The Helsinki Conventions 1974 and 1992: Implementation in Poland

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Introduction

The question of the protection of the Baltic Sea maritime environment is both an international and a domestic problem. With respect to the prevention, reduction and control of the pollution of the Baltic Sea, the Convention on the Protection of the Maritime Environment of the Baltic Sea Area, which was signed in Helsinki on 22 March 1974 (the Helsinki Convention), has a primary role.

The provisions of this Convention have created a comprehensive system of preventive measures including the mutual provision of information, consultations, the co-ordination of policy, the co-ordination of activities, joint research and the adoption of standards for environmental monitoring. The provisions of the Convention do not interfere directly in the legislation of participating countries: all the countries on the Baltic Sea have their own internal environmental legislation.

Poland is a party to the Helsinki Convention of 1974 (the Convention on the Protection of the Maritime Environment of the Baltic Sea Area) which became law on 3 May 1980.1 The Helsinki Convention of 1992 is an updating of the 1974 Convention, and reflects new ideas contained in the Baltic Sea Declaration of 1990 (signed by the Baltic Sea countries and by Norway, the Czech and Slovak Federal Republic and the European Community) and the Rio Declaration of 1992. The general thrust of the new provisions was to strengthen the legal regime in the area of the prevention and elimination of the consequences of the economic activities of individual countries, which could result in a deterioration of the quality of the Baltic Sea ecosystem. A particularly significant example of

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1 Legislative Journal No. 18, items 64 and 65.
this is the inclusion of internal waters within the jurisdiction of the Convention. In comparison with the 1974 Convention, the 1992 Convention represents a new philosophy of maritime environmental protection, a philosophy which stresses the comprehensive efforts over the whole area of the Baltic Sea catchment. The new philosophy stresses specifically:

- taking precautions against potentially dangerous substances capable of polluting the sea;
- the use of best available technologies and best environmental practices in fighting pollution from specific and dispersed sources;
- the polluter pays principle; and
- the principle of conducting environmental impact studies for activities which may adversely affect the environment.

The Convention imposes a duty to conduct emissions monitoring and to monitor air and water pollution. A new provision was also introduced which gives citizens the right of unrestricted access to information on the results of monitoring studies, to information on the results of studies of compliance with water quality norms, and on the criteria for the issuance of permits for the discharge of pollutants. A prohibition on the incineration of garbage is also included. There is also an obligation to protect the natural resources of both maritime and coastal ecosystems and to preserve the variety of the species populating these areas.

With respect to the prevention of pollution at sea by vessels, the 1992 Convention adopts provisions of other international agreements and resolutions pertaining to the protection of the maritime environment from pollutants originating on vessels.

The Concept of Land-Based Pollution in the Helsinki Conventions

The 1974 Convention dealt with three categories of pollution: land-based sea pollution; pollution caused by submergence; and sea pollution by vessels and aircraft. In the 1992 Convention, the list was extended to include pollution by combustion. Particular interest is focused on land-based pollution for the reason that it constitutes 70–90 per cent of the entire pollution of the Baltic Sea. According to the 1974 Convention\(^2\) land-based pollution of the sea is caused by the release of toxic waste into the sea from river waters, from the air, or directly from coasts including pipe outlets. This definition takes account of the pollution load entering the sea from rivers and pipelines as well as from the atmosphere. In the 1992 Convention the concept was also extended to include pollutants entering the sea from dispersed sources.

The 1992 Convention speaks in general terms about the duties of states concerning pollution prevention. The contracting parties are to take all

\(^2\) Art. 2, section 2.