

POLISH POLICE IN THE EUROPEAN SECURITY SYSTEM

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ABSTRACT

The Polish Police plays an important role in the European security system, mainly in combating crime and terrorism, both in Poland and in the Member States of the European Union, and in counteracting the possible effects of various types of threats beyond human control. In order to counteract crime and combat it most effectively, the Police use all statutorily permitted criminal law measures as well as trial and forensic undertakings, which effectively support this process, also through the use of extra-trial activities. In this regard, the Police also cooperates with police institutions, special services and EU bodies of the EU legal order. This study presents the scope of the possibilities of functioning of the Polish Police in the legal and institutional system of Poland, and cooperation with EU Member States in the context of the European system of combating crime.

KEY WORDS

Security, Police, European Union, crime, cooperation.

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Introduction

Fighting crime and terrorism and counteracting the possible effects of various types of threats in Poland and in the Member States of the European Union is an important dimension of the EU security policy. These threats are characterized by various forms of behavior of the perpetrators, creating a high degree of threat to the political and economic interests of the state and citizens, and combating them consists in selecting optimal criminal law measures and appropriate trial and forensic undertakings, the scope of which depends on the fullest possible recognition of the regularities governing this phenomenon, its conditions and the mechanism of functioning of the symptoms that constitute it.

The aim of the study is to present the possibilities of functioning of the Polish Police in the legal and institutional system of Poland, as an EU Member State, against the background of the European system of combating crime

1. Research methodology

Economic crime is of significant importance in the structure of crime, often with a progressively accentuated terrorist factor, which is a multiform crime characterized by numerous and varied and sophisticated forms of conduct of perpetrators, which creates problems in combating it. These observations are formulated on the basis of empirical materials, the complexity of which is exposed through

descriptions of operating techniques and executive mechanisms, which are built on the basis of dogmatic, criminological and sociological criteria. Most often, these divisions are made using mixed criteria, combining the above elements with forensic ones, which organize the image of crime in terms of the forms of acts and their perpetrators as well as the conditions and circumstances in which these acts are committed. The possibilities of combating crime are analyzed analogously.

When analyzing the phenomenon, the research covered legal acts, literature on the subject and data contained in "*Reports on the state of security in Poland*" in years 2010-2016 published by the Ministry of the Interior and Administration in years 2011-2017¹ (for subsequent years, such data is not published). They included the analysis of the state of crime established by the Police and the trial and forensic aspects of combating it.

2. Threats – theoretical and practical approach

State authorities have an impact on the stability of security, the maintenance of which, in the current geopolitical situation, becomes a great organizational challenge, determined by many external and internal circumstances and variables, such as crime and terrorism, which take various forms, creating specific threats. In order to counteract these phenomena, the ability of the services responsible for state security to react quickly to the emerging threats is essential.

The Police play an important role in this respect. Acting pursuant to Art. 7 of the Constitution of the Republic of Poland, as a public authority body, it acts on the basis and within the limits of the law, initiating and organizing activities aimed at preventing the commission of crimes and criminogenic phenomena. In order to effectively counteract them, it is necessary to constantly monitor the regularities governing this phenomenon, its conditions and the mechanisms of its manifestations.

Crime treated as a diverse, dependent on exo- and endogenous factors, a set of behaviors that are negative in the social perception of prohibited acts covers a wide spectrum of crimes falling within the traditional structure of common and economic crime, including organized and terrorist crimes. The dominant group in this catalog is economic crime, which is complex in its structure and includes criminal acts that threaten or threaten individual and supra-individual goods in the sphere of social and economic life, and threaten to lose confidence in the social and economic system or its basic institutions. In this crime, different categories of crimes should be distinguished depending on the interest, education and social position of the perpetrators.

The most socially dangerous crimes are criminal offenses "*characterized by low motives, aggressiveness and brutality, which directly violate the subjective rights of the entitled person or cause harm to entities participating in economic activity as well as state and local government institutions*". (Pływaczewski W., Kędzierska G. 2001:274), the catalog which also includes drug offenses consisting in "*the illegal production and manufacture of drugs, their trafficking and placing on the market*" (Jędrzejko M., Piórkowska

¹ Ministry of the Interior and Administration. Report on the state of security in Poland for 2010, Report on the state of security in Poland for 2011, Report on the state of security in Poland for 2012, Report on the state of security in Poland for 2013, Report on the state of security in Poland for 2014, Report on the state of security in Poland for 2015, Report on the state of security in Poland for 2016, Warsaw 2011-2017.

K. 2004:154) defined in the Act on counteracting drug addiction of July 29, 2005, the perpetrators of which (usually) do not cause material losses, but gain material benefit by carrying out prohibited acts.

“Economic crimes that violate the interests of participants in economic transactions (business entities – entrepreneurs, as well as suppliers and / or consumers), as well as the public finance institutions that are part of the economy” (Gąsiorowski J. 2016: 60), are no less dangerous, thus violating the foundations of proper economic trading. Their catalog is included in the appendix to the Recommendations of the Council of Europe of June 25, 1981 (*Council of Europe, Legal Affairs, Economic Crime*, Strasbourg 1981, Nr R 81/12), and under Polish law, the Penal Code Act of 6 June 1997 and the Penal Fiscal Code Act of 10 September 1999. This group also includes corporate crime (collective entities), as well as crime against the EU’s financial interests, related to the spending of funds from European funds on the development of socio-economic segments of the Member States, which takes the form of extorting EU funds or using already allocated funds for not related to the declared purpose. Corrupt crime closely coexists with the above-mentioned forms of prohibited acts, especially where the decision-making process regarding a specific case depends on individuals. In extreme cases, it takes the form of kleptocracy (the rule of thieves).

Terrorism is also a threat to Poland and the EU. This is a real threat related to the possibility of using the territory of Poland for logistic and terrorist activities. The factors predestining Poland to such a role include: membership in the EU, the transit nature of the Republic

of Poland, good communication infrastructure, a banking system compatible with the Western, liberal visa policy, high demand for foreign capital investments, ease of purchasing weapons and explosives. Another significant problem is the influx of Islamic refugees to Poland, among whom there may be future terrorists who may attack „solo/lone wolf terrorism”, that is, carried out by individuals unrelated to terrorist groups.

In the above context, intentional human activity aimed at the destruction of the state’s critical and ICT infrastructure should be distinguished.

These threats result from the fact that the social reality is dynamic and the criminals adapt to the prevailing conditions in a creative way using the tools of modern technologies. An example is the new environment, the so-called “cyberspace” where criminals engage in “cybercrime” and “cyberterrorism”. These threats are characterized by the trans-sectoral and trans-subjectivity of cybersecurity, which makes cyberspace as a place of committing crimes particularly dangerous due to the high number of potential victims and difficulties in detecting perpetrators (no physical attributes of someone’s presence, such as fingerprints, voice, image) (Gąsiorowski J. 2017: 217-230).

The state of crime, the level of detection and the number of perpetrators identified by the Police in the period in question are presented in Table 1.

Table 1: Crimes identified in 2010-2016.

Year	Committed crime						Established perpetrators
	total	criminal	drug	economical	other	Traceability	
2010	1138523	7778905	72375	154341	132902	67,9	516152
2011	1159554	794102	74535	151655	139262	68,7	521942
2012	1119803	781340	76358	141483	120622	67,8	500539
2013	1061239	727718	72073	159624	101824	67,0	438524
2014	908854	628748	62725	161827	55554	66,8	362820
2015	827852	549729	54778	168098	55247	65,9	318713
2016	776909	517910	60400	150689	47910	67,8	312366
Total	6992734	4778452	473244	1087717	653321	67,41	2971056

Source: development on the basis of reports on the state of safety in Poland for 2010-2016, published by Ministry of the Interior and Administration in years 2011-2017.

The presented data show that crime in the strict sense in Poland is decreasing in the discussed period. This tendency, although with variable dynamics, also persists in individual categories of crimes. Crime detection is stable and remains at 67.41%. As part of the ongoing criminal proceedings, the Police identified a total of 2,971,056 perpetrators. Their decreasing number results from the decreasing dynamics of identified crimes.

It should be noted that, due to the structure of the EU as a single organism, contemporary crime takes the form of "European crime", i.e. "crime committed in the territory of EU Member States, characterized by acts of a clear international character, committed in at least two countries" (Górniok O. 2003: 51). This crime is often carried out in a rational, strategic and planned manner, often overlapping fully or partially with the legal economic and / or political structures of one or more countries.

Among the threats in which the Police takes a direct part in preventing and minimizing the effects in the event of their occurrence, one should mention natural events, such as natural disasters (technical failures, other local and mass threats), and natural disasters that are independent of the human being that could

lead to a crisis².

3. Tasks of the Police in the anti-crime system

By focusing on ensuring the protection of citizens' life and health and property (Article 1(2) (3) of the Act of 6 April 1990 on the Police), it prevents and fights crime, as well as counteracts crises, including terrorist situations. In order to perform these tasks, the Police operates in a comprehensive safety system consisting of three subsystems:

- 1) government, in which the Police and public safety institutions subordinate to government administration are authorized;

² Over the last few years, the police have been directly involved in rescue operations and trial handling of many serious disasters: collapse of the hall in Chorzów (2006, 65 victims), methane explosion in KWK "Halemba" (2006, 23 victims) and KWK "Wujek" (2009 20 victims), an accident of a CASA C-295 M military plane (2008, 20 victims), a fire in a social building in Kamień Pomorski (2009, 23 victims), a railway crash near Szczekociny (16 victims in 2012) and the most tragic plane crash TU-154M on April 10, 2010 with a delegation going to the 70th anniversary of the Katyn tragedy (Smolensk – 96 victims, including the President of the Republic of Poland, etc.) (Gaśiorowski J. 2014b: 258). The police undertook similar rescue and trial actions in the natural disasters striking Poland, such as the flood of July 1997, which hit southern and western Poland, and other countries (the Czech Republic, Germany, Slovakia and Austria), resulting in the death of 114 people and material damages of nearly \$ 4.5 billion. 56 people died in Poland, and the damage was estimated at approx. PLN 12 billion. (Gaśiorowski J. 2019b: 143).

- 2) local government, which includes public security institutions subordinate to local government, such as e.g. municipal (city) guard;
- 3) private, i.e. commercial entities protecting persons and property (Misiuk A. 2008: 9-11). This system ensures common security of the state at every level of administration.

For this purpose, the Police use a wide range of powers enabling the undertaking of preventive, procedural and non-procedural undertakings permitted by law, specified by the provisions of the Act of 6 June 1997 – Code of Criminal Procedure and “Police Law”, under which tactical and technical forensic activities are carried out, including and characterized by the confidentiality of undertaken police undertakings – “operational work”. In order to properly implement the tasks, the organizational structure of the Police was organized (Article 4 (1)) on the basis of the following services: criminal, investigative, internal affairs, preventive, counter-terrorist and supporting the activities of the Police in organizational, logistic and technical terms. This structure allows to protect the life and health of people and property against unlawful attacks violating these goods, to control compliance with order and administrative regulations related to public activities or in force in public places, to protect public safety and order, to supervise specialized armed security formations and to initiate and organize activities aimed at preventing the commission of crimes and offenses as well as criminogenic phenomena and cooperation in this respect with state and local government bodies and social organizations. Fighting crime is carried out as part of detection activities using commonly used methods and techniques as well as the most modern

detection technologies (Gąsiorowski J. 2014a: 60-63), and counter-terrorist activities, in accordance with Art. 2 clause 2 of the Act of June 10, 2016 on “anti-terrorist activities carried out against perpetrators, persons preparing or assisting in committing a terrorist crime, (...), carried out in order to eliminate a direct threat to the life, health or freedom of persons or property with the use of specialized forces and means, and specialized tactics”. These projects are carried out in cooperation with the police of other countries and international organizations, as well as EU bodies and institutions on the basis of international agreements and arrangements.

When fighting crime, the police use many statutory possibilities to perform tasks as part of procedural and trial-forensic activities, which often do not allow to obtain complete and valuable evidence, and therefore require deepening in order to obtain information with the value of evidence (Gąsiorowski J. 2013: 102). Therefore, a wide range of non-procedural powers is used, i.e. operational and reconnaissance activities, which, in order to identify criminal environments and their disintegration, surveillance, etc., enable the collection, processing and verification of information in a covert manner, enabling the collection of data about an individual (Article 20 of the Act on Police).

The operational work is classified. The legal basis is the provisions of the Act on the Police (Article 19 et seq.) And executive acts, e.g. in the order of the Police Commander in Chief No. pf-634 of June 30, 2006 on the methods and forms of police operational and reconnaissance activities. (unpublished). These activities are usually classified “activities of law enforcement agencies, carried out

for informational, preventive, detective or evidence purposes (and in the case of intelligence services also having political, military or economic significance)” (Koniczny J. 2008: 125), aimed at obtaining information about events, environments and people as well as evidence of a crime that are the subject of legitimate interest on the part of law enforcement agencies, as well as carrying out detective and preventive activities, which are carried out using forms and operational methods, including more or less complex ones, such as interview, observation, control correspondence, police provocation (*controlled purchase*), “undercover” or legalization, and cooperation with personal information sources (secret collaborators, agents). In practice, methods with a high degree of complexity are also used, such as special operations, including combinations and operational games (using special objects) (Gaśiorowski J. 2015: 109-129). When performing these activities, technical means are used, i.e. all devices for wiretapping telephone conversations, wiretapping and viewing rooms and people, wiretapping technical means of wire and radio communication, electronic supervision of people, places and objects and means of transport, electronic supervision of means of communication wired and radio.

According to Art. 20a paragraph. 1 The Police ensures protection of the forms and methods of carrying out tasks, information as well as their own facilities and data identifying policemen who, for this purpose, may use public documents or other documents and electronic identification means that make it impossible to determine the identification data of a policeman and the means used in the performance of official tasks (Gaśiorowski J. 2019a: 187-256; Gaśiorowski J. 2016:

105-106). A great advantage of these activities is the fact that they can be carried out before the initiation of preparatory proceedings, during its duration and after its completion. The second advantage of operational work is direct access to criminal environments thanks to the cooperation of officers with personal information sources (ICIs) carrying out initial or deep reconnaissance (these are usually agents who have consented to such activities and carry out tasks assigned to them as part of operational investigations) (Szumski A. 2010: 137). This cooperation allows to indirectly infiltrate criminal environments.

As part of this activity, DNA databases (Articles 21a-21e of the Act) and dermatoscopic data collections (Articles 21h-21n of the Act) are used, which are databases that enable investigative and investigative activities in criminal cases. These tasks are carried out by the Police with the help of the Central Forensic Laboratory of the Police and the National Criminal Information Center (KCIK), which is a criminal information database (Article 14 (5a)), and the National Police Information System (KSIP), which is a set of data sets in which information, including personal data, in connection with the performance of statutory tasks (Article 21nb). Due to the above considerations, these activities are subject to prosecutor and court control.

When performing these tasks, the police have the possibility and obligation to cooperate with state and local government institutions established to maintain public security and order, such as the prosecutor's office, the Central Anti-Corruption Bureau, Fiscal Control, the Internal Security Agency and the Intelligence Agency, or institutions operating in the field of crisis management, operating

within their own statutory competences, local government units and non-institutional licensed enterprises commercially dealing with the protection of persons and property (including private detectives), which have been equipped – albeit to a limited extent – with the right to apply measures interfering with the sphere of civil rights and freedoms using statutory rights and obligations resulting from generally applicable laws.

As part of the prevention and combating of crime, the Police also cooperates in this area with European institutions of legal order and institutions dealing with preventing and combating crime, thus joining the European security system in the area of freedom, security and justice defined by the Treaty on the Functioning of the European Union which, among others defined (chapter 5) the scope of police cooperation in this area. This cooperation involves institutions such as *Europol (European Union Agency for Law Enforcement Cooperation)* as well as *CEPOL (European Police College)*, *OLAF (European Anti-Fraud Office)*, *BALTCOM (Task Force on Organized Crime)*, *CIROC (Center for Information and Research on Organized Crime)*, *IASOC (International Organization for Research on Organized Crime)*, *FRONTEX (European Border and Coast Guard Agency)* responsible for coordinating the control of the EU's external borders, *EMCDDA (European Monitoring Center for Drugs and Drug Addiction)*, *FRA (Fundamental Rights Agency of the European Union)* for fundamental rights and anti-discrimination, *EASO (European Asylum Support Office)* and *European Agency for Operational Management Large-scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)*. In the field of judicial cooperation in criminal matters, the Police cooperate with the

judicial and other competent authorities in the Member States, including through *Eurojust (the European Judicial Cooperation Unit)*.

This cooperation covers issues such as the possibility of a uniform interpretation and practical understanding of the basic catalog of civil liberties or the enforcement of judgments that concern citizens or collective entities of different countries, and the prevention and combating of crime at the level of police cooperation, including:

- gathering, storing, processing, analyzing and exchanging relevant information;
- supporting staff training and cooperation in the exchange of staff, equipment and research in the field of forensics;
- common investigative techniques for detecting serious forms of organized crime.

The basis for the activities of law enforcement and justice authorities in this matter is the principle of their mutual trust and respect for decisions made in given cases without the need to re-examine them in the requested state to perform the action indicated by the requesting state, e.g. issuing – in accordance with Justice and Home Affairs (JHA) of June 13, 2002 on the European arrest warrant and the procedure for surrendering persons between Member States – an appropriate order or on the basis of Framework Decision 2003/577 / (JHA) of July 22, 2003 on the execution in the European Union of orders freezing property and funds evidence – application for securing property or evidence or providing relevant forensic data.

This cooperation also covers the use of data collected in the Schengen Information System (SIS) (Council Decision 2007/533 / JHA of June 12, 2007 on

the establishment, operation and use of the second generation Schengen Information System, and Regulation (EC) 1987/2006 Of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System), as well as from the information collected by the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA).

The Polish Police, if necessary, transfers the necessary information obtained as part of operational activities to law enforcement authorities of other EU Member States, including through Europol, which is a platform for multilateral cooperation between the police, border protection, customs, financial, immigration, gendarmerie services, as well as EU Member States' special services. In this respect, Europol operates in accordance with the provisions of Art. 3 and 4 sec. 1 Council Decision 2009/371 / JHA of April 6, 2009 establishing the European Police Office (Europol), as well as Council Framework Decision 2006/960 / JHA of December 18, 2006 on simplifying the exchange of information and intelligence between law enforcement authorities member states of the European Union (the so-called Swedish initiative) and Council Decision 2008/615 / JHA of 23 June 2008 on the intensification of cross-border cooperation, especially in combating terrorism and cross-border crime (the so-called Prüm decision) or the Directive of the European Parliament and of the Council (EU) 2017/541 of 15/03/2017 on combating terrorism and replacing Council Framework Decision 2002/475 / JHA and amending Council Decision 2005/671 / JHA and Art. 88 of the Treaty on the Functioning of the EU. In terms of assisting investigations,

the task of Europol is to provide the national services of the Member States with all relevant information needed for the effective conduct of operational activities. Use of information and intelligence provided with the involvement of Europol in the framework of ongoing investigations and activities of joint investigation teams, pursuant to Art. 8 point 2 of the above-mentioned Council Framework Decision 2006/960 / JHA of 18.12.2006 are subject to national data protection provisions in force in the receiving Member State.

Conclusion

The implementation by the Polish Police of statutory tasks at the highest level of professionalism, both in Poland and in the European Union, can only be the result of a planned and efficient safety management process, with the definition of a hierarchy of priorities, because only such activities allow to ensure measurable, long-term success in this field. The Police bear the main burden of counteracting and combating threats related to crime and terrorism – both in the procedural and criminal aspects, because only the combined use of these forms of activities will allow for effective combating crime / terrorism. In carrying out these tasks, the formation cooperates with the police institutions, special services and EU legal order bodies. Within this cooperation, the police observe the principles resulting from the acts of EU law, which, through universal patterns included in them, bind the Polish police, prosecutor's office and courts. Such an approach allows to expand the sphere of practical possibilities of counteracting crime and terrorist acts, as well as detecting activities carried out in criminal proceedings, as well as in operational and reconnaissance activities of criminal services.

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