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LEGAL PROTECTION AFFORDED TO THE AGGRIEVED OFFICER OF THE PRISON SERVICE AS AN ENHANCEMENT OF THEIR SENSE OF SECURITY

Abstract

This article deals with the issue of one of the security areas – the area known as public security and public order. The article deals with the issues of law, as well as institutions and units responsible for maintaining security and order in the prison. Work in the prison is associated with a high risk of event threaten the health and life of prison staff. The purpose of this article is to analyze the relatively new legal solutions in the field of legal protection for officers in case of victimization by specific offenses related to their service.

Key words:

security, criminal code, prison staff, legal protection, public officer

Introduction

One of the primary tasks of the Prison Service is to protect society from perpetrators of criminal or fiscal offenses who are incarcerated in prisons and detention centers, as well as to ensure order and safety within these facilities¹. In a penitentiary unit, specific rules govern movement, entry into the facility, and establish a daily routine for inmates who must comply with the applicable legal regulations, primarily derived from the executive criminal code or internal regulations set in a given unit.

This aims to ensure the proper execution of imprisonment by fostering in the convict a willingness to cooperate in shaping socially desirable attitudes, especially a sense of responsibility and the need to comply with legal order, thus preventing a return to crime². These rules significantly restrict the inmate's freedom of action, and on the other side is the officer who oversees the inmates, whose tasks include ensuring the safety of the inmate but also enforcing correct behavior and compliance with the applicable regulations.

Daily direct contact between officers and prisoners, and the relationships between penitentiary staff and inmates, can generate security threats to officers, such as physical attacks by convicts, humiliation, or defamation by convicts,

false accusations by convicts, and even repercussions from former convicts³.

The legislator, acknowledging the necessity of ensuring safety, especially in the context of false accusations by inmates, has provided that an officer is entitled to reimbursement of legal protection costs if the criminal proceedings against them for an offense committed in connection with the performance of their duties end with a legally binding decision to discontinue the proceedings due to the lack of statutory features of the prohibited act or non-commission of the offense, or with an acquitting verdict⁴. However, seeing a further need to strengthen the legal protection of Prison Service officers, the legislator introduced additional legal regulations. The aim of this article is to explain the legal protection rights available to Prison Service (PS) officers in case of victimization by specific offenses related to their service.

In this article, to clarify the essence of the problem, an interpretation of the changes in the Prison Service Act, introduced in 2020⁵, was conducted, although in practice, the use of the legal protection afforded to PS officers is not directly noticeable.

The legislator's intention was to strengthen the legal protection of officers in connection with their service, but the use of these rights in practice is minimal. Hence, it is justified to clarify

1 Ustawa z dnia 9 kwietnia 2010 r. o Służbie Więziennej (Dz.U. z 2023 r. poz. 1680, art. 2 ust. 2 pkt 5 i 6.

2 Ibidem, art. 67.

3 M. Kuźmicki, *Zagrożenia w placówkach penitencjarnych*, „Przegląd Więziennictwa Polskiego” 2018, No 98, p. 7.

4 Ustawa z dnia 9 kwietnia 2010 r. o Służbie Więziennej..., art. 164.

5 More: Ustawa z dnia 14 sierpnia 2020 r. o szczególnych rozwiązaniach dotyczących wsparcia służb mundurowych nadzorowanych przez ministra właściwego do spraw wewnętrznych, o zmianie ustawy o Służbie Więziennej oraz niektórych innych ustaw (Dz.U. poz. 1610), art. 6 pkt 2-3; Uzasadnienie do druku nr 432. Rządowy projekt ustawy o szczególnych rozwiązaniach dotyczących wsparcia służb mundurowych nadzorowanych przez ministra właściwego do spraw wewnętrznych oraz Służby Więziennej, uzasadnienie na: <https://www.sejm.gov.pl/sejm9.nsf/druk.xsp?nr=432> [dostęp: 2.05.2023]; Ustawa z dnia 9 kwietnia 2010 r. o Służbie Więziennej (Dz.U. z 2022 r. poz. 2470), art. 164, 164 a-b.

these issues, as awareness of the availability of guaranteed legal protection will positively affect the quality of the duties performed and increase the sense of personal security of the officers.

The above-mentioned law introduced the same legal mechanism not only for Prison Service officers but also for Police, Border Guard, and State Protection Service officers⁶. The same legal solution was adopted for all the above-mentioned services.

Methodology

In the research process, hermeneutics as a method of interpreting legal acts was not directly used, which is rather used in legal commentaries, and the method of researching the content of the literature was applied, based on selective selection of legal acts and developed legal interpretations in commentaries and monographs. A valuable source of knowledge was the professional experience resulting from providing legal protection to aggrieved PS officers. As a result of reasoning (analysis, synthesis, abstraction, comparison, generalization), deductive reasoning was applied, compared to the conclusions resulting from reality on the example of the Detention Center in Opole.

The essence of the changes introduced in the legal protection of Prison Service officers

The Act of August 14, 2020, on special solutions concerning support for uniformed services supervised by the

minister responsible for internal affairs, amending the Prison Service Act and certain other acts in Art. 6, item 3, introduced a new, significant legal regulation, indicating that after Art. 164, Art. 164a and 164b are added, the essence of which is to specify the legal protection of PS officers.

“An officer victimized by an offense referred to in Art. 222, Art. 223, or Art. 226 of the Act of June 6, 1997 – Criminal Code, in connection with the performance of official duties, is entitled, upon their request, to free legal protection in the criminal proceedings in which they participate as a victim or subsidiary prosecutor.

The legal protection referred to in subsection 1 is provided by the organizational unit of the Prison Service in which the officer victimized by the offense serves, and if this unit does not have legal support provided by legal advisers or attorneys, the legal protection is provided by the competent district inspectorate of the Prison Service or the Central Prison Service Administration.

In the event that it is not possible to provide legal protection by the organizational unit of the Prison Service referred to in subsection 2, the officer is entitled to reimbursement of legal protection costs referred to in subsection 1 in the amount of actually incurred costs, not higher than four times the average remuneration of officers referred to in Art. 56, subsection 3, effective in the year preceding the day of the application.

The Minister of Justice shall determine, by regulation, the procedure for

6 Ustawa z dnia 14 sierpnia 2020 r. o szczególnych rozwiązaniach..., art. 1 pkt 9, art. 2 pkt 19 oraz art. 7 pkt 3.

proceedings and the method of documenting by the officer the costs incurred for legal protection in cases referred to in subsection 3 and in Art. 164 subsections 2 and 4, as well as entities competent in the matter of reimbursement of legal protection costs referred to in subsection 3 and in Art. 164 subsection 3, guided by the necessity of using high-level legal protection by the officer, as well as the quick reimbursement of costs incurred by the officer for legal protection⁷.

The justification for the enactment of the indicated provision contains Print no. 432, Government draft act on special solutions concerning the support of uniformed services supervised by the minister responsible for internal affairs and the Prison Service. As indicated in the justification, the primary goal of the draft act on special solutions concerning the support of uniformed services is to ensure optimal conditions for serving for officers and to create legal instruments motivating them to stay in it as long as possible⁸.

The justification also pointed out key solutions in terms of the possibility of granting a motivational benefit to officers with more than 25 years of service, particularly in terms of strengthening the legal protection of Prison Service officers⁹. The changes introduced are a clear signal from the legislator that it sees the need to strengthen the legal protection afforded to officers, recognizing

what threats are associated with daily service.

The proposed changes regulate the issue of benefits afforded to Prison Service officers in case they participate in criminal proceedings, depending on their procedural role: accused (monetary benefit) or victim or subsidiary prosecutor (legal protection provided directly by the parent formation, and in the absence of the possibility of providing it – a monetary benefit)¹⁰. In the case of officers from the Police, Border Guard, or State Protection Service participating in criminal proceedings as victims or subsidiary prosecutors, the draft act provided a new solution in the form of legal protection provided directly by the parent formation of the officer¹¹.

Scope of the provided legal protection

Under the provision of Art. 164a of the Prison Service Act, an officer victimized by an offense defined in Art. 222–223 and Art. 226 of the Criminal Code (CC), in connection with the performance of official duties, is entitled, upon their request, to free legal protection in criminal proceedings¹². The catalog of offenses whose object is an officer is strictly defined and creates a closed catalog. Thus, this protection cannot be extended in the event of victimization by another offense not resulting from the strictly

7 Ustawa z dnia 9 kwietnia 2010 r. o Służbie Więziennej..., art. 164 a.

8 Uzasadnienie do druku nr 432..., s. 1.

9 Ibidem.

10 Ibidem, s. 17–18.

11 Ibidem.

12 Ustawa z dnia 6 czerwca 1997 r. Kodeks karny (Dz.U. z 2022 r. poz. 1138), art. 222-223, 226.

defined catalog, which would be possible if we were dealing with a return such as “in particular”. In this case, we cannot speak of any offense, but of strictly defined offenses.

Violation of the physical inviolability of an officer

The Criminal Code criminalizes criminal liability for violating the physical inviolability of a public officer or a person appointed to assist them during or in connection with the performance of official duties, indicating that the perpetrator is subject to a fine, the penalty of restriction of liberty or imprisonment for up to 3 years¹³. The legislator provides for the possibility of extraordinary mitigation of the penalty by the court, or even refraining from imposing a penalty in a situation where the act was caused by improper behavior of the officer or the person appointed to assist them¹⁴. The object of the offense is a PS officer in the sense of a public officer¹⁵, and by the appointed person is meant any physical person formally assigned to assist a public officer, as well as called by them, or who spontaneously joined, but with the acceptance of the officer¹⁶. Importantly, the act must be committed during or in connection with the performance of official duties. However, the time of performing official duties is not defined

by working hours, but is related to performing tasks, and there is a causal connection between performing duties and the assault¹⁷. This is important because officers often do not perform their tasks only within the assigned shift, but, for example, due to the extension of the convoy of the detained person, they go beyond the established working hours, yet they still perform their official duties, and thus the necessary condition for fulfilling the features of the offense in connection with the performed service tasks occurs.

It is noteworthy that official duties can also be performed during free time from work, if the officer undertakes actions aimed at defending the legal order in accordance with the oath taken, then they benefit from the protection provided by the Criminal Code¹⁸. The act defined as a violation of physical inviolability is a formal offense; the violation of physical inviolability does not have to cause any effect, it does not have to be a violation of a body organ or health disorder, nor does a specific discomfort have to occur¹⁹. The Supreme Court in the ruling of June 24, 2010 (file no. II KK 145/10) raised that the normative phrase “violates physical inviolability” includes, in essence, all possible ways of the perpetrator’s interference in the physical inviolability of another person, including pushing (pushing away)²⁰.

13 Ibidem, art. 222 § 1.

14 Ibidem, art. 222 § 2.

15 Ibidem, art. 115 § 13.

16 See: J. Lachowski, A. Marek, *Prawo karne. Zarys problematyki*, Warszawa 2021, p. 375.

17 *Kodeks karny. Komentarz*, M. Mozgawa (ed.), Warszawa 2019, p. 745.

18 *Kodeks karny. Komentarz*, wyd. 7, A. Grześkowiak, K. Wiak (eds.), Warszawa 2021, p. 1329.

19 See: V. Konarska-Wrzosek (red.), *Kodeks karny. Komentarz*, wyd. 3, Warszawa 2018, p. 1064.

20 See: sygn. akt II KK 145/10, Postanowienie Sądu Najwyższego z dnia 24.05.2010 r., LEX nr 619619.

Active assault

Legal protection resulting from Art. 164a of the Prison Service Act may cover officers victimized by an offense typified in Art. 223 of the CC in connection with the performance of official duties in accordance with Art. 223 of the CC. “Anyone who, acting jointly and in agreement with another person or using a firearm, knife, or other similarly dangerous object or incapacitating agent, commits an active assault on a public officer or a person appointed to assist them during or in connection with the performance of official duties, is subject to imprisonment from one year to 10 years.

If the active assault resulted in the effect of serious harm to the health of the public officer or the person appointed to assist them, the perpetrator is subject to imprisonment from 2 to 12 years²¹. As of October 1, 2023, the penalty specified in Art. 223 § 2 will change from 2 to 15 years.

The act of perpetration of this offense has been defined as “active assault” and means any action taken to inflict physical harm, even if that goal was not achieved²². As emphasized in the case law, even the mere commission of active assault, even at the stage of an attempted violation of physical inviolability, already fulfills the features of a completed offense, and active assault must be characterized by a certain degree of violence of the attack²³. Thus,

active assault has a significantly broader scope than violating physical inviolability, as its concept includes both all actions directly aimed at committing a violation of physical inviolability and its violation²⁴.

The protected good in the case of both offenses defined in Art. 222 and 223 of the CC is the proper performance of official duties by a public officer or a person appointed to assist, and as a result, the proper functioning of state and local government institutions²⁵. The subject of the offense is a public officer or a person appointed to assist them, and the feature of this offense is also the necessity of its commission during or in connection with the performance of official duties – in the sense given to these terms above in the analysis of Art. 222 of the CC²⁶.

Criminal liability for committing an active assault is conditioned by committing it jointly and in agreement with another person or by using a firearm, knife, or other similarly dangerous object or incapacitating agent²⁷. Joint action and agreement occur when the perpetrators (at least two) act both jointly and in agreement, so these two elements must occur cumulatively²⁸.

Insulting an officer

Legal protection defined in Art. 164a of the Prison Service Act is afforded to officers victimized by an offense typified

21 Ustawa z dnia 6 czerwca 1997 r. *Kodeks karny...*, art. 223.

22 *Kodeks karny. Komentarz...*, p. 1330.

23 See: P. Bogacki, M. Olężałek, *Kodeks karny. Komentarz do nowelizacji z 7.7.2022 r.*, Warszawa 2023, p. 475.

24 *Kodeks karny. Komentarz*, wyd. 5, M. Filar (ed.), Warszawa 2016, p. 1360.

25 *Kodeks karny. Komentarz...*, p. 385.

26 *Prawo karne. Wykład akademicki. Prawo karne. Teksty i kazusy*, O. Sitarz, T. Dukiet-Nagórska (eds.), Warszawa 2021, p. 596.

27 Ustawa z dnia 6 czerwca 1997 r. *Kodeks karny...*, art. 223.

28 *Kodeks karny. Komentarz*, wyd. 6, R. A. Stefański (ed.), Warszawa 2023, p. 1633.

in Art. 226 of the CC, i.e., insulting an officer. Therefore, anyone who insults a public officer or a person appointed to assist them, during and in connection with the performance of official duties is subject to a fine, the penalty of restriction of liberty, or imprisonment for up to one year²⁹. Punishable is also the public insult or humiliation of a constitutional body of the Republic of Poland which, is subject to a fine, the penalty of restriction of liberty, or imprisonment for up to 2 years³⁰. The object of protection is the respect for the institution represented by the officer, as well as the dignity and authority of the officer or the person appointed to assist them, while in the situation defined in § 3, the authority and respect of the constitutional body of the Republic of Poland³¹. Legal protection afforded in the situation of victimization by this offense is extremely important. It is precisely in everyday service that officers in direct contact with inmates are exposed to all forms of insults, ridicule, or slander. Although they represent the authority of the State, acting within the limits and based on the applicable regulations, enforcing proper behavior from the inmates, they encounter in their service blatant disrespect, disregard, or contempt. Therefore, such protection should give them a sense of not being left to fend for themselves, that they have the support of superiors in the unit where they serve.

For insulting an officer on duty, punishment is due regardless of whether the offense occurred publicly or without witnesses, since the features of the offense defined in Art. 226 § 1 of the CC do not include public action by the perpetrator³². The Court of Appeal in Białystok in the judgment of December 6, 2012, file no. II Aka 218/12, indicated that the object of protection in Art. 226 § 1 of the CC is the authority of persons carrying out their duties, the activities of state institutions, and their dignity. The literature predominates the view that it is an offense without consequence, i.e., it does not even require the addressee to experience a sense of humiliation. Protected dignity is understood in an objectified way, defined by generally accepted cultural and customary norms. The court emphasized that it is a complete misunderstanding to include in the features of this offense the sense of threat that a public officer might experience in connection with the perpetrator's statements³³. It is very important that it is not necessary to demonstrate that the perpetrator's action caused the victim to feel humiliated or intimidated, but it is important that an event must occur during and in connection with the performance of official duties, so unlike in Art. 222 and 223 of the CC, we are dealing with a conjunction, not an alternative³⁴.

29 Ustawa z dnia 6 czerwca 1997 r. *Kodeks karny...*, art. 226 § 1.

30 *Ibidem*, art. 226 § 3.

31 *Kodeks karny. Komentarz...*, p. 1335.

32 I. Tuleya, A. Nawrocki, *Kodeks karny. Komentarz orzecznicy, Wydanie III uzupełnione i zaktualizowane*, Warszawa, 2021, p. 420.

33 See: sygn. akt II Aka 218/12 wyrok Sądu Apelacyjnego w Białymstoku z 6 grudnia 2012 r., LEX nr 1254312.

34 *Kodeks karny. Komentarz...*, p. 1075.

Conditions of legal protection

Under the provision of Art. 164a, subsection 2 of the Prison Service Act, legal protection is provided by the organizational unit in which the officer victimized by the offense serves. The Act also envisaged a situation where the unit does not have legal support provided by legal advisers or attorneys, in which case legal protection is provided by the competent district inspectorate of the Prison Service or the Central Prison Service Administration³⁵. In penitentiary units, legal support can be provided in particular by legal advisers who are officers of the Prison Service or by legal advisers employed under an employment contract, or the support is provided by a legal adviser or attorney under a contract for legal advisory or attorney services. However, as it can be seen, the legislator envisaged a situation where the unit may be deprived of this legal support and guaranteed that in the event of the impossibility of providing legal protection by the organizational unit of the Prison Service referred to in Art. 164a, subsection 2 of the Prison Service Act, the officer is entitled to reimbursement of legal protection costs in the amount of actually incurred costs, not higher than four times the average remuneration of officers, referred to in Art. 56, subsection 3, effective in the year preceding the day of the application³⁶.

An officer victimized by an offense referred to in Art. 222, Art. 223, or Art. 226 of the CC in connection with the

performance of official duties should, in order to obtain free legal protection, submit an appropriate application. The legislator, however, did not specify the form of the application, as it did, for example, with the application for payment of a cash equivalent due to a Prison Service officer for the renovation of a residential premises or house. Serving as a legal adviser at the Detention Center in Opole, I developed a form of application for granting free legal protection, with the reservation that this is only a facilitation for officers to obtain legal support, not a legally mandatory form. The application took a written form, in which the officer applies for legal protection indicating the legal basis, i.e., Art. 164a of the Prison Service Act, and specifying that they are victimized by an offense from Art. 222, 223, or 226 of the CC. The application also specifies the perpetrator of the act, which significantly facilitates the preparation of the case documentation. The officer signs the application personally and indicates the date of its preparation. This facilitated the use of the scope of legal assistance as they are entitled to, supporting the realization of their rights.

Bearing in mind the provisions of Regulation No. 2/2010 of the Director General of the Prison Service of October 18, 2010, on the manner of serving by officers of the Prison Service and the official path applicable in the formation, it should be recognized that the application should be submitted through the

35 Ustawa z dnia 9 kwietnia 2010 r. o Służbie Więziennej..., art. 164a ust. 2.

36 Ibidem, ust. 3.

direct superior of the officer³⁷. So far, applications have mostly been submitted by officers of the protection department, and in this case, they were submitted through the head of the protection department, who made an annotation that he supports the application.

In the event of not following the official path, the report should be returned to the officer without consideration, except in situations strictly defined in the regulations³⁸. However, bearing in mind the fact that the entire process of submitting an application takes place with the involvement of the legal adviser of the unit, such a situation has not occurred so far at the Detention Center in Opole. The application is then decreed to the legal adviser of the unit with an indication that the head of the unit consents to the provision of this form of protection. Bearing in mind the wording of Art. 164a of the Prison Service Act, the term “is entitled” must be recognized as a right of the officer, this protection is due to them by law. Therefore, I do not see the possibility of refusing such assistance to an officer in the event of submitting an application that is correct in terms of formal and legal aspects.

According to the “Code of Criminal Procedure” (CCP), state and local government institutions, which in connection with their activities have learned about the commission of a publicly prosecutable offense, are obliged to immediately notify the prosecutor or Police and to take the necessary actions until

the arrival of the authority appointed to prosecute offenses or until the issuance of an appropriate order by that authority, in order not to allow the obliteration of traces and evidence of the offense³⁹. The head of the penitentiary unit, having knowledge, among others, of offenses defined in Art. 222–223 and 226 of the CC, which are publicly prosecutable offenses, notifies the prosecutor or Police about the commission of the offense. Illustrating the established scheme of action in such situations on the example of the Detention Center in Opole, all notifications of suspicion of committing an offense are prepared by the legal adviser at the order of the head of the unit. Therefore, having information about the fact of committing an offense and notifying the relevant prosecution authorities about the commission of a publicly prosecutable offense, the legal adviser informs the victims about the possibility of using the legal protection provided in Art. 164a of the Prison Service Act. At the request of the victim, assistance is provided to the officer in preparing an application for legal protection and clarifying any legal doubts. At the Detention Center in Opole, since the entry into force of the provision of Art. 164a of the Prison Service Act, an appropriate application for protection was submitted by 10 officers at the stage of judicial proceedings, not using it during the preparatory proceedings.

As indicated in the justification for the draft changes in the act, the legal

37 Regulamin nr 2/2010 Dyrektora Generalnego Służby Więziennej z dnia 18 października 2010 r. w sprawie sposobu pełnienia służby przez funkcjonariuszy Służby Więziennej, § 10 ust. 1.

38 Ibidem, § 10 ust. 2, § 11.

39 Ustawa z dnia 6 czerwca 1997 r. Kodeks postępowania karnego (Dz.U z 2023 r. poz. 1375), art. 304 § 2.

protection afforded to an officer victimized by an offense, who will want to use it, should cover representation in the form of procedural representation both at the stage of preparatory proceedings, where the officer would act as a victim, and in the judicial proceedings, where the officer would act in the procedural role of a subsidiary prosecutor, after submitting an appropriate declaration⁴⁰. This issue would require clarification as to why officers do not apply for this protection earlier, already at the stage of preparatory proceedings, when they are, for example, interrogated as witnesses. After submitting an application by the victimized officer, the legal adviser joins the judicial proceedings as a representative of the subsidiary prosecutor, together with submitting such a declaration by the victimized officer, if it was not previously submitted, presenting an appropriate power of attorney. At this stage, assistance is also provided to the officers, explaining to them what rights are associated with submitting a declaration to act as a subsidiary prosecutor and what benefits this entails. In the preparatory proceedings (investigation or inquiry), the victim is a party, because the investigation is conducted in the case⁴¹.

It should be remembered that from the moment of filing an indictment, the victim is no longer a party to the proceedings, being a victim may continue to act, but in a limited scope, for example, they cannot bring an appeal from the verdict in the case. Further action

on the rights of a party is conditioned by submitting a declaration by the time the main hearing begins at the trial about the intention to act as a subsidiary prosecutor⁴². Unlike the monetary benefit due for reimbursement of defense costs, legal aid for an officer victimized by an offense is to be a benefit in kind⁴³.

Summary

Taking into account the existing legal regulations contained in Art. 164a of the Prison Service Act, the introduction of a new, additional legal mechanism undoubtedly strengthened the legal protection of officers. It is free assistance⁴⁴, provided looking at the example of the unit where the author serves by a person known to the officer, who is also an officer in this case. Moreover, the person providing legal support to the officer is available on a daily basis in case of legal or procedural doubts. In 2022, at the meeting of legal advisers at the District Inspectorate of the Prison Service in Opole (which supervises 12 penitentiary units), it turned out that apart from the Detention Center in Opole, no unit provides support under Art. 164a of the Prison Service Act. This situation would require an in-depth analysis in terms of the reasons for this state of affairs. There may be several reasons, ranging from the lack of appropriate preparation of legal advisers to participate in criminal proceedings, where lawyers rather than legal advisers have predominated in this

40 More: Uzasadnienie do druku nr 432..., pp. 1, 17–18.

41 Ustawa z dnia 6 czerwca 1997 r. *Kodeks postępowania karnego*..., art. 229.

42 Ibidem, art. 54.

43 More: Uzasadnienie do druku nr 432..., pp. 17–18.

44 Ustawa z dnia 9 kwietnia 2010 r. o *Służbie Więziennej*..., art. 164a.

field of law, through the lack of knowledge of officers about such entitlement, lack of presentation of the benefits arising from such an opportunity. A good solution would be to address this issue at general training sessions in penitentiary units, so that this provision would not be dead. The legal mechanism introduced in Art. 164a of the Prison Service Act is undoubtedly a good solution, it strengthens

the position of an officer exposed during daily service, especially in direct contact with inmates to physical and verbal aggression. It seems that such protection increases the sense of security of the officers, but this issue would also require further analysis. The number of assaults on an officer in service in the years 2018–2022 (number of events and number of participants) is illustrated in table 1.

Table 1. Number of events and participants (assault on an officer in service)

Assault on an officer in service	2018	2019	2020	2021	2022
number of events	148	139	128	126	99
number of participants	150	142	128	126	103

Source: own elaboration of statistical data of the Prison Service, <https://sw.gov.pl/strona/Statystyka> [accessed 30.05.2023]

From the available statistics, it appears that the number of events is decreasing⁴⁵, which also raises some surprise in the context that since 2020 the Covid-19 pandemic has forced a very large number of additional restrictions for detainees. Visits with close relatives were not granted, detainees did not work outside the unit, group activities were also not organized for some time, including the ban on entry into the unit for people supporting the resocialization process (trustworthy persons, referred to in Art. 38 of the CC, all foundations or associations). Such restrictions generated tensions among the detainees, but it was also a time of intensive work and effort on the part of the prison staff. Despite this difficult time, the number of events related to assaults on officers

is successively decreasing. However, this number of events still shows that a large number of officers could benefit from legal protection. However, the data provided does not include information on the number of situations related to insulting officers, so this topic would also require further deepening.

Taking into account the existing activities under Art. 164a of the Prison Service Act, it can be concluded that there is a lack of extension of this protection to an offense typified in Art. 190 of the CC, i.e., criminal threats, which officers often encounter. However, this is probably due to the fact that it is not an offense prosecuted *ex officio* like those defined in Art. 222, 223, 226 of the CC, but is an offense prosecuted upon private accusation.

⁴⁵ <https://sw.gov.pl/strona/Statystyka> [dostęp 30.05.2023].

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