

# THE NATIONAL REVENUE ADMINISTRATION AS AN ELEMENT OF THE ORGANISATIONAL STRUCTURE OF PUBLIC ADMINISTRATION AND AS AN ELEMENT OF THE FINANCIAL SECURITY OF POLAND

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**Abstract.** The study presents a fragment of Polish public administration, namely the National Revenue Administration (“Krajowa Administracja Skarbowa”). The National Revenue Administration is an element of the structure of public administration in Poland and forms part of the administration designed to safeguard the financial security of Poland. The study presents characteristics of the public administration, including units of the National Revenue Administration, and the role of this administration in safeguarding financial security, emphasizing the role and responsibilities of the National Revenue Administration in this regard.

**Keywords:** National Revenue Administration, public administration body, financial security, public finance

## INTRODUCTION

The study presents a specific fragment of public administration, namely the National Revenue Administration.<sup>1</sup> As it will be demonstrated, the National Revenue Administration<sup>2</sup> is an element of the Polish public administration structures and an element of administration whose task is to safeguard the financial security of Poland. In the paper, I will present the characteristic properties of public administration, including of the organisational units of the NRA and its role in ensuring financial security, while highlighting the related role and tasks of the National Public Administration.

### 1. THE NATIONAL REVENUE ADMINISTRATION IN THE LIGHT OF THE NOTION OF *ADMINISTRATION*

The first question that should be posed with respect to these considerations should concern the nature of the organisational units that form the NRA. The name in itself suggests the answer that these are *organisational units* of public administration. Public administration is the subject of interest not only in management

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<sup>1</sup> Act of 16 November 2016 on National Revenue Administration, Journal of Laws, item 1948 as amended.

<sup>2</sup> Hereinafter: the NRA.

sciences, but also in sociology, economic sciences, and psychology, and, first of all, within the scope of the analysis presented here, it is a subject of focus of administrative and legal sciences. The issues of management in public administration may be analysed in two fundamental aspects. The first one is managing public affairs on the scale of the given unit, and this process is referred to as *administering*. On the other hand, the second aspect consists in managing the organisation that is the auxiliary element of the administration body, i.e. managing *the office*. In this case, one may refer to managing an organisation. The science of administrative law, in particular the field that deals with issues of the public administration system, analyses the problems of the system of relationships between state and local self-government administration organs. From this point of view, one may see public administration as a specific system that consists of ordered elements which are interconnected by channels of information. Additionally, the environment of the system may be defined, including, for example, other public authorities, the legal system, geographic and natural conditions as well as social and cultural ones, and, finally, the addressees of the actions taken by administration [Wrzosek 2002, 19]. The doctrine has long noticed that the subject of interest of administrative sciences are the issues related to the influence of the state system on the shape of administration, issues of the environment in which this administration operates and their mutual dependencies. An important group of issues are related to administration structures and mutual relationships between administrative bodies [Leoński 1999, 21]. The organisation of the NRA supports the thesis that it remains within the orbit of interest of administrative sciences. The NRA as an organisation of administration units contains elements that, according to the doctrine, should be analysed precisely by administrative sciences, i.e.: a specific structure, a set of dependence relationships that exist in the organisation, information flow within the organisation, the decision-making process, issues related to conducting control activities in the organisation and their efficiency, recruitment and training of staff, and the contacts between the organisation and its environment [Wrzosek 2002, 21].

## 2. PUBLIC ADMINISTRATION

The organisation called the NRA belongs to the organisations referred to as *public administration*, as it constitutes a set of specific administering entities (bodies) of varied competences and duties. Public administration deals with managing various spheres of the community life, hence it is referred to as *public*. The NRA also performs certain functions in the public interest, including the collection of taxes and customs duties, combating smuggling and trade of illegal goods, such as fuels, etc. In general, it may be stated that the activity of the NRA is conducted as part of the organisational structure called the administration. *Administration*, on the other hand, may be determined by the scope of activity, and being conducted in the public interest, it is public – apart from legislation and the

judiciary. Administration may also be understood as an activity with the aim to realise specific public tasks, and then it is the activity of public organs. The properties of public administration are described very accurately by doctrine. They are: political nature; operating based on law and within its limits; absence of the aim in form of achieving profits; a uniform organisational nature; monopolistic nature; impersonal nature; authoritative nature; being organised and operating based on supervision and subordination; qualified personnel; continuous and stable activity, activity on its own initiative and on demand [Łętowski 1990, 8]. Thus, in principle, administration constitutes a specific, legally distinctive part of the state authorities that belongs to the executive [Ura 2015, 82]. Public administration is performed by the state in the widest meaning of this term, i.e. by state authorities and public and private associations (self-government associations) as well as other administration entities [Ochendowski 2002, 18]. In the light of the existence of the NRA it is worth noting that some representatives of the doctrine use the term *national public administration*, to refer to the activity of administration units in the areas regulated by national and European law [Nowak–Far 2015, 61].

### 3. ADMINISTRATIVE POLICY

It should be noted that public administration realises a specific mission, which is the realisation of *administrative policy*. The realisation of administrative policy requires organising the administration in an appropriate way, which should correspond to the underlying systemic basis of the state. The public administration system consists of two elements. First of all, it is the public administration organ and the office as the auxiliary element of the organ. This distinction is necessary due to the need to emphasise so-called *competences*. In the doctrine, competences are defined as the sphere of specific rights and obligations [Góralczyk 1986, 28]. One may also distinguish between general competences, which are related to performing specific tasks prescribed in legal regulations, and so-called specific competences that involve the right to handle an individual case [Jandy–Jendrońska and Jendrońska 1978, 179]. Obviously, the spectrum of competences refers to the activity of the administration organ, not of the office. As opposed to the *public administration organ*, the *office* may be defined as an organised system with a specific structure and a relevant degree of formalisation, whose main objective is to realise tasks related to public administration within the scope of competences granted to the given organ. On the other hand, a state authority is an organisational unit of the state that is authorised to express the will of the state. Granting competences to the organ is an expression of this will. For public administration organs, one may refer to the definition, which states that it is: a person or a group of individuals in collective organs, who belong to the organisational structure of the state or of local territorial self-government, appointed in order to execute the norms of administration law in a manner and with the effects specific for this law, within the scope of competences granted to it by law [Boć 1997, 120]. The above

definition of a public administration organ exhausts the essence of the matter. However, it may be précised and shortened to emphasise its most important components. Using such approach, one may assume that a public administration organ is characterised by: organisational distinction within the public administration system; acting on behalf and on account of the state; the right to use authoritative measures and to act within the competences granted by law [Szreniawski and Stelmasiak 2002, 15]. The above requires a brief characteristic. Namely, organisational distinction refers to a legally defined organisational form that makes the organ a specific whole. Nevertheless, it should be noted that organisational distinction does not prejudice the unity of public administration operating in the state. On the other hand, the possibility to use authoritative measures is an important element that distinguishes public administration organs from others, e.g. from legal entities in law-making, whose execution guarantees the possibility to use enforcement measures and highlights their specifics and role in the whole operations of the organs. It is essential that an administration organ should comply with its competences. The geographical jurisdiction defines the territory of operations of the given administration organ, the jurisdiction related to subject matter refers to the type of issues handled by the given organ, while jurisdiction related to instance concerns the stage (level) of processing issues in the structure of the administration system. The number and variety of public administration organs that are subjects of administrative and legal relationships, operate in the name of the state, are granted specific competences and are distinguished from the whole state system, leads to the need to make specific divisions and classifications. Based on various criteria, organs are usually divided into central and field ones, collective and monocratic, decisive and auxiliary, and, finally, professional and voluntary ones. The NRA is an organised system of field organs of non-combined state (public) administration, of a monocratic and professional nature, authorised to exercise authoritative rights. It is worth noting the word *non-combined* in the above definition. State (public) administration deals with numerous issues of public life. It is defined in the relevant legislation.<sup>3</sup> It should be noted that Article 5(3) of the said Act stipulates that one of the divisions of public administration is public finance. At the same time, pursuant to Article 8(1) of the Act, public finance includes matters related to the realisation of incomes and expenditures of the state budget, as well as protecting the interests of the Treasury, with the exception of cases that are assigned to other departments pursuant to separate regulations. The NRA operates in the area of *public finance*. It is placed in the so-called *non-combined area*. This means that such administration reports directly to the central organ called the minister, not to the local representative of the government, i.e. the voivode (obviously, with a certain margin). Pursuant to Article 3(2) of the relevant Act, the voivode is the supervisor of the combined government

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<sup>3</sup> Act of 4 September 1997 on the Divisions of Public Administration, Journal of Laws of 2020, item 1220 as amended.

administration in the voivodeship.<sup>4</sup> Combined administration is an element of local state administration. It is based on the organisational links between organs of such administration that are distinctive in terms of their subject, belonging to various areas of state administration (in the Act referred to as the heads of the combined services, inspections, and guards, e.g. the Chief Fire Officer, Chief Veterinary Surgeon, or the Voivodeship Authority for Education, etc.), under the supervision of one organ with general competences – the Voivode, with the aim to reduce administration costs, improve the coordination of activities and avoid overlapping competences. One may call it the opposite of the so-called departmental approach. As far as the combined administration is concerned, the voivode is authorised, among others, to appoint the heads of services, inspections, and guards (the exceptions are the Voivodeship Police Commander – voivode's opinion required, and Chief Fire Officer – approval required), to approve the regulations of such units, to create and dissolve organisational units constituting their auxiliary elements. In principle, these organs should be clustered in one Voivodeship Office and use a common budget, but in practice this principle is subject to some significant exceptions, e.g. in the case of the police. One may distinguish many such units (administration organs) that operate based on various legal acts [Bielecki 2011, 157–58].

#### 4. DIVISION OF ADMINISTRATION

The fundamental issue in this respect is the clear division made by the legislator in the Act on the NRA: division into organs of the NRA (Section II of the Act) and into organisational units of the NRA (Section III of the Act). In my opinion, this results from the aspect of the consolidation of customs and revenue services (which took place at a specific time) and the role of the Revenue Administration Chamber as an organisational unit (for subordination management, and labour law, i.e. the competences and the financial and organisational aspect) first of all, and further, it refers to the role that is played in the NRA by the organ and its auxiliary element referred to as the office. The term *office* has had several meanings through the years, and it is still used in different contexts even today. It may refer to the seat of a public administration organ or an organisational unit of any other institution that deals with office work. It may also refer to the team of employees of public administration, the public administration organ itself in the colloquial meaning, the auxiliary element of such organ, a distinctive set of competences of an organ, or a position in public administration [Taras 2009, 39; Michalska-Badziak 2009, 257]. The doctrine provides numerous precise definitions of the term *office*. According to one of the Authors, the term *office* refers to the auxiliary elements of the given organ and describes an appropriately organised team of persons assigned to the public administration organ to help it perform

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<sup>4</sup> Act of 23 January 2009 on the Voivode and Public Administration in the Voivodeships, Journal of Laws of 2019, item 1464 as amended.

its functions. Apart from the team, the scope of this term also includes specific technical resources (such as the buildings, office equipment, etc.). Offices defined like this are not administration organs, as they do not have any authoritative powers and cannot issue any decisions or orders [Matan 2014, 35; Czerw 2016, 224]. Thus, the administrative law science defines *office* in only one way – as a separate team that provides assistance to a public administration organ in exercising its competences, as an auxiliary element of this organ. Similarly, according to part of the doctrine, the office holder, i.e. the person who, being appointed in a specific way, enters the competences of the organ being, in fact, a set of them, has to use the assistance of the auxiliary element, i.e. the office [Adamczyk 2011, 297]. At the same time, the name of the office is assigned to the given administration organ by the establishing act (e.g. Head of the Revenue Administration Chamber in the Act on the NRA). Another issue is to determine the internal structure of such auxiliary element. This takes place through lower rank acts, such as statutes, organisational regulations or by-laws. To illustrate the above, one may state that, for example, the auxiliary element for the Head of the Revenue Administration Chamber is the Revenue Administration Chamber, while the auxiliary element for the Head of the Tax Office is the Tax Office. One should remember that the auxiliary element of an organ cannot exercise the competences of the organ. It may only support them and substitute for the organ in performing tasks pursuant to an explicit authorisation. Here, it is worth noting the judgment, according to which, “the person authorised to sign – to issue decisions on behalf of the Tax Office is the Head of the Office, and for the Tax Chamber – its Director. The sole representation of the Office and the Chamber, granted to handle individual matters, may be assigned to employees of the organisational unit in writing, in form of a written authorisation to issue decisions, orders, and certificates.”<sup>5</sup> It should also be noted that in the discussed scope we are dealing with so-called administrating entities that have so-called legal personality. This includes two notions: legal capacity and the capacity to perform acts in law. Administrating entities only have legal capacity, i.e. the capacity to be the subject of rights and obligations. However, they do not possess the capacity to perform acts in law, which is possessed only by natural persons who may express their will and act on their behalf. Thus, it is a person or a group of persons who perform the function of the so-called office holder of a public administration organ, which is a role held by appointment [Adamiak 2006, 43].

## 5. THE ROLE AND TASKS OF THE NATIONAL REVENUE ADMINISTRATION WITH RESPECT TO FINANCIAL SECURITY

The NRA was established from three previously independent administrations: tax, customs and treasury control. The NRA reform was guided by specific goals.

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<sup>5</sup> Judgment of the Supreme Administrative Court of 28 November 1995, ref. no. SA/Lu 2452/94, <http://orzeczenia.nsa.gov.pl> [accessed: 22.10.2020].

First of all, the uniformization of organisational structures, reducing the circulation of paper documents, providing additional equipment for offices, optimisation of resource management, developing a uniform career path, improving internal communication, uniformization of databases, procedures and operational standards, defining uniform competences and eliminating the competition between the activities of three former administrations [Zalewski 2018, 6–7]. The main objective of the NRA, as defined in the preamble to the Act on NRA, is to ensure modern and friendly execution of tax and customs duties and effective collection of public levies and the financial security of the Republic of Poland. The NRA is a specialised state administration, which has been entrusted with the tasks related to the realisation of income due to taxes, customs duties, payments, and non-tax budget receivables, protecting the interests of the Treasury, and safeguarding the customs area of the European Union. It also ensures services and support for taxpayers and payers in the proper execution of their tax duties and services and support for entrepreneurs in the proper execution of customs duties.

As far as ensuring the financial security of the state is concerned, it should be noted that it is a defined network of entities consisting of: state governments, central banks, financial supervision authorities, and deposit security systems. As for the NRA, this goal is achieved through the effective realisation of its main objective, i.e. effective collection of public levies. It should be noted that a state that realises a planned or higher budget and may dispose of revenues obtained from the collection of taxes, customs duties and other levies, will also be economically stable and will secure the funds for the realisation of internal and external policy goals. However, it is worth adding that the security of the state and of the European Union is realised by the NRA not only through budget revenues, but also by revealing smuggling on the border between Poland and the EU and combating economic crimes by the customs and tax services.

The analysis of the Act on NRA provides a basis to claim that it distinguishes the following organs: the competent minister for public finance, the Head of the NRA, the Head of the National Fiscal Information, the Head of the Revenue Administration Chamber, the Head of the Tax Office and Head of the Tax and Customs Office – together with the organisational units supporting these organs.

The above organs realise specific objectives of the NRA according to their acquired competences. Considering the regulations of the Act on NRA, the detailed tasks of the NRA may be classified into the following groups: group 1 – tasks related to the realisation of public revenues (realisation of public revenues, realisation of revenues from taxes and levies, realisation of revenues from customs duties and other fees connected with the import and export of goods); group 2 – realisation of the customs policy resulting from the membership in the customs union of the European Union (tasks resulting from the membership in the customs union of the European Union); group 3 – performing administrative enforcement of financial liabilities and performing the security of financial receivables (duties of the enforcement authority, enforcement of public law obligations); group 4 –

education and vocational training of the NRA personnel (the tasks of the Tax & Customs Academy); group 5 – tasks related to performing audit, audit activities and official review (audit duties, audit actions, official review); group 6 – tasks related to combating crime (operations in the grey zone, counteracting money laundering, white collar crimes, revealing and recovering property threatened by forfeiture); group 7 – tasks related to the fuel package monitoring system (tasks related to the road monitoring system of the transport of goods SENT); group 8 – fulfilling the duties related to foreign currency law (tasks related to foreign currency trade); group 9 – other tasks (duties resulting from the bans and restrictions in the trade of goods).

The above demonstrates that the tasks currently performed by the organs of NRA are the same as the tasks that were previously realised by three separate administration, but the catalogue of tasks has been expanded to include new duties, which were previously not performed by tax, customs, and inspection services, consisting in this respect in recognising, preventing, detecting and persecuting perpetrators of certain penal and penal fiscal crimes.

## CONCLUSIONS

It is doubtless that the National Revenue Administration, and in particular its organs that realise the statutory tasks and duties constitute an important element of the public administration structure in Poland, in particular of administration, whose task is the realisation of budget revenues and ensuring the economic security of the state. It is precisely this type of task that makes this administration a key administration in the orbit of the referenced duties, as no other administration would be able to provide the required outcomes in this respect. In my opinion, the NRA is the most important administration in Poland and its importance is much higher than that of all other administrations, with the exception of the Prime Minister. Its role is however not duly appreciated, although it is more important even than the role of voivode on the voivodeship level (at least in the financial aspect). I would like to express my hope that the importance of this administration for the State of Poland will be properly understood and that it will be treated adequately, both in terms of its importance and proper appreciation.<sup>6</sup>

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<sup>6</sup> Personally, as a long-term employee of tax administration (1997–2020) and the Head of Tax Administration Chamber in Lublin (2015–2010), I believe that this postulate should finally be brought into life.

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