

STATUS AND FUNCTIONING OF VETERINARY INSPECTION
IN POLAND

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I. The role and significance of specialist expertise is constantly growing in different aspects of life of society as well as of economics. Expertise is interpreted in this field as valuable and accepted information, integrating data, facts and, frequently, hypotheses¹; at the same time, expertise is not merely information as such, but also, inextricably connected with it the ability to acquire, possess and process information, and also take advantage of it in practice. All these elements constitute factors indispensable for making appropriate decisions in conditions of overcoming the impact exerted by changeable characteristics. Of significance is that, whereas pure information refers to the state of matters in the present or in the future, knowledge makes it possible to foresee, to associate facts and to make decisions with reference to the future. Specialist expertise, different than general knowledge, is based upon the profound knowledge in a given field, upon proficiency in the scope of a specialization; in a way, it is professional knowledge, or even, expert knowledge. Due to the very nature of it, it is restricted to the defined area of a given specialization, and, moreover, owing to the fact of rapidly-occurring progress, it is undergoing quick re-evaluation. For several years, a number of issues relevant to knowledge and management of knowledge have been the subject of interest of the science of management, including theories of management; it is also becoming

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¹ J. Brilman, *Nowoczesne koncepcje i metody zarządzania*, PWE, Warszawa 2002, p. 295.

the subject of discussions with reference to the spheres of management in Polish public administration. It is so because it is not only the entities active in the sphere of business, but also units of public administration that base their activities upon knowledge. The possession of adequate knowledge is, after all is said and done, a factor indispensable for and determining the competence of a given entity in terms of dealing with a particular problem. Therefore, the challenge which contemporary public administration faces is acquiring or being in the possession of such specialist expertise that will make it possible to complete public tasks at an appropriate level.

Traditionally, specialist expertise at the level of expert knowledge used by the public administration is acquired by means of resorting to the assistance of external authoritative individuals in a given field originating from the milieu which are in the possession of such knowledge due to their very nature, for instance, scientific and research institutions of various kinds². Nevertheless, there also exist such areas in the sphere of public administration within which possessing specialist expertise is required directly of employees or entities acting on behalf of the bodies of public administration in the course of performing their daily duties. In that case, this knowledge becomes an indispensable condition guaranteeing the proper completion of public tasks at an appropriate level of performance. Moreover, specialist expertise which is referred to herein does not refer only to fluent acquaintance with the regulations of the law, or the manner of proceeding in a given category of issues, but it also invokes the possession of appropriate education in a given field of science, and accordingly acquired knowledge, as a foundation for carrying out the assessment of a factual situation and drawing, in a skillful manner, legal consequences in the forms and mode determined statutorily. Such a tendency may be observed, in particular, in those areas assigned to public administration to be managed which are connected with the protection of public health against dangers, connected with factors, being primarily the consequence of the development and progress of civilization. Such an instance is constituted by veterinary administration, within which specialist expertise is an indispensable prerequisite of

² See: *Podniesienie jakości procesów decyzyjnych w administracji rządowej poprzez wykorzystanie potencjału środowisk naukowych i eksperckich. Raport*, Warszawa 2011, available at: www.dsc.kprm.gov.pl.

efficient and effective completion of public tasks, in particular, in terms of performing the assessment of current dangers, and of their effective prevention, counteraction as well as combating them. New factors constituting a threat to public health within the sphere of the activity of veterinary administration are arising; therefore, this administration is encountering the challenge of facing them, but the condition guaranteeing the success of those activities is appropriate preparation of this administration's employees in terms of knowledge referring to their being in the possession of specialist expertise at an appropriate level. It ought to be emphasized as well that the progressing development of civilization is directed at nothing else but the very development of knowledge. *Ipso facto*, the knowledge which is possessed by the entities completing public tasks in the sphere under discussion is also acquiring a dynamic dimension. Thus, the question which arises is whether the legal system in force in the areas of public veterinary administration guarantees in an appropriate manner the performance-related preparation of the entities acting on its behalf everywhere where the threats to public health are arising or where they might arise.

II. The fundamental legal act determining the organizational and legal framework of functioning of veterinary administration is the Veterinary Inspectorate Act of 29th January, 2004³. By virtue of the legal act referred to hereinabove, the institution called the Veterinary Inspectorate, acting in the capacity of the so-called special inspection, which was entrusted with carrying out tasks within the scope of protection of animals and safety of the products of animal origin in order to guarantee the protection of public health was established.

Different meanings are associated with the term „inspection”. It is applied in order to indicate the manner of performing controlling activities, which consists in direct observation of the activity of a controlled unit by a supervising body. It is also used for the purpose of describing a legal institution in the organizational meaning of this term and denotes an institution which performs controlling functions, in particular, of a spe-

³ A uniformed text in: *Journal of Laws* of 2010, issue 112, position 744 (as amended), hereinbelow referred to as the Veterinary Inspection Act.

cialist character⁴. It is also with this meaning in mind that the Veterinary Inspectorate is assessed because of its position within the system, but, first and foremost, because of the scope of the character of the tasks with carrying out of which it is entrusted.

Separating the Inspection as a unit of special administration was the result, similarly to other bodies of national administration possessing specialist competences, of the increase in the number of tasks of public administration, the degree of their complexity and also the requirement of being in the possession of specialist expertise with reference to veterinary issues. The Veterinary Inspectorate, similarly to other specialist inspectorates, is a collective and impersonal institution, not identified with one particular entity, but established in order to carry out pre-determined, principally controlling, tasks⁵. Taking into account the tasks with which it is entrusted and competences received by that in this scope, it is emphasized that the Veterinary Inspectorate is not an institution fulfilling solely one function and of exclusively controlling character because it completes tasks of a complex character, also those typical of organs of public administration. *Ipso facto*, the role and significance of the Veterinary Inspectorate are being considered not only as those of a controlling institution, but also as that of an element of the entire system of administration.⁶ However, it is in the possession of a particular character as compared with those units, because the character of the tasks which it was entrusted with determines its being included into the category of the so-called units of special administration⁷.

This institution is connected with the organizational structure by which appropriate bodies, whose function is to carry out the tasks of inspection, are encompassed, namely: at the level of central authorities – Chief Veterinary Officer, at the level of a province – a province veterinary officer, and at the level of a county – a county veterinary officer, as well as bodies acting on external borders of the European Union – a border veterinary

⁴ See: J. Jagielski, *Inspekcje specjalne w systemie kontroli administracji*, Kontrola Państwowa 1994, issue 4, p. 3.

⁵ See in: J. Jagielski, *Inspekcje specjalne ...*, p. 6.

⁶ So in detail in: J. Jagielski, *Inspekcje specjalne...*, p. 7.

⁷ See: J. Jagielski, *Kontrola administracji publicznej*, Warszawa 2007, p. 197.

officer⁸. Each of these bodies has its own tasks and competences, determined by the legal regulations, which remain within the sphere of tasks and purposes of the Veterinary Inspectorate⁹. *Ipso facto*, the Veterinary Inspectorate, in the organizational meaning of this term, is not constituted by a single entity but by a complex structure, constituting a set of organizational units, interconnected with one another in a vertical arrangement and acting in the capacity of inspectional bodies. It is worth remembering that the character of this structure is not homogenous. The Veterinary Inspectorate Act introduced changes with reference to the organization of the territorial bodies of veterinary services, stipulating different situating of these bodies in the hierarchy of integrated and non-integrated territorial bodies of governmental administration in a province.

A province veterinary officer is a body of integrated province administration, and performs tasks resulting from statutory regulations on its own behalf, but under the supervision of a province governor, and in accordance with the principles determined in the Act of 23rd January, 2009 (The Province Governor and Governmental Administration in a Province Act)¹⁰. In turn, in accordance with Article 8 of the Veterinary Inspectorate Act, within the scope of providing sanitary and epizootic safety in the area under its authority, it is immediately subordinated to the Chief Veterinary Officer. It means, in practice, shifting controlling competences within the scope of performing by the territorial bodies of the Veterinary Inspectorate tasks with which they are entrusted from the level of a province governor onto a specialist central body of governmental administration. At the level of a county, the body appropriate for performing tasks of the Veterinary Inspectorate is a county veterinary officer, as the body of non-integrated administration¹¹ subordinated to a province veterinary officer. A border

⁸ Article 5 of the Veterinary Inspection Act.

⁹ M. Wierzbowski, *Podstawowe pojęcia teoretyczne w nauce prawa administracyjnego*, [in:] *Polskie prawo administracyjne*, Part I, J. Służewski (ed.), Warszawa 1985, p. 63; also J. Jagielski, *Kontrola administracji...*, p. 193.

¹⁰ *Journal of Laws*, issue 31, position 206 as amended.

¹¹ Article 56 section 1 point 11 of the Province Governor and Governmental Administration in a Province Act.

veterinary officer, as a body of non-integrated province administration¹², is immediately subordinated to the Chief Veterinary Officer. *Ipsa facto*, it ought to be stated that the position of the Veterinary Inspectorate in the entire administration structure is a complex one. An organizational structure separated in such a manner is to ensure the best possible completion of the tasks with which it is entrusted.

The tasks of the bodies of the Veterinary Inspectorate are performed by the so-called official veterinary officers and other individuals not being veterinary officers, whereas the latter ones may be appointed as individuals performing certain activities of an ancillary character¹³. Official veterinary officers are physicians employed by the Inspectorate and, to an equal extent, such that are not employed there, entrusted with the task of performing certain activities¹⁴. This entrusting is to take place upon two equal legal foundations. The first one, resulting from the contents of Article 16 of the Veterinary Inspectorate Act, determines in a precise manner a catalogue of activities with which a physician not being an employee of the Inspectorate may be entrusted¹⁵. This entrusting takes place upon the basis of a contract.

¹² As above.

¹³ Article 5 section 2 of the Veterinary Inspection Act.

¹⁴ Article 5 section 4 of the Veterinary Inspection Act.

¹⁵ In accordance with Article 16 of the Veterinary Inspection Act, if a county veterinary officer, due to financial or organizational problems, is unable to be performing the statutory tasks of the Inspectorate, he or she may: 1) appoint, for a determined period of time, veterinary doctors not being the employees of the Inspectorate for the purposes of: a) protective vaccinations or reconnaissance examinations, b) exercising supervision over the sites of collection, purchasing or selling animals, market places and also exhibitions, shows or competitions of animals, c) the examination of animals being marketed, intended to be transported away and the issuance of health certificates, d) exercising supervision over the slaughtering of slaughter animals, including pre-slaughtering and post-slaughtering examinations, the assessment of meat and supervision over the following of the regulations concerning the protection of animals in the course of slaughtering, e) examinations of the meat of hunted animals, f) exercising supervision over the carcass dismemberment, processing or storage of meat and the issuance of the required health certificates, g) exercising supervision over the milk collection facilities, the processing of that and storing dairy products, h) exercising the supervision over unloading fisherman ships and fishing product processing vessel, over the treatment, processing and storage of these products and also snails and frogs, i) exercising supervision over the processing

In turn, the other one, resulting from Article 18 of the Veterinary Inspectorate Act, is *in blanco* an authorization of a body of public administration to determine the criteria upon the basis of which a decision will be taken, and the decision itself¹⁶. In the second situation referred to hereinabove, this entrusting takes place upon the basis of an administrative act (a decision of administration). The appointed physicians perform activities with which they are entrusted under the supervision and on behalf of the bodies of the Inspectorate. With entrusting one with the performance of certain activities may be connected providing with competences within the scope of the application of a decisive and unilateral resolution typical of the bodies of public administration, in particular, in terms of the issuance of administrative decisions or performing other activities.

III. The essential purpose of activities undertaken by the Veterinary Inspectorate is to guarantee the state being in accordance with the legal regulations relevant to the broadly-interpreted veterinary issues connected with protection of public health, encompassing, in particular, legislation in the field of veterinary as it is defined in Article 2 of the Veterinary Inspectorate Act. The legislation in the field of veterinary is composed of, in particular, regulations of the European Union relevant to the health of animals and public health in the scope of veterinary medicine, and also domestic regulations implementing or executing these regulations, in

and storage of edible eggs and egg products, j) the collection of samples for the purposes of investigation, k) exercising supervision over the direct sale, l) laboratory testing of meat in terms of the presence of the specimens of *Trichinella spiralis*; 1a) appointing for a defined period of time veterinary officers not being the employees of the Inspectorate and providing services within an animal treatment facility, for the purposes of: a) protective vaccinations or reconnaissance examinations, b) exercising supervision over the sites of collection, purchasing or selling animals, c) the examination of animals being marketed, intended to be transported away and the issuance of health certificates, d) the collection of samples for examination.

¹⁶ In accordance with Article 18 of the Veterinary Inspection Act, a body of the Inspectorate, in case of ascertaining an epizootic danger, or a threat to the safety of products of animal origin, or if it is necessary from the point of view of protection of public health, or for safeguarding national economy from major losses, by means of an administrative decision, commands a veterinary officer to be performing activities necessary for the elimination of this threat.

particular, which concern veterinary border control¹⁷, veterinary control in commerce¹⁸, products of animal origin¹⁹, protection of the health of animals and combating contagious diseases of animals²⁰, as well as protection of animals²¹. What also ought to be indicated is other domestic legal acts which determine the tasks and competences of the bodies of the Veterinary Inspectorate. These are: the Food and Nutrition Safety Act²², the Fodders Act²³, the Animal Experimentation Act²⁴, the Pharmaceutical Law Act²⁵, the Animal Identification and Registration System Act²⁶ and the Animal Treatment Facilities Act²⁷.

The area of competence of the Inspection, regulated by separate detailed acts, encompasses a wide spectrum of activities and actions, frequently at a high level of specializing. These are, in particular, activities within the scope of: combating contagious diseases of animals, including zoonoses; carrying out control examinations of the infections of animals; monitor-

¹⁷ The Act of 23rd August 2003 (the Veterinary Border Control Act), *Journal of Laws*, issue 165, position 1590 as amended.

¹⁸ The Act of 10th December 2003 (the Veterinary Control in Commerce Act), *Journal of Laws* of 2004, Issue 16, position 145 as amended.

¹⁹ The Act of 16th December 2005 (the Animal Origin Act), *Journal of Laws* of 2006, issue 17, position 127 as amended.

²⁰ The Act of 11th March 2004 (the Animal Health Protection and Combating Contagious Diseases Act), a uniformed text in *Journal of Laws*, 2008, issue 213, position 1342 as amended.

²¹ The Act of 21st August 1997 (the Animal Protection Act), a uniformed text in: *Journal of Laws* of 2003, issue 106, position 1002 as amended.

²² The Act of 25th August 2006 (the Food and Nutrition Safety Act), a uniformed text in: *Journal of Laws* of 2010, issue 136, position 914 as amended.

²³ The Act of 22nd July 2006 (the Fodder Act), in: *Journal of Laws*, issue 144, position 1045 as amended.

²⁴ The Act of 21st January 2005 (the Animal Experimentation Act), in: *Journal of Laws*, issue 33, position 289 as amended.

²⁵ The Act of 6th September 2001(the Pharmaceutical Law Act), a uniformed text in: *Journal of Laws* of 2008, issue 53, position 533 as amended.

²⁶ The Act of 2nd April 2004 (the Animal Identification and Registration Act), a uniformed text in: *Journal of Laws* of 2008, issue 204, position 1281 as amended.

²⁷ The Act of 18th December 2003 (the Animal Treatment Facilities), *Journal of Laws* of 2004, issue 11, position 95 as amended.

ing zoonoses and zoonotic pathogenic factors, and also (connected with them) resistance to anti-microorganism measures in the case of animals, in products of animal origin and fodders; the examination of slaughter animals and also products of animal origin; carrying out: a) a veterinary border control, b) a veterinary control in commerce and transportation of animals and also of products as defined in the regulations concerning a veterinary control in commerce, c) administrative control and control in the venue in which requirements are to be followed within the scope determined in regulations concerning payments within the framework of the systems of direct support, as a controlling body, which is mentioned in Article 48 section 1 of the Ordinance of the European Commission (EC) no. 1122/2009 of 30th November 2009, establishing the detailed principles of the implementation of the Ordinance of the Council (EC) no. 73/2009 with reference to the principle of mutual compatibility, modulation and also the integrated system of management and control within the framework of the systems of direct support for farmers stipulated in the above-mentioned Ordinance, and also the implementation of the Ordinance of the Council (EC) no. 1234/2007 with reference to the principle of mutual compatibility within the framework of the systems of direct support established for the wine industry²⁸, d) control of products for diagnostics of *in vitro* used in veterinary medicine, aiming at establishing, whether the commercially-available or available- for- use products are on the list of products for diagnostics of *in vitro* used in veterinary medicine; exercising supervision over: a) safety of products of animal origin, including supervision over veterinary requirements in the course of their production their marketing and direct selling, b) marketing animals and by-products of animal origin, c) manufacturing, trade and application of fodders, additives used in feeding animals, genetically-modified organisms intended to be used as fodders and genetically-modified fodders and also over the trans-border movement of genetically-modified organisms intended to be used as fodders, d) the health of animals intended to be used in reproduction and also the quality of biological material and hatching eggs of poultry in terms of health, e) trade in and quantity of used medicinal veterinary

²⁸ The *Official Journal of the European Union* L 316 of 02.12.2009, p. 65, as amended.

products, f) manufacturing and application of medicinal fodders, g) following regulations, concerning the protection of animals, h) following the principles of identification and registration of animals, and also movement of animals, i) following veterinary requirements in farming households where farm animals are kept, j) keeping, husbandry and maintaining records of experimental animals in experiment-conducting units, husbandry units and on the premises of suppliers; carrying out monitoring of non-permitted substances, chemical and biological residues, medicinal products and radioactive contamination of animals, in the discharges and excreta of theirs, in the tissues and organs of animals, in products of animal origin, in water intended to be drunk by animals and also in fodders; carrying out the exchange of information within the framework of the systems of the exchange of information, which are referred to in the regulations of the European Union; receiving information about dangerous food products and also fodders from the bodies of the Main Inspectorate of Plant Health and Seed Inspection, Agricultural and Food Quality Inspectorate, within the scope of the competence of those inspectorates, and also from the bodies of the Trade Inspection about dangerous food products of animal origin, as well as the assessment of risk and the degree of danger caused by dangerous food products or fodder, and, subsequently, forwarding this information to the RASFF²⁹ system managing the network.

²⁹ Compare: Article 85 of the Food Safety Act. The RASF (English: *Rapid Alert System for Food and Feed* – termed as the Early Warning about Dangerous Food Products and Fodders System) is a system serving the purposes of the exchange of information. This system as such has been in existence in the European Union Since the year 1978. Currently, the foundations of the activity of that system are determined by the Ordinance of the European Parliament and the Council (EC) no. 178/2002. The essential elements of the domestic system of the RASFF are constituted by: a) the National Contact Point (NCP) in the Chief Sanitary Inspectorate, to which information is submitted by: the branches of the National Contact Point and the bodies of the State Sanitary Inspectorate and Trade Inspectorate; b) the branch of the National Contact Point (BNCP) in the Chief Veterinary Inspectorate, to which information is submitted Inspectorates subordinated to the minister competent in terms of the issues of agriculture and agricultural markets and also the Trade Inspectorate; c) the territorial bodies of the official control of food (at the provincial and county levels, as well as border points), supervised by the minister competent in terms of health and the minister competent in terms of the issues of agriculture and agricultural markets; d) the territorial bodies

Among the activities undertaken by the bodies of the Inspectorate one ought to indicate, first and foremost, controlling activities, the purpose of which is comparison and assessment of the factual state with the state indicated in legal regulations in force. These are, in terms of principle, specialist controlling activities, requiring appropriate preparation and knowledge of the entity carrying out these activities. One ought to mention, as well, the supervisory prerogatives which make it possible for the bodies of the Veterinary Inspectorate to interfere in the activity of the entity being under control, and, with the use of actions stipulated by law, to enforce the appropriate application of legal regulations. The prerogatives determined in this manner include, first and foremost, decisive prerogatives making it possible to impose bans, writs, penalties and tickets by means of administrative decisions³⁰. The prerogatives indicated hereinabove make it justifiable to include the Veterinary Inspectorate into the category of the administrative police. Their character is that of activities of far-reaching specialization, which is transparent, in particular, in terms of reference to regulations relevant to activities conducted within the scope of official control of food

of the Trade Inspectorate; e) scientific and research units involved in the process of the assessment of risk within the framework of the RASFF system. The system collects four essential kinds of notifications: alarm notifications, requiring immediate intervention to be undertaken, informational notifications, relevant to products not yet available on the market; rejecting a product on a border and also so-called news, which constitute all other information which has been found to be of significance for the safety of consumer and animals. The system of the exchange of information collects data from all over the territory of the European Union. The European Commission forwards notifications relevant to fodders or food of animal origin to the branch of the National Contact Point in the Chief Veterinary Inspectorate, with the intermediary services of the National Contact Point, and after its being verified, a notification is forwarded to the provincial veterinary inspectorate, and, subsequently, the county veterinary inspectorate, appropriate in terms of its location. Outgoing notifications may refer to food products or fodders originating from the countries of the European Union or other countries which do not meet the criteria of food and fodders, or, which constitute a threat for the environment and also for products. They may as well refer to products originating from Poland, which have been marketed on the territory of the European Union or other countries, and which do not meet the criteria of safety of food and fodders, or, which constitute threat for the environment.

³⁰ To gain a broader insight, compare: W. Kotowski, *Uprawnienia mandatowe. Komentarz*, Warszawa 2011.

and fodder³¹. This regulation, indicating the possibility of using various forms of control: typical supervision as well as other techniques such as monitoring, inspections, verifications, audits, collection of samples and their examination, simultaneously underlines the appropriate preparation of entities performing these activities.

Controlling activities conducted by the Veterinary Inspectorate is of a matter-related rather than entity-related character, which means that it is not particular entities, but rather the activity indicated in the Act that is subjected to these controlling activities, regardless of the fact by whom this activity is undertaken. *Ipsa facto*, the subjects of these controlling activities may also be bodies and other administrative entities the scope within which the issues in the group of activities undertaken by the bodies of the Veterinary Inspectorate are relevant to. The above provides justification for the claim that control carried out by the Veterinary Inspectorate constitutes a form of administrative control³².

The area of activity of the Veterinary Inspectorate is wide, and is not restricted solely to controlling functions. Within its sphere of competences, there are opinion-issuing tasks, co-participation in adopting resolutions other bodies, material-technical activities, analytical and research activity, and also informational and promotional activity on a wide scale. In particular, within the area of factual activities, undertaken by veterinary administration, their highly specialist character is indicated³³. It is visible, for instance, in the nomenclature of some undertaken activities: „epizootic investigation” or carrying out „protective vaccinations”, borrowed from medical sciences, as well as institutions developed at the level of European law. The notion of epizootic investigation ought to be interpreted as a series of activities, leading up to discovering causes, sources and mechanisms, and also the period of spreading of a disease among animals. Among typi-

³¹ Compare: the Ordinance (EC) no. 882/2004 of the European Parliament and the Council of 29th April 2004 on the official controls conducted in order to verify the compatibility with the fodder and food law and also regulations relevant to the health and well-being of animals, *Official Journal of the European Union* L 165 of 30.04.2004, p. 1, as amended; *Official Journal of the European Union*, the Polish special edition, Chapter 3, volume 45, p. 200);

³² So in: J. Jagielski, *Kontrola administracji publicznej*, Warszawa 2007, p. 196.

³³ Compare: M. Rudy, *Wstęp do prawa...*, p. 277.

cal activities undertaken in order to determine the factual state, clinical research, the collection of samples or laboratory examinations, will be undertaken as well. All these activities aim at determining the factual state, and, consequently, the assessment of it in the light of legal regulations in force. What is determined in the course of activities thus undertaken may lead up to the issuance of an administrative act (an administrative decision) as well as the issuance of a local legal act by a county veterinary officer or a province governor, or, alternatively, an Ordinance issued by a minister competent in the field of agriculture. Protective vaccinations are a kind of factual activities undertaken by veterinary administration, which are of fundamental importance in the prevention of some disease entities³⁴. A particular significance is that of various kinds of certificates issued by the bodies of veterinary administration (official veterinary officers), understood as a document stating a given fact, being, simultaneously, legal evidence and possessing a power of official document. One of these are health certificates. One issuing such a certificate, which means a body of the Inspectorate or an official veterinary officer authorized by this body, must have at disposal appropriate knowledge and preparation equally in terms of legal regulations relevant to veterinary legislation, and also principles of carrying out veterinary control³⁵. The issuance of a health certificate constitutes the confirmation of data, the knowledge of which is possessed by the issuer, or could be obtained by them. The role of these documents, as well as that of veterinary certificates,³⁶ is observable in particular in commercial trade in animals and products of animal origin within the borders of both the European Community and internationally. The issuance of a given document has to be preceded by a detailed investigation of the item or a state

³⁴ Article 56 of the Animal Health Protection Act.

³⁵ Article 26 of the Veterinary Inspection Act.

³⁶ In accordance with Article 2 point 19 of the Animal Health Protection Act, in terms of the needs of trade in animals and inedible products of animal origin, the notion of „certificate” has been defined as a document, issued by an official veterinary physician, corroborating the state of the health of an animal or animals, the state of health of a group, from which animals originate, or the quality of an inedible product of Animals origin in terms of health. In turn, with reference to commodities transported from countries not being the members of the European Union, a veterinary certificate is not being defined, but the Act uses it as well in the meaning referred to hereinabove.

which a certificate refers to, and requires of the individual establishing these facts appropriate preparation and knowledge.

IV. The specialist scope of tasks with which the Veterinary Inspectorate is entrusted determined a particular mode of recruitment of individuals to be serving in the capacities of the bodies of the Veterinary Inspectorate: the Chief Veterinary Officer and also province, county and border veterinary officers to an equal degree. The position of any of the above-mentioned bodies may be staffed with individuals possessing appropriate qualifications, and, *ipso facto*, displaying the appropriate level of specialist expertise. The indispensable minimum requirements, providing a guarantee for performing the tasks of veterinary administration is the requirement of possessing by all these individuals a professional title of a veterinary physician having the right to practice on the territory of the Republic of Poland³⁷, and also having obtained a title of a specialist in epizootiology and veterinary administration or hygiene of slaughter animals and food of animal origin³⁸, as well as having proved working in the public administration in the scope of completing tasks connected with veterinary medicine for an appropriate length of service time.

Ipsa facto, all the individuals serving in the capacities of the bodies of the Veterinary Inspectorate have to possess appropriate qualifications, and, what follows, also specialist expertise. It may be stated then, that qualifications themselves are not sufficient in this field; the legislator has something more in mind, namely a kind of specialist competence connected with veterinary knowledge; the former is composed of both qualifications corroborated by appropriate documents as well as suitable professional experience.

Professional experience is verified by means of meeting the requirement of being in the possession of the appropriate length of service time in public administration in the scope of carrying out tasks connected with veterinary medicine by individuals applying for the positions of the bodies of the Veterinary Inspectorate. In reference to the Chief Veterinary Officer, it is a seven-year long period of service time, in reference to a province veterinary

³⁷ Article 6 section 5a point 1 and Article 9 section 1 point 1 of the Veterinary Inspection Act.

³⁸ Article 6 section 5a point 7 and Article 0 section 1 point 2 letter c of the Veterinary Inspection Act.

officer – a five-year long period of service time, and in reference to a county and border veterinary officer – a three-year long period of service time.

For individuals who have been entrusted with the capacity of official veterinary officers not employed by the Veterinary Inspectorate certain minimum requirements, which are to provide the guarantees of the possession of appropriate specialist expertise, supported by appropriate experience, have also been determined. In accordance with the requirements, as an official veterinary officer, an individual possessing the right to practice as a veterinary physician, and also possessing an appropriate length of service time in the facilities referred to in the Ordinance of Ministry of Agriculture and Rural Development, connected with veterinary activity, due to the activities with the performance of which such an individual is to be entrusted, may be appointed³⁹.

It ought to be emphasized here that, due to an exceptionally specialist and broad scope of the activity of this part of public administration, the legislator resolved to appoint external bodies having opinion-issuing and advisory capacity whose technical task is to support the Chief Veterinary Officer in the completion of the tasks with the completion of which this body has been entrusted. These bodies, being of an exceptionally expert character, are the Sanitary-Epizootic Council and also the Council for Laboratories.

The Sanitary-Epizootic Council is a collective and appointed for terms internal body of a central body of governmental administration which the Chief Veterinary Officer is, and it serves in ancillary capacity in relation to the latter body⁴⁰. The members of the Council are individuals outstanding in terms of knowledge and also experience in sanitary-epizootic field. An advisory and opinion-issuing character of this body applies also to the issues with which the Veterinary Inspectorate has been entrusted. The principal role of the Council consists of providing advice and opinions for the body which it serves. The members of the Council provide technical back-up for the activity carried out by the Chief Veterinary Officer in the scope of broadly-

³⁹ Compare: the ordinance of the Minister of Agriculture and Rural Development of 22nd April 2004 on the scope of activities performed by individuals not being the employees of the Veterinary Inspectorate and also qualifications of these individuals, *Journal of Laws*, issue 89, position 860.

⁴⁰ Article 7 of the Veterinary Inspection Act.

interpreted prevention and also of combating all phenomena jeopardizing the sanitary-epizootic safety in the country. The essential role and significance of the Council is observed, in particular, in the scope of completing analytic-prognostic tasks with which the Chief Veterinary Officer has been entrusted, relevant to, in particular, carrying out the analyses and the assessments of epizootic situation, safety of products of animal origin and veterinary requirements in the course of their production. These are, undeniably, highly-specialist activities based upon the appropriate level of expert knowledge.

The subject-matter of the activity determined in this manner is monitoring and analyzing the current epizootic situation of the country, whilst taking under consideration the particular regions of that and cases of contagious diseases in animals and also indicating directions of activities indispensable for providing the epizootic safety of the country, carrying out analyses of the risks of the occurrence of contagious diseases, analyzing the current epizootic situation in the country and in the world, as well as performing appropriate analyses with reference to safety of products of animal origin and also veterinary requirements in the course of their production.

The tasks of the Council belong also to the field of the implementation of procedures compatible with the requirements of the European Union being adjusted to the (existing or foreseen) risk of the occurrence of an epizootic threat, cooperation in the scope of drawing up by the Chief Veterinary Officer plans of readiness in terms of combating contagious diseases of animals for particular states, and the opinion of the Council is always of an advisory character, whilst the full autonomy rests solely with the Chief Veterinary Officer.

The other statutory advisory and opinion-issuing body serving the Chief Veterinary Officer in the scope of functioning of laboratories for the purposes of the official control determined in the Ordinance (EC) no. 882/2004 of the European Parliament and the Council of 29th April 2004 on the official control carried out in order to check compliance with the fodder law and food law, and also with the rules relevant to the health and well-being of animals ⁴¹ is the Council for Laboratories.

⁴¹ *Official Journal of the European Union* L 165 of 30.04.2004, p. 1, as amended; *Official Journal of the European Union*, the Polish special edition, Chapter 3, volume 45, p. 200, hereinbelow referred to as „Ordinance no. 882/2004”.

The Council is composed of seven members who are appointed from among individuals in the possession of outstanding knowledge and professional experience in the field of laboratory diagnostics. It serves in an advisory and opinion-issuing capacity in the scope of functioning of laboratories for the purposes of official control determined in the Ordinance no. 882/2004 on official control which is referred to in Article 25 of the Veterinary Inspectorate Act, acting within the framework of the system of officially-accredited laboratories⁴².

The functions and role of the Council, acting within the framework of the internal structures of the Veterinary Inspectorate as an ancillary body of the Chief Veterinary Officer, and composed, in particular, of the representatives of domestic referential laboratories and also individuals in the possession of experience in the scope of laboratory diagnostics, consists in determining in a collaborative manner the priorities and homogenous strategy of laboratory research carried out to meet the needs of the Veterinary Inspectorate, in the scope of the assessment of the state of health of animals and also the safety of food. The purpose of appointing this body was also an attempt to achieve improvement in the scope of a more effective use of budget resources assigned for functioning of official laboratories, including their accreditation.

The two internal advisory bodies of the Chief Veterinary Officer indicated hereinabove, although they are not directly involved in the decision-making process connected with the completion of tasks with which the Veterinary Inspectorate has been entrusted, are directly incorporated in the structure of this institution, and, in a significant manner, contribute to a more effective and efficient manner of completion by this branch of administration its highly-specialized tasks thanks to the expert character of the bodies in question.

V. Specialist expertise, or, as it was indicated at the beginning, specialist competence, is a changeable characteristic. Society develops and so does

⁴² In order to guarantee the homogenous manner of carrying out laboratory examinations for the purposes of official controls determined in Ordinance no. 882/2004, connected with the completion with which the Veterinary Inspectorate has been entrusted a system of official laboratories, encompassing accredited laboratories. These laboratories are selected by the Chief Veterinary Officer from among units mentioned in the Act.

knowledge simultaneously with it (it especially applies to specialist expertise). Therefore, it is indispensable to keep making it more profound all the time so that individuals acting on behalf of the bodies of the Veterinary Inspectorate can still remain in the possession of this competence. An initial verification conducted upon the recruitment of individuals to be employed in the structures of the Veterinary Inspectorate does not determine the specialist competence of a given individual once and forever. It is so because it cannot be conclusively stated that one is in the possession of this competence once and forever. Specialist competence is directly dependent upon the possession of knowledge in specific scopes, and the latter ones change due to their very nature. *Ipsa facto*, what is observed, on the one hand, is the increase in specialist expertise, but, on the other hand, the rapidly-progressing reevaluation of it. *Ipsa facto*, in order to achieve the target with up-to-date, and thus adequate in terms of the challenges which are faced by veterinary administration, specialist expertise, it is indispensable to apply stimuli influencing this process in an appropriate manner. This is so because it cannot be doubted that an official veterinary officer ought to be reacting skillfully and rapidly, with the use of the measures stipulated by law, to all and any states of emergency to public health. The assessment of these emergencies in the aspect of factual states is only possible to be performed when he or she will be “up-to-date” with what is going on in the scope of his or her work. Two essential requirements are the system of appropriate trainings and the system of assessment of the performance of particular individuals who are required to possess such knowledge.

Province, county, as well as border veterinary officers, and their deputies, make up the Corps of the Civil Service, *ipso facto* being subordinated to the regulations of the Corps of the Civil Service Act,⁴³ whilst province veterinary officers and their deputies hold senior positions in this structure⁴⁴. The members of the Corps of the Civil Service are obligated to undergo trainings, and participation in them is treated equally to performing professional duties by them. *Ipsa facto*, they may face disciplinary punishment for the violation of this duty, which is referred to Article 113

⁴³ The Civil Service Act of 21st November 2008 (*Journal of Laws*, issue 227, position 1505 as amended), hereinbelow referred to as the Civil Service Act.

⁴⁴ Article 52 point 3 of as the Civil Service Act.

(and the following ones) of the Corps of the Civil Service Act. Among the trainings organized in the civil service besides those conducted at the central level and also encompassing all its members, as well as trainings within the framework of the individual program of professional development of a member of the Corps of the Civil Service, the Act mentions specialist trainings⁴⁵ which are planned, organized and supervised by the general director of an institution and encompass topics connected with the tasks of this institution. Additionally, it ought to be indicated that specialist expertise and also the ability to take advantage of it constitute an obligatory criterion serving for the assessment of a member of the Corps of the Civil Service, with the exception of individuals holding senior positions in the civil service⁴⁶. This criterion is verified in terms of knowledge in a given field actually possessed, conditioning the appropriate level of performance of the tasks being completed. What is also taken under consideration is the ability to use the possessed information in practice in the course of performing one's duties, the ability to make a choice of appropriate tools in order to carry out tasks, acquaintance with regulations and the ability to use them, and also the ability to recognize the cases which require cooperation with other specialists.

With reference to official veterinary officers, with the organization of the system of trainings, by virtue of the regulations in the Veterinary Inspectorate Act, the Chief Veterinary Officer has been entrusted⁴⁷; this body carries out the trainings in question on its own, or may commission them to external entities. Additionally, official veterinary officers issuing health certificates have to undergo specialist trainings in accordance with the program determined by the minister competent in terms of the issues of agriculture in the light of veterinary legislation, the principles of drawing up these certificates, and also the kind and scope of the tests and examina-

⁴⁵ Article 106 section 2 of as the Civil Service Act.

⁴⁶ Compare: an attachment no. 1 to the Ordinance of Prime Minister of 8th May 2009 on the conditions and manner of the periodical assessments of the members of the Corps of the civil service (*Journal of Laws* issue 74, position 633).

⁴⁷ Article 13 section 1 point 8 of the Veterinary Inspection Act.

tions carried out prior to the issuance of a certificate⁴⁸. Trainings have to be composed of two parts: theoretical and practical.

Moreover, one ought to pay attention to the legal regulations contained in Article 5 of the Veterinary Physicians Act, in accordance with which a veterinary physician in whose case insufficient professional preparation is revealed, may be obligated to undergo complementary training under the pain of losing the right to practice in the profession.

Paradoxically, the regulations introducing the duty of permanent specialist complementary training do not seem sufficient, similarly to the regulations concerning the assessment of the manner and quality of carrying out activities with which official veterinary officers are commissioned because of their specialist competences. The fact that an entity which, while conducting the tasks of the body of the Veterinary Inspectorate failed to display sufficient knowledge of and acquaintance with relevant issues, ought not to be appointed again, seems to be obvious; however, such reservations have not been introduced into the legal system.

It is beyond doubt that, in the light of legal regulations in force, the main burden in the scope of watching over the appropriate preparation of entities carrying out the tasks of the bodies of the Veterinary Inspectorate is borne by the Chief Veterinary Officer, and because the legislator provides this body with independence to decide, cautioning solely that it will be held accountable for the lack of appropriate specialist preparation. It is of significance as well that these trainings be really effective. Specialist expertise requires being updated by means of systems of trainings, relevant not only to declarative knowledge (“I know that”) – relevant to situations, facts, hypotheses and data, but also to procedural knowledge (“I know, how”) – making it possible to become skilful in new procedures without obstacles, acquiring, transforming and recovering information in order to solve problems and, *ipso facto*, planning behaviors. Obtaining such a result, particularly in the area as narrowly specialized as the one in which the Veterinary Inspectorate is active, seems to be the major challenge.

⁴⁸ Compare: the ordinance of the Minister of Agriculture and Rural Development of 10th May 2004 on the program of trainings for individuals issuing the health certificates and the manner of conducting these trainings (*Journal of Laws* issue 125, position 1310).

SUMMARY

Traditionally, specialist expertise at the level of expert knowledge used by public administration is acquired by means of resorting to the assistance of external authoritative individuals in a given field originating from the milieus which are in the possession of such knowledge due to their very nature, for instance, scientific and research institutions of various kinds. Nevertheless, there also exist such areas in the sphere of public administration within which possessing specialist expertise is required directly of employees or entities acting on behalf of the bodies of public administration in the course of performing their daily duties. In that case, this knowledge becomes an indispensable condition guaranteeing the proper completion of public tasks at an appropriate level of performance. Veterinary Inspection in Poland is an excellent exemplum of such kind of public authority. New factors constituting a threat to public health within the sphere of the activity of veterinary administration are arising; therefore, this administration is encountering the challenge of facing them, but the condition guaranteeing the success of those activities is the appropriate preparation of this administration's employees in terms of knowledge referring to their possession of specialist expertise at an appropriate level. It ought to be emphasized as well that the progressing development of civilization is directed at nothing else but the very development of knowledge. *Ipsa facto*, the knowledge which is possessed by the entities completing public tasks in the sphere under discussion is also acquiring a dynamic dimension. Thus, the question which arises is whether the legal system in force in the areas of public veterinary administration guarantees in an appropriate manner the performance-related preparation of the entities acting on its behalf everywhere where the threats to public health are arising or where they might arise.

