-kind contributions.

**Keywords:** administrative law, public burdens, natural disaster, personal contributions, in-kind contributions

## **Obowiązek publicznych świadczeń osobistych i rzeczowych w razie klęsk żywiołowych w polskim porządku prawnym**

### **Abstrakt**

Przedmiotem artykułu jest problematyka ciężarów publicznych w postaci świadczeń osobistych i rzeczowych w razie wystąpienia stanu klęski żywiołowej. Stan klęski żywiołowej uzasadnia potrzebę odwołania się ustawodawcy do idei szczególnej ofiary na rzecz interesu publicznego, czego wyrazem staje się uruchomienie mechanizmu konstytucyjnych świadczeń publicznych o charakterze osobistym, jak i rzeczowym.

**Słowa kluczowe:** prawo administracyjne, ciężary publiczne, klęska żywiołowa, świadczenia osobiste, świadczenia rzeczowe

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