

Police Task of Agents for the Protection of Human Rights in Poland

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Abstract: *This paper presents the tasks entrusted to officers of the Polish police acting on behalf of the Chief of Police and Provincial Police Commanders, proxy functions for the protection of human rights. In addition, the text indicates the principal regulations which currently form the Polish police law and which discuss the issues in the area of respect for human rights and freedoms.*

Key Words: *Human Rights; Proxy for Human Rights; the Polish Police; Poland.*

Introduction

Police in Poland is the most prominent body of law enforcement in society's life. The purpose of the group is a direct, daily protection of law and order and public safety. An individual's contact with a police officer is the most common direct contact with a public official who represents the authority of the state. The law, respected in practice by state officials, serves not only the citizens, but also those in power and the state officers. A police officer is thus a servant of the law, often being its first interpreter, who decides whether the law has been violated, and how to protect the violated rights.

The sign of changes that have occurred in Poland in the recent years is, among others, a high approval for the police in Poland after 1989 what has been reflected in polls. The changes in the legislation defining the limits of power have contributed to this state and also taking into account the so-called police laws or regulations governing the operation of the police, the main international standards defining the conduct of the police. The basic canon of these standards includes, among others: principles on the use of force and firearms, the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, proceedings against the detainees, temporarily arrested or prisoners, respecting the right to privacy and the right to peaceful assembly.

This paper presents the role and tasks of police agents for the protection of human rights in Poland.

The Polish police law conditioning abiding by human rights

Police Law is a system of rules defining and governing the structure, organization, and activities of the organs involved in the protection of public safety and order, and in particular the rights and responsibilities of these authorities, including the extent and manner of their activities. The applicable police law is the result of changes that have taken place in the recent years in Poland.¹

The basic provisions of the Polish law currently forming the police law, in which the issues in the area of respect for human rights and freedoms are contained in the following acts:

- ✚ The Act of 6th April 1990 on the Police;
- ✚ The Act of 24th May 2013 on force and firearms measures;
- ✚ The Decree of Council of Ministers of 21st November 2011 on the establishment of the Ministry of Internal Affairs;
- ✚ The Decree of Council of Ministers of 17th September 1990 on the determination of cases and the conditions and methods of use by the police of coercive measures;
- ✚ The Decree of Council of Ministers of 17th September 1990 on the mode of ID checks and the detention of persons, personal checks, browsing of baggage, and charge checks by the police;
- ✚ The Decree of the Minister of Internal Affairs and Administration of 21st June 2002 concerning medical examinations of detainees by the police;
- ✚ The Decree of Council of Ministers of 19th July 2005 on the detailed conditions and manner of the use of firearms by police officers and the rules for use of firearms by troops and police units;
- ✚ The Ordinance No. 805 of the Police Commander in Chief of 31st December 2003 on the rules of officer's professional ethics;
- ✚ The Decision No. 327 of the Police Commander in Chief of 27th May 2008 on the establishment of the Representative the Police Commander in Chief for the Protection of Human Rights.

¹ DWORZECKI, J. *Policja w Polsce. Wybrane zagadnienia*. 1. wyd. Kraków: EAS, 2011, p. 212. ISBN 978-83-61645-68-9.

By enumerating these acts relating to the activities of the Polish police in the context of respect for human rights and freedoms, the implementing acts of lower rank and internal rules of an executive nature, instructional or explanatory (e.g. patrol service regulations, escort services, instructions regarding investigative work, and operations instructions), which directly regulate the actions of individual police forces, have been omitted.

The task of police agents for the protection of human rights

The concern for the observance of human rights standards by the Polish Police and the Police is a very important part of the operation of this service. The way in which the police act against the people translates directly as the social image of the institution. The treatment of officers and employees within the Police has a direct influence on the ambience or the service work, and thus on the efficiency of tasks.

Both, the single (external) and the second (internal) aspects of the protection of human rights in the Polish Police are very important and require a systemic approach and cooperation between different subjects within the police and beyond. In both cases, the openness of the police on the cooperation with numerous institutions and governmental and non-governmental organizations whose activities can help maintain high standards for the treatment of a man by another man is required.

Since 2004, the Polish Police has been operating a network of agents for the protection of human rights.² At the moment, at the central level, the post is held by is the Plenipotentiary of the Police Commander in Chief for the Protection of Human Rights.

The duties which the plenipotentiary performs are promoting the human rights in the police, ensuring the observance of standards of protection in the activities of the Police and representation of the Police Commander in Chief in national and international human rights projects.

The post of the plenipotentiary is exercised by the single position for the Protection of Human Rights in Police, whose tasks include in particular:

- ✚ developing and updating the concept of internal controls and tools of human rights in the police;

² DWORZECKI, J. and J. SZYMCZYK. *Kryminologia: Wybrane zagadnienia*. 1. wyd. Gliwice: GWSP, 2010, p. 91. ISBN 978-83-61401-24-7.

- ✚ cooperation in the development and updating of training programs and professional development in the field of human rights and monitoring their implementation at all levels of police;
- ✚ coordinating the activities of the police in the implementation of the recommendations of national and international organizations and institutions for the protection of human rights;
- ✚ development and dissemination of training materials in the field of human rights in the police;
- ✚ running a website covering human rights issues;
- ✚ interaction with organizational provincial police commands, the Higher Police School in Szczytno and police academies in tasks' implementation regarding the protection of human rights in the police.

In carrying out the tasks entrusted, the proxy may in particular:

- ✚ seek the assistance of the heads of organizational units of the Police Headquarters, voivodship police commanders, the Rector of the Higher Police School in Szczytno and the commanders of the police academies;
- ✚ apply to managers and commanders of the above-mentioned organizational units of the Police, for the appointment of subordinate officers and employees of the Police to work on the implementation of tasks connected with the work of the proxy.

However, in field units, the task of the Plenipotentiary is carried out by 17 people (in all voivodship police headquarters) and part-time police agents in schools. Tasks catalogue in an independent position of the Proxy Police Commander in Chief for the protection of human rights, includes:

- ✚ promoting human rights and ensuring the observance of standards of protection in the organizational units and police in the province;
- ✚ ongoing monitoring of police activities in terms of respect for human dignity and human rights, and proposing solutions to maintain high standards in this area;
- ✚ initiate cooperation and maintaining regular contact with the authorities and non-governmental organizations that may assist the Police in the protection of human rights;
- ✚ initiating, monitoring and coordinating the activities of organizational units and police in the province in implementation of the recommendations of national and international institutions and organiza-

tions responsible for the protection of human rights and responsibilities under the national programs on human rights protection;

- ✚ preparation of information, opinions and positions concerning the compliance of the police with human rights standards;
- ✚ diagnosis of training needs, initiating or self-organizing training necessary to ensure the proper level of respect for human rights by police officers in the province;
- ✚ representation of the voivodship police commander in national and international human rights projects;
- ✚ preparation of annual reports on the activities of the Regional Police Headquarters in the protection of human rights;
- ✚ ongoing cooperation with the Proxy Police Commander in Chief for the Protection of Human Rights in the implementation of the above-mentioned tasks.

However, the tasks of freelance police proxies in schools include:

- ✚ supporting the Plenipotentiary of the provincial police command in the implementation of training projects in the field of human rights at the central level and within the confines of local improvement, including assistance in the preparation and implementation of training (detailed lesson plans, teaching materials, conducting demonstration classes);
- ✚ participation in the work on the changes to police training programs in the field of human rights issues and ethics;
- ✚ implementation of the recommendations of international subjects upholding compliance with the provisions of the Convention for the Protection of Human Rights in the section on training and promotion of human rights in the police;³
- ✚ development and dissemination of the European Court of Human Rights in training units and provincial police headquarters;
- ✚ representation of the School's Chief in national and international projects devoted to the subject matter.

All the information about the violation of human rights by the police is a very important source of knowledge about the area and phenomena that requires action within the self-improvement of the police as an institution friendly to the society and the employed officers and employees.

³ VRÁBLOVÁ, M. Wymiar sprawiedliwości wobec nieletnich sprawców czynów karalnych w Europie. Możliwości adaptacyjne orzecznictwa a faktyczne potrzeby. *Zeszyty Naukowe*. 2013, nr 2, p. 144. ISSN 2084-1809.

The role of human rights in the service of the Polish police

The role of human rights in the service of a police officer can be seen in three aspects:

- ✚ the first involves the obligation to observe, in the course of performing his duties, the human rights and freedoms (the police officer cannot infringe them);
- ✚ the second concerns the obligation to protect human rights (the police officer as a “guardian” of human rights);
- ✚ the third is related to the fact that a police officer is also protected by the human rights.

“Police officers, while executing their duties, are required to respect human dignity and respect and protect the human rights” – it is an article of the Police Act, the basic legal act in force which binds every Polish police officer. Police officers, in order to be able to effectively carry out their duties, have been equipped in a number of resources – if they are not used in accordance with the law – they may violate human rights and freedoms. The possibility of an ID check, a search or an arrest, a control of correspondence, or other rights, may give the impression that the police officer “has the authority”. Such reasoning may have a corruptible effect on a police officer. In the context of police service, it is essential to remember that a lawful state is governed by the law, and not by an arbitrary will of an official. What a police officer can do and how it should be done, is decided by the law.⁴ In contrast to this – a man can do everything that the law does not prohibit.

What is crucial is that the majority of human rights is of a limited (relative) character.⁵ The conditions and extent of these restrictions, however, are strictly defined by law and the police officer should be fully aware of this.⁶ Another issue is that the police officer, while on duty, often has contact with people such as criminals, people under the influence of alcohol, often aggressive, using violence, drug addicts, prostitutes, etc. Although, in some cases it may be difficult, a police officer has to realize

⁴ HRUDKA, J., D. ZÁMEK, et al. *Organizace a činnost policejních služeb: Stav k 1. 1. 2012*. 1. vyd. Praha: Police History, 2012, p. 11. ISBN 978-80-86477-56-5.

⁵ HAMAJ, P., M. MARTINSKÁ and J. MATIS. *Vybrané problémy zo všeobecnej sociológie*. 1. vyd. Liptovský Mikuláš: Akadémia ozbrojených síl generála M. R. Štefánika, 2005, p. 86. ISBN 80-8040-266-3.

⁶ DIANIŠKA, G., J. KOPRLOVÁ, V. KUBALA, T. STRÉMY and M. VRÁBLOVÁ. *Kriminológia*. 1. vyd. Plzeň: Aleš Čeněk, 2009, p. 198. ISBN 978-80-7380-198-4.

that every person has dignity, which he is obliged to respect.⁷ In the activities undertaken, a police officer cannot look down on people. Moreover, those who are subjected to his actions should be treated according to the rule of being equal before the law. They cannot be biased in any case nor may they discriminate against people, particularly on the grounds such as sex, nationality, race, social origin or religion, etc.

A special privilege is the right to use coercive measures. A police officer, however, has the obligation to apply them according to the law, i.e. only in cases and in the manner prescribed by law. Coercive measures may be applied only to the extent necessary and in such a way as to cause the least possible damage.

In a democratic state of law, an officer is on the one hand a representative of public authority, and on the other hand has a subordinate role to play in ensuring public safety.⁸ This subservient role relates to the protection of human rights and freedoms against any violation. The police officer, who in a law-abiding way, fully executes his subordinate role to the public, should be provided with adequate working conditions, protection and assistance from the state and society.

A few of the selected provisions of the Declaration on the Police can be quoted here, belonging to the so-called “soft” international law (not legally binding by states):

- ✚ a police officer, who shall apply to the provisions of the Declaration on the Police, should get an active, moral and physical support to the communities he serves;
- ✚ a police officer has to perform his duties under such professional, psychological and material conditions to provide the proper protection for the integrity, impartiality, and dignity;
- ✚ a police officer has the right to equitable remuneration, taking into account the specific aspects of his work, such as increased risks and responsibilities, and the standardized time;

⁷ MATIS, J. and P. KOHÚT. Ponímanie profesie policajta ako sociálna pomoc občanovi – ako sociálna práca. In: I. BIENKOWSKA, J. SZYMCZYK and R. KOCHAŃCZYK, eds. *Współczesne determinanty bezpieczeństwa*. 1. wyd. Gliwice: GWSP, 2011, p. 258. ISBN 978-83-61401-64-3.

⁸ ONDICOVÁ, M. and S. UHRIN. *Prevenencia kriminality*. 1. vyd. Plzeň: Aleš Čeněk, 2012, pp. 86-89. ISBN 978-80-7380-405-3.

- ✚ a police officer against whom disciplinary measures have been taken or criminal penalties, has the right to appeal to an independent and impartial body or a court order;
- ✚ on appearing before a court or tribunal, a police officer has the same rights as any other citizen.

Within the monitoring of police organizations of the selected European countries, conducted in 2000 – 2001 by the Helsinki Foundation for Human Rights, working conditions of police officers were examined. In a published report, the working conditions offered by the State Police and the police, have a major impact on the quality, efficiency, and hence, the level of protection of human rights in so far as the police is to protect them. It should be noted that the police officer – as a person – is entitled to all the rights and freedoms enshrined in documents such as the Polish Constitution or the Convention for the Protection of Human Rights and Fundamental Freedoms.

Conclusion

The signs of the changes that have occurred in Poland in the recent years include the recognized in the polls high approval for the Police in Poland after 1989. Currently, the support for the formation is declared by more than 73 % of the population, and only 11 % had a negative assessment of the police. Changes in the legislation, defining the limits of power, and taking into account the so-called police laws or regulations governing the operation of the Police have, the basic international standards have all influenced this change.

The basic canon of these standards includes: principles on the use of force and firearms, the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, the proceedings against the detainees, temporarily arrested or prisoners, respect to the right to privacy and the right to peaceful assembly. In conclusion to this paper, it should be noted that the police, which is the largest – with 102 000 officers responsible for the formation of public safety and order in Poland, is an institution which function corresponds with the modern standards of a democratic state, and the rights and fundamental freedoms of a man are the priority for police on duty.

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