

ARTIFICIAL INTELLIGENCE DEVELOPMENT AND SAFETY COMMITTEE AS A NEW OVERSIGHT BODY – CONSIDERATIONS IN LIGHT OF THE ARTIFICIAL INTELLIGENCE SYSTEMS BILL

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Abstract. The purpose of the paper is to discuss and analyze the regulations concerning the establishment of a new Polish supervisory authority, i.e. the Artificial Intelligence Development and Safety Commission included in the draft of AI Systems Act. The research intention, on the other hand, is to answer the question of whether it is necessary to establish a new supervisory authority for the implementation of the AIA and, if so, whether the adopted solution meets the independence criteria set out in Article 70(1) of the AIA. The considerations presented in the study allowed us to give, in principle, a positive answer to this question. The study used a comparative legal method.

Keywords: artificial intelligence act; surveillance authority; market surveillance authority; EU Member States; Commission for the Development and Safety of Artificial Intelligence

INTRODUCTORY REMARKS

The purpose of this paper is to discuss and analyze the regulations concerning the establishment of a new Polish supervisory authority, i.e. the Commission for the Development and Safety of Artificial Intelligence.¹ The regulations concerning the new supervisory authority are included in the draft Act on Artificial Intelligence Systems.² As indicated in its Explanatory Memorandum,³ the purpose of the Act is to create a system for the supervision of artificial intelligence systems⁴ in Poland, consistent

¹ Hereinafter: KRiBSI.

² Draft Act of 10 February 2025 on Artificial Intelligence Systems [hereinafter: usAI], <https://legislacja.rcl.gov.pl/projekt/12390551/katalog/13087901> [accessed: 21.03.2025].

³ Justification for the draft act on AI systems [hereinafter: Justification 2024], <https://legislacja.rcl.gov.pl/projekt/12390551/katalog/13087901> [accessed: 21.03.2025].

⁴ Hereinafter: AI systems.

with the legal framework established in the Act on Artificial Intelligence⁵ (Justification 2024). Indeed, according to Article 70(1) of the AIA, each European Union (EU) Member State shall establish or designate at least one notifying authority and at least one market surveillance authority as competent national authorities. Article 70(1) of the AIA leaves EU Member States the choice to designate a market surveillance authority to act as a single point of contact. Accordingly, an EU Member State may either appoint a new supervisory authority, or grant additional tasks to an existing authority to act as a contact point. This raises the question of whether it is necessary to establish a new supervisory authority in Poland or whether the function of the contact point could be assigned to an existing authority. The Justification indicates that the proposed regulations (and thus also concerning the establishment of a new supervisory authority) are aimed at fulfilling Poland's obligations under the AIA, concerning, *inter alia*, the identification of the competent national authorities, i.e. the market surveillance authority, the notifying authority responsible for the development and application of the procedures necessary for the assessment, designation and notification of conformity assessment bodies of AI systems, their monitoring (Justification 2024, 2).

In view of the above, the research intention undertaken in this study is to answer the question whether it is necessary to establish a new supervisory authority to implement the AIA and, if so, whether the adopted solution meets the independence criteria set out in its Article 70(1). Therefore, at the outset, the AIA regulations concerning the designation of competent national authorities, the arguments cited in the justification of the draft usAI, justifying the establishment of a new supervisory authority in Poland, the regulations of the draft act concerning the tasks and the systemic position of the KRiBSI, and then examples of solutions in selected EU Member States (i.e. Spain, Italy, Austria) concerning the fulfilment of the obligations to designate competent national authorities are cited. This will allow relating the solution planned in Poland to the requirements set out in the AIA, as well as to the adopted or planned solutions concerning this matter in selected EU countries. The choice of EU member states was dictated by the different solutions adopted in them, which makes it possible to analyze the Polish solution in the broadest comparative legal context. The study uses the comparative law method.

⁵ Regulation of the European Parliament and of the Council laying down harmonized rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Journal of Laws EU L 2024 No. 1689, p. 1 [hereinafter: AIA].

1. DESIGNATION OF NATIONAL COMPETENT AUTHORITIES AND SINGLE POINTS OF CONTACT FOR THE IMPLEMENTATION OF OBLIGATIONS RELATED TO THE APPLICATION OF THE AIA

Obligations are imposed on EU Member States in relation to the application and enforcement of the AIA. One of these is to designate at least one notifying authority and at least one market surveillance authority as competent national authorities. At the same time, a great deal of discretion is left to EU Member States. Indeed, they can designate any public entity to carry out the tasks of the national competent authorities, according to their specific national organizational characteristics and needs. In contrast, each Member State should designate a market surveillance authority to act as a single point of contact (Recital 153 of the AIA).

The following types of authorities can be distinguished in the AIA.⁶

Firstly, a market surveillance authority, which means a national authority carrying out activities and measures in accordance with Regulation (EU) 2019/1020⁷ (Article 26(1)(26) of the AIA).

Secondly, the notifying authority, which is the national authority that is responsible for the development and application of the procedures necessary for the assessment, designation and notification of conformity assessment bodies and for their monitoring (Article 26(1)(19) of the AIA). Each EU Member State is required to designate or establish at least one such body (Article 28(1) of the AIA). Both the notifying authority and the market surveillance authority are competent national authorities within the meaning of Article 3(48) of the AIA.

These authorities are guaranteed independence in the AIA. Indeed, they are to exercise their powers independently, impartially and free from *bias* in order to protect the objectivity of their actions and tasks, ensuring the application and implementation of the AIA. Also, their members are obliged to refrain from any activity that is incompatible with the nature of their duties. Authorities should also be guaranteed adequate technical, financial, human resources (sufficient staff with knowledge of AI technologies, data and data processing methods, personal data protection, cyber security, fundamental rights, health and safety risks and knowledge of applicable standards and legal requirements), as well as the necessary infrastructure to carry out their tasks effectively (Article 70(1)(3) of the AIA).

⁶ Overview of all AI Act National Implementation Plans, <https://artificialintelligenceact.eu/national-implementation-plans/> [accessed: 21.03.2025].

⁷ Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and product conformity and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011, OJ EU L 169/1, pp. 1-44.

Thirdly, states should provide the Commission with, *inter alia*, the details of these authorities, information on their tasks and, by 2 August 2025, also make public how to contact them (Article 70(2) of the AIA).

2. RATIONALE FOR THE ESTABLISHMENT OF A NEW AI MARKET SUPERVISORY AUTHORITY IN POLAND

As indicated earlier, EU Member States have a relatively high degree of freedom to choose the organizational arrangement for the application and monitoring of the AIA, as they can appoint any public entity to perform the tasks of the competent national authorities. The Polish legislator has chosen to appoint a new supervisory authority. However, the EU Member States have chosen different solutions, as evidenced by the examples of other EU Member States cited later in the study (i.e. Spain, Italy, Austria).

In relation to the research intention undertaken in this study, it is necessary at the outset to cite the reasoning behind the establishment of the new supervisory authority as set out in the Justification. It indicates that, in order to achieve the objectives set out in the AIA, it is necessary for EU Member States to adopt national legislation to apply and comply with the regulation. This includes giving the necessary powers to national market surveillance authorities or creating such authorities so as to enable them to effectively eliminate AI systems from the market that do not comply with the requirements laid down in the AIA (Justification 2024, 1). In addition, the draft u.s.AI is intended to enable the objectives set out in Article 1(2)(g) of the AIA regarding the use of AI systems in EU countries to be achieved, which is to be manifested in the promotion of innovation in AI (Justification 2024, 2-3).

Accordingly, the proposed law defines the organization and manner of national supervision of the market for AI systems and general-purpose AI models and “focuses on establishing the role of state authorities in this area and establishing control and supervision measures. [...] The growing role of artificial intelligence systems and the scale of the risks that their misuse may cause make it necessary to designate an authority to meet these challenges. In view of the needs to ensure an adequate level of protection of fundamental human rights, citizens’ rights and consumers’ rights, the competences of supervisory authorities should also grow” (Justification 2024, 4). The Justification to the bill indicates that the most effective solution for the implementation of the obligations imposed on Poland in the AIA is the establishment of a new expert supervisory body for the AI sector, following the model of solutions applied in Spain or created in Italy. Its establishment is also supported by the small number of AI specialists, which could create a risk of failing to meet the requirements under the AIA and lead to harmful competition between authorities in Poland, including

competition for highly specialized experts in this field. Another argument in favor of the establishment of a new supervisory authority is the interest of the financial sector public bodies, because: “the alternative solution to the establishment of a new body, i.e. assuming the distribution of competences among already existing public entities, would in fact require the financing of the costs arising from ensuring that all the above competences are fulfilled in the staff of each of these institutions simultaneously, which could be regarded as surplus and unfavorable from the point of view of the Polish taxpayer” (Justification 2024, 5-6).

The model that was used for the construction of the KRiBSI was modelled on the organization of supervision under which the Financial Supervision Commission⁸ operates, which combines integrated supervision with an expert approach. In this sense, integrated supervision is: firstly, the combination of “the various supervisory institutions into a single whole, so that by working together within this whole they enhance their effectiveness” and secondly, an approach for the achievement of a specific objective, which is to ensure the right relationship between safety in the effectiveness of the AI market players (Justification 2024, 7-8). In order to guarantee the independence of the KRiBSI, the Office providing its service is also to be independent. In organizing it, it was modelled on the Office of the KNF, which is an office serving a supervisory authority independent of government.⁹

The Commission is also supposed to foster cooperation between regulators as a forum for the exchange of information on AI issues “which will overlap with consumer protection, security of goods and services, protection of personal data, financial services, etc.”. Hence, instead of setting up an additional, informal panel to collaborate between regulators, it was decided to coordinate the participation of these entities in a single body so as to ensure effective oversight of the use of AI systems’ (Justification 2024, 7-8). The section on the principles of control uses the solutions applied, *inter alia*, in the Act of 5 July 2018 on the national cyber-security system,¹⁰ which will allow KRiBSI to build on existing practice relating to the conduct of inspections, thus enabling rapid implementation of the new obligations (Justification 2024, 13).

The issue of AI systems is so important and complex that it would make sense to set up a new supervisory authority, as long as, its independence is fully realized.

⁸ Act of 21 July 2006 on the supervision of the financial market, Journal of Laws of 2024, item 135 as amended [hereinafter: KNF].

⁹ Regulatory Impact Assessment (15.10.2024) [hereinafter: Regulatory Impact Assessment], <https://legislacja.rcl.gov.pl/projekt/12390551/katalog/13087895#13087895> [accessed: 14.12.2025], 4.

¹⁰ Journal of Laws of 2024, item 1077 as amended.

3. COMMITTEE ON THE DEVELOPMENT AND SECURITY OF ARTIFICIAL INTELLIGENCE – LEGAL POSITION AND TASKS

The scope of the proposed law is quite broad, as it defines the organization and manner of supervision of the market of AI systems and general-purpose AI models in the dimension defined in the AIA, proceedings for violation of its provisions, conditions and procedure for accreditation and notification of conformity assessment bodies, manner of reporting serious incidents occurring in connection with the use of AI systems, principles of imposing administrative fines for violation of the provisions of Article 5 of the AIA, types of activities supporting the development of AI systems (Article 1(1-6) of the usAI). Due to the volumetric framework of this study, it focuses on the analysis of the regulations included in Chapter 2 of the proposed Act entitled “Organization of the supervision of artificial intelligence”, with particular attention to the tasks of KRiBSI.

The KRiBSI Office is a state legal entity that provides services to KRiBSI and the Social Council for Artificial Intelligence.¹¹ Of importance is Article 5(1-2) of the usAI, which states that the Commission is the market surveillance authority for AI systems and acts as the single point of contact referred to in Article 70(2) of the AIA. The tasks of the Commission are specified in Article 9(1) of the usAI, and include, among others, monitoring compliance with the provisions of the AIA and the usAI, excluding tasks concerning the issuance of post-inspection recommendations by the Chairman, taking action to ensure the proper functioning of the EU internal market referred to in Article 26(2) of the Treaty on the Functioning of the European Union¹² to the extent specified in Article 1 and Article 2 of the AIA, taking action to counteract threats to the security of AI systems, including receiving reports of serious incidents occurring in connection with the use of AI systems, participating in the development and assessment of draft legal acts in the field of AI, issuing resolutions and decisions in cases of infringement of the provisions of the AIA and Act; performing the tasks and competencies of the market surveillance authority, specified in the usAI; developing and issuing publications, implementing educational programs popularizing knowledge about AI and conducting information activities; exchanging information on the supervision of AI systems within the competence of the market surveillance authority with the market authorities of the EU Member States, third countries, EU agencies and international organizations.

¹¹ Draft Act of 10 February 2025..., Article 28(1-2).

¹² Treaty on the Functioning of the European Union of 13 December 2007, OJ C 202, 7.6.2016, pp. 47-360.

Even a cursory analysis of the above sample tasks of the Commission allows us to conclude that it is very broad. There is also a visible inconsistency in terminology, as the provision uses both the concepts of “artificial intelligence system” and “artificial intelligence”, which may give rise to interpretation problems. This is important because the AI contains a legal definition of “AI system” (Article 4(1) of the AIA), but the concept of “artificial intelligence” has not been defined. It is true that the term “AI” also appears in the AIA (e.g. when defining the subject of the regulation in Article 2(1), or in its recitals, e.g. 1, 4, 12), but it can be considered that it is of a general and not legal nature. This conclusion may be supported by the definition of “AI system” in the AIA, while the definition of “AI” is not defined, as well as the content of, for example, recital 12, which indicates that: “The concept of ‘AI system’ in this Regulation should be clearly defined and closely linked to the work of international organizations dealing with AI [...].” This recital clearly distinguishes the concept of “AI system” from the more general term “AI”.

The usAI also includes other tasks of the Commission. These include, among others: 1) expressing individual opinions and explanations of significant importance for the application of provisions in matters covered by the scope of the Commission’s activities (Article 11(1) of the usAI); 2) presenting proposals for legislative actions to the minister responsible for computerization (Article 10(2)(1) of the usAI); 3) publishing in the Public Information Bulletin annual information containing examples of good practices in the implementation and use of AI in enterprises within the meaning of the Act of 6 March 2018, the Entrepreneurs’ Law¹³ and in public finance sector entities referred to in the Act of 27 August 2009 on public finances;¹⁴ 4) issuing *ex officio* or upon request explanations in the scope of the application of the AIA provisions and the Act (Article 13 of the usAI); 5) conducting inspections of the activities of entities obliged to comply with the provisions of the AIA and usAI, the purpose of which is to determine the compliance of the entities’ activities with the provisions of this and the usAI. The Commission also cooperates with other entities, in the scope of matters included in Article 5(3) of the usAI, including, among others, the KNF, the President of the Office of Competition and Consumer Protection, the President of the Office for Personal Data Protection. The Social Council for Artificial Intelligence also operates at the Commission, which is its advisory and consultative body (Article 25(1) of the usAI). Referring to the issue of the Commission’s independence, it can be analyzed using the criteria applied to the KNF, i.e. the

¹³ Journal of Laws of 2024, item 236 as amended.

¹⁴ Journal of Laws of 2024, item 1530 as amended.

body supervising the proper functioning of financial institutions.¹⁵ The application of these criteria is justified by the adoption of a similar model in the case of the KRRiBSI, based on which the supervision exercised by the KNF operates. The literature indicates that this supervision should be independent in such dimensions as organizational, financial, programmatic and methodological. The first of them, the organizational dimension, means that the supervisory body should have such a position in the structure of public administration that prevents influencing the decisions made by it by issuing acts of internal law. Another aspect, financial, is manifested in equipping the supervisory body with financial resources enabling its stable, effective functioning and further development [Wajda 2009, 136-46]. The programmatic dimension is the sovereignty of the supervisory body in determining the subject and scope of supervisory activities. The methodological dimension consists in equipping the supervisory body with the possibility of freely deciding on the “choice of methodology, methods and techniques of action – so that they are always adapted to the maximum extent to the needs of implementing supervisory tasks” [ibid.]. The following table compares the fulfillment of the above independence criteria by the regulations of Article 70(1)(3) of the AIA and of the usAI.

Table. Independence criteria and their fulfillment by the regulations of Article 70(1)(3) of the AIA and of the usAI

Criterion/ Legal Act	AIA	usAI
organizational	The competent national authorities shall exercise their powers independently, impartially and without prejudice, and their members shall refrain from any action incompatible with the nature of their duties (Article 70(1)).	<p>Restrictions on the Chairman of the Committee, his Deputy regarding holding other positions, performing other gainful or non-gainful activities that are incompatible with their duties. Prohibitions concerning, among others, membership of a political party, trade union, conducting public activities that are incompatible with the dignity of their position, undertaking activities that could result in a conflict of interests (Article 20).</p> <p>Requirements concerning the Chairman (e.g. significant professional achievements and experience), the method of his election (appointment and dismissal by the Sejm with consent for the 5th term), statutory reasons for dismissing him from this function before the end of the term (Articles 16-17).</p>

¹⁵ See also Schulz 2024, Article 3; Wojciechowski 2025, Article 3; Smykla 2007, 48; Jurkowska-Zajdler 2012, 143-54.

financial	Adequate technical, financial and human resources, infrastructure necessary for the effective performance of tasks (including a sufficient number of employees whose competencies and expertise include in-depth knowledge of issues including AI technology, data and data processing methods, personal data protection (Article 70(3)).	KRiBSI conducts independent financial management based on a financial plan and covers the costs of financing the tasks specified in the Act and the costs of operations in accordance with the provisions of the Act on Public Finances from its own funds and revenues, and has specific sources of revenue (Articles 32-35). The Chairman of the Commission may invite, among others, persons with specialist knowledge to participate in the meeting of the Commission (Article 6(3-4)). A member of the Social Council of the Council for AI may not conduct public activities that are incompatible with the activity in the Council; perform activities that could result in a conflict of interests. For participation in the work of the Council, its members are not entitled to remuneration (Article 25). A person who meets the requirements regarding knowledge specified in the draft Act may be a member of the aforementioned Council (Article 25).
programmatic	For the purposes of the AIA, each EU Member State shall establish or designate at least one notifying authority and at least one market surveillance authority as the national competent authorities. Their members shall refrain from any activities incompatible with the nature of their duties. Such activities and tasks may be carried out by one or more designated authorities in accordance with the organizational needs of the Member State, provided that these principles are respected (Article 70(1)).	The usAI specifies the organization and method of exercising supervision over the market of AI systems and general purpose AI models within the scope covered by the provisions of the AIA, the procedure for infringement of the provisions of this Act, the conditions and procedure for accreditation and notification of conformity assessment bodies; the method of reporting serious incidents occurring in connection with the use of AI systems, the principles of imposing administrative fines for infringement of the provisions of Article 5 of the AIA, the types of activities supporting the development of AI systems (Article 1).
methodological	-	The Commission may conduct inspections of the activities of entities obliged to comply with the provisions of the AAI and the usAI (Article 38).

Source: own study based on the cited legal acts.

The analysis of the regulations included in the table above regarding the extent to which the AIA regulations and the usAI project meet each of the four independence criteria of the competent national authority, i.e. KBiRSI, leads to the following conclusions.

First, the requirements for two independence criteria, i.e. organizational and financial, are clearly specified. The AIA explicitly states that these bodies are to act independently and impartially, as well as the requirement to equip national authorities with the necessary financial resources and funds, as well as employees with specialist knowledge. The usAI project includes regulations that are to guarantee such independence, including, among others, those concerning restrictions on undertaking commercial activities or those that give rise to a conflict of interest by the Chairman of the Commission. In terms of financing the KRiBSI Office, it has been ensured financial autonomy, indicating, among others, the sources of revenue. On the other hand, the requirements regarding the requirement to have expert knowledge are implemented through the requirements regarding the Chairman of the KRiBSI, members of the Social Council for AI (they do not receive remuneration for their functions and at the same time cannot conduct activities that create a risk of a conflict of interest). Persons with specialist knowledge may be invited to the Commission meeting in an advisory capacity, and they do not receive remuneration for participating in its work. One may wonder whether in this situation the requirement to provide employees with specialist knowledge is sufficiently met, since in the usAI project these persons may be invited to the KRiBSI meetings, or are members of the advisory and consultative body, and in both cases they do not receive remuneration for their activity on behalf of the supervisory body.

Secondly, the program criterion is defined in the AIA in a general manner, because the choice of its implementation is left to the EU Member States. However, it is clarified in Article 1 of the usAI, by indicating the subject matter scope of the proposed act.

Thirdly, the methodological criterion is difficult to indicate in the AIA, due to the freedom of the state to establish a new supervisory authority or to assign tasks from the AIA to an existing supervisory authority acting as a contact point. In the case of the AI Act, the provisions on the control of the activities of entities obliged to comply with the provisions of the AIA and AI Act have been clearly clarified.

4. SOLUTIONS CONCERNING THE ESTABLISHMENT OF A PUBLIC ENTITY TO PERFORM THE TASKS SPECIFIED IN THE AIA APPLIED IN SELECTED EU COUNTRIES

As previously indicated, the AIA specifies that EU Member States may designate any public entity to perform the tasks of the competent national authorities. This may be an existing supervisory authority acting as a contact point or a newly established supervisory authority. For the purposes of comparing the solutions adopted in other EU countries, Spain, Austria

and Italy were selected. The choice of these countries was dictated by the desire to show the different solutions adopted in them, which will allow to show the model proposed in Poland against the background of other solutions used in the EU.

In Spain, in 2023, a new supervisory authority was established, which is the main body responsible for the implementation and enforcement of AIA (Regulatory Impact Assessment, 708) [Agencia Española de Supervisión de la Inteligencia Artificial].¹⁶ It is a public law entity that has public legal personality, its own assets and management autonomy, with management powers, with the right to exercise administrative powers in order to implement programs that correspond to public policies developed by the Agency. Its tasks include, among others, monitoring, consulting, training for public and private law entities in order to properly implement all national and European regulations regarding the proper use and development of AI systems. In addition, it is to perform control, verification, sanctioning and other functions required by European law on AI.¹⁷ The Agency is subordinate to the Ministry of Economy and Digital Transformation, and is headquartered in La Coruña (Regulatory Impact Assessment, 7-8). Also in Hungary, an entity has been established to be responsible for implementing the AIA (Magyar Mesterséges Intelligencia Tanácsot).¹⁸

In Austria, the Artificial Intelligence Service Office (KI-Servicestelle¹⁹) was established in 2024 at the Austrian Telecommunications Authority, which is, among other things, a contact point and supports the implementation of AIA. In the same year, the Advisory Council for AI (Beirat für Künstliche Intelligenz, KI-Beirat) was established, which is to advise the federal government and the AI Service Office on the implementation of AIA (Regulatory Impact Assessment, 8)²⁰. This council is to, among other things, provide advice to members of the Federal Government dealing with AI matters on current developments in the field of AI (technical, ethical and social aspects), monitor the technological development of AI in the EU and beyond and assess the opportunities and challenges associated

¹⁶ Real Decreto 729/2023, of 22 days ago, after the implementation of the State Agency for the Supervision of Artificial Intelligence, <https://www.boe.es/eli/es/rd/2023/08/22/729/con> [accessed: 21.03.2025].

¹⁷ Ibid.

¹⁸ 1301/2024. (IX. 30.) Corm. Határozat a mesterséges intelligenciáról szóló európai parlamenti és tanácsi rendelet végrehajtásához szükséges intézkedésekrol, <https://njt.hu/jogszabaly/2024-1301-30-22> [accessed: 21.03.2025].

¹⁹ More information: <https://www.rtr.at/rtr/service/ki-servicestelle/ki-servicestelle.de.html> [accessed: 19.03.2025].

²⁰ Bundesgesetz über die Einrichtung einer Kommunikationsbehörde Austria [hereinafter: KommAustria-Gesetz], <https://www.ris.bka.gv.at/NormDokument.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20001213&Paragraf=20c> [accessed: 21.03.2025], Article 20c(6).

with it (*KommAustria-Gesetz*, Article 20c(6)). In the Implementation Plan 2024 for the Federal Government's AI Strategy, the Austrian Federal Chancellery, Section VII – Digitalisation and E-Government (*Bundeskanzleramt, Sektion VII – Digitalisierung und E-Government*) was designated as responsible for preparing the implementation of AIA into the national order (Regulatory Impact Assessment, 8).²¹ This is to happen quickly, in an innovation-friendly manner and in a manner that promotes practical implementation of the AIA into the national legal order, in order to develop AI technologies in accordance with fundamental rights and human dignity in Austria.²²

In Italy, a draft law on AI is being prepared and has been submitted to the Senate by the government. Its purpose is to regulate the use and development of AI in the country (AS 1146-3)²³. In Article 18(1) of this draft called *Autorità nazionali per l'intelligenza artificiale* specifies that, in order to ensure the application and implementation of national and EU rules on AI, two national authorities for AI will be designated, namely the Agency for Digital Italy (*Agenzia per l'Italia digitale*, AgID) and the National Cybersecurity Agency (*Agenzia per la cybersecurity nazionale*, ACN). AgID is to be responsible for promoting innovation and the development of AI, for defining procedures and performing functions and tasks related to the notification, assessment, accreditation and monitoring of entities responsible for verifying the compliance of AI systems, in accordance with national and EU rules. The ACN is to be responsible, among other things, for supervision, including control and sanctioning actions, of AI systems, in accordance with the provisions national and EU. Finland and Luxembourg have also prepared draft legal acts implementing the AIA, in which the tasks of the supervisory authority are divided between existing bodies²⁴ (Regulatory Impact Assessment, 8-9).

The examples cited above show that the countries analyzed use different solutions, not always choosing to create a new supervisory authority (e.g. Italy, Spain, Hungary), but using already existing entities (e.g. Austria, Finland, Luxembourg).

²¹ *Strategie der Bundesregierung für Künstliche Intelligenz – Umsetzungsplan*, <https://www.digitalaustria.gv.at/dam/jcr:4132e710-187c-42e9-9329-a1449ddf484f/KI-Umsetzungsplan%202024-mit%20CCBY4.0.pdf> [accessed: 21.03.2025], p. 82.

²² Ibid.

²³ AI Act and AS 1146 -3, <https://www.dataismimperiali.com/2024/10/17/ai-act-and-as-1146-3/> [accessed: 21.03.2025]. See also *Comunicato alla presidenza il 20 maggio 2024. Disposizioni e delega al Governo in materia di intelligenza artificiale*, <https://www.senato.it/japp/bgt/showdoc/19/DDLPRES/0/1418921/index.html?part=> [accessed: 21.03.2025].

²⁴ Legislatura 19^a – Disegno di legge n. 1146, https://www.senato.it/japp/bgt/showdoc/19/DDLPRES/0/1418921/index.html?part=ddlpres_ddlpres1-articolato1_articolato1 [accessed: 21.03.2025].

FINAL CONCLUSIONS

The analysis conducted in this paper regarding the justification for establishing a new supervisory authority for the AI market in Poland allows us to formulate the following conclusions.

The establishment of a new supervisory authority for the AI market can be considered justified, provided that the requirements for its operation specified in Article 70(1)(3) of the AIA are guaranteed in practice. The comparison of these requirements with the regulations of the usAI regulations concerning the organizational, financial, programmatic and methodological criteria conducted in the study allows us to state that – as a rule – they should be implemented (unless the regulations of the draft act are significantly modified in the course of the further legislative process).

It should be emphasized that the AIA clearly specifies the requirements for two criteria of independence, i.e. organizational and financial, by indicating that national authorities are to act independently and impartially, and also be equipped with the necessary financial resources, resources and employees with specialist knowledge. In the case of the Polish supervisory authority, the relatively small participation of experts in the work of the Commission may raise some concerns, which – considering the adopted organizational model of the new supervisory authority combining “integrated supervision with an expert approach” – may in practice weaken its expert action. The scope of the Commission’s tasks is very broad and is often associated with having specialist knowledge regarding the functioning of AI systems. In Austria, for example, an advisory body was established, and the implementation of AIA was entrusted to existing government administration bodies. This did not require the establishment of a new supervisory authority. Countries that have chosen the solution used in Poland and have already established a new body (e.g. Spain) or are in the process of establishing it (e.g. Italy) have also equipped the new entities with many tasks of a diverse nature, from control tasks to information and education tasks.

It can be considered that the solution used in Poland, i.e. the establishment of the KRiBSI, deserves a positive assessment, taking into account the comments submitted earlier. It is important to bear in mind that the matter regulated in the AIA, as well as the practical aspects of the functioning of AI systems, are so complex that they require an integrated approach, which can be ensured by a separate supervisory body. This is also confirmed by the practice of EU countries that decide on such a solution.

REFERENCES

Jurkowska-Zeidler, Anna. 2012. “Status prawny Komisji Nadzoru Finansowego jako organu administracji publicznej w świetle wyroku Trybunału Konstytucyjnego z dnia 15 czerwca 2011 roku.” *Gdańskie Studia Prawnicze* 2:143-54.

Schulz, Krzysztof. 2024. *Ustawa o nadzorze nad rynkiem finansowym. Komentarz*. Lex el.

Smykla, Bernard. 2007. “Nadzór bankowy w ustawie o nadzorze nad rynkiem finansowym – wybrane zagadnienia”. *Prawo Bankowe* 1:48.

Wajda, Paweł. 2009. “Pozycja prawnoustrojowa i skład Komisji Nadzoru Finansowego – kilka uwag krytycznych.” *Przegląd Prawa Publicznego* 7-8:136-46.

Wojciechowski, Rafał. 2025. In *Nadzór nad rynkiem finansowym. Nadzór nad rynkiem kapitałowym. Komentarz*, edited by Robert Zawłocki. Warszawa: Wolters Kluwer.