

THE FUNCTIONING OF THE AERONAUTICAL SEARCH AND RESCUE SERVICES IN POLAND

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Abstract

The article examines the legal and institutional functioning of the aeronautical search and rescue services (ASAR services) in Poland, also in view of their cooperation with civil and military authorities. This study also looks at the international and national legal regulations relating to ASAR services.

The work contains a presentation of the most important legal acts underpinning the organisation and functioning of the ASAR services in Poland, as well as the tasks of the civil/military aeronautical rescue coordination centre and the civil and military authorities responsible for establishment and operation of ASAR services. The characteristics of the relevant entities forming part of the ASAR services have been outlined, as have other relevant legal instruments and operational documents that are essential for the functioning of the aeronautical search and rescue services in Poland.

Key words: search, rescue, ASAR services.

Introduction

The Convention on International Civil Aviation signed in Chicago on 7th December 1944¹, ratified by Poland on 20th November 1958, is the fundamental source of international law governing aviation issues. Pursuant to Article 25 “Aircraft in distress” of the Convention: “Each contracting State undertakes to provide such measures of assistance to aircraft in distress in its territory as it may find practicable, and to permit, subject to control by its own authorities, the owners of the aircraft or authorities of the State in which the aircraft is registered to provide such measures of assistance as may be necessitated by the circumstances. Each contracting State when undertaking a search for missing aircraft will collaborate with coordinated measures which may be recommended from time to time pursuant to this Convention”.

The subject of the research in this article is the functioning of the aeronautical search and rescue services in Poland. The objective that the author has set himself in this study is the analysis and evaluation of the functioning of ASAR services in the context of

¹ Journal of Laws of 1959, No. 35, item 212, as amended.

international and national legal regulations governing the functioning of aeronautical search and rescue services. Therefore, the research issues are contained in the author's following questions: what international standards, recommended practices and procedures deal with the functioning of the ASAR services in Poland and which national legal regulations pertain to the functioning of the ASAR services in Poland?

The author has hypothetically assumed that the international standards and recommended practices and procedures governing the functioning of ASAR services in Poland are contained in Annex 12 "Search and Rescue" to the Convention on International Civil Aviation signed in Chicago on 7th December 1944. However, the fundamental national legal act governing the functioning of ASAR services in Poland is the Aviation Act of 3rd July 2002 along with implementing acts to the Act.

The author applied theoretical methods such as analysis, synthesis and inferences that allowed the research objectives to be achieved and the research issues to be resolved.

ASAR services in international standards and recommended practices and procedures

Annex 12 "Search and Rescue" to the Convention was adopted by the ICAO Council² on 25th May 1950, and the international standards and recommended practices and procedures that it entails became law on 1st December 1950, with a date of applicability of 1st March 1951. In line with the government declarations of 20th August 2003 on the binding force of the Annexes to the Convention on International Civil Aviation signed in Chicago on 7th December 1944³, and of 7th April 2016 on the binding force of Annex 19 – "Safety management" to the Convention on International Civil Aviation drawn up in Chicago on 7th December 1944⁴, Poland is bound by 19 Annexes to the Convention. The texts of the Annexes in the Polish language were published in the Official Journal of the Civil Aviation Authority (CAA)⁵.

At this point, it should be made clear that Article 37(k) of the Convention also allows ICAO to draw up and publish international standards and recommended practices and procedures in relation to aircraft in distress. It is in this scope that the international standards and recommended practices and procedures were issued as Annex 12 "Search and Rescue" to the Convention.

² ICAO – International Civil Aviation Organisation.

³ Journal of Laws No. 146, item 1413.

⁴ Journal of Laws, item 541. On 25th February 2013, the ICAO Council adopted Annex 19 "Safety management" to the Convention, which came into force on 14th November 2013. The text of Annex 19 to the Convention in the Polish language was published in the Official Journal of the CAA of 2014, item 77.

⁵ Annex 12 "Search and Rescue" to the Convention was incorporated into Polish law under the Regulation of the Minister of Infrastructure and Development on aeronautical search and rescue services of 27th August 2015 (Journal of Laws, item 1547). The text of Annex 12 to the Convention in the Polish language was published in the Official Journal of the CAA of 2010, No. 5, item 38.

Annex 12 to the Convention applies to the establishment, organisation and operation of the search and rescue services in the territory of Member States to ICAO, as well as over open sea areas to coordinate the search and rescue operations with the search and rescue services of neighbouring States. Annex 12 to the Convention also specifies the rules of establishing and ensuring aeronautical search and rescue services in the territories of contracting States, including:

- the establishment of a legal framework;
- the designation of the responsible authority competent on matters relating to aeronautical search and rescue; and
- the organisation of available resources of the communication system and the personnel equipped to coordinate search and rescue operations and to directly take part in them.

It should be emphasised that under Annex 12 to the Convention, the contracting States ensure that the aeronautical search and rescue services operate on a 24-hour basis and assist all persons and vessels in distress, with no discrimination on the basis of nationality and the existing circumstances. The contracting States also establish a rescue subcentre in every search and aeronautical search region and provide the centre with access to two-way reliable communications with:

- associated air traffic service units;
- associated rescue subcentres;
- appropriate direction-finding and position-fixing stations;
- where appropriate, coastal radio stations capable of altering and communicating with surface vessels in the region:
 - the headquarters of search and rescue units in the region;
 - all maritime rescue coordination centres in the region and aeronautical, maritime or joint rescue coordination centres in adjacent regions:
 - a designated meteorological office or meteorological watch officer;
 - search and rescue units;
 - alerting posts; and
 - the Cospas-Sarsat Mission Control Centre⁶, servicing the search and rescue region⁷.

⁶ Cospas-Sarsat was established in 1979 on the initiative of combining the Cospas (former USSR) and Sarsat (France, Canada and USA) systems and is an international satellite distress alerting system with ground system components supporting search and rescue services responding to incidents on land and at sea. The system currently brings together 42 Member States and 2 Associate Members, creating the International Cospas-Sarsat Programme based in Montreal, Canada. The International Cospas-Sarsat Programme comprises the Council, the Joint Committee, and the Secretariat. Poland joined the International Cospas-Sarsat Programme as a User State on 16th September 2005. The name Cospas-Sarsat is an acronym for the Russian words: *Cospas – Cosmicheskaya Sistyema Poiska Avariynich Sudov*, which translates to the Space System for the Search of Vessels in Distress, and the English words: *Sarsat – Search and Rescue Satellite-Aided Tracking*.

⁷ Cf. Point 2.1.1, Point 2.1.2, Point 2.3.1, and Point 2.4.1. Annexe 12 “Search and rescue” to the Convention.

It should also be pointed out that the International Aeronautical and Maritime Search and Rescue Manual (IAMSAR Manual) is a supplement to Annex 12 to the Convention, laying down the aeronautical search and rescue standards assisting in fulfilling duties under Convention provisions and organising search and rescue services.

The IAMSAR Manual is published by ICAO and the International Maritime Organization (IMO). It is a three-part, joint publication which consists of: Volume I “Organisation and Management”, Volume II “SAR Mission Co-Ordination”, and Volume III “Mobile Facilities”.

The national legal aspects of the ASAR services

On 17th November 2002, after over 40 years of the Act of 31st May 1962 being applied, the Aviation Act of 3rd July 2002⁸ came into force. However, the new Act fails to precisely address the legal issues of aeronautical search and rescue operations and services. The only exception was Article 121, item 2 of the Aviation Act of 3rd July 2002, where the legislator clarified that: “aircraft undertaking flights within the airspace are also provided search and rescue services”.

At this point, it should be made clear that pursuant to Article 4, item 1 of the Aviation Act of 3rd July 2002: “the Republic of Poland has complete and exclusive sovereignty over the airspace above its territory. The competent minister in charge of transport exercises the functions resulting from this sovereignty in a scope not related to the defence reinforcement of the State”. The exercise of functions resulting from the sovereignty over Polish airspace also consists of ensuring a search and rescue service⁹.

On 15th July 2011, the President of the Republic of Poland signed an Act on Amending the Aviation Act and certain other acts of 30th June 2011¹⁰. The legislative work on the amendment to the Aviation Act of 3rd July 2002 lasted over two years and covered amendments in all its areas connected with the implementation of European Union provisions in the field of civil aviation into national law and improving the level of aviation safety, as well as improving the airport management process. The above amendment has also extended the provisions with aspects concerning aeronautical search and rescue and ASAR services that were not covered by previous amendments to the Act.

In Article 140a of the amended Aviation Act of 3rd July 2002, the legislator made it clear that: “the search and rescue of aircraft in distress, providing assistance to

⁸ Journal of Laws of 2017, item 959, as amended.

⁹ See § 2, item 1, point 3 of the Regulation of the Council of Ministers of 31st October 2007 on the execution of functions ensuring from sovereignty over Polish airspace and defence reinforcement during peacetime (Journal of Laws of 2015, item 100).

¹⁰ Journal of Laws No. 170, item 1015.

aircraft crew and passengers and other people injured in aircraft incidents, irrespective of the nationality of the aircraft and people, belongs to the scope of operations of the search and rescue services”, in other words, to the ASAR services.

The competent minister in charge of transport¹¹ is responsible for the organisation of ASAR services and the execution of tasks and duties: the search and rescue of all aircraft in Polish airspace, and performing searches of designated areas in order to determine the position of the aircraft, the condition of affected people, and for initiating on site rescue operations.

The lawmaker specified the entities making up the ASAR services under Article 140a, item 5 of the Aviation Act of 3rd July 2002, namely:

- the Civil/military aeronautical rescue coordination centre (ARCC);
- aeronautical search and rescue teams (ASRT); and
- alert points¹².

The main tasks of the ARCC, pursuant to Article 140a, item 6 of the Aviation Act of 3rd July 2002, include:

- receiving information on the threat to the safety of aircraft and people injured in aircraft incidents;
- analysing information, carrying out checks and investigative measures in relation to the threat to safety of aircraft undertaking flights in Polish airspace;
- monitoring the condition and capacity of entities that make up ASAR services to undertake search and rescue operations, and the coordination of operations of entities comprising ASAR services;
- analysing and evaluating the situation on an ongoing basis and revising the search and rescue operations undertaken, including deciding on their suspension and termination; and
- informing air defence authorities and institutions communicating to air navigation service providers about civil aircraft flights and aircraft of the Armed Forces of the Republic of Poland carrying out search and rescue operations.

Under Article 140b, item 2 of the Aviation Act of 3rd July 2002, the legislator stated that the Minister of National Defence is obliged to make air search and rescue teams (aircraft and flight crew and personnel) available from the resources of the Polish Armed Forces, is responsible for their inventory, and is required to train the crew members and flight crew to the extent necessary to execute the ASAR services.

The above solution is by no means an innovative one. Many States typically use aircraft of the armed forces to conduct search and rescue operations, assisted by

11 Pursuant to Article 16, item 1 of the Aviation Act of 3rd July 2002, the competent minister in charge of transport is the supreme government administration body for civil aviation affairs.

12 The legislator clarified under Article 140a, item 7 of the Aviation Act of 3rd July 2002 that the authorities of air traffic service providers carry out the role of alert points as part of the performance of emergency services, receiving information of risks to aircraft undertaking flights in Polish airspace and passing it on to the civil/military aeronautical rescue coordination centre.

the aircraft of other services, since: “SAR operations, because they are conducted with substantial alleviations from operational and performance standards; are strictly controlled; the crews are trained to the appropriate standard; and they are held at a high state of readiness. Control and tasking is usually exercised by the Police (or the Military or Coastguard in a maritime State) and mandated under State Regulations”¹³.

Under Article 140d, item 2 of the amended Aviation Act of 3rd July 2002, the lawmaker included a statutory authorisation for the competent minister in charge of transport to issue an implementing act which, in consultation with the Minister of National Defence and the competent minister in charge of the internal affairs, will define, by way of a regulation:

- the manner of organisation and the functioning of the ASAR services;
- the scope of the aeronautical search and rescue operation plans (ASAR plans) and the manner in which they are developed;
- the tasks of the civil/military aeronautical rescue coordination centre (ARCC);
- the manner of conducting search and rescue operations; and
- the manner of cooperation with other bodies and units, with regard to international provisions and the duties and powers of the competent bodies and units.

On 6th October 2015, after lengthy legislative work, the Regulation of the Minister of Infrastructure and Development on aeronautical search and rescue services of 27th August 2015 was published, which provides, as already mentioned earlier, the exercise of the statutory mandate specified under Article 140d, item 2 of the Aviation Act of 3rd July 2002. The Regulation also aligns national provisions with international standards and the recommended practices and procedures entailed in Annex 12 “Search and Rescue” to the Convention.

The Regulation commits the President of the Polish Air Navigation Services Agency to develop the basic documents regulating the functioning of ASAR and ARCC services. These documents, subject to the statutory authorisation, are the ASAR Plan and the ARCC Operations Manual.

The ASAR Plan is the main document defining the functioning of the aeronautical search and rescue teams (ASRT) with cooperating entities in the area of search and rescue services at FIR Warsaw¹⁴. It also contains detailed data that enables efficient performance of search and rescue operations, including an ASRT list, along with their dislocation, a list of sites for takeoff and landing situated at hospital emergency units, as well as information on the communications systems, ASRT aircraft and

13 Joint Aviation Requirements JAR-OPS 3 Commercial Air Transportation (Helicopters), section 2 AMC/IEM B - General, ACJ to Appendix 1 to JAR-OPS 3.005(d) The JAA HEMS philosophy, point 5.1.

14 FIR Flight Information Region. An airspace of defined dimensions within which flight information service and alerting service are provided.

other aircraft that can be called on an ad hoc basis to undertake search and rescue operations – wherever their use is more justified than the use of ASRTs.

The procedures for cooperation between elements of the ASAR services and the procedures for cooperation between ASAR services and subordinate and supervised units by the Minister of National Defence, the Minister of Internal Affairs and Administration, the Minister of Health and with entities and units called upon on an ad-hoc basis have been specified in the ASAR Plan. The above document also contains information about the rescue subcentres of neighbouring states that are working with ASAR services and other elements required for the proper functioning of the ASAR services.

In consideration of the above, it should be noted that the ASAR Plan, developed by the President of the Polish Air Navigation Services Agency and after consultation with the Minister of National Defence, the Minister of Internal Affairs and Administration, and the Minister of Health, was approved by the then-Minister of Infrastructure and Construction on 24th October 2017.

Another important document is the ARCC Operations Manual detailing the manner of organisation and functioning of the rescue subcentre situated, pursuant to Article 140c, item 2 of the Aviation Act, at the Polish Air Navigation Services Agency. The ARCC Operations Manual, as well as the ASAR Plan, are subject to approval by the competent minister in charge of transport and the Minister of National Defence within three months of the date that the ASAR Plan is approved. Apart from the operational documents pertaining to ASAR services, the Regulation specifies in detail the manner of organisation and functioning of this service, stipulating that the civil/military aeronautical rescue coordination centre (ARCC) consists of the rescue subcentre at the Polish Air Navigation Services Agency – the institution providing the air navigation services and the coordination subcentres for the Armed Forces of the Republic of Poland.

Locating the civil/military aeronautical rescue coordination centre within the organisational structures of the Polish Air Navigation Services Agency¹⁵ is not an innovative solution. Examples from other Member States show that civil/military aeronautical search and rescue centres operate in the structures of institutions providing air navigation services in the Czech Republic and in Slovakia, for instance, whereas in Lithuania and Sweden, rescue subcentres operate as civil institutions.

Therefore, given the position of the ARCC within the organisational structures of the Polish Air Navigation Services Agency, the Regulation contains the specific tasks of the ARCC, which include, among others, monitoring the distress frequency – 121.500MHz and 243.000MHz at all times and using the 123.100MHz frequency as the basic frequency to maintain communication with aircraft taking part in search and rescue operations, the receipt and analysis of information from the Cospas-

15 Article 4, item 4 of the Polish Air Navigation Services Agency Act of 8th December 2006 (Journal of Laws of 2015, item 1641, as amended) specifies that the Agency ensures coordination of search and rescue operations.

Sarsat system, the coordination of search and rescue operations, right up to the suspension and termination of search and rescue operations or cooperation with the State Commission on Aircraft Accidents Investigation and with the Civil Air Accident Investigation Commission.

In this organisational form, the ARCC at the Polish Air Navigation Services Agency started operating on 25th January 2018, when the Minister of Infrastructure and the Minister of National Defence approved the first ARCC Operations Manual. Thus, the ARCC was launched, as mentioned earlier, within three months of the approval of the ASAR Plan.

Until then, pursuant to § 19, item 2 of the Regulation of the Minister of Infrastructure and Development on aeronautical search and rescue services of 27th August 2015, the Aeronautical Rescue Coordination Centre (ARCC Warsaw¹⁶) handled the planning, coordinating and supervising of the search and rescue operations carried out by mobile units of ASAR services throughout FIR Warsaw, which is within the organisational structures of the Air Command Operations Centre-Air Component Headquarters subordinate to the Operational Command of Branches of Armed Forces.

The civil/military aeronautical rescue coordination centre within the organisational structures of the Polish Air Navigation Services Agency is also vital to the effective functioning of SPOC Polska¹⁷. The function of SPOC Polska, before the organisational changes within the scope of the ASAR services were made, was dedicated to the ATM Shift Supervisor/Manager¹⁸ at the Polish Air Navigation Services Agency. The separation of the SPOC Polska function from the then-ARCC Warsaw led to longer transmission times of distress alerts obtained from the Cospas-Sarsat system.

16 ATM – Air Traffic Management – The dynamic, integrated management of air traffic and airspace including air traffic services, airspace management and air traffic flow management – safely, economically and efficiently – through the provision of facilities and seamless services in collaboration with all parties and involving airborne and ground-based functions. See Procedures for Air Navigation Services-Air Traffic Management (PANS-ATM), ICAO Doc. 4444, fifth edition, 2007, pp. 1-18, which was published as guideline no. 8 of the President of the Civil Aviation Authority on the announcement of the requirements set by the International Civil Aviation Organization (ICAO) of 26th August 2015 Doc. 4444 (OJ of the CAA, item 43).

17 SPOC – Search and Rescue Point of Contact – point of contact with the Cospas-Sarsat system. This point is responsible for receiving distress information sent by the ground components of the Cospas-Sarsat system and transmitting them to the Aeronautical Rescue Coordination Centre.

18 ATM – Air Traffic Management. The dynamic, integrated management of air traffic and airspace including air traffic services, airspace management and air traffic flow management - safely, economically and efficiently – through the provision of facilities and seamless services in collaboration with all parties and involving airborne and ground-based functions. See Procedures for Air Navigation Services-Air Traffic Management (PANS-ATM), ICAO Doc. 4444, fifth edition, 2007, pp. 1-18, which was published as guidelines no. 8 of the President of the Civil Aviation Authority of 26th August 2015 on the announcement of the requirements set by the International Civil Aviation Organization (ICAO)-Doc. 4444 (OJ of the CAA, item 43).

At the same time, in view of the ARCC having to ensure coordination of the search and rescue operations, the provisions of the Regulation specified that alerting posts will transmit information to the ARCC on potential or confirmed danger to aircraft, its crew and passengers as well as on foreign aircraft entering the airspace of the relevant State in connection with the execution by such aircraft of air search and rescue operations.

The Regulation also sets out the manner of functioning of the ASRT made available, as mentioned earlier, by the Minister of National Defence from the resources of the Polish Armed Forces. The ASRT fulfils the role of search and rescue units at FIR Warsaw, which are suitably spaced and equipped to function on a 24/7 basis, in a manner enabling immediate search and rescue operations to be undertaken once called on by the ARCC.

In order to ensure the rational use of the ASRTs which also include aircraft – technical and operational parameters ensuring safe take-offs and landings also from areas other than an airfield or landing area along with the crews of such aircraft and the mobile staff responsible for giving first aid, with at least one licensed healthcare professional in the meaning of the Act on the National Medical Rescue Service of 8th September 2006¹⁹ – ASRTs can, with the consent of the ARCC, undertake other operations, especially ones relating to ensuring State defence and security or the saving of human lives²⁰.

The Regulation, in its recitals, prejudices the termination of search and rescue operations. This is possible when:

- the threat or incident report turns out to be false;
- the searched aircraft was found, the assistance was provided or no such assistance is required²¹.

Summary

The Convention on International Civil Aviation, signed in Chicago on 7th December 1944, along with international standards and recommended practices and procedures entailed in Annex 12 “Search and Rescue” to the Convention, as well as the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual constitute the international legal bases for establishing ASAR services.

After the amendment of the Aviation Act of 3rd July 2002 under the Act on Amending the Aviation Act and Certain Other Acts of 30th June 2011, not only were

¹⁹ Journal of Laws of 2016, item 1868, as amended.

²⁰ See § 7, item 1 of the Regulation of the Minister of Infrastructure and Development on aeronautical search and rescue services of 27th August 2015.

²¹ See § 16, item 1, point 1 and point 2 of the Regulation of the Minister of Infrastructure and Development on aeronautical search and rescue services of 27th August 2015.

the ASAR services given statutory legitimacy (Article 140a and subseq.) but also the regulations determining the key issues in relation to its functioning.

The entry into force of the Regulation of the Minister of Infrastructure and Development on aeronautical search and rescue services of 27th August 2015 defined the method of organisation of aeronautical search and rescue services along with the tasks of the Aeronautical Rescue Coordination Centre, located within the organisational structures of the Polish Air Navigation Services Agency, and defined the scope and manner of developing the operational documents of the ASAR services.

In connection with the above, the legislative authority entailed under Article 140d, item 2 of the Aviation Act of 3rd July 2002 was fulfilled, ensuring compliance between national legal regulations and international standards and recommended practices and procedures contained in Annex 12 “Search and Rescue” to the Convention.

Thus, the implementation of these legal solutions into the Polish legal system has led the functioning of the ASAR services in Poland, in their current shape and form, ensuring that the international and national legal framework concerning aeronautical search and rescue services has been met.

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Guideline No. 8 of the President of the Civil Aviation Authority on the announcement of the requirements set by the International Civil Aviation Organization (ICAO) Doc. 4444 of 26th August 2015 (OJ of the CAA, item 43).

Annex 12 “Search and Rescue” to the Convention on International Civil Aviation, signed in Chicago on 7th December 1944 (OJ of the CAA of 2010, No. 5, item 38).

Internet Resources

International Satellite System for Search and Rescue: <https://cospas-sarsat.int/en/>