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The Polish Institute of International Affairs: Its legal and financial issues

**Polski Instytut Spraw Międzynarodowych –
problematyka prawna i finansowa**

Abstract. This article focuses on the Polish Institute of International Affairs, which is a state legal person and counts as a unit of the public finance sector. It has a relatively long tradition (it was established in 1947). The Institute's tasks result mainly from the current Act on the Institute and its statutes. In terms of financial issues, statutory regulations are sparse. An analysis of the Institute's financial plans, contained in annexes to the budgetary acts, revealed that the entity can only function owing to a subjective subsidy from the state budget.

Keywords: public finance; state legal entity; international affairs; research.

Streszczenie. Artykuł dotyczy Polskiego Instytutu Spraw Międzynarodowych², który jest państwową osobą prawną i zalicza się do jednostek sektora finansów

¹ Hereinafter, also as “the Institute”.

² Dalej również jako „Instytut”.

publicznych. Ma on stosunkowo długą tradycję, gdyż został utworzony w 1947 r. Zadania Instytutu wynikają przede wszystkim z aktualnie obowiązującej ustawy o Instytucie i z jego statutu. W zakresie problematyki finansowej regulacje ustawowe są bardzo skąpe. Analiza planów finansowych Instytutu, zamieszczanych w załącznikach do ustaw budżetowych, wskazuje, że podmiot ten może funkcjonować tylko dzięki dotacji podmiotowej z budżetu państwa.

Słowa kluczowe: finanse publiczne; państwowa osoba prawna; sprawy międzynarodowe; badania naukowe.

1. Introduction

Entities that constitute the public finance sector in Poland include, *inter alia*, state legal persons. One entity that has the status of a state legal entity is the Polish Institute of International Affairs. The Institute is one of a number of state legal persons whose existence there are some doubts. While the tasks carried out by the Institute are important and necessary, their implementation by specially established entities (i.e. legal persons) is questionable. It is important that most entities whose separation may be questionable can only function owing to funds from the state budget.

The aim of this study is to analyse the legal and financial issues of the Polish Institute of Foreign Affairs. Herein, the Author presents a genesis, legal status, organisation and tasks of this legal entity. The Institute's financial and legal issues have not yet been analysed in a literature. Thus, this study is the beginning of a scientific discourse related to the existence and functioning of the Institute on legal and financial levels.

The preliminary hypothesis of the study was as follows: the Polish Institute of International Affairs performs important tasks, but its existence is questionable, as these goals and tasks can be carried out by the foreign affairs ministry.

The dominant research method used in this study was a dogmatic-legal method, complemented by historical-legal and economic methods. The study takes into account the legal situation as of 31 October 2023.

2. Historical background

Pursuant to the Act of 3 June 1947 on the establishment of the Polish Institute of International Affairs³, the Polish Institute of International Affairs was established as a public law entity with a legal personality. Its scope of activities include the following:

- 1) to carry out and promote research on international relations and their organisation, and on the manifestations of a development of political, social, economic and cultural life and legal relations of other countries, and to publish journals and works on these subjects;
- 2) to publish scientific, informative and popularising works about Poland in Polish and foreign languages;
- 3) to collect materials and compile them for the chief executive authorities concerned and for individual public law institutions in a form of bulletins covering issues in the Institute's field of activity;
- 4) to establish and maintain libraries and arrange courses, lectures and readings on international issues and foreign countries;
- 5) to provide scholarships for studies at home and abroad in the Institute's field of interest;
- 6) to cooperate with similar institutions at home and abroad and to participate in international congresses related to the Institute's field of activity;
- 7) to maintain liaison with scientific institutions and universities at home and abroad whose activities cover matters of interest to the Institute; and
- 8) to arrange national and international conventions and conferences in a field of the Institute's work.

The Polish Institute of International Affairs was supervised by the Minister of Foreign Affairs. The detailed scope of activities and organisational regulations of the Polish Institute of International Affairs were laid down in its statutes and approved by the Council of Ministers on the proposal of the Minister of Foreign Affairs.

³ Dz.U. [Polish Journal of Laws] of 1947, No 43, poz. [item] 227.

The income of the Polish Institute of International Affairs, as defined in the Act of 3 June 1947, comes from the following:

- 1) state subsidies;
- 2) donations;
- 3) income from owned assets;
- 4) income from the sale of publications; and
- 5) other sources.

The Act of 3 June 1947 was repealed on 4 March 1961 by virtue of Article 47(2) of the Act of 17 February 1961 on scientific and research Institutes⁴. The Polish Institute of International Affairs has been reactivated on the basis of the Act of 20 December 1996 on the Polish Institute of International Affairs⁵, which is still in force today.

3. Legal status and organisation of the Institute

The currently operating Polish Institute of International Affairs is a state organisational unit and has a legal personality. As a legal entity, the Institute, in the light of Article 9(14) of the Act of 27 August 2009 on Public Finance⁶, is an entity that creates the public finance sector in Poland. In the opinion of M. Cilak, the possibility of including an entity in the units of the public finance sector regulated by Article 9 item 14 of the Public Finance Act depends (taking into account exceptions indicated in this provision) on the joint fulfilment of three conditions: having legal personality, creation by means of an act, and creation to fulfil public tasks⁷. The Institute meets all these conditions.

As a legal entity, the Institute has two bodies:

- 1) Director of the Institute and
- 2) the Council of the Institute (Article 4 of the Institute Act).

⁴ Consolidated text: Dz.U. of 1975, nr 7, poz. 41.

⁵ Consolidated text: Dz.U. of 2020, poz. 720; hereinafter also referred to as the "Institute Act".

⁶ Consolidated text: Dz.U. of 2023, poz. 1270.

⁷ M. Cilak, *Komentarz do art. 9 [in:] Z. Ofiarski (eds.), Ustawa o finansach publicznych. Komentarz*, Warszawa 2019, p. 136.

Supervision of the Institute, as stipulated in Article 10 of the Act on the Institute, with regard to the compliance of its activities with statutory provisions and the provisions of its statutes, is exercised by the Foreign Affairs Minister.

The Institute is headed and represented externally by the Director of the Institute (Article 5(1)), who is appointed and dismissed for a five-year term by a Prime Minister after consultation with the Foreign Affairs Minister. Pursuant to Article 5(4) of the Act on the Institute, the appointment constitutes the establishment of an employment relationship on the basis of the appointment within the meaning of the provisions of the Act of 26 June 1974, the Labour Code⁸. Candidates for the post of Director of the Institute will be selected through a competition conducted by the Foreign Affairs Minister, who, pursuant to Article 5(6), is obliged to determine in accordance with a regulation the following:

- 1) the qualifications of those applying for the post of Director of the Institute, with a view of ensuring the proper working of the unit; and
- 2) the conditions and procedure for carrying out the competition for the post of Director of the Institute, particularly the method of announcing the competition, the composition and tasks of the selection board and the method of selecting candidates for the post of Director of the Institute, with a view for the proper conduct of the competition.

On the basis of Article 5(6) of the Act on the Institute, the Ordinance of the Minister of Foreign Affairs of 31 July 2009 on the qualifications of persons applying for the post of Director of the Polish Institute of International Affairs and the conduct of the competition for this post was issued⁹. The law regulates, *inter alia*, the following:

- 1) the conditions to be fulfilled by a candidate for the post of Director of the Institute;
- 2) composition of the selection board;
- 3) tasks of the selection board;
- 4) procedure to be followed by the selection board; and
- 5) competition rules.

⁸ Consolidated text: Dz.U. of 2023, poz. 1465.

⁹ Dz.U. of 2009, nr 129, poz. 1066.

In turn, the announcement of the competition for the post of the Director of the Institute is the task of the minister in charge of foreign affairs. The last competition was announced on the basis of Order No 38 of the Minister of Foreign Affairs of 20 November 2020 on the competition for the post of Director of the Polish Institute of International Affairs¹⁰.

The tasks, competences and composition, as well as the duration of the term of office, of the Institute's second body, the Council, are defined in the Institute's statutes. Council members are appointed and dismissed by the Foreign Affairs Minister.

The Institute's statute define the detailed scope of its activities and organisation. It is conferred by an ordinance established by a Prime Minister at a request of the Foreign Affairs Minister, taking into account an organisation and a functioning of the foreign service (Article 3 of the Act on the Institute). The Ordinance of the President of the Council of Ministers of 1 December 2016 on granting the statutes of the Polish Institute of International Affairs¹¹ is currently in force. The statute of the Institute are contained in the annex to this regulation.

§ 2 of the statutes indicates that the Director of the Institute acts with an assistance of deputy directors, a chief accountant, heads of the organisational units and directors of the sub-divisions, which are the Institute's organisational units, and the staff members occupying independent positions.

The Institute is an entity with a well-developed structure (comprised of the following organisational units: a library, a research and an analysis office, a public information office, a classified information protection office, an organisational office, a training office and a publishing house), an organisational unit (a local branch), the Institute's office in Brussels (the Kingdom of Belgium), an organisational unit (a local branch), the Institute's office in Berlin (the Federal Republic of Germany) and independent posts reporting directly to the Director of the Institute. The detailed scope of the tasks of the Institute's organisational units and inde-

¹⁰ Official Journal of the Ministry of Foreign Affairs 2020, poz. 68.

¹¹ Consolidated text: Dz.U. of 2023, poz. 936.

pendent posts is set out in the organisational regulations adopted by an order of the Director of the Institute.

Pursuant to Article 7a of the Act on the institute, it is possible to establish branch offices of the Institute. They are separate organisational units or organisational units of the Institute, including those based outside the territory of the Republic of Poland and subsidiaries, which are organisational units based outside the territory of the Republic of Poland.

Pursuant to § 4(1) of the statute the Institute's second body, the Council, consists of 12 members appointed from among persons distinguished by their high level of knowledge or experience in international affairs. The term of office of the Council is four years. In the event of a member's dismissal, his/her death or resignation from the Council before the end of the Council's term of office, a new Council member is appointed for the remainder of that term.

§ 4(3) indicates that the tasks of the Institute's Council include the following:

- 1) approving the Institute's draft annual activity plan;
- 2) approving the Institute's Director's draft report on the implementation of the Institute's annual activity plan;
- 3) approving the performance of the branch offices;
- 4) approving a proposal from the Director of the Institute for the establishment of an award from the Institute;
- 5) giving its opinion on the Institute's draft annual financial plan; and
- 6) giving its opinion on draft statutes and their amendments.

4. Tasks of the Institute

The tasks of the Institute are enumeratively listed in Article 2 of the Institute Act. They include the following:

- 1) conducting research on international affairs;
- 2) preparing analyses, expert reports and foresight studies on international affairs;
- 3) professional development of personnel performing tasks in the field of international relations and foreign policy of the Republic of Poland;

- 4) disseminating the knowledge of contemporary international relations in Polish society;
- 5) maintaining contacts with training, scientific and policy centres in the Republic of Poland and abroad;
- 6) collecting a specialised book collection and scientific documentation, and open library activities; and
- 7) publishing activities.

An analysis of the catalogue of the Institute's tasks revealed that most of them duplicate the activities of universities. The Institute specialises in international affairs, but such specialisation is also characteristic of scientists conducting research activities within universities, usually combining it with teaching.

Section 1 of the Institute's statut indicates the detailed scope of the Institute's activities. This provision is a particularisation, a development of Article 2 of the Institute Act. In light of § 1 of the Institute's statutes, the scope of the Institute's activities includes the following:

- 1) conducting interdisciplinary and comparative scientific research in the field of international affairs, including the foreign policy of the Republic of Poland, the membership of the Republic of Poland in the European Union and the North Atlantic Treaty Organisation, international security, international law and the economic aspects of international cooperation;
- 2) preparing analyses, expert opinions and forecast studies in the field of international affairs on its own initiative or for the benefit of the president of the Republic of Poland, the Marshal of the Sejm of the Republic of Poland, the Marshal of the Senate of the Republic of Poland, the Prime Minister or on the initiative of the minister in charge of foreign affairs the minister responsible for the Republic of Poland's membership in the European Union, the minister responsible for economic affairs, the minister of national defence and, as far as possible, other members of the Council of Ministers, Sejm and Senate committees and parliamentary and Senate clubs;
- 3) to disseminate knowledge in on international relations and the foreign policy of the Republic of Poland, including the issues of European integration and international security, and the history of Polish

- diplomacy, particularly via the Internet and other mass media and in the form of conferences, seminars, lectures and publications, including books and periodicals;
- 4) to assemble a specialised book collection and scientific documentation, particularly in the areas referred to in point 1, and to conduct open library activities in the areas covered by the Institute's activities;
 - 5) professional development of state administration employees performing tasks on international relations and foreign policy of the Republic of Poland, particularly employees of the Chancellery of the President of the Republic of Poland, the Chancellery of the Sejm, the Chancellery of the Senate, the Chancellery of the Prime Minister, offices serving the minister in charge of foreign affairs, the minister in charge of the Republic of Poland's membership in the European Union, the minister in charge of economy, the Minister of National Defence and, as far as possible, employees of local government administration and persons interested in professional development in the field of international cooperation;
 - 6) maintaining contacts with national and foreign training, scientific and policy centres within the scope of the Institute's activities; and
 - 7) conducting publishing activities, including the publication of books and periodicals on international affairs, collections of documents produced by the Polish diplomatic service in the past and publications on the Institute's current work.

5. The Institute's finances

For any entity included in the public finance sector, legal regulations on the financial plan, income and expenditure are extremely important. In the case of the Polish Institute of International Affairs, legal and financial issues are not regulated at all in the Institute's statutes. By contrast, the Act on the Institute only regulates this important issue directly in Article 9 and indirectly in Article 11.

Article 9 of the Institute Act indicates examples of the Institute's income (use of an expression "in particular"), including the following:

- 1) funds received in accordance with separate regulations for the tasks referred to in Article 2(1) (carrying out research on international affairs);
- 2) subsidies from the state budget for tasks referred to in Article 2 points 2–7; and
- 3) inheritances and donations.

This catalogue is very short and includes in § 3 a source that is of little importance in practice. The legislator includes in the catalogue many public entities “just in case”. This is the case despite years of experience proving that inheritances and donations, if they are incomes of a public entity, are rather small and symbolic.

In turn, Article 11 stipulates that the minister in charge of foreign affairs will determine, by means of an ordinance, in agreement with the Minister of Labour, the list of positions in the Institute, the required qualifications and the rules for remunerating the Institute’s employees and granting them benefits, guided by the nature of the Institute. The Ordinance of the Minister of Foreign Affairs of 20 November 2022 on the principles of remuneration and granting other benefits to employees is currently in force. This piece of legislation sets out, among other things, the tables of monthly basic salary rates, the rules for awarding and an amount of function allowances, special allowances and allowances for work in a foreign branch.

In the absence of regulations on the Institute’s financial plan and its expenditure, it is necessary to refer to the Act of 30 April 2010 on Research Institutes¹². This is because it follows from Article 12 of the Act on the Institute that in matters not regulated by the Act on the Institute, the provisions concerning research institutes apply to this entity accordingly. In view of the rudimentary regulation of the institute’s finances, does Article 19 of the Research Institutes Act, for example, which extensively regulates the issue of research institutes’ funds, apply? This is a matter not regulated by the Institute Act, so the application of this provision would be justified. On the other hand, funds concerning research Institutes are specific to these entities. Article 12 of the Institute Act is clearly imprecisely worded and raises doubts about the application of the Research Institutes Act.

¹² Consolidated text: Dz.U. of 2022, poz. 498 with subsequent amendments.

Given the far-reaching “reticence” of the legislator with regard to the legal regulation of the Institute’s finances, it is necessary to refer to the provisions of the Public Finance Act and to the financial plans of the entity. As the Institute is a state legal person, its annual financial plan is contained in an annex to the Budget Act.

It follows from Article 30(2) of the Public Finance Act that the basis for the financial management of state legal entities is a financial plan, for which Article 30(3) was drawn up in accordance with the laws on their establishment, taking into account the provisions of the Public Finance Act.

In view of the “silence” of the Act on the Institute in this regard, Article 31 of the Act on Public Finance is of a great importance, as it orders state legal persons and therefore the Polish Institute of International Affairs, to set aside in their financial plan the following:

- 1) revenue from its activities;
- 2) subsidies from the state or local government budgets;
- 3) costs, including wages and salaries, interest payments arising from debts incurred, purchase of goods and services;
- 4) funds for property expenditure;
- 5) funds allocated to other entities;
- 6) a state of receivables and payables at the beginning and end of the year; and
- 7) cash balances at the beginning and end of the year¹³.

For the period 2021–2023, the financial plans of state legal entities were included in Annex No. 14 of the Budget Act, and the Institute’s financial plan is included in Table 32. The analyses were based on the annexes to the following:

- 1) the Budget Act 2021 of 20 January 2021¹⁴;
- 2) the Budget Act 2022 of 17 December 2021¹⁵; and
- 3) the Budget Act 2023 of 15 December 2022¹⁶.

¹³ See also: J. Wantoch-Rekowski, W. Morawski, P. Majka, *Podstawy prawa finansów publicznych*, Warszawa 2022, p. 50.

¹⁴ Dz.U. of 2021, poz. 190.

¹⁵ Dz.U. of 2022, poz. 270.

¹⁶ Dz.U. of 2023, poz. 256.

The financial plan for 2021 assumed revenues of PLN 17.384.000 which consisted of revenues from operations (PLN 1.500.000 i.e. 8.63% of the total revenues) and a subsidy from the state budget (PLN 15.884.000 i.e. 91.37% of the total revenues).

The financial plan for the 2022 assumed revenues of PLN 19.384.000, which consisted of revenues from operations (PLN 1.500.000, i.e. 7.74% of the total revenues) and an entity grant from the state budget (PLN 17.884.000, i.e. 92.26% of the total revenues).

The financial plan for 2023 assumed revenues of PLN 20.281.000, which consisted of revenues from operations (PLN 1.500.000, i.e. 7.40% of the total revenues) and a subsidy from the state budget (PLN 18.781.000, i.e. 92.60% of the total revenues).

It is clear that the main source of the Institute's revenue is the subsidy from the state budget, which in the period under review accounted for (in relation to total revenue) 91.37%–92.60%. Without the subject subsidy, the Polish Institute of International Affairs cannot function.

As for the Institute's expenses (costs), they have a far more complex structure than income. The financial plan for 2021 assumed expenses of PLN 17.384.000. The planned expenses consisted primarily of the following:

- 1) expenditures on remuneration – PLN 8.918.000 (51.30% of the total expenditure);
- 2) social security contributions – PLN 1.750.000 (10.07% of the total expenditure);
- 3) third-party services – PLN 3.524.000 (20.27% of the total expenditure); and
- 4) materials and energy – PLN 1.200.000 (6.90% of the total expenditure).

The financial plan for 2022 assumed an expenditure of PLN 19.384.000. The planned expenditure consisted primarily of the following:

- 1) expenditures on remuneration – PLN 10.918.000 (56.33% of the total expenditure);
- 2) social security contributions – PLN 1.750.000 (9.03% of the total expenditure);
- 3) external services – PLN 3.524.000 (18.18% of the total expenditure); and
- 4) materials and energy – PLN 1.200.000 (6.19% of the total expenditure).

The financial plan for 2023 assumed an expenditure of PLN 20.281.000. The planned expenditure mainly consisted of the following:

- 1) expenditures on remuneration – PLN 11.672.000 (57.55% of total expenditure);
- 2) social security contributions – PLN 1.850.000 (9.12% of total expenditure);
- 3) third-party services – PLN 3.524.000 (17.38% of total expenditure); and
- 4) materials and energy – PLN 1.162.000 (5.73% of total expenditure).

Notes that the Institute's main expenditure is salaries and salary-related costs (contributions), which exceeds two-thirds of the total expenditure.

6. Summary

Among the many entities that constitute the public finance sector in Poland – in the light of Article 9 of the Public Finance Act – the existence of a dozen of them has raised serious doubts. These entities include the Polish Institute of International Affairs.

The purpose of the study was not to negate the long history and the tradition of the Institute. The tasks that the Institute performs should also be regarded as important. However, it appears reasonable to voice the thesis that the Institute's tasks could be carried out by the Foreign Affairs Ministry, as they fall within its area of competence. Moreover, an analysis of the Institute's financial plan and its income and expenditure for the years 2021–2023 shows that the Institute has at its disposal almost exclusively funds that come from a subjective subsidy from the state budget, and expenditure in more than two-thirds is directed towards remuneration and salary-related costs.

Some tasks that the Institute performs are carried out by other entities, mainly universities and research Institutes. In the sphere of public finances, there is a belief that the creation of a separate, independent entity guarantees the good performance of tasks. However, it should be remembered that a state legal entity is legally and organisationally independent from the state but, at the same time, it depends on the state budget for its finances. Without revenues, a legal person cannot function.

The creation of state legal entities, budgetary management institutions and other such entities means that each of such entities must have its bodies, its staff. Therefore, it is not surprising that expenditures on salaries (and salary-related costs) is the predominant type of expenditure.

With regard to the entities forming the financial sector, it is necessary to consolidate and liquidate the smallest entities. Obviously, the liquidation of such entities does not mean the abandonment of the tasks performed by these entities; they should be transferred primarily to the relevant ministries. The consolidation process would certainly contribute to the more efficient spending of public funds without detriment to the quality of the tasks performed. The literature has already pointed out the questionable legitimacy of the functioning of some entities, for example, the National Fund for the Protection of Monuments¹⁷ or the Accessibility Fund¹⁸.

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¹⁷ J. Wantoch-Rekowski, *National Fund for the Protection of Monuments: legal and financial issues*, "Prawo Budżetowe Państwa i Samorządu" 2022, No. 4, pp. 75–86, DOI: <http://dx.doi.org/10.12775/PBPS.2022.023>.

¹⁸ J. Wantoch-Rekowski, *Fundusz Dostępności jako element systemu zapewnienia dostępności osobom ze szczególnymi potrzebami*, "Prawo Budżetowe Państwa i Samorządu" 2021, No 4, pp. 87–101, DOI: <http://dx.doi.org/10.12775/PBPS.2021.023>.