

1829
The Act
of 8 December 2006
on the Polish Air Navigation Services Agency¹

Chapter 1

General provisions

Art. 1. 1. The Polish Air Navigation Services Agency, hereinafter referred to as the Agency, is hereby established.

2. The Agency shall be a national legal entity.

3. The seat of the Agency shall be Warsaw capital city.

4. The Agency may establish regional branches.

5. In international relationship the Agency shall use the name of the Polish Air Navigation Services Agency (PANSa).

¹ This act shall amend the act of 4 September 1997 on government administration sections and the act of 3 July 2002 – the Aviation Law.

Art. 2. 1. The Agency shall be subordinate to the minister responsible for transport, with the reservation of paragraph 2.

2. Powers of national supervisory authority as defined in the provisions of Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (OJ EU L 96 of 31.3.2004; OJ EU special Polish edition, chapter 7 volume 8 p. 23) defined in Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (OJ EU L 96 of 31.3.2004; OJ EU special Polish edition, chapter 7 volume 8 p. 31) and in Commission Regulation (EC) No 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services (OJ EU L 335 of 21.12.2005, p. 13) and other powers within ongoing oversight of the Agency shall be exercised by the President of the Civil Aviation Office.

Art. 3. 1 The Agency shall ensure safe, continuous, smooth and effective air navigation in the Polish airspace by performing functions of an air navigation service provider, airspace management and air traffic flow management pursuant to:

- 1) the European Union provisions related to the Single European Sky, and in particular:
 - a) Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky,
 - b) Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky,
 - c) Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (OJ EU L 96 of 31.3.2004; OJ EU special Polish edition, chapter 7 volume 8 p. 41),
 - d) Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (OJ EU L 96 of 31.3.2004; OJ EU special Polish edition, chapter 7 volume 8 p. 46),
 - e) Commission Regulation (EC) No 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services;
- 2) the international agreements and international organisations' resolutions referred to in art. 3 paragraph 2 of the act of 3 July 2002 – the Aviation Law (the Journal of Laws of 2006 No 100 item 696 as amended²), hereinafter referred to as the Aviation Law and the international requirements referred to in art. 3 paragraph 4 of the Aviation Law;
- 3) the Aviation Law provisions and other provisions, unless provisions of this Act stipulate otherwise.

2. On the basis of contracts and agreements, the Agency can perform tasks specified in paragraph 1 in the airspace of foreign states which, in accordance with these contracts and agreements, shall remain in the area of responsibility of the Republic of Poland.

3. On the basis of contracts and agreements, air navigation services in the Polish airspace can be provided by air navigation service providers of foreign states or international entities as defined in these contracts or agreements.

4. The Agency shall cooperate with appropriate military services and units and other national services and units.

5. In wartime and martial law, the Agency shall become a part of national air defence system and shall be subordinate to the Minister of National Defence.

² Amendments of uniform text of the act were promulgated in the Journal of Laws of 2006 No 104 items 708 and 711, No 141 item 1008 and No 170 item 1217.

Chapter 2

Activities and organisation of the Agency

Art. 4. 1. The Agency shall provide air traffic service and other air navigation services: communication service, navigation service, surveillance service and aeronautical information service in the airspace referred to in art. 3 with the reservation of paragraph 2.

2. Aerodrome flight information service, being a part of the air traffic service, can be provided by other entities.

3. The Agency shall perform tasks other than those specified in paragraph 1 for air navigation service providers, defined in the Aviation Law and the statute thereof, and in particular:

- 1) shall provide meteorological information to airspace users;
- 2) shall purchase, maintain and modernise the airspace communication, navigation and surveillance equipment and systems;
- 3) shall perform airborne control of airspace communication, navigation and surveillance systems;
- 4) shall provide training and consultation within air navigation;
- 5) shall perform research and development within air navigation;
- 6) shall ensure flight procedure design.

4. The Agency shall coordinate air search and rescue.

5. The Agency, having received the permission of the minister responsible for transport, can perform other activities with no relation to the tasks referred to in paragraphs 1 and 3 provided that those activities have been separately defined in the accounting books.

6. The Agency can perform tasks of air traffic service provision as defined in the act of 28 July 2005 on public & private partnership (the Journal of Laws No 169 item 1420), having received the permission of the minister responsible for transport.

Art. 5. 1 The Agency shall act on the basis of the Act and the statute.

2. The Agency shall act in compliance with the following plans:

- 1) a five-year plan – updated annually,
- 2) an annual plan – consisting of a financial plan covering financial year covering calendar year

- prepared in accordance with Commission Regulation (EC) No 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services.

3. The President of the Agency shall submit to the President of the Office for consultation, until 1 November every year, the draft annual plan of activities for the next year and the updated draft five-year plan of activities.

4. The President of the Agency shall submit to the minister responsible for transport for approval the draft plans consulted with the President of the Civil Aviation Office referred to in paragraph 2 until 1 December every year.

5. Pending the annual plan approval the Agency shall act on the basis of the draft plan.

6. The minister responsible for transport, by virtue of a regulation, taking into consideration the European Union law concerning in particular air navigation service provider operation in their financial aspects, having in mind effective realisation of tasks, also in wartime and martial law, shall vest the Agency with the statute to define in particular:

- 1) internal structure;
- 2) internal control system;
- 3) number, scope and regional branches' seats.

Art. 6. 1. A person in charge of the Agency representing the Agency externally shall be the President of the Polish Air Navigation Services Agency, hereinafter referred to as the President.

2. The tasks of the President shall include in particular:

- 1) ensuring execution of the tasks of the Agency in accordance with the European Union law and national law as well as international regulations;
- 2) participation in international initiatives and projects related to the Agency's activities – having received permission of the minister responsible for transport;
- 3) preparation of the draft annual and five-year plans of the Agency;
- 4) preparation of an annual report of the Agency;
- 5) preparation of an annual financial statement of the Agency;
- 6) choice of an auditor to examine the financial statement of the Agency and applying to the President of the Civil Aviation Office for its approval;
- 7) managing the property of the Agency.

3. The President shall be appointed by the President of the Council of Ministers, on application of the minister responsible for transport, having consulted the President of the Civil Aviation Office from among candidates selected in open competition.

4. The candidate applying for the position of the President shall fulfil the following requirements:

- 1) have higher education;
- 2) be a soldier in reserve or be exempted from military service;
- 3) have Polish citizenship;
- 4) enjoy full public rights;
- 5) not be punished for intentional offence or intentional fiscal offence;
- 6) have minimum five-year work experience, including minimum three-year work experience on civil aviation managerial positions;
- 7) be fluent in English, at minimum.

5. A judging panel set up by the minister responsible for transport shall include: two representatives of the President of the Council of Ministers, two representatives of the minister responsible for transport, one representative of the President of the Civil Aviation Office, one representative of the Minister of National Defence, one representative of the minister responsible for public finances with knowledge and experience in the field of civil aviation or management.

6. The minister responsible for transport shall ensure organisational and technical elements of the judging panel.

7. During competition proceedings the judging panel shall assess knowledge, predisposition and skills of the candidates necessary to execute the tasks of the President.

8. The minister responsible for transport, to ensure objectivity and openness of the proceeding and efficient conduct thereof, shall specify, by virtue of a regulation:

- 1) the scope of the competition, including knowledge of a foreign language;
- 2) organisation and conduct of the competition.

9. On application of the President the minister responsible for transport shall appoint not more than two Vice-Presidents. One of the Vice-Presidents should have knowledge, skills and minimum three-year work experience within air traffic service provider management. The provisions of paragraph 4 points 1-5 and 7 shall apply accordingly.

10. The President of the Council of Ministers, on application of the minister responsible for transport, shall dismiss the President in the event of:

- 1) valid sentence for intentional offence or intentional fiscal offence;
- 2) gross legal provision infringements;
- 3) loss of Polish citizenship;
- 4) resignation;
- 5) loss of public rights.

11. The President of the Council of Ministers, on application of the minister responsible for transport, may dismiss the President in the event of:

- 1) non-compliance or inappropriate compliance with one of the tasks referred to in paragraph 2;
- 2) loss of capacity to perform duties due to illness longer than 9 months or another long-term obstacle in duty fulfilment;
- 3) running commercial activities contrary to the duties performed.

12. In the event of the President's dismissal the President of the Council of Ministers, on application of the minister responsible for transport, shall assign the Vice-President or another person with the duties of the President for a period of time not longer than 3 months with possibility of one-off extension of this period by another three-month period.

13. The provisions of paragraphs 10-12 shall apply to the Vice-Presidents accordingly.

14. The President of the Council of Minister shall specify the remuneration of the President and the Vice-Presidents in accordance with the act of 3 March 2000 on remuneration of persons in charge of some legal entities (the Journal of Laws No 26 item 306 as amended³).

³ Amendments of the act were promulgated in the Journal of Laws of 2001 No 85 item 924 and No 154 item 1799, of 2002 No 113 item 984, of 2003 No 45 item 391, No 60 item 535 and No 180 item 1759 and of 2004 No 116 item 1207.

Chapter 3

Financial aspects of the Agency

Art. 7. 1. The Treasury shall not be liable for liabilities of the Agency, the Agency shall not be liable for liabilities of the Treasury.

2. Disposal of fixed assets constituting an element of air traffic management system shall require an approval from the minister responsible for transport.

3. Powers of the minister responsible for the Treasury set in article 5a of the act of 8 August 1996 on principles of exercising powers vested in the Treasury (the Journal of Laws No 106, item 493, as amended⁴) with regard to the Agency shall be executed by the minister responsible for transport.

4. The Agency may take on credits and loans, with the reservation of paragraph 5.

5. The Agency may take on credits and loans exceeding the equivalent in the Polish currency of EUR 50.000 after obtaining an approval from the minister responsible for transport.

6. The Agency shall not be permitted to give guarantees and warranties.

7. Amounts expressed in EUR shall be converted into the Polish currency at the average exchange rate established by the National Bank of Poland on the first working day of the financial year in Table 1 of average exchange rates.

Art. 8. 1. In financial aspects the Agency operates independently taking into account the European Union law, international agreements and legal provisions established by the European Agency for the Safety of Air Navigation EUROCONTROL, hereinafter referred to as „EUROCONTROL”, on air navigation charges system including principles for establishing and collecting the charges as well as issuing invoices by organizational unit of EUROCONTROL – Central Route Charges Office (CRCO).

2. In aspects not covered by regulations and provisions of the agreements referred to in paragraph 1 national regulations shall apply unless this act stipulates otherwise.

Art. 9. 1. The Agency shall cover costs of its activities from its revenues.

2. The financial plan of the Agency shall specify in particular:

- 1) revenues;
- 2) costs;
- 3) gross financial result;
- 4) obligatory reductions in profit;
- 5) net financial result;
- 6) proposed division of profit or covering of net financial result.

3. If the cost base for unit rate of en route charge approved by EUROCONTROL is different than

⁴ Amendments of the act were promulgated in the Journal of Laws of 1996 No 156 item 775, of 1997 No 106 item 673, No 115 item 741 and No 141 item 943, of 1998 No 155 item 1014, of 2000 No 48 item 550, of 2001 No 4 item 26, of 2002 No 25 item 253 and No 240 item 2055, of 2004 No 99 item 1001, No 123 item 1291 and No 273 item 2703, of 2005 No 169 item 1417 and No 183 item 1538 and of 2006 No 107 item 721.

indicated in the financial plan referred to in paragraph 2 the financial plan shall be corrected.

4. The following constitute sources of revenues of the Agency:

- 1) revenues from charges for services provided;
- 2) voluntary payments and endowments;
- 3) interest on bank deposits;
- 4) subsidies;
- 5) other revenues including non-refundable aid.

5. The Agency may receive subsidies for financing the tasks referred to in article 4 paragraphs 1 and 3 in the amount set in the budgetary bill.

6. The following funds of the Agency shall be created:

- 1) statutory fund;
- 2) reserve capital;
- 3) other funds created on the basis of separate legal provisions.

7. The statutory fund of the Agency shall be equal to the value of net assets transferred to the Agency in order to allow the Agency to perform its activities.

8. Net profit of the Agency for a financial year shall increase the funds referred to in paragraph 6 points 2 and 3.

9. Net loss of the Agency for a financial year shall be covered from the reserve capital. If the net loss is higher than reserve capital the part of the loss not covered from the reserve capital shall be covered from the statutory fund.

10. The President shall prepare the financial statement in accordance with International Accounting Standards, International Financial Reporting Standards and related interpretations included in the European Commission regulations, hereinafter referred to as „IAS”.

11. In aspects not covered by IAS the Agency shall follow provisions of the act of 29 September 1994 on accounting (the Journal of Laws of 2002 No 76, item 694 as amended⁵).

12. The financial statement of the Agency shall undergo examination by an independent auditor approved by the President of the Civil Aviation Office.

13. The President shall submit to the President of the Civil Aviation Office for consultation:

- 1) the financial statement of the Agency together with opinion and report prepared by the auditor,
- 2) the annual report of the Agency

- for previous year, not later than within 5 months from accounts closing date.

⁵ Amendments of uniform text of the act were promulgated in the Journal of Laws of 2003 No 60 item 535, No 124 item 1152, No 139 item 1324 and No 229 item 2276, of 2004 No 96 item 959, No 145 item 1535, No 146 item 1546 and No 213 item 2155, of 2005 No 10 item 66, No 184 item 1539 and No 267 item 2252 and of 2006 No 157 item 119 and No 208 item 1540.

14. The President of the Civil Aviation Office shall give opinion about the reports referred to in paragraph 13 within one month from their receipt.

15. The minister responsible for transport shall approve consulted with and submitted by the President of the Civil Aviation Office reports referred to in paragraph 13 not later than within one month from their receipt.

Art. 10. 1. Costs of remuneration of the Agency's employees shall be covered from revenues of the Agency.

2. Internal regulation on remuneration of the Agency's employees shall be approved by the minister responsible for transport on application from the President.

Chapter 4

Amendments to law in force

Art. 11. Article 27 paragraph 3 of the act of 4 September 1997 on government administration sections (the Journal of Laws of 2003 No 159 item 1548 as amended⁶) shall be worded as follows:

“3. The minister responsible for transport shall be in charge of the Technical Transport Oversight, inland navigation offices and the Polish Air Navigation Services Agency.”

Art. 12. The act of 3 July 2002 – the Aviation Law (the Journal of Laws of 2006 No 100 item 696 as amended⁷) shall be amended as follows:

1) art. 4 paragraphs 2 and 3 shall be worded as follows:

“2. The Council of Ministers, by virtue of a regulation, shall specify terms and mode of performing functions resulting from sovereignty in the Polish airspace and enhancing defence referred to in paragraph 1 in peacetime, taking into consideration related responsibilities of appropriate services and units as well as principles of cooperation of air traffic service providers with appropriate military services and units.

3. The Council of Ministers, by virtue of a regulation, shall specify terms and mode of transferring to the Minister of National Defence functions referred to in paragraph 1 in wartime and martial law, taking into consideration principles of cooperation of air traffic service providers with appropriate military services and units as well as other national authorities.”;

2) art. 5 shall be worded as follows:

“Art. 5.1. Within exercising the sovereignty function referred to in art. 4, air navigation services shall be provided in the Polish airspace in accordance with:

1) the European Union provisions related to the Single European Sky, and in particular:

a) Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (OJ EU L 96 of 31.3.2004; OJ EU special Polish edition, chapter 7 volume 8 p. 23),

⁶ Amendments of uniform text of the act were promulgated in the Journal of Laws of 2003 No 162 item 1568 and No 190 item 1864, of 2004 No 19 item 177, No 69 item 624, No 91 item 873, No 96 item 959, No 116 item 1206, No 238 item 2390 and No 273 item 2702, of 2005 No 17 item 141, No 33 item 288, No 155 item 1298, No 169 item 1414 and 1417 and No 267 item 2258 and of 2006 No 45 item 319, No 75 item 519, No 104 item 708, No 143 item 1027, No 144 item 1045, No 157 item 119, No 170 item 1218 and No 220 item 1600.

⁷ Amendments of uniform text of the act were promulgated in the Journal of Laws of 2006 No 104 item 708 and 711, No 141 item 1008 and No 170 item 1217.

- b) Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky, (OJ EU L 96 of 31.3.2004; OJ EU special Polish edition, chapter 7 volume 8 p. 31),
- c) Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (OJ EU L 96 of 31.3.2004; OJ EU special Polish edition, chapter 7 volume 8 p. 41),
- d) Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (OJ EU L 96 of 31.3.2004; OJ EU special Polish edition, chapter 7 volume 8 p. 46),
- e) Commission Regulation (EC) No 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services (OJ EU L 335 of 21.12.2005, p. 13),

2) international agreements and international provisions;

3) this Act and other Acts.

2. On the basis of international contracts and agreements binding the Republic of Poland fulfilment of some tasks within air navigation service provision can be:

- 1) extended into the airspace beyond the borders of the Republic of Poland;
- 2) performed with the assistance of international units as defined in these contracts;
- 3) performed with the assistance of air navigation service providers of other states.”;

3)art. 21 paragraph 2 point 4 shall be worded as follows:

“4) exercising the powers of the national supervisory authority within performance of tasks by air navigation service providers;”;

4)art. 77 paragraph 2 shall be worded as follows:

“2. Aerodrome charges referred to in paragraph 1, having been approved by the President of the Office shall be promulgated in the Official Journal of the Civil Aviation Office and shall be incorporated in the Integrated Aeronautical Information Package referred to in art. 121 paragraph 3.”;

5) after art. 118 in section VI chapter 1 art 118a shall be added and worded as follows:

“Art. 118a. Air navigation in the Polish airspace and in the airspace which, based on art. 5 paragraph 2, shall be the area of responsibility of the Republic of Poland shall be performed in accordance with:

- 1) the European Union provisions related to the Single European Sky, and in particular:
 - a) Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky,
 - b) Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky,
 - c) Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky,
 - d) Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network,

- 2) international agreements and international provisions;
- 3) this act and other acts.”;
- 6) art. 120 paragraphs 1-5 shall be worded as follows:
 - “1. The Polish airspace available for air navigation shall be classified in accordance with the provisions of the European Union within the Single European Sky, international contracts and agreements.
 2. The Polish airspace shall be operated by air navigation service providers and civil or military aerodrome air traffic service units or appropriate military units in designated parts of this airspace.
 3. The air traffic service providers shall establish civil aerodrome air traffic service units operating in controlled airspace.
 4. The aerodrome operators shall establish civil aerodrome air traffic service units operating in uncontrolled airspace assigned to given aerodromes by virtue of art. 121 paragraph 5 point 1.
 5. The Minister of National Defence shall establish military aerodrome air traffic service units operating in the airspace assigned to a given aerodrome by virtue of art. 121 paragraph 5 point 1.”;
- 7) art. 121 shall be worded as follows:

“Art. 121.1 Air traffic management in the Polish airspace shall be realised by:

 - 1) air navigation service provision proportionate to the character, density and conditions of air traffic;
 - 2) airspace management;
 - 3) air traffic flow management.
 2. Aircraft flying in the airspace shall be provided with search and rescue service.
 3. The Aeronautical Information Publication shall be published by the air traffic service provider.
 4. The minister responsible for transport in cooperation with the Minister of National Defence as well as the minister responsible for the interior shall establish, by virtue of a regulation, common civil-military advisory unit responsible for management principles and airspace use by all users and for the scope of activity of this unit taking into consideration the European Union law related to the Single European Sky and international provisions.
 5. The minister responsible for transport in cooperation with the Minister of National Defence, taking into consideration principles resulting from international agreements and provisions, to ensure safe, fluent and effective use of the airspace by all the users thereof, shall specify by virtue of a regulation:
 - 1) the structure of airspace available for air navigation with distinction into:
 - a) controlled airspace,
 - b) uncontrolled airspace;
 - 2) detailed rules of airspace use by all the users thereof;

- 3) detailed rules of establishing civil aerodrome air traffic service units at controlled and uncontrolled aerodromes.
6. The minister responsible for transport in cooperation with the Minister of National Defence as well as the minister responsible for the interior shall specify, by virtue of a regulation, taking into consideration international contracts and agreements:
- 1) the rules of the air – as defined in Annex 2 to the Convention on international civil aviation;
 - 2) conditions and mode of operation of air traffic services – as defined in Annex 11 to the Convention on international civil aviation.
7. The Minister of National Defence in cooperation with the minister responsible for transport shall specify, by virtue of a regulation, the principles for cooperation between the air traffic service provider and the Air Force of the Armed Forces of the Republic of Poland so as to ensure a specific role of air defence system within counteracting airborne threats of national safety in peacetime.”;
- 8) art. 122 paragraph 1 shall be worded as follows:
- “1. The user of the Polish airspace shall be obliged to immediately follow the instructions given by the air traffic service provider and civil and military aerodrome air traffic service units and air defence units in command as well as instructions given by military aircraft.”;
- 9) art. 122a shall be worded as follows:
- “Art. 122a. If required by national security measures, and, if air defence unit in command, taking into consideration information provided by the air traffic service provider, states that civil aircraft is used for illegal activities, in particular as a means of terrorist attack, the aircraft can be destroyed as defined in the provisions of the act of 12 October 1990 on national border protection (the Journal of Laws of 2005 No 226 item 1944).”;
- 10) art. 124 paragraph 1 shall be worded as follows:
- “1. Flights of driven aircraft over national parks and nature reserves below the heights specified by air traffic service providers shall be prohibited by virtue of art. 122.”;
- 11) Section VI, title of chapter 2 shall be worded as follows:
- “Air navigation service providers”;
- 12) art. 127 and 128 shall be worded as follows:
- “Art. 127.1. Designation and certification of air navigation service providers in the Polish airspace shall be performed in accordance with legal provisions of the European Union, and in particular in accordance with Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky and Commission Regulation (EC) No 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services.
2. The designation referred to in paragraph 1 shall be performed by the minister responsible for transport in cooperation with the President of the Office, having consulted the Minister of National Defence.
 3. Application for designation shall be submitted by the institution concerned to the President of the Office, who, having checked the application, shall submit it with the opinion to the minister responsible for transport.

4. The certification of the air navigation service provider shall be executed by the President of the Office as an authority performing functions of the national supervisory authority as defined in art. 4 paragraph 1 of Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky.
5. The provisions of paragraphs 1-4 shall be without prejudice to provisions of the act of 8 December 2006 on the Polish Air Navigation Services Agency (the Journal of Laws No 249 item 1829).
6. The tasks of a Member State defined in art. 10 paragraph 3 of Regulation (EC) 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky shall be performed by the minister responsible for transport in cooperation with the President of the Office, having consulted the Minister of National Defence.

Art. 128. The minister responsible for transport, in cooperation with the Minister of National Defence and the minister responsible for public finances, to implement the European Union legal provisions shall specify by virtue of a regulation:

- 1) the air navigation service provider designation,
- 2) the mode and measures of exercising the powers of the President of the Office as the national supervisory authority

- having in mind, in particular, provision of air traffic safety and continuity.

13) article 129 paragraph 4 shall be repealed;

14) article 130 shall be worded as follows:

„ Art. 130. 1. Air navigation services shall be provided against payment (air navigation charges).

2. The air navigation charges covered by European Union legal provisions establishing the Single European Sky, international agreements or international legal provisions shall be established and approved in accordance with those provisions.
3. In aspects not covered by the regulations referred to in paragraph 2, the air navigation charges shall be approved by the President of the Office.
4. The dates for the approval of the charges referred to in paragraph 3 shall be the same as the dates for the approval of the charges referred to in paragraph 2.
5. Air navigation service providers can deny providing the services to an airspace user who infringes the dates and conditions of payment established by EUROCONTROL or by those service providers.
6. The charges shall not be levied for flights:
 - 1) performed under Visual Flight Rules (VFR);
 - 2) mixed – where a part of the flight is performed under Visual Flight Rules (VFR) and the remaining part is performed under Instrument Flight Rules (IFR) – for the part of the flight performed in the Polish airspace exclusively under VFR rules;

- 3) performed by aircraft of which the maximum take-off weight is less than 2 tons;
 - 4) performed exclusively for the transport, on official mission, of the reigning monarch and his immediate family, head of state, head of government and government ministers; in all cases the flight purpose must be confirmed by the appropriate flight status indicator or remark on the flight plan;
 - 5) search and rescue, authorized by a competent SAR coordination body;
 - 6) military performed by Polish military aircraft or military aircraft of a country where flights performed by Polish military aircraft are exempted from the air navigation charges.
7. A subsidy from the state budget shall be granted to the air navigation service providers to cover expenditures related to services provided to the flights referred to in paragraph 6. Those expenditures shall be covered from the part of the state budget at the disposal of the minister responsible for transport.
 8. The minister responsible for transport in agreement with the minister responsible for public finances, taking into account the European Union legal provisions on the air navigation charges, shall establish, by virtue of a regulation, method and mode of settling and documenting the expenditures referred to in paragraph 7.
 9. The minister responsible for transport shall establish, by virtue of a regulation, method for establishing and approving the air navigation charges in aspects not covered by the regulations referred to in paragraph 2 and procedure for providing the information necessary for the approval of the charges referred to in paragraphs 2 and 3, taking into account costs related to the provision of those services and the policies of the European Union in this regard.
 10. The approved air navigation charges shall be published in the Official Journal of the Civil Aviation Office and put into the Integrated Aeronautical Information Package referred to in article 121 paragraph 3. The rate of interest on late payment of the charges referred to in paragraph 2 approved in accordance with international legal provisions shall be also published in the Official Journal of the Civil Aviation Office.
 11. The President of the Office shall publish in the Official Journal of the Civil Aviation Office the international legal provisions referred to in paragraphs 2 and 10.",
- 15) art. 131 shall be repealed;
 - 16) art. 205c shall be repealed;
 - 17) after section XI, section XIa shall be added and worded as follows:

"Section XIa

Pecuniary penalties

- Art. 209a.1. Anyone who acts with infringement of the obligations or conditions resulting from the provisions of:
- 1) Regulation No 2320/2002/EC,
 - 2) Commission Regulation (EC) No 622/2003 of 4 April 2003 laying down measures for the implementation of the common basic standards on aviation security
- shall be liable to pecuniary penalty in the amount of 500 up to 10 000 PLN.
2. The list of infringements of obligations or conditions referred to in paragraph 1 and the amount of pecuniary penalties for individual infringements shall be specified in appendix 1 to the act.
 3. A person having no security clearance authorising access to information included in the appendix to Regulation (EC) 622/2003 shall not be liable to the penalty referred to in points 2.1-2.3 of appendix 1.
- Art. 209b.1. Anyone who acts with infringement of obligations or conditions resulting from the provisions of:
- 1) Regulation (EC) No 261/2004,
 - 2) Regulation (EC) No 2111/2005
- shall be liable to pecuniary penalty in the amount of 200 up to 8 000 PLN.
2. The list of infringements of obligations or conditions referred to in paragraph 1 and the amount of pecuniary penalties for individual infringements shall be specified in appendix 2 to the act.
 3. No penalty, referred to in point 1.3 of appendix 2 to the act, shall be inflicted provided that the carrier shall voluntarily compensate the passenger for lack of appropriate care prior to the day the decision is issued.
 4. No penalty, referred to in point 1.4 of appendix 2 to the act, shall be inflicted provided that the carrier, having neglected to inform passengers on their rights, shall fulfil all remaining duties resulting from Regulation (EC) No 261/2004.
 5. In the case referred to in paragraph 4 it shall be presumed that the passengers have been informed on their rights.
- Art. 209c.1. If the air navigation service provider infringes obligations or conditions of the provisions of Regulation (EC) No 550/2004 the President of the Office may impose pecuniary penalty in the amount of 20 000 up to 40 000 PLN.
2. The list of infringements of obligations or conditions referred to in paragraph 1 and the amount of pecuniary penalties for individual infringements shall be specified in appendix 3 to the act.
 3. If the designated organisation referred to in art. 3 paragraph 1 of Regulation (EC) No 550/2004 shall exercise their functions without valid authorisation the President of the Office may impose pecuniary penalty in the amount of 40 000 PLN.
- Art. 209d. Anyone who shall act contrary to art. 88 paragraph 3 and use unregistered aeronautical ground equipment shall be liable to penalty in the amount of 40 000 PLN.
- Art. 209e. 1. The pecuniary penalties referred to in articles 209a – 209d shall be inflicted by the President of the Office by virtue of an administrative decision.

2. The pecuniary penalty not discharged in time shall be exacted together with interest in arrears as defined in the provisions on enforcement proceedings in administration.
 3. The amounts exacted as pecuniary penalties shall be the state budget revenue.
 4. In matters not regulated herein the provisions of the code of administrative proceedings shall apply.
- 18) art. 230 shall be repealed;
- 19) the term “national ATM authority” used in art. 68 paragraph 2 point 9, art. 69 paragraph 4, art. 86 paragraphs 2, 5 and 6, art. 119 paragraph 4 point 2, art. 125 paragraph 1, art. 135 paragraphs 2 and 9, and art. 135a paragraph 1 point 4 shall be replaced with the following terms:
- a) “air navigation service providers” – in art. 68 paragraph 2 point 9, art. 135 paragraphs 2 and 9, and art. 135a paragraph 1 point 4,
 - b) “air traffic service providers” – in art. 69 paragraph 4, art. 86 paragraphs 2, 5 and 6, art. 119 paragraph 4 point 2 and art. 125 paragraph 1;
- 20) appendices 1-3 shall be added as defined in the appendix to this act.

Chapter 5

Temporary, adapting and final provisions

Art. 13. 1. The Agency shall take over from the Polish Airports State Enterprise, hereinafter referred to as the PPL, by virtue of the act, proprietary and non-proprietary elements distinguished in the proceedings as defined in paragraph 2, used until now to perform tasks of the national ATM authority by its organisational unit – the Polish Air Traffic Agency, necessary to perform tasks referred to in art. 4 paragraphs 1, 3 and 4 including related claims and liabilities.

2. The minister responsible for transport shall specify, by virtue of a decision, proprietary and non-proprietary elements, including claims and liabilities referred to in paragraph 1.

3. Specification of proprietary and non-proprietary elements referred to in paragraph 2 shall be done on the basis of data provided by the PPL and developed by the preparatory commission acting at the minister responsible for transport, in accordance with the status on the day of the take-over.

4. The decision referred to in paragraph 2 shall be the basis for the entry of the Agency legal title into a land record and registers into the elements specified in a decision referred to in paragraph 2.

5. The General Director of the Polish Airports State Enterprise and the President may conclude contracts concerning issues taking place prior to the day of entry into force of the act within joint activities of the PPL and the Air Traffic Agency.

6. With regard to the taken-over property referred to in paragraph 1, the Agency shall establish the value of all fixed assets as well as intangible assets referred to in art. 16g of the act of 15 February 1992 on income tax of legal entities (the Journal of Laws of 2000 No 54 item 654 as amended⁸) in the

⁸ Amendments of uniform text of the act were promulgated in the Journal of Laws of 2000 No 60 item 700 and 703, No 86 item 958, No 103 item 1100, No 117 item 1228 and No 122 item 1315 and 1324, of 2001 No 106 item 1150, No 110 item 1190 and No 125 item 1363, of 2002 No 25 item 253, No 74 item 676, No 93 item 820, No 141 item 1179, No 169 item 1384, No 199 item 1672, No 200 item 1684 and No 230 item 1922, of 2003 No 45 item 391, No 96 item 874, No 137 item 1302, No 180 item 1759, No 202 item 1957, No 217 item 2124 and No 223 item 2218, of 2004 No 6 item 39, No 29 item 257, No 54 item 535, No 93 item 894, No 121 item 1262, No 123 item 1291, No 146 item 1546, No 171 item 1800, No 210 item 2135 and No 254 item 2533, of 2005 No 25 item 202, No 57 item 491, No 78 item 684, No 143 item 1199, No 155 item 1298, No 169 item 1419 and 1420, No 179 item 1484, No 180

amount of initial value specified in the record of fixed assets as well as the PPL intangible assets. The Agency shall calculate depreciation referred to in art. 15 paragraph 6 and art. 16h of the act, taking into account the amount of depreciation calculated by the PPL so far and shall continue with the depreciation method accepted by the PPL. With regard to this depreciation art. 16 paragraph 1 point 63 letter a first dash of the act shall not apply.

7. With regard to activities necessary for proper functioning of the Agency by means of transferring by the PPL to the Agency fixed assets elements to be used on the basis of civil law contract within 3 months from the day of entry into force of the act, art. 5a of the act of 8 August 1996 on principles of exercising powers vested in the Treasury shall not apply.

8. The Agency shall be charged for the take-over costs referred to in paragraph 1.

9. The Agency shall take over the proprietary elements referred to in paragraph 1 to establish the statutory fund.

10. With regard to the take-over referred to in paragraph 1, the provisions of the act of 11 March 2004 on value added tax (the Journal of Laws No 54 item 535 as amended⁹) shall not apply.

Art. 14. 1. The Agency shall not be liable for the PPL liabilities, unrelated to the activities of its organisational unit – the Air Traffic Agency as the national ATM authority, incurred prior to the day of entry into force of the act, with the reservation of paragraph 3.

2. The Agency shall enter into all legal relationships, the subject of which until now has been the activity of the PPL organisational unit – the Air Traffic Agency as the national ATM authority, regardless of legal nature of these relationships.

3. In the event of pecuniary claims of third parties with relation to the PPL fixed property disclosed prior to or after the entry into force of the act, the PPL and the Agency shall be liable jointly.

Art. 15. The Agency, to cover the liabilities of the Air Traffic Agency taken over in accordance with art. 13 paragraphs 1 and 2, and art. 14 incurred prior to the day of entry into force of the act, having been approved by the minister responsible for transport, may issue bonds and other securities based on legal provisions on bonds of value up to 50% of its annual revenue specified in the financial plan for a given year.

Art. 16. Within two years from the entry into force of the act, the limitations referred to in art. 7 paragraph 6 shall not apply to investments performed prior to the day of entry into force of the act, jointly within the PPL, provided that the consent of the minister responsible for transport has been obtained.

Art. 17. To cover the costs of functioning of the first three months, the Agency shall receive a loan from the state budget.

Art. 18. 1. During the first year of its activities, the Agency shall run its financial policy based on the financial plan for 2007 approved by the President of the Civil Aviation Office referred to in art. 129 of the Aviation Law.

2. The provision of search and rescue coordination referred to in art. 4 paragraph 4 shall be executed by the Agency as of 1 January 2009.

Art. 19. Upon the day of entry into force of the act, the PPL employees of the PPL organisational unit – the Air Traffic Agency shall become the Agency's employees.

item 1495 and No 183 item 1538 and of 2006 No 94 item 651, No 107 item 723, No 136 item 970, No 157 item 1119, No 183 item 1353 and No 217 item 1589.

⁹ Amendments of the act were promulgated in the Journal of Laws of 2005 No 14 item 113, No 90 item 756, No 143 item 1199 and No 179 item 1484 and of 2006 No 143 item 1028 and 1029.

Art. 20. 1. Pending the President's designation in accordance with art. 6 paragraph 3, however not longer than for 6 months, the President of the Council of Ministers, on the day of the promulgation of the act, on application of the minister responsible for transport, shall appoint the President without open competition.

2. The President referred to in paragraph 1, pending the President's appointment in accordance with art. 6 paragraph 3, shall be entitled to undertake any preparatory and organisational actions necessary to establish the Agency as well as to provide proper functioning.

3. Pending the Agency's establishment, the costs related to remuneration and activities of the President shall be covered by the PPL. Upon establishment of the Agency, the Agency shall be obliged to pay these costs back.

Art. 21. The existing implementing acts issued on the basis of art. 4 paragraphs 2 and 3, art. 121 paragraphs 3-5 and 6, and art. 130 paragraph 3 of the act referred to in art. 12 shall remain effective until the day of entry into force of implementing rules issued on the basis of art. 4 paragraphs 2 and 3, art. 121 paragraphs 4-7 and art. 130 paragraphs 8 and 9 of the act as defined in this act, however not longer than 12 months.

Art. 22. The act shall enter into force on 1 April 2007, excluding art. 13 paragraph 3 and art. 20 that shall enter into force on the day of the promulgation.

The President of the Republic of Poland: L. Kaczyński

Appendix 1

No	Infringement specification	Amount of penalty in PLN
I	II	III
1.	Infringement of Regulation (EC) No 2320/2002 of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security – Interinstitutional declaration (OJ EU L 355 of 30.12.2002)	
1.1.	Infringement of obligations referred to in point 2.2.1.(iii) of the appendix to the regulation	5 000
1.2.	Infringement of obligations referred to in point 2.1. of the appendix to the regulation	10 000
1.3.	Infringement of patrol obligation referred to in point 2.2.2. of the appendix to the regulation	2 000
1.4.	Infringement of the obligation referred to in point 3.2.3. letter b of the appendix to the regulation	5 000
1.5.	Lack of protection by fencing, guards, patrols referred to in point 2.4. letter b	10 000
1.6.	Infringement of surveillance obligation referred to in point 2.4. letter c	10 000
1.7.	Placing hold baggage on board an aircraft contrary to point 5.1	5 000
1.8.	Infringement of control obligation referred to in point 2.2.1.(i) of the appendix to the regulation	10 000
1.9.	Infringement of the obligation referred to in point 2.2.1(v) of the appendix to the regulation	500
1.10.	Infringement of the obligation referred to in point 2.2.1(viii) of the appendix to the regulation	500
1.11.	Infringement of the obligation referred to in point 2.2.1(ii) of the appendix to the regulation	5 000
1.12.	Infringement of the obligation referred to in point 2.3. letter b of the appendix to the regulation	10 000
1.13.	Infringement of screening obligation referred to in point 2.3. letter a of the appendix to the regulation	10 000
1.14.	Infringement of obligations referred to in point 4.3.1. of the appendix to the regulation	10 000
1.15.	Infringement of obligations referred to in point 4.1. of the appendix to the regulation	10 000
1.16.	Taking on board an aircraft stores and supplies of air carrier contrary to point 9.2.3. of the appendix to the regulation	10 000
1.17.	Taking on board an aircraft cleaning supplies contrary to point 10.2.3. of the appendix to the regulation	10 000
1.18.	Infringement of the obligation referred to in point 6.1 of the appendix to the regulation	10 000
1.19.	Infringement of obligations referred to in point 7.1 or point 7.3 of the appendix to the regulation	10 000

I	II	III
1.20.	Infringement of obligations referred to in point 8.1 and point 8.3 of the appendix to the regulation	10 000
1.21.	Infringement of the obligation referred to in point 4.2. of the appendix to the regulation	2 000
2.	Infringement of Commission Regulation (EC) No 622/2003 of 4 April 2003 laying down measures for the implementation of the common basic standards on aviation security (OJ UE L 89 of 05.04.2003)	
2.1.	Infringement of the obligation referred to in point 3.1.2.3. of the appendix to the regulation	2 000
2.2.	Allowing transport of weapon or other objects prohibited in a place available for passengers and the crew (point 4.1.1.1.a-e or 5.2.3.1 of the appendix to the regulation)	10 000
2.3.	Infringement of the obligation referred to in point 5.2.1.1. or 5.2.2.c. of the appendix to the regulation	1 000

Appendix 2

No	Infringement specification	Amount of penalty in PLN
I	II	III
1.	Infringement of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation and long delay in flights and repealing Regulation (EEC) No 295/91	
1.1	Infringement of the obligation referred to in art. 4 paragraph 1	200 to 4800
1.2.	Infringement of the obligation referred to in art. 8 paragraph 1	200 to 4800
1.3.	Infringement of the obligation referred to in art. 9	200 to 4800
1.4.	Infringement of the obligation referred to in art. 14	200 to 4800
1.5.	Infringement of the obligation referred to in art. 7	1000 to 2500
1.6.	Infringement of the obligation referred to art. 10 paragraph 2	200 to 4800
1.7.	Infringement of a ban on requesting supplementary payment for placing a passenger in a class higher than that for which the ticket was purchased, referred to in art. 10 paragraph 1	200 to 4800
2.	Infringement of Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC	
2.1.	Infringement of the obligation referred to in art. 11	2000 to 8000
2.2.	Infringement of the obligation referred to in art. 12	200 to 4800

Appendix 3

No	Infringement specification	Amount of penalty in PLN
I	II	III
1.	Infringement of Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky	
1.1.	Impeding work of the national supervisory authority by the air navigation service provider during verification of the regulation requirement fulfilment by the provider	20 000
1.2.	Infringement by the air navigation service provider of the obligation referred to in art. 12 paragraph 1	40 000
1.3.	Infringement by the air navigation service provider of the obligation referred to in art. 12 paragraph 2	40 000
1.4.	Infringement by the air navigation service provider of the obligation referred to in art. 12 paragraph 3	20 000
1.5.	Infringement by the air navigation service provider of the obligation referred to in art. 13 paragraph 1	20 000
1.6.	Infringement by the air navigation service provider of the obligation referred to in art. 13 paragraph 2	20 000
2.	Infringement of Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network	
2.1.	Infringement by the air navigation service provider of the obligation referred to in art. 6 paragraph 2	20 000