

**Anna Sobińska, MSc.**

*Economic Chamber of the Supreme Administrative Court*

**Damian Witczak, PhD**

*National Headquarters of the State Fire Service (KG PSP) of Poland*

DOI: 10.5604/01.3001.0014.1132

## **Selected Legal Problems Related with Procedures for Incorporation of a Fire Protection Unit to the National Rescue and Firefighting System. *De lege ferenda* Remarks Pertaining to Issues of Exclusion from the System**

### **Abstract**

The present paper is an attempt at a complex approach and presentation of administrative procedures with respect to incorporation of firefighting units to the National Rescue and Fire Fighting System (KSRG). The objective of the present paper is to make a review of indispensable requirements which have to be fulfilled by a fire protection unit to be able to apply for incorporation to the KSRG, as well as to indicate serious problems of a formal and legal nature related to the above mentioned issues. The paper has been supplemented by a review of legal regulations pertaining to the issue of functioning of the analysed system that is of considerable importance from the viewpoint of security of the citizens, the statutory task of which is protection of the life, health, property and the environment from a fire, natural calamity or other local hazard. Owing to the absence of publications in this respect in literature, an analysis has been carried out of the binding legal regulations, in the first place the regulation of the Minister of Interior on *the scope, specific conditions and ways of incorporating firefighting units to the national firefighters rescue system* of 15 September 2014. Lack of literature items in this respect enables the authors to consider the analysed problem from the viewpoint of researcher and observer of the functioning of this system in practice, without any constraints arising from the acknowledged position of the adopted doctrine. An integral part of this paper are postulates *de lege ferenda* which are specific proposals for legal solutions with respect to complex regulation of procedures related to exiting the system, with special focus on depriving a unit of the status of an entity comprised by KSRG.

**Keywords:** National Rescue and Fire Fighting System, agreement, fire protection, rescue activities

**Received: 05.02.2020; Reviewed: 20.03.2020; Accepted: 20.03.2020**

## **Wybrane problemy prawne związane z postępowaniem w przedmiocie włączenia jednostki ochrony przeciwpożarowej do krajowego systemu ratowniczo-gaśniczego. Uwagi *de lege ferenda* dotyczące kwestii wyłączenia z systemu**

### **Abstrakt**

Niniejsza publikacja stanowi próbę kompleksowego ujęcia i przedstawienia postępowania administracyjnego w przedmiocie włączenia jednostki ochrony przeciwpożarowej do krajowego systemu ratowniczo-gaśniczego (dalej: KSRG lub system). Celem artykułu jest omówienie niezbędnych warunków, jakie musi spełniać jednostka ochrony przeciwpożarowej, aby mogła ubiegać się o włączenie do KSRG, a także wskazanie ważnych problemów natury formalno-prawnej związanych ze wskazaną problematyką. Artykuł jest uzupełniony o analizę przepisów prawnych regulujących ważną z punktu widzenia bezpieczeństwa obywateli kwestię funkcjonowania omawianego systemu, którego ustawowym zadaniem jest ochrona życia, zdrowia, mienia lub środowiska przed pożarem, klęską żywiołową lub innym miejscowym zagrożeniem. Z uwagi na brak literatury oparto się na analizie obowiązujących aktów prawnych. Pozwoliło to autorom spojrzeć na analizowany problem z perspektywy badacza i obserwatora funkcjonowania tego systemu w praktyce, bez jakiegokolwiek skrępowania wypracowanym stanowiskiem doktryny. Integralną częścią artykułu są postulaty *de lege ferenda* stanowiące swoiste propozycje rozwiązań prawnych w zakresie kompleksowego uregulowania postępowania w przedmiocie wystąpienia jednostki z systemu.

**Słowa kluczowe:** krajowy system ratowniczo-gaśniczy, porozumienie, ochrona przeciwpożarowa, działania ratownicze

**Przyjęty: 05.02.2020; Zrecenzowany: 20.03.2020; Zatwierdzony: 20.03.2020**

## **Вибрані юридичні проблеми, пов'язані зі справою стосовно включення підрозділів протипожежної охорони до національної пожежно-рятувальної системи. Примітки *de lege ferenda* щодо питань виключення з системи**

### **Анотація**

Ця публікація є спробою всестороннього підходу та представлення адміністративних справ щодо включення підрозділу протипожежної охорони до національної пожежно-рятувальної системи (KSRG). Мета статті полягала на обговоренні необхідних умов, яким повинен відповідати підрозділ пожежної охорони, щоб мати можливість подаватись на включення до складу KSRG, а також на показанні важливих формально-правових проблем, пов'язаних із зазначеними питаннями. Статтю доповнено аналізом законодавчих положень, що регулюють важливі питання, з точки зору безпеки громадян, щодо функціонування обговорюваної системи, статутним завданням якої є захист життя, здоров'я, майна чи навколишнього середовища від пожежі, стихійного лиха чи інших локальних загроз. В зв'язку з браком літератури, базовано на аналізі діючих нормативно-правових актів з особливим акцентом на Постанові Міністра внутрішніх справ від 15 вересня 2014 р. *Про зміст детальних умов та порядку включення підрозділів пожежної охорони до національної пожежно-рятувальної системи*. Брак літератури з цього предмету дозволяє авторам розглянути аналізовану проблему з погляду дослідника та спостерігача функціонування цієї системи в практиці, не опираючись на позицію доктрини. Невід'ємною частиною статті є постулати *de lege ferenda*, що складають конкретні пропозиції юридичних рішень у сфері всебічного регулювання судочинства щодо виходу із системи, з особливим акцентом на позбавлення підрозділу статусу суб'єкта, що належить до KSRG.

**Ключові слова:** національна пожежно-рятувальна система, угода, протипожежна охорона, рятувальні дії

**Прийнятий: 05.02.2020; Рецензованої: 20.03.2020; Затверджений: 20.03.2020**

## Introduction

Complex legal solutions pertaining to the instituting of incorporating fire protection units to the National Rescue and Fire Fighting System requires becoming familiarised in advance with legal provisions that regulate the entire topic at hand. Under the binding legal status it is defined by regulations of the act of 24 August 1991 on *The State Fire Service* [3], act of 24 August 1991 on *fire protection* [4], Regulation of the Minister of Interior and Administration on *the specific organisation of the National Rescue and Fire Fighting System* of 3 July 2017 [10] and Regulation of the Minister of Interior on *the scope, specific conditions and ways of incorporating firefighting units to the national firefighters rescue system* of 15 September 2014 [9].

While the issue of incorporation into the system does not give rise to major concerns, yet in practice certain doubts might arise pertaining to exiting of the unit from the system. In reality it is not clear how to call this institution, because to a large extent we see the functioning of something that should be interpreted as exclusion from KSRG, and its basis is a decision on expiry, and not on exclusion of a unit from the system. Consequently it is not clear which terminology should be adopted. Contrary to the earlier legal status, the current legal regulations do not anticipate the procedure of exclusion made from a unit from the system.

Consequently it seems to be justified to execute first of all a review of the procedure of incorporating an entity into the system. This would allow the formulation of further comments *de lege ferenda*, which constitute a proposal for solutions aimed at expanding the scope of possible events that might happen based on the concrete factual status. A change of legal regulations should take into account the position of both parties to the administrative relation, concurrently leaving up to the unit to decide whether it wants to remain in the system or to exit. In such an event a statement of will submitted by the entity should be considered as exiting. If this is done at the request of the superior authority, then we are faced with exclusion of a unit. Consequently the legislator should take into account the necessity of deploying and making more flexible all solutions that enable regulating the given issue in a broader and more complex way.

## 1. National Rescue and Fire Fighting System

The National Rescue and Fire Fighting System was established on 1 January 1995, and its legal framework was constituted by two main acts that regulate issues related to fire

protection. This pertains to the act of 24 August 1991 *on the State Fire Service* [3] and the act of 24 August 1991 *on fire protection* [4]. The State Fire Service has become the organising entity of that system, in particular its logistic and staff resources. It should be emphasised that the basic objective of the legislator was to incorporate to the Polish legal system a unified and effective rescue system, under which diverse entities could be operating to execute tasks in the scope of widely understood rescuing.

Already at this stage it turned out that there was a necessity of assuring the required definition for the concept of “rescuing”. It is commonly defined as “all means and methods necessary to rescue human life”. This definition is rather brief and requires certain supplementing. With this in mind it is worthwhile to use the colloquial understanding of the word “rescue”, which is comprehended as “to help someone in a hazard, in a difficult situation, protect from loss, unhappiness, death, ruin, destruction, problems, save us, try to protect, maintain something”. Consequently in practical terms the concept of “rescue” is understood as a synonym of the concepts of “help”, “evacuate”, “remove a threat” etc. In this context rescuing clearly comprises the adoption of measures and actions oriented at rescuing people or items being at risk. This also applies to rescuing people involved in such activity [1].

Returning to the main thread of our deliberations it should be noted that apart of the State Medical Rescuing system [8] and the system of emergency alerting, the National Rescue and Fire Fighting System is one of three main elements of rescuing [5, 6, 8]. Pursuant to the contents of article 2 item 4 of the act *on fire protection*, the National Rescue and Fire Fighting System is understood as “an integral part of a state internal security organisation which for needs of rescuing life, health, property of the environment comprises forecasting, identification and combatting fires, natural calamities or other local threats; this system concentrates fire protection units, other services, inspections, guards, institutions and entities, which either voluntarily or under a civil legal contract agree to act jointly in rescue actions”.

The act *on fire protection* defines directions of the national rescue and firefighting system. In this respect the legislator indicates that it is aimed at protecting life, health, property or the environment by [4, 9]:

- combatting forest fires or other natural calamities;
- technical rescuing;
- chemical rescuing;
- ecological rescuing;
- medical rescuing;

- cooperation with entities of the State Medical Rescuing system and the emergency alerting system [5, 6].

Consequently particular elements of the national rescue and firefighting system execute measures in the scope of technical, chemical, ecological and also medical rescuing. Pursuant to the act, the national rescue and firefighting system is operating on three levels, i.e., the national level, the provincial level and the county level. Such distinguishing is identical to the administrative division of the country [1]. Its specific competencies are implemented on each particular level. Functioning of the system is supervised by the Minister of the Interior. Coordination, control, including also the definition of tasks of the system, have been assigned to [4]:

- Chief Commandant of the State Fire Service for the whole country;
- province governors relevant for particular provinces;
- district heads relevant for particular counties.

The province governor and the district head carry out tasks with the assistance of the county crisis management team. On the other hand, the village head (mayor, city president) coordinates functionally the national rescue and firefighting system on the commune area within a scope specified by the province governor. Pursuant to the act, this task is feasible with the assistance of the commune commandant of fire protection. However, this gives rise to a requirement of hiring of the commandant by the implementing authority. The act allows the possibility of obtaining assistance of the commune commandant of the voluntary fire service for the execution of the task [4].

In assuring the appropriate functioning of the system an important role is played by the State Fire Service as its foundation and its actual organiser. The national rescue and firefighting system concentrates fire protection units, inspections, guards, other services and entities, which under a civil and legal agreement have voluntarily agreed to cooperate in emergency actions. Concurrently it should be noted that all logistic protection means of particular system units participating in rescue actions is basically implemented with the use of own logistic resources of those units. Nevertheless it is partly commissioned to external entities.

## **2. General regulations related to incorporation of fire protection units to the national rescue and firefighting system**

In an attempt at identifying the definition of the national rescue and firefighting system, the legislator has specified entities that form the system. In such a way it assembles

based on a voluntarily concluded civil legal agreement fire protection units [3], as well as other services, inspections, guards, institutions and entities that cooperate in rescue actions.

Pursuant to provisions of generally binding legal regulations, KSRG comprises two types of entities – incorporated in line with an administrative decision (the above specified fire protection units) and the remaining entities concentrated in it, which have concluded a relevant civil legal agreement with the State Fire Service [10].

Based on statutory delegation [4] the Minister of the Interior issued on 15 September 2014 a legal act that is currently crucial for the undertaken topics. Although it comprehensively regulates the procedure of incorporation of fire protection units to the above mentioned system, yet says nothing with respect to the potential exclusion or withdrawal.

This goes to prove the existence of a loophole in the legislation. However, at this stage it is not easy to ascertain whether this was intentional on the part of the legislator, or perhaps when working out the regulation all potential possibilities had not been anticipated. Nevertheless such a loophole, especially with respect to fire protection, may prove to be hazardous and may leave to the administrative body the so-called discretionary powers, which in some cases may give rise to irrecoverable decision-related errors.

Already at the present stage it is possible to emphasise the lack of complexity of legal regulations as regards the functioning of the system. One should make a reservation, however, that the minister acted within the scope of the statutory delegation, which he could not exceed. The literal wording of regulation of article 20 of the act *on fire protection* empowers to regulating by way of a regulation of the scope of specific conditions and procedure applicable to the incorporation of fire protection units, as specified in Art. 15 item 1a–6 and 8 of the act *on fire protection* to the national rescue and firefighting system. Pursuant to this regulation entities which may apply for incorporation are as follows [4]:

- organisational units of the Military Fire Protection;
- plant fire department;
- plant emergency service;
- commune professional state service;
- county (municipal) professional fire brigade;
- local rescue service;
- voluntary fire service;
- other rescue units.

It should be noted that initial acts that regulate the analysed issue comprise the regulation of the Ministry of the Interior of 28 December 1994 [7] and the regulation of the Ministry of the Interior of 14 September 1998 [8]. The necessity of issuing new contents of the regulation arose among others an effect of social reasons. The milieu of members of voluntary fire service has criticised the adopted criteria related to incorporation, ruling out the possibility of joining the national rescue and firefighting system of “poorer entities”. Consequently works were taken up on the particularisation of provisions contained in the previously binding implementing acts resulting from conducted analyses, as well as experience compiled during their long-term binding. Amended solutions have certainly contributed to better planning, which in turn was transposed on enhancing the functioning of the analysed system, even though they are not free of the already mentioned legal loopholes.

In an analysis of conditions applicable to the incorporation of a fire protection unit to the national rescue and firefighting system it should be indicated that a *sine qua non* condition is to have at disposal appropriate forces and means, at least in the dimension specified by criteria for incorporation of a unit to the system and assuring a possibility of its dispatching to rescue actions in line with developed emergency plans. Another important factor is its inclusion in the collective plan of system entities network [9].

The process of incorporating a unit to the analysed system requires that minimum requirements are met with respect to having at disposal at least one average or heavy rescue and extinguishing vehicle, at least 12 trained rescuers, equipping comprising an effective communication and alerting system, as well as having at disposal the needed communications devices in the system radio network for needs of rescue actions. What is more, it is necessary for the unit to remain in readiness to taking up rescue actions. Pursuant to provisions of the above mentioned regulations, incorporation of a unit to the system may also take place for a unit which is properly equipped and the rescuers of which have training at a level allowing the implementation of rescue activities [10] if its activity may take place in conditions anticipated in the rescue plan. The authority that evaluates the above mentioned premises is the locally relevant county (municipal) commandant and the provincial commandant of the State Fire Service.

### **3. Additional requirements**

Over the past years of the operation of the national rescue and firefighting system, based on experience gained in the long-term period, appearing interpretational difficulties



as well as a necessity of appropriate selection of specialised units, additional criteria have been set up and rules for incorporating a fire protection unit to the system. An analysis was carried out of the evolving of the analysed topic over the years, and in line with the experience certain standards have been devised which gained approval of the Ministry of the Interior and Administration. Those requirements are as follows:

- territorial belonging to the commune, in which there is no VFS (Voluntary Fire Service) incorporated into KSRG or when only one such unit is incorporated, but conclusions from hazard analyses and studies of operating provisions indicate a need of incorporating another fire protection unit (in an attempt at assuring the availability of at least two fire protection units on the territory of the given commune),
- each VFS aspiring to incorporation to KSRG should be capable of implementing tasks in the scope of qualified first aid, technical rescue and firefighting (including internal ones),
- in the event of incorporation of the third and successive VFS unit from the given commune (or the second one and the subsequent one in the event of functioning of Rescue and Firefighting Units on the territory of the given commune) the application for incorporation of a VFS unit to KSRG should comprise a factual justification as to the legitimacy of incorporating the VFS to KSRG from the relevant county commandant /municipal commandant of the SFS approved by relevant provincial commandant of the SFS,
- the only exception may be the case when incorporation of the subsequent VFS unit may take place with concurrent application for exclusion of an already entity in the system of VFS unit, whose belonging to the KSRG has lost its justification.

A crucial criterion for the possibility of applying for incorporation to the system is having at disposal specialist equipment, and especially the following:

- equipment for the execution of rescue activities under qualified first help, i.e. medical emergency set R-1,
- at least four sets of respirators,
- personal protection means and individual equipping for at least 12 VFS rescuers,
- equipping necessary for execution of rescue actions in the scope of technical rescuing on roads, including a hydraulic unit.

Furthermore, the legislator reserves that a VFS unit incorporated into the KSRG should comprise at least 12 rescuers (i.e. two teams of a medium firefighting vehicle) which meet requirements for direct participation in rescue actions, and being in

constant operational readiness [4]. As regards personnel it should also be noted that the rescuers should have at least the following firefighting training:

- a) training of chiefs – 2 persons,
- b) training of commanders – 2 persons,
- c) training of drivers / handymen – 3 persons,
- d) training in technical rescuing – 4 persons,
- e) training in qualified first aid – 4 persons.

In a situation when the condition of training of two chiefs is not met, optionally it is admissible to train one chief and three commanders. It is crucial that the total state of persons authorised to run rescue actions is not lower than four persons. Furthermore, it should also be emphasised that particular duty-holders should also meet other requirements, which are dependent on the specific post. In this case we can point to the handyman (driver) who should have a driving licence of the required category, certificate allowing the driving of privileged vehicles or the required training in handling the specialist equipment at disposal.

#### **4. Agreement**

Another crucial requirement in the process of applying for incorporation of a unit into the system is conclusion of an agreement between the involved entities. As regards the voluntary fire service, these entities comprise the relevant the relevant county (municipal) commandant of the State Fire Service, the applying unit and also the commune head, the mayor or the president. As regards the remaining fire protection units, those entities include the relevant county (municipal) commandant of the State Fire Service, the applying unit and the entity that forms it. Regulations of the implementing act impose the necessity of concluding an agreement for a finite period and identify its elements, and namely:

1. declared operating readiness, including forces and means of the unit to be used within the system;
2. rescue tasks assumed for the unit under the system;
3. required number and the required educational level of rescuers in the unit;
4. ways of maintaining readiness of the unit to the execution of rescue operations, especially in the scope of:
  - technical working order of firefighting vehicles and their equipping,
  - training of rescuers to undertaking of tasks,

- progress of alerting,
  - ways of turning over information pertaining to the present operating readiness or its temporary impairment;
5. ways of alerting the unit;
  6. period in which the agreement is binding;
  7. methods for terminating the agreement.

At this point it should be noted that the catalogue of events, which should be comprised by an agreement in its contents, is of an open nature. This presumption is possible after a review of the legal regulation, and especially the fact that the ministerial legislator has used the formulation “in particular”. Current legal regulations admit the possibility of flexible formulation of the contents of a contract, and point only to its certain constitutive elements, without which the document would lose its value in a procedure for incorporation to the system. Consequently in practice agreements may have diverse contents, and its stipulations would depend on the specific circumstances. It should be noted that the establishing of an open catalogue of contractual stipulations indeed allows its extending by a list of unspecified examples, which are not mentioned directly by the regulation. This means that the indicated parties to the agreement have practically unlimited options of regulating their legal situation by its additional optional elements. Nevertheless such a far-reaching conclusion may lead to absurd solutions and blurring of the border between a civil legal agreement and a sphere of executory powers of the administrative body.

## **5. Application for incorporation into the system**

Another stage of the proceedings for the incorporation of a unit into the system is the submission of the relevant application for incorporation of a given unit by the competent district (municipal) commandant of the State Fire Service to the competent regional commandant of the State Fire Service. The application in question must contain a statement of reasons. The Chief Commandant of the State Fire Service incorporates a unit into the system at the request of the regional commandant of the State Fire Service. Hence, the only body that is authorised to incorporate a unit into the system is the Chief Commandant of the State Fire Service. The incorporation is conducted by way of an administrative decision. The substantial and material grounds of such incorporation are laid out in §4(2) of the Regulation of the Minister of the Interior of 15 September 2014 *on the scope, specific conditions and ways of incorporating fire*

*protection units to the national rescue and firefighting system* in relation to Article 104 of the Code of Administrative Procedure of 14 June 1960 [2.] This form of proceedings is additionally justified by the fact that the decision constitutes a unilateral declaration of intent issued by an administering body competent to handle the matter, which is intended to cause specific legal effects with regard to an individual addressee of the action. The same form should be utilised for responses that deny incorporation. Jurisprudence emphasises the primacy of the principles governing the form of administrative decisions to be followed in the case of rejection [12]. A party that is dissatisfied with the decision may appeal against it.

## **6. Effects of non-observance of the agreement**

The previously applicable Regulation of the Minister of the Interior of 28 December 1994 *on detailed principles, scope and ways of incorporating fire protection units into the national rescue and firefighting system* regulated the principles of excluding units from the system. That regulation was indirectly repealed by the Act of 22 August 1997 on amending the act on fire protection. Article 4 thereof allowed the application of the existing implementing provisions for no longer than six months as of the effective date of the act, i.e. until 8 October 1997. Further, the legislator delegated the regulation of the matter of incorporating voluntary fire service units into the national rescue and firefighting system to the Minister of the Interior and Administration. The next regulation, issued in 1998, did not provide for the exclusion. The current legal situation remains unchanged.

The regulation of 2014, according to the delegation, only regulates the principles governing the incorporation of a unit into the system, which takes place after a relevant agreement is concluded, similarly to what was provided for in the previous regulation.

§5 of the regulation currently in force orders the locally competent district (municipal) commandant of the SFS of the unit incorporated into the system to request that the unit violating the agreement restore the conditions provided for therein within a specified period of time.

The regulation does not provide for the method of excluding a unit from the system or a unit exiting the system. Such a term is not even used. Therefore, if a unit fails to fulfil the conditions of incorporation in the course of its functioning, it is assumed that the incorporation decision has become groundless within the meaning of Article 162 of the Code of Administrative Procedure. This, in turn, requires that the decision be declared expired.

Pursuant to Article 162 §1(1) of the Code of Administrative Procedure, a public administration authority declares a decision expired, if the following conditions are jointly met:

- the decision has become groundless;
- the declaration of the decision's expiry is required under a legal regulation, it is in the public interest or in the interest of the party.

The grammatical interpretation of the provision referred to above justifies the claim that it should refer to special provisions. Sadly, the provisions of the regulation do not handle the issue of the decision's expiry. Therefore, it may not be concluded that there is a legal regulation obliging a State Fire Service authority to declare that a decision on incorporation of a unit into the system has expired. Accordingly, grounds for expiry should be sought in the remaining part of the regulation set forth in Article 162 §1(1) of the Code of Administrative Procedure. Each time the situation changes after an incorporation decision has been issued and a unit ceases to meet a condition on which the original decision was based, the authority must assess whether the declaration of a decision incorporating a unit into the system as expired is in the public interest. Recognising the condition related to the interest of a party as valid would be, in this case, problematic.

## **7. Comments *de lege ferenda***

An analysis of legal provisions on the functioning of the system leads to the conclusion that the legislator's aim was to protect the four values, i.e. life, health, property and the environment. The concept is commendable, but not flawless. The legislator failed to regulate the issue of excluding a unit from the National Rescue and Fire Fighting System, and the only legal method of doing so is to issue a decision on the expiration of the decision that incorporated the unit into the system. The questions are whether this process is legally grounded and how a unit that is excluded from the system by way of a unilateral decision can possibly defend itself.

This raises more doubts as to why the legislator failed to provide for such a possibility. As the action at hand decides the rights and obligations of a party while depriving it of its status, should it not take the appropriate form of administrative proceedings? This creates a legal loophole. Nevertheless, the practice calls for a solution.

Considering the lack of legal regulation in this scope and demonstrating care for the clarity of the principles that regulate the functioning of the NFRS, changes in this

regard should be proposed. It would be desirable to introduce a separate concept of excluding a unit from the system. It is a significant change which, when introduced, could not only eliminate the divergences in interpretation, but also ensure greater legal security. If the proposed changes were to be implemented, greater controversies related to the lack of regulations could be avoided.

The first comment *de lege ferenda* concerns the amendment of Article 20 of the *Fire Protection Act*, the new wording of which should, in the authors' opinion, provide for a method of excluding a unit from the system (or exiting the system). It could read as follows: "*The minister competent for internal affairs shall define, by way of a regulation, the scope, specific conditions and the way of incorporating fire protection units referred to in Article 15 (1a–6) and (8) to the national rescue and firefighting system, and the conditions and methods of their exclusion.*"

To introduce a regulation as provided above would require a change in the title of the regulation in question and call for an additional section setting forth a comprehensive description of the exclusion of a unit from the system and the method of excluding it therefrom.

Alternatively, section 2 could be added to the above-mentioned Article of the *Fire Protection Act*. In that case, section 2 could read: "2. "*The minister competent for internal affairs shall define, by way of a regulation, the scope, specific conditions and the way of excluding fire protection units from the national rescue and firefighting system.*"

The second solution would require an additional implementing act that refers only to the matter of excluding units from the system. In the authors' opinion, the first solution follows the principle of comprehensiveness and cohesion of legal acts and makes it possible to avoid any possible fragmentation of having the matter regulated in various legal instruments.

## References

- [1] Witczak D., *Wpływ statusu funkcjonariusza pożarnictwa na zakres jego ochrony i odpowiedzialności karnej*, Warsaw 2017.
- [2] Act of 14 June 1960 *Code of administrative proceedings* (i.e. Polish Journal of Laws/ Dz.U. from 2018 item 2096 as later amended).
- [3] Act of 24 August 1991 on the State Fire Service (i.e. Polish Journal of Laws/ Dz.U. from 2019 item 1499 as later amended).
- [4] Act of 24 August 1991 *on fire protection* (i.e. Polish Journal of Laws/ Dz.U. from 2019 item 1372 as later amended).

- [5] Act of 8 September 2006 *on State Medical Rescuing* (Polish Journal of Laws/ Dz.U. from 2019 item 993).
- [6] Act of 22 November 2013 on *emergency notification system* (i.e. Polish Journal of Laws/ Dz.U. from 2019 item 1077 as later amended).
- [7] Regulation of the Minister of Interior *on the scope, specific conditions and ways of incorporating firefighting units to the national firefighters rescue system* of 28 December 1994 (Polish Journal of Laws/ Dz.U. No. 140 item 800).
- [8] Regulation of the Minister of Interior and Administration *on the scope, specific conditions and ways of incorporating firefighting units to the national firefighters rescue system* of 14 September 1998 (Polish Journal of Laws/ Dz.U. from 1998 No. 121 item 798).
- [9] Regulation of the Minister of Interior *on the scope, specific conditions and ways of incorporating firefighting units to the national firefighters rescue system* of 15 September 2014 (Polish Journal of Laws/ Dz.U. from 2014 item 1317).
- [10] Regulation of the Minister of Interior and Administration *on the specific organisation of the National Firefighters Rescue System* of 3 July 2017 (Polish Journal of Laws/ Dz.U. from 2017 item 1319, as later amended).
- [11] Judgement of the Provincial Administrative Court in Gorzów Wielkopolski of 27 August 2015, case ref. No.II SA/Go 441/15, LEX No. 1937347.
- [12] Judgement of the Provincial Administrative Court in Gliwice of 28 August 2019, case ref. No. III SA/Gl 611/19, LEX No. 2720702.

**Anna Sobińska, MSc.** – Legal counsellor, judge assistant in the Economic Chamber of the Supreme Administrative Court, co-author of numerous publications in the field of firefighting and law in service.

**Damian Witczak** – Lawyer serving in the National Headquarters of the State Fire Service, member of legislative teams of the Main Commandant of the SFS, author and co-author of numerous publications in the field of penal law, fire protection law, rights for work in service and disciplinary procedures at the SFS.

---

**mgr Anna Sobińska** – radca prawny, asystent sędziego w Izbie Gospodarczej Naczelnego Sądu Administracyjnego, współautorka licznych publikacji z zakresu prawa ochrony przeciwpożarowej oraz prawa w służbie.

**dr Damian Witczak** – prawnik pełniący służbę w Komendzie Głównej Państwowej Straży Pożarnej, członek zespołów legislacyjnych Komendanta Głównego PSP, autor i współautor licznych publikacji z zakresu prawa karnego, prawa ochrony przeciwpożarowej, prawa w służbie oraz postępowania dyscyplinarnego w PSP.