Małgorzata Terlecka-Maciejewska, PhD
Voivodeship Combined Hospital in Skierniewice
e-mail: lek.mterlecka@gmail.com
ORCID: 0009-0009-7589-9237

DOI: 10.26410/SF_2/25/10

LEGAL STATUS OF PREPARATIONS BY INDEPENDENT PUBLIC HEALTHCARE INSTITUTIONS FOR NATIONAL DEFENSE NEEDS

Abstract

The Regulation of the Council of Ministers of October 27, 2023, *on the preparation and use of medical entities for national defense purposes*, which replaced the Regulation of the Council of Ministers of June 27, 2012, *on the conditions and methods of preparation and use of medical entities for national defense purposes and the jurisdiction of authorities in these matters*, organizes the existing legal framework regarding the preparation of medical entities to operate in the event of an external threat to national security and during wartime. It creates a foundation for planning and implementing tasks while taking into account the responsibilities and hierarchical competencies of public administration authorities. The regulation identifies the authorities responsible for organizing, imposing, supervising, and controlling the tasks carried out for national defense purposes, which serves as the starting point for organizing the entire defense preparation process involving medical entities. The substantive provisions contained in the regulation are largely similar to those from the 2012 regulation. However, an additional area covered by the new legal act includes defense preparations carried out by operators of emergency medical teams, including air ambulance teams.

Keywords

law, defense preparations, defense needs, medical entity

Introduction

For centuries, the security of the state was equated with freedom from military threats. Over time, however, other dimensions of threats were recognized and identified, beyond the mere danger of armed attack. It was established that protection against external aggression is only one of many challenges that must be addressed in order to ensure state security, whose contemporary scope also includes, among others, economic, environmental, social, and health-related aspects.[1]

In the context of contemporary challenges related to national security, the role of healthcare institutions within the state's defense system is becoming increasingly important. Changing geopolitical conditions, climate change, as well as threats related to epidemics and other humanitarian crises, require the healthcare sector not only to maintain the ability to respond under normal circumstances, but also to prepare for extraordinary situations. In the face of such threats, legal regulations form the foundation for the operation of healthcare institutions, defining their obligations in support of national defense.

Understanding the legal aspects of the preparedness of healthcare institutions for the state's defense needs is crucial not only for the medical institutions themselves, but also for decision-makers and society as a whole, which must be aware that in the event of an external threat to national security or during wartime, healthcare institutions will be required to undertake a tremendous effort to ensure the provision of medical services, both to those injured as a result of military actions and to the civilian population who, though not directly affected by the ongoing conflict, will nevertheless require healthcare.[2]

The evolution of legal regulations in the area of defense preparedness of healthcare institutions

The legal act regulating the area of defense preparedness of healthcare institutions, as part of the non-military component of the state's defense system, is the Regulation of the Council of Ministers of October 27, 2023, *on the preparation and use of healthcare institutions for the state's defense needs*, which was amended by the Regulation of the Council of Ministers of September 25, 2024, *amending the regulation on the preparation and use of healthcare institutions for the state's defense needs*[3]. The regulation defines the conditions and the manner of preparation and use of healthcare

1 See.: W. Kitler, *Obrona narodowa w wybranych państwach demokratycznych*, Warsaw 2001, W. Kitler, *Bezpieczeństwo narodowe RP. Podstawowe kategorie. Uwarunkowania. System*, Warsaw 2011, A. Czupryński, B. Wiśniewski, J. Zboina (red. nauk.), *Nauki o bezpieczeństwie. Wybrane problemy badań*, Józefów 2017, G. Gielerak, *System ochrony zdrowia na miarę potrzeb oraz współczesnych wyzwań i zagrożeń*, „Menedżer Zdrowia" 2022, No. 5-6, M. Kuliczkowski, L. Sawicki, *Pozamilitarne przygotowania obronne w Polsce*, Warsaw 2020.

2 Terlecka-Maciejewska M., Wywiał P., *Improving the preparedness of independent public healthcare institutions for national defense needs in the area of operational organization*, „Security Forum" 2025, Volume 9, No 1, p. 99-114.

3 Regulation of the Council of Ministers of September 25, 2024, *amending the regulation on the preparation and use of healthcare institutions for the state's defense needs* (Journal of Laws, item 1456).

institutions, as understood under the Act of April 15, 2011 on Medical Activity, for the state's defense needs. The conditions of implementation constitute a set of factors and requirements that determine the way in which a given undertaking is carried out. They cover various aspects related to the execution of the task, such as organizational and procedural requirements or the deadline for completion. Properly defining the conditions of implementation is essential for the entity responsible for carrying out the undertaking, as it allows for a clear specification of expectations, which contributes to the smooth and effective execution of tasks. The manner of implementation, in turn, refers to the methods, techniques, and procedures applied to accomplish a specific task and encompasses all actions necessary to achieve the intended goals and outcomes. In practice, the manner of implementation may include elements such as planning, resources, control, and evaluation. Therefore, the manner of implementation is crucial for the success of any undertaking, as it directly affects efficiency and the ability to achieve the expected results.

The entry into force of the 2023 regulation resulted in the repeal[4] of the Regulation of the Council of Ministers of June 27, 2012, *on the conditions and manner of preparation and use of healthcare institutions for the state's defense needs and the competence of authorities in these matters*[5], issued on the basis of the repealed Act of November 21, 1967, on the Universal Obligation to Defend the Republic of Poland. The regulation "organizes the existing legal framework regarding the preparedness of healthcare institutions to operate in the event of an external threat to the state's security and during wartime, creating a foundation for planning and implementing tasks while taking into account the responsibilities and hierarchical competences of public administration authorities. The introduced changes are the result of many years of experience of public administration bodies and healthcare institutions in this area, and are intended to improve the planning and implementation of undertakings carried out for the state's defense needs with the participation of healthcare institutions."[6]

The first legal act that defined the conditions and manner of preparation and use of the healthcare system for the state's defense needs was the Regulation of the Council of Ministers of May 18, 2004, *on the conditions and manner of preparation and use of public and non-public healthcare services for the state's defense needs, as well as the competence of authorities in these matters*[7]. In the context of this study, particular attention should be paid to the provisions concerning outpatient care and ambulatory healthcare services. The conditions and manner of preparing the

4 Act of March 11, 2022 on the Defense of the Fatherland (Journal of Laws of 2025, item 825), Article 821(1).

5 Regulation of the Council of Ministers of June 27, 2012 *on the conditions and manner of preparation and use of healthcare institutions for the state's defense needs and the competence of authorities in these matters* (Journal of Laws, item 741).

6 Justification to the draft of October 2, 2023 of the Regulation of the Council of Ministers of … 2023 *on the preparation and use of healthcare institutions for the state's defense needs*, p. 25.

7 Regulation of the Council of Ministers of May 18, 2004, *on the conditions and manner of preparation and use of public and non-public healthcare services for the state's defense needs, as well as the competence of authorities in these matters* (Journal of Laws No. 143, item 1515).

healthcare system for the state's defense needs, as set out in the original 2004 regulation, concerned, among other things, the planning and implementation of tasks related to determining minimum staffing standards and employment indicators in healthcare facilities, as well as the operation of outpatient care. Furthermore, it was emphasized that "ambulatory healthcare for the state's defense needs is maintained to the same extent and scope as during peacetime."[8] At the same time, it was indicated that necessary transfers of medical personnel to healthcare facilities forming the hospital base are carried out based on the provincial plan for medical personnel transfers. It should be noted that the regulation provided for the maintenance of abbreviated medical documentation in the event of mass sanitary casualties to ensure proper classification of the wounded and sick, maintain continuity of medical and evacuation care, and implement the marking of the wounded and sick by means of the classification signs specified in the annex to the regulation. The annexes also specified the "Indicators and standards for employment of medical staff in healthcare facilities in situations of threat to state security and wartime," divided into hospitals, auxiliary hospital facilities, regional blood donation and transfusion centers, as well as a template for the "Report on the transfer of wounded and sick persons in healthcare organizational units."

In 2009, by virtue of the Regulation of the Council of Ministers[9] amending the regulation under analysis, the planning and implementation of tasks concerning the operation of outpatient care were replaced with "ambulatory healthcare activities."[10] At the same time, definitions were introduced for "ambulatory healthcare" and "organizational unit of the public healthcare system." Ambulatory healthcare was understood as "the provision of healthcare services by providers to persons not requiring treatment in round-the-clock or full-day conditions."[11] From the organizational units of the public healthcare system, constituting healthcare facilities under the Act of August 30, 1991 on Healthcare Facilities, certain institutions were excluded from the obligation to prepare for defense needs based on the provisions of the regulation. These exclusions included healthcare facilities established by the Minister of National Defense, outpatient clinics or outpatient clinics with inpatient wards of the Police, the State Fire Service, the then Government Protection Bureau, the Internal Security Agency, as well as public healthcare facilities of the Border Guard and healthcare facilities for persons deprived of liberty.[12]

The 2009 Regulation of the Council of Ministers represented an important step toward improving and standardizing defense preparedness in the healthcare sector, ensuring better readiness of healthcare institutions to operate in conditions of

8 Ibidem, § 11(1).

9 Regulation of the Council of Ministers of November 3, 2009, *amending the regulation on the conditions and manner of preparation and use of public and non-public healthcare services for the state's defense needs and the competence of authorities in these matters* (Journal of Laws No. 202, item 1555).

10 Ibid., § 1(1)(a).

11 Ibidem, point 2.

12 Ibidem.

external threats to the state's security and during wartime. This was achieved by clarifying the competences of authorities responsible for defense preparedness in the healthcare sector and by providing detailed regulations on planning matters. The introduced changes contributed to better integration of healthcare institutions' defense preparations with the overall system of national defense preparedness.

The entry into force of the Regulation of the Council of Ministers of June 27, 2012, repealed the provisions of the 2004 and 2009 regulations. In terms of the conditions and manner of preparation and use of healthcare institutions for the state's defense needs, the planning and implementation of tasks included the provision of ambulatory healthcare services as well as the determination of staffing requirements and employment indicators in healthcare institutions.[13] Similarly to the solutions contained in the 2009 regulation, healthcare institutions subordinate to or supervised by the Minister of National Defense, the minister responsible for internal affairs[14], the Minister of Justice, and the Head of the Internal Security Agency–possessing a hospital, outpatient clinic, outpatient clinic with inpatient wards, or a primary healthcare physician in their organizational structure–were exempted from the obligation to prepare for the state's defense needs under the provisions of the new regulation. Furthermore, the regulation contained a provision analogous to that of the 2009 regulation regarding the role of ambulatory healthcare services, stating that "ambulatory healthcare services for the state's defense needs are provided to the same extent as during peacetime,"[15] and that necessary transfers of medical personnel to healthcare institutions forming the hospital base are carried out based on the needs identified in the prepared medical personnel balances and personnel transfer plans. Additionally, the annexes to the regulation specified, among other things, the "Employment indicators for medical personnel" and the "Method of allocating hospital beds for uniformed services by healthcare institutions performing defense tasks and the coordination of authorities in this regard."

Current state of legal and organizational solutions

The substantive regulations in the Regulation of October 27, 2023, are similar to those in the earlier regulation of June 2012. An additional area, not covered by the previous regulations, concerns defense-related preparations carried out by operators of medical rescue teams, including air rescue teams. The regulation specifies the conditions and manner of performing tasks for the state's defense needs by certain groups of healthcare institutions, while simultaneously indicating the scope of the activities to be carried out by them:

13 Regulation of the Council of Ministers of June 27, 2012, *on the conditions and manner…*, § 1(1)(1)(c–d).

14 However, the exemption does not apply to organizational units of the public blood service and units responsible for sanitary and epidemiological protection that are subordinate to or supervised by the Minister of National Defense and the competent minister.

15 Regulation of the Council of Ministers of June 27, 2012, *on the conditions and manner…*, § 14(1).

- hospitals (and other healthcare facilities, if necessary) are obliged to prepare for an increased provision of hospital services, including for the needs of uniformed services, by planning an appropriate number of hospital beds;
- operators of medical rescue teams are required to prepare for an increased provision of healthcare services by medical rescue teams;
- healthcare institutions designated for coordination and planning the provision of healthcare services in substitute hospital facilities;
- regional blood donation and transfusion centers are obliged to prepare to ensure the supply of blood, its components, and blood-derived products;
- sanitary and epidemiological stations are required to prepare to ensure sanitary and epidemiological protection, planning an increase in readiness and capacity for this purpose.

The conditions and manner of preparation and use of healthcare institutions for the state's defense needs cover three areas: the planning and implementation of tasks, the coordination, and the cooperation of public administration authorities, healthcare institutions, and other organizational units in the planning and execution of these tasks.[16] Accordingly, the planning and implementation of tasks takes place in the following areas:

- provision of hospital services, including for the needs of uniformed services;
- provision of healthcare services in substitute hospital facilities;
- provision of healthcare services for the national security management system;
- provision of healthcare services by medical rescue teams and air medical rescue teams;
- ensuring the supply of blood, its components, and blood-derived products;
- ensuring sanitary and epidemiological protection.

In the process of planning the above-mentioned activities, the implementation of the following tasks is taken into account:[17]

- ensuring the necessary personnel, in particular medical personnel;
- ensuring the necessary support in terms of infrastructure, services, procedures, equipment, and supplies;
- organizing defense trainings;
- exempting individuals from the obligation to perform active military service in the event of mobilization or during wartime;
- providing material and personal services;
- carrying out other activities necessary for the preparation and use of healthcare institutions for the state's defense needs.

According to the adopted assumptions, the regulation indicates the authorities competent to organize, impose, supervise, and control tasks carried out for the state's defense needs, which constitutes the starting point for organizing the entire

16 Regulation of the Council of Ministers of October 27, 2023, *on the preparation and use of healthcare institutions…*, § 4(1)(1).

17 Ibidem, § 4(2).

defense preparedness process involving healthcare institutions. Considering the fact that healthcare institutions established by the minister responsible for internal affairs, the Minister of Justice, the Minister of National Defense, or the Head of the Internal Security Agency are units subordinate to or supervised by these authorities, the performance of defense tasks by these institutions is conducted within the framework of the operational planning process carried out by these authorities. At the same time, it should be noted that defense tasks can be classified as statutory tasks of these healthcare institutions, and the scope of their potential use is limited exclusively to the needs of the relevant authority, as determined by internal regulations. Therefore, the provisions of the regulation do not apply to the aforementioned healthcare institutions. However, the exemption from the above limitation for certain tasks of healthcare institutions established by the Minister of National Defense refers to tasks related to coordinating or supervising the activities of other authorities or healthcare institutions.[18]

The authorities competent to organize, impose, control, and supervise tasks related to the planning and implementation of activities in the provision of hospital services, including for the needs of uniformed services, the provision of healthcare services in substitute hospital facilities, and for the national security management system are the voivode and the commune head, mayor, city president, county head, or the marshal of the voivodeship. The voivode territorially competent for the place of task implementation is the authority responsible with respect to local government units, healthcare institutions that are independent public healthcare facilities or budgetary units for which the founding entity is different from a local government unit, in agreement with that founding entity, as well as other healthcare institutions not mentioned above. With regard to local government units, the voivode is the competent authority for tasks carried out by these units and tasks carried out by healthcare institutions that are independent public healthcare facilities or budgetary units for which the founding entity is the given local government unit, as well as for healthcare institutions established as capital companies in which the local government unit holds at least 51% of shares or stock. Local government authorities, in turn, are competent with respect to independent public healthcare facilities or budgetary units.

The authorities competent to organize, impose, control, and supervise tasks related to the planning and implementation of activities in the provision of healthcare services by medical rescue teams and air medical rescue teams are, respectively, the voivode – with regard to healthcare institutions operating medical rescue teams – and the minister responsible for health – with regard to the healthcare institution operating air medical rescue teams. The minister responsible for health is also the competent authority for tasks related to ensuring the supply of blood, its components, and blood-derived products. However, the minister exercises his authority in organizing, controlling, and supervising these tasks through the National Blood Center.

18 Justification to the draft of October 2, 2023 of the Regulation of the Council of Ministers…., p. 25-26.

The authorities competent to organize, impose, control, and supervise tasks related to sanitary and epidemiological protection are the voivode and the Chief Sanitary Inspector, respectively with regard to territorially competent provincial, district, and border sanitary and epidemiological stations.

The imposition of tasks concerning the planning and implementation of activities for the state's defense needs by competent authorities is carried out by administrative decision, ordinance, or order of the competent authority. The imposition of tasks by administrative decision applies to tasks assigned to healthcare institutions that are independent public healthcare facilities or budgetary units for which the founding entity is different from a local government unit, as well as to other healthcare institutions, excluding independent public healthcare facilities and certain budgetary units.

Tasks are imposed by ordinance by the voivode – with respect to tasks assigned by him to local government units – and by competent authorities in cases other than those specified above. In cases other than those specified above, competent authorities may also impose tasks related to the planning and implementation of activities for the state's defense needs in the form of an order.

It should be noted that tasks concerning the planning and implementation of activities in the provision of hospital services and healthcare services, as well as in ensuring the supply of blood, its components, and blood-derived products, and sanitary and epidemiological protection, imposed by competent authorities on healthcare institutions and local government units, should be consistent with the tasks imposed on these entities within the framework of the operational planning process. Synchronization of activities in this regard is ensured through the cooperation of competent authorities.

When addressing the conditions and manner of preparation and use of healthcare institutions for the state's defense needs, attention should also be paid to the role and position of the so-called departmental representative[19]. The departmental representative is a person designated to cooperate with the voivode and the heads of healthcare institutions in planning and implementing tasks related to the provision of hospital services for the needs of uniformed services and healthcare services for the national security management system. In addition, they are responsible for the storage of equipment and individual weapons of soldiers and officers admitted for treatment and rehabilitation in healthcare institutions. In consultation with the competent authorities, they also supervise the provision of the above mentioned hospital and healthcare services and the referral of soldiers and officers completing treatment to departmental medical commissions.

It should also be noted that for each military medical support region – i.e., a designated area of the country encompassing the administrative territory of one or

19 A departmental representative is a person designated by the Minister of National Defense, the minister responsible for internal affairs, the Head of the Internal Security Agency, or the Head of the Intelligence Agency, authorized to represent that authority in matters concerning the provision of hospital services for the needs of uniformed services and healthcare services for the national security management system (source: Regulation of the Council of Ministers of September 25, 2024, *amending the regulation on preparation…*, § 1(1)).

more voivodeships, within which healthcare institutions' tasks for the state's defense needs are organized and implemented – a leading healthcare institution has been appointed and established by the Minister of National Defense, whose commander also serves as the commander of the military medical support region. Eight military medical support regions have been designated, along with the identification of the leading healthcare institution and the assignment of the area of responsibility.

Summary

In summary, unlike the provisions contained both in the Regulation of the Council of Ministers of May 18, 2004, and in the Regulation of the Council of Ministers of June 27, 2012, *on the conditions and manner of preparation and use of healthcare institutions for the state's defense needs and the competence of authorities in these matters*, the Regulation of the Council of Ministers of October 27, 2023, *on the preparation and use of healthcare institutions for the state's defense needs* does not mention the provision of ambulatory healthcare services in the area of planning and implementing tasks for defense purposes, nor does it specify their scope. Furthermore, when defining the conditions and manner of performing tasks for defense purposes by specific groups of healthcare institutions, while simultaneously indicating the scope of activities to be carried out, independent public healthcare facilities were not included. Healthcare institutions that do not participate in the implementation of the tasks specified in the regulation for the state's defense needs, or participate in such tasks only within a limited scope of their operations, are required, in the event of an external threat to the state's security and during wartime, to provide healthcare services as far as possible in the same manner as during peacetime. At the same time, the regulation anticipates a limitation of the activities of such an institution if its medical personnel, infrastructure, equipment, or supplies are allocated for use in tasks carried out for the state's defense needs.[20]

Based on the conducted scientific research, it can therefore be concluded that independent public healthcare facilities providing healthcare services on an outpatient basis, if assigned defense tasks specified by the regulation, will primarily participate in the planning and implementation of tasks related to the provision of healthcare services for the national security management system and in substitute hospital facilities. Furthermore, outpatient healthcare services for the state's defense needs will be provided to the same extent as during peacetime, differing only in terms of dynamics and intensity. Despite the exemption of employees from the obligation to perform military service, any potential transfers of medical personnel from independent public healthcare facilities to healthcare institutions forming the hospital base will be carried out based on the needs identified in the medical personnel balances prepared according to the current operational situation.

20 Regulation of the Council of Ministers of October 27, 2023, *on the preparation and use of healthcare institutions…*, § 19.

Bibliography

Act of March 11, 2022 on the Defense of the Fatherland (Journal of Laws of 2025, item 825).

Justification to the draft of October 2, 2023 of the Regulation of the Council of Ministers of … 2023 *on the preparation and use of healthcare institutions for the state's defense needs.*

Czupryński A., Wiśniewski B., Zboina J. (red. nauk.), *Nauki o bezpieczeństwie. Wybrane problemy badań*, Józefów 2017.

Gielerak G., *System ochrony zdrowia na miarę potrzeb oraz współczesnych wyzwań i zagrożeń*, „Menedżer Zdrowia" 2022, p. 5-6.

Justification to the draft of October 2, 2023 of the Regulation of the Council of Ministers of … 2023 *on the preparation and use of healthcare institutions for the state's defense needs.*

Kitler W., *Bezpieczeństwo narodowe RP. Podstawowe kategorie. Uwarunkowania. System*, Warsaw 2011.

Kitler W., *Obrona narodowa w wybranych państwach demokratycznych*, Warsaw 2001.

Kuliczkowski M., Sawicki L., *Pozamilitarne przygotowania obronne w Polsce*, Warsaw 2020.

Regulation of the Council of Ministers of June 27, 2012 *on the conditions and manner of preparation and use of healthcare institutions for the state's defense needs and the competence of authorities in these matters* (Journal of Laws, item 741).

Regulation of the Council of Ministers of May 18, 2004, *on the conditions and manner of preparation and use of public and non-public healthcare services for the state's defense needs, as well as the competence of authorities in these matters* (Journal of Laws No. 143, item 1515).

Regulation of the Council of Ministers of November 3, 2009, *amending the regulation on the conditions and manner of preparation and use of public and non-public healthcare services for the state's defense needs and the competence of authorities in these matters* (Journal of Laws No. 202, item 1555).

Regulation of the Council of Ministers of September 25, 2024, *amending the regulation on the preparation and use of healthcare institutions for the state's defense needs* (Journal of Laws, item 1456).

Terlecka-Maciejewska M., Wywiał P., *Improving the preparedness of independent public healthcare institutions for national defense needs in the area of operational organization*, „Security Forum" 2025, Volume 9, No. 1, p. 99-114.

About the Author

Małgorzata Terlecka-Maciejewska – Deputy Director for Healthcare at the Voivodeship Combined Hospital in Skierniewice, a specialist in ophthalmology. She holds a PhD in social sciences in the field of security studies. Her work focuses on healthcare management, with particular emphasis on the operational safety of medical entities in crisis situations. She is the author of scientific publications that combine medical knowledge with management practice and risk analysis in the healthcare system.