

УДК 351:379.85 (477)

Iryna MANCZAK

Krakov University of economics,
Department of commerce and market institution,
College of management and quality sciences
Management Institute,
Doctor of philosophy, Assistant professor,
e-mail: manczaki@uek.krakow.pl,
ORCID ID: <https://orcid.org/0000-0002-9661-9945>

ORGANISATIONAL AND LEGAL ASPECTS OF THE FUNCTIONING OF THE POLISH TOURISM ORGANISATION

<http://doi.org/10.23939/law2024.41.199>

© *Manczak I., 2024*

The article aims to outline the organisational and legal aspects that determine the framework of the functioning of the Polish Tourism Organisation (PTO). The analysed organisation is an example of a state legal person whose main task is strengthening Poland’s promotional activity in tourism at home and abroad. Its activities are based on the Act of 25 June 1999 by the Polish Tourism Organisation. The author decided to analyse selected provisions of the distinguished legal act and to confront them with other documents that fall within the scope of the discussion. The article pays particular attention to Regional Tourism Organisations (RTO) and Local Tourism Organisations (LTO). Based on the analysis of the legal acts in force, the author decided to explain the vital legal aspects determining organisational solutions. The article critically analyses the literature on the subject, focusing mainly on selected thematic areas that determine the basic directions of PTO, RTO and LTO activities.

Key words: tourism; tourism law in Poland; Polish Tourism Organisation; Regional Tourism Organisation; Local Tourism Organisation.

Formulation of the problem. In Poland, by the current legal order, the Polish Tourism Organisation (PTO) has the status of a state legal person and was established to strengthen the promotion of Poland in the field of tourism at home and abroad. The analysed entity is an example of a destination management organisation (DMO). Apart from the apparent image goals and positive associations with the area, one of the fundamental objectives of the process of creating and managing the tourism brand of the country – thus the result that the national tourism organisations intend to achieve – should be to effectively persuade as many tourists as possible to come here (development of inbound tourism) and, thanks to this, to obtain the greatest possible financial benefits (revenues from tourism exports) [8, p. 10].

In the UNWTO classification, the following categories of organisations can be classified as such [15]:

- national tourism administrations or national tourism organisations – entities responsible for management and marketing at the national level,

- regional, provincial or state organisations (or regional tourism organisations) – are responsible for management and marketing in the region (region can be understood as state or province),
- local organisations – focus on management and marketing in a smaller geographical area or city than the region.

The organisations mentioned above set the direction of tourism development activities and are considered competent entities by the functions assigned to them. National tourism organisations are unique entities functioning within a country's administrative structures, responsible for a range of tourism policy-making issues [1, p. 178].

Analysis of the problem research. The article deals with Poland's national tourism organization – the Polish Tourism Organisation (PTO). Its activities are based on the provisions of a separate legal act. Generally, the trend shows that national tourist organisations are mainly responsible for promoting a country as an attractive tourist destination [1; 8]. In Poland, implementing the distinguished tasks included in the scope of competence of PTO is primarily based on cooperation with regional tourism organisations (RTOs) and local tourism organisations (LTOs). The tasks undertaken also result from the Act that regulates the functioning of PTOs.

The article aims to outline the organisational and legal aspects that set the framework for the functioning of the Polish Tourist Organisation (PTO).

Presentation of the main material. Within the framework of the adopted research convention, the author decided to focus on analysing selected provisions of the act, which outline the basic thematic scopes. The PTO plays a unique role in the national tourism sector. Its separation as a public entity specialised in marketing activities corresponded to the view that, over time, the accumulation of organisational experience will contribute to increasing the effectiveness of public funds dedicated to the promotion of inbound and domestic tourism [14, p. 66].

The PTO was established based on the detailed provisions of the law, which gave this entity a clear legal and organisational structure and guaranteed budgetary funds for the implementation of tasks [9, p. 261]. The analysed organisation started its activities in 2000. The framework of its functioning is set in the Act of 25 June 1999. This legal act has five chapters and 26 Articles. However, the following part of the article examines Chapter I, which details the issues covered by the analysis and directly related to the adopted research assumptions. The commentary on the analysed document is presented linearly, focusing on the subject areas. In the further part of the discussion, the provisions were grouped to present selected legal aspects. In addition, references were made to laws related to the topic of the analyses.

Chapter I of the law includes general footnotes and four articles. This section of the document focuses on fundamental issues. Article 1.1 indicates that to strengthen Poland's promotion in the field of tourism at home and abroad, the Polish Tourism Organisation, with a registered office in Warsaw, is established. Significantly, another provision of the article indicates that the legislator entrusted the analysed organisation with tasks in the scope of creating conditions for the cooperation of government administration bodies, local self-governments and organisations associating entrepreneurs in the field of tourism, including economic and professional self-governments, as well as associations operating in this field [16]. It is worth noting that several entities predisposed to get involved in the activities undertaken by the PTO have been specified.

Article 2 of the law mentions that the PTO is a state legal entity, and the relevant Minister supervises its activities. In Poland, as of 2021, this is the Minister heading the Ministry of Sport and Tourism [16]. The Minister is a one-person chief organ of government administration. His or her tasks include supervising central offices, law-making activity, directing a specific branch of government administration or issuing administrative decisions [6, p. 130].

Article 3 identifies the critical tasks performed by the PTO, which relate to areas such as [16]:

- promotion of Poland as a country attractive to tourists;

Organisational and legal aspects of the functioning of the Polish tourism organisation

- ensuring the operation and development of the Polish tourist information system at home and abroad;
- initiating, giving opinions on and supporting plans for the development and modernisation of tourism infrastructure;
- to inspire and cooperate with the creation of regional tourist organisations covering the area of one or more voivodeships and local tourist organisations covering the area of one or more local authorities.

The tasks highlighted above mainly focus on tourism promotion in Poland. However, their implementation is also carried out through the tourist information system, in which they function as tourist information offices [10].

In the further part of Article 3, the legislator indicated that the national tourism organisation's activity is based on cooperation with local self-government units, regional and local tourist organisations, metropolitan associations, the minister responsible for physical culture, organisations associating entrepreneurs in the field of tourism, including economic and professional self-government, and associations of a tourist nature [16]. It should be added that tasks performed abroad have been entrusted to Polish foreign representations.

In indicating that the PTO's partners originate from the local government, it is worth referring to the administrative division of Poland. Since 1 January 1999, a three-level administrative (territorial) division has been in force. As a result of the administrative reform, the country's territory was divided into voivodeships, districts (including communities having the status of cities with district rights) and communities. Therefore, the cooperation of the national tourism organisation with local government units may be based on initiatives taken together with units responsible for tourism matters at the community, district and voivodeship levels.

The analysed act distinguishes regional and local tourist organisations as partners in cooperation activities initiated by the PTO. It should be emphasised that in the case of entities of local character, the legislator has left a great deal of freedom in terms of both the legal and organisational formula, as well as the principles of financing the activities [9, p. 206].

In the Polish legal order, the primary legal acts that also apply to regional (RTO) and local tourism organisations (LTO) are [16, 17, 18]:

- Law on Associations of 7 April 1989;
- Act on the Polish Tourism Organisation of 25 June 1999;
- Act on public benefit activity and voluntary work of 24 April 2003.

The first of the aforementioned legal acts organises the issue of the functioning of associations [17]. Importantly, associations are a popular legal and organizational form in establishing tourism organisations in Poland. RTO and LTO are not ordinary associations but organisations with a special status, statutorily dedicated to implementing public tasks for developing and promoting the Polish tourism sector [16]. ROT means an organisation of cooperation between local government (especially local government at the voivodeship level) and the tourism industry (broadly understood due to the heterogeneous nature of the tourism economy) in terms of promoting the area encompassing the activities of this organisation as a region attractive for tourism at home and abroad [12]. In economic practice, such entities' legal and organisational forms are associations and have the attributes of public organisations [2, p. 242].

The Law on Public Benefit Activity and Volunteerism concerns public benefit activity. This activity is considered socially helpful and conducted by non-governmental organisations in public tasks specified in this legal document [18]. The activity of entities as associations justifies reference to this document. Notably, initiatives supporting tourism development include public tasks critical for regional and local communities.

There are the following RTOs in Poland:

- Dolnoslaska Tourism Organisation;
- Kujawsko-Pomorska Tourism Organisation;

- Lubelska Regional Tourism Organisation;
- Lubuskie Regional Tourism Organisation;
- Malopolska Tourism Organisation;
- Mazowiecka Regional Tourism Organisation;
- Opolska Regional Tourism Organisation;
- Podkarpacka Regional Tourism Organisation;
- Podlaska Regional Tourism Organisation;
- Pomorska Regional Tourism Organisation;
- Regional Tourism Organisation of the Łódzkie Voivodeship;
- Regional Tourism Organisation of the Świętokrzyskie Voivodeship;
- Śląska Tourism Organisation;
- Warminsko-Mazurska Regional Tourism Organisation;
- Wielkopolska Tourism Organisation;
- Zachodniopomorska Regional Tourism Organisation.

The list above shows that the number of organisations analysed coincides with the number of provinces. The ROTs were established in 2000–2006 by the provisions of the legal act, which regulates the activity of the PTO [2, p. 243]. It is worth adding that all the PTOs form the Forum of Regional Tourist Organisations, whose objective is to monitor and stimulate tourism development on a national scale and actively support and coordinate the activities carried out. The area of competence of the PTO Forum includes the following activities [3]:

- promoting tourism and creating the tourist image of the regions, as well as disseminating knowledge related to tourism development and promotion;
- influencing changes in legislation that may affect the development of tourism and promotion;
- supporting regional and local entrepreneurship in the field of tourism and promotion;
- cooperation with governmental and self-governmental bodies on activities conducive to the development of tourism;
- integration of the community of people interested in tourism development;
- projects for European integration and the development of contacts and cooperation and interregional projects;
- mutual training of RTO staff;
- building interregional partnerships to support local authorities, associations and businesses;
- representation of RTOs vis-à-vis institutions and organisations, including ministries responsible for tourism, the PTO, the Tourism Council of the Minister of Economy and others;
- lobbying and advocacy for tourism development.

According to the researchers, cooperation remains a strategic element in the activities of ROTs. The following statements can be formulated, which show the following characteristics of this research category [2, p. 253]:

- the widespread identification of “cooperation” as part of the strategic operating principle of the RTO;
- the singular definition of the legal formula for the operation of the RTO (as an association) or the use of an imprecise definition of the form of cooperation as a “platform” or “forum”;
- focus on formulating a broad catalogue of types of RTO members;
- highlighting the need to develop tourism in the region with the involvement of the RTO;
- unitary definition of RTO, using the concept of institution;
- omitting the precise formulation of the substantive objectives of the RTO’s activities or only supplementing the direct definition with an additional catalogue of RTO objectives;
- lack of elements defining the need for effective and efficient operation of the RTO;
- multiple duplication or only symbolic modification by the authors of the selected RTO definition.

Organisational and legal aspects of the functioning of the polish tourism organisation

At the local level, LTOs are the equivalent of RTOs. In their activities, LTOs focus on the cooperation of local government (especially district or commune level government) and the local tourism industry in terms of tourism promotion of the area encompassing the activities of this organisation. The most important local tasks include [7]:

- integration of the local community, mainly local government units and the tourism industry;
- creating a tourism product (creation, development and promotion) around local tourist attractions;
- collecting and updating information on tourist attractions and products;
- maintenance and operation of local tourist information points.

It is also most often indicated that the main benefits of LTOs revolve around arranging events to promote regions, cities and individual local tourism products to domestic and foreign tourists [13, p. 536]. In Poland, 121 LTO functions. Thus, there is a legal mechanism for establishing organisations. Geographically, the distribution of the surveyed organisations is uneven and primarily determined by the degree of attractiveness of a given Polish region. In the case of RTOs, there is no such possibility, as their number coincides with the number of the most significant Polish administrative units (voivodeships), and they form a closed set from the point of view of the adopted formal and legal solutions.

LTO is an example of a membership structure that takes the legal form of a registered association with legal personality and elected authorities, a board of directors, and an audit committee. The organisation conducts activities based on association rights under the law on associations. It is worth noting that, despite the status of an association, LTO members can be joined by natural persons, legal persons, including local government units, organisations bringing together entrepreneurs in the tourism industry, and other associations and entrepreneurs operating based on a commercial law company. An essential characteristic of LTOs is that the membership of a local government unit is not a formal requirement but is treated as functionally necessary. The lack of membership of the local authority in the LTO in which it operates may indicate an association rather than a LTO [4].

Table 1 summarises the differences between ordinary associations, RTOs, and LTOs, which justifies their special status. Based on the issues presented, the following conclusions can be drawn [9, p. 215]:

- there is a statutory gradation in functional scope between associations and RTOs and LTOs;
- is dedicated to the membership of legal entities, including local authorities;
- the existence of a far-reaching statutory specialisation of RTOs and LTOs;
- situating the supervision of their activities at the central level (minister responsible for tourism), the statutory functioning of the PTO-RTO-LTO system.

Table 1

Differences between “ordinary” associations and RTOs/LTOs

“Ordinary” association	RTO/LTO
· only natural persons may be ordinary members of the association	· membership is open to natural persons as well as legal entities, including territorial government unit and entrepreneurs
· supervision shall be carried out by the district governor at the head office of the organisation	· supervision by the minister responsible for tourism
· work for themselves as a rule, they are set up to help their members achieve their own goals	· they work for the general public – they are intended to support the development and promotion of tourism in their area of activity
· no statutorily defined area of activity – can pursue any of the members’ own objectives	· Statutory areas of action: · tourist promotion of their area; · supporting the operation and development of tourist information; · initiating, giving opinions on and supporting plans for the development and modernisation of tourist infrastructure; · cooperation with each other and with the PTO

Source: [9, p. 212].

There is also a conviction that omitting or depreciating the role of RTOs and LTOs in tourism development undertakings in Poland should be treated as actions against the legal order [5]. Importantly, RTOs and LTOs do not carry out tasks solely for the benefit of their members but carry them out on a broader scale and for the benefit of the whole environment. Their fundamental task remains to support the development of the tourism sector in the selected area covered by their activity by building a sense of community and strengthening local identity [9, p. 216].

The Foreign Centres of the Polish Tourism Organisation (FCPTO) is also worth noting. Such entities are created in countries considered essential and promising for developing inbound tourism to Poland. Currently, the PTO runs 16 such centres in countries such as Austria and Switzerland (one representative office for two of the countries mentioned), Belgium, China, the Czech Republic and Slovakia (one representative office for two of the countries mentioned), France, Spain and Portugal (one representative office for two of the countries mentioned), the Netherlands, Germany, Israel, Japan, Sweden, Norway, Denmark and Finland (one representative office for three of the countries mentioned), Ukraine, the USA and Canada (one representative office for two of the countries mentioned), Hungary, the United Kingdom and Ireland (one representative office for two of the countries mentioned) and Italy. FCPTOs are established to fulfil the PTO's statutory tasks [11].

The tasks of FCPTO include undertakings dedicated to the promotion of Poland in the field of tourism and the development of the Polish tourist information system abroad through the following activities [19]:

- shaping a positive image of Poland as a tourist destination and promoting Polish tourism products;
- initiating and conducting marketing research dedicated to outbound tourism to Poland;
- projects to increase the presence of the Polish tourist offer on the selected market of FCPTO;s operations;
- gathering up-to-date information related to the development of outbound tourism to Poland.

Conclusions. Summing up the conducted considerations, the organisational and legal aspects of the PTO's functioning are discussed in the legal act, which also determines the critical issues related to creating other essential tourist organisations. In Poland, RTO and LTO can be counted among these entities. In 2000, a hierarchical structure of organisations dealing with tourism development and promotion was introduced. As a result, the following levels were distinguished: national, regional and local. The national organisation is the PTO, which undertakes international cooperation and promotional activities at home and abroad. The activities aim to build Poland's competitive advantage in the global tourism market. On the other hand, RTO and LTO mainly focus on increasing tourist traffic in cities and regions and interest in tourism participation among domestic and foreign tourists. The stated objectives are included in the Act, which regulates the national organisation's activities. It is worth noting that the document has been in force for over two decades and also sets the legal framework for the most critical organisations responsible for developing Polish tourism.

REFERENCES

1. Borzyszkowski J. (2023). *National Tourism Organisations (NTOS) in OECD Countries and Partner Economies*. *Folia Turistica*. No. 61, 177–197. <https://doi.org/10.5604/01.3001.0054.2893>.
2. Fedyk W., Morawski M. (2014). *Regionalne organizacje turystyczne – organizacjami współpracy: prawda czy fałsz?* [Regional Tourism Organizations – Cooperation Organizations: True or False?]. *Folia Turistica*. No. 32. 241–274.
3. *Forum ROT* [Forum RTO]. URL: <https://www.pot.gov.pl/pl/o-pot/wspolpraca-z-regionami/forum-rot>.
4. *Jak założyć LOT w 8 krokach* [How to set up LTO in 8 steps. URL: <https://www.pot.gov.pl/attachments/article/1732/LOT-Jak-zalozyc.pdf>.

Organisational and legal aspects of the functioning of the polish tourism organisation

5. Kopcewicz P. (2012). *Współpraca JST z ROT i LOT w kontekście regulacji prawnych* [Cooperation of local government units with RTO and LTO in the context of legal regulations], in: M. Migdał (ed.), *Lokalna Organizacja Turystyczna* [Local Tourism Organisation]. Szczecin: Forum Turystyki Regionów.
6. Kraś, J. (2019). *Rola Polskiej Organizacji Turystycznej w realizowaniu polityki turystycznej państwa w latach 2013–2018* [The role of the Polish Tourism Organization in implementing the state's tourism policy in the years 2013–2018]. *Cywilizacja i Polityka*, No. 17(17), 124–143.
7. *Lokalne Organizacje Turystyczne* [Local Tourism Organisation]. URL: <https://www.pot.gov.pl/pl/o-pot/wspolpraca-z-regionami/lokalne-organizacje-turystyczne>.
8. Marczak M. (2019). *Próba oceny skuteczności działań podejmowanych przez narodowe organizacje turystyczne na rzecz kreowania turystycznej marki kraju* [Attempt at Assessment of the Effectiveness of Activities Undertaken by National Tourism Organisations Aimed at the Creation of the Country's Tourism Brand]. *Folia Turistica*, No. 51, 9–34. <http://dx.doi.org/10.5604/01.3001.0013.1580>.
9. Migdał M. (2023). ROT-y i LOT-y jako NGO szczególnego rodzaju [RTO and LTO as a special kind. In: D. Borek, M. Migdał, K. Świtaj, H. Zawistowska (eds.), *Stan prawa turystyki w Polsce. Praktyczne vademecum organizacji i zarządzania* [The state of tourism law in Poland. Practical handbook of organization and management]. Szczecin: Forum Turystyki Regionów.
10. Mynarski A., Walas B. (2021). *Diagnoza funkcjonowania biur informacji turystycznej w Polsce* [Assessment of the Operation of Tourist Information Offices in Poland]. *Zeszyty Naukowe Wyższej Szkoły Turystyki i Ekologii*, R. X, No. 19(1), 21–42.
11. *Obwieszczenie Ministra Sportu i Turystyki z dnia 28 lipca 2023 w sprawie ogłoszenia jednolitego tekstu rozporządzenia Ministra Gospodarki w sprawie nadania statutu Polskiej Organizacji Turystycznej* [Announcement of the Minister of Sport and Tourism of July 28, 2023 on the announcement of the uniform text of the regulation of the Minister of Economy on granting the statute of the Polish Tourist Organization]. URL: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20230001700/O/D20231700.pdf>.
12. *Regionalna Organizacja Turystyczna* [Regional Tourism Organisation]. URL: <https://www.pot.gov.pl/pl/o-pot/wspolpraca-z-regionami/regionalne-organizacje-turystyczne>.
13. Stefanowska A., Lipko-Kowalska M., Darmas A. M. (2016). *Lokalne Organizacje Turystyczne – wpływ na rozwój turystyki w regionie na podstawie oceny własnej LOT-ów i ich członków* [Local Tourist Organisations and their influence on the development of tourism in a region, as based on self-evaluations of LTOs and their members]. *Przegląd Geograficzny*, No. 88(4), 533–552.
14. Stelmach P. (2015). *Analiza krytyczna planowania strategicznego Polskiej Organizacji Turystycznej w perspektywie gospodarowania informacją* [Critical Analysis of Polish National Tourist Office Strategic Planning in the Context of Information Management]. *Folia Turistica*, No. 35, 65–82.
15. UN-WTO (2004). *Survey of destination management organisations*. Report April 2004. World Tourism Organisation. Madrid.
16. *Ustawa z dnia 25 czerwca 1999 roku o Polskiej Organizacji Turystycznej* [Act of June 25, 1999 on the Polish Tourism Organization]. Dz. U. 1999 nr 62 poz. 689. URL: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19990620689/U/D19990689Lj.pdf>.
17. *Ustawa Prawo o stowarzyszeniach z dnia 7 kwietnia 1989 roku* [Law on Associations of April 7, 1989]. Dz. U. 1989 Nr 20 poz. 104 , Dz.U. 2020 poz. 2261. URL: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19890200104>.
18. *Ustawa o działalności pożytku publicznego i wolontariacie z dnia 24 kwietnia 2003 roku* [Act on public benefit activities and volunteering of April 24, 2003]. Dz. U. z 2003 r. Nr 96, Dz.U. 2020 poz. 1057. URL: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20030960873/U/D20030873Lj.pdf>.
19. *Zagraniczne Ośrodki Polskiej Organizacji Turystycznej* [Foreign Centers of the Polish Tourist Organization]. URL: <https://www.pot.gov.pl/pl/o-pot/struktura-organizacyjna/zagraniczne-osrodki-pot/zagraniczne-osrodki-polskiej-organizacji-turystycznej>.

Дата надходження: 18.01.2024 р.

Ірина МАНЧАК

Краківський економічний університет,
кафедра торгівлі і ринкових установ

Інституту менеджменту,

докторка філософії,

e-mail: manczaki@uek.krakow.pl,

ORCID ID: <https://orcid.org/0000-0002-9661-9945>

ОРГАНІЗАЦІЙНІ ТА ПРАВОВІ АСПЕКТИ ФУНКЦІОНУВАННЯ ПОЛЬСЬКОЇ ТУРИСТИЧНОЇ ОРГАНІЗАЦІЇ

У статті досліджено організаційно-правові аспекти, що визначають засади функціонування Польської туристичної організації (ПТО). Аналізована організація є прикладом державної юридичної особи, основне завдання якої – посилення промоційної діяльності Польщі у сфері туризму в країні та за кордоном. Її діяльність здійснюється на підставі Закону від 25 червня 1999 року про Польську туристичну організацію. Проаналізовано окремі положення цього визначного правового акта та інших документів. Особливу увагу приділено регіональним туристичним організаціям (РТО) та місцевим туристичним організаціям (МТО). На основі аналізу чинних правових актів зроблено спробу пояснити ключові правові аспекти, пов'язані з діяльністю ПТО. У статті використано критичний аналіз літератури, зосереджено увагу на окремих тематичних напрямках, які визначають основні межі діяльності ПТО, РТО і МТО.

Ключові слова: туризм; туристичне право в Польщі; Польська туристична організація; регіональна туристична організація; місцева туристична організація.