

DOI 10.31558/2519-2949.2018.4.5

UDC 323.2:351.741

*Bernadeta Nowak, University of Gdansk (Poland)***HISTORICAL AND POLITICAL-LEGAL ASPECTS OF POLISH POLICE ACTIVITY AS A PART OF THE PUBLIC SECURITY SYSTEM**

A sense of security is a basic human need as an individual. Issues related to the functioning of the police have always been interested for the society, and in particular its imperious powers. Over the years, the position of the police was different, but it has always been an armed formation, serving the state, regardless of the name or internal structures, its aim was to ensure protection of people, ensure public safety and order, protecting the people, their life, health and property. In the state security system the police occupies a special position as it is responsible for the state of public safety and order. The implementation of these basic tasks is particularly influenced by the improvement of its organizational structures, the implementation of activities using new means and methods, the educated and professional staffing, clarity of legal provisions or cooperation with external entities. This publication explains the concept of the police, referring to the etymology of the term as well as the legal definition. It shows the historical conditions of police structures in Poland, from the beginnings of the Polish state, through the times of the state monarchy, loss of independence, World War I and II, to the formation of the Polish state in the communist times, until the creation of the police under the Act of April 6th 1990 about the police. The article presents the structure of the organization, describes the tasks, competences and legal basis of its functioning. It shows the place of the police in the administrative structure of the state, its basic aims as a subject of public safety and order, and the ways of carrying out tasks imposed by many legal acts. It describes the tools available to the police to ensure security and public order, the rights and duties of the officers. A characteristic feature of the police is that it operates in the public interest, within the limits provided by law, and the scope of its tasks is set out in the Act of the Police, in international agreements and arrangements, and the Code of Criminal Procedure or the Code of Misdemeanour Procedure.

Keywords: *public order, police, public safety system, police structures, internal state security.*

Introduction

Security is an important aspect of the human life. Therefore the state is, from its beginnings, oriented towards ensuring the safety of its citizens. In modern states, ensuring security is realised by many institutions and specialised services, operating at various levels of public administration (state administration or local administration), including the military, fire department and other emergency services, customs services and border guards, intelligence agencies or the police. Operation of the police and the work of the officers is an important element of the state's public security system [3, 128].

The aim of this paper is to demonstrate the role of the police within the system of the Polish public security. The work is using the legal and institutional method basing on the analysis of legal acts, shaping the operational framework of the analysed institution – in this case the police – and the historical method which allows to demonstrate the analysed problem in terms of a wider historical process. Both methods are characteristic for political sciences and it is acceptable to use both for a broader view of the socio-political reality or the institutional system being analysed [12].

The concept and the history of the police in Poland

At present every state in the world has a uniformed service and its basic task it to ensure the safety of citizens, their property as well as the defence of public order. This formation is called the police and this term has an international character, for instance in England or France it's *police*, in Germany *polizei* and in Italy *polizia*. In contemporary Poland this formation is called *policja*. Etymologically the meaning of the word "police" derives from the Latin *politia* and this comes from Greek *politeia* meaning: citizenship, state, government. According to the Polish dictionary the police is a "state authority established to ensure the order and public security"[38].

The beginnings of the police-like institutions are dated at the 10th century which is related to the creation of the first Polish state. In the times of the first Piasts a state was considered to be the private property of the monarch which resulted in no necessity of distinction between the princely institutions and

state institutions. So far the administrative, judicial and police functions had not developed so the court officials acted as government officials. In the Middle Age period it was the injured party who had the duty and the right to pursue the culprit and could seek aid from the family and the tribe members. The prosecution of the perpetrator had two major rules – “hue and cry” and “trace”. Hue and cry was the obligation to pursue the perpetrator till the borders of the next village from where the other village had to take the responsibility over. Trace was the investigation aiming at revealing the location of the fugitive. One of the oldest authorities in old Poland was a *voivode*. We was the military commander but also the one to pursue and seize the criminals. Apart from the voivode other authorities existed like *castellan* – acting as administrative, judicial and police authority; *justiciar* – responsible for pursuing criminals threatening the public order, *steward* – administering the provinces and taking care of the internal security; *minter* – supervising the state mint and acting like the contemporary treasury police and *palatial komes* – pursuing criminals from the immediate surroundings of the ruler.

With the attempt of unification of the Polish state in the 13th century the need of a new office – a *starost* – arose. Its competences were very wide. “He was the provincial deputy to the prince, governing several castellanies. He held the full local administrative and judicial powers (he was the chair of the land court) and was responsible for military activities and organising the local chivalry for the wars” [11, 16].

The creation of a state monarchy in Poland resulted in the establishment of the united Kingdom of Poland, in which the king was actually superior to the local princes. His powers were depicted by the Gniezno bishop by saying “The king of Poland is the lord of all lands forming the kingdom of Poland and he shall give them to or take them from whoever he desires” [11, 16]. At that time the court offices and land offices had been separated. The police functions at the central level were performed by a *marshal*, which survived as an office till the times of the first Republic of Poland. A *marshal* was responsible for the personal safety of the monarch and the order at his court, he also acted as the judge for the courtiers. At the local level the office of *starost* endured. An office of *wojski* also functioned whose responsibility was to ensure the security of a land in the times of a *general levy*.

The loss of independence by Poland stopped the ongoing political reforms. For over a hundred years the society of Poland was deprived of its sovereignty. At the controlled areas new laws, customs and institutions of the partitioning powers had been introduced.

With the revival of the Polish state in 1918 the problem of creation of a new state institution for enforcing the legal order appeared. At that time in many cities various formation ensuring security appeared. It was necessary to restore order and prevent further chaos. The effect came in the erection of the Decree of December 5th 1918 of the Citizens’ Militia “which disbanded all existing services and guards and established a new state organ responsible for order and security, liable to the Ministry of Internal Affairs” [11, 17]. Citizens’ Militia was formed from District Militia Headquarters, Voivodship Militia Headquarters and the National Militia Headquarter, with capitaine Ignacy Boerner as chief constable. Afterwards, with the Decree of January 9th 1919 the Municipal Police was created. Its tasks covered the tasks of the Citizens’ Militia but the difference was that it was to operate within the cities. In the result at that time two similar formations coexisted.

The next step on the way of transformation in the sphere of security was the issuing of the Act of July 24th 1919 on the State Police by the Polish parliament. It resulted in disbanding of the previously existing services and the creation of a unified public security organ for the whole state. The assets and the staff of the disbanded institutions were taken over by the newly created formation after a positive verification. After the outbreak of WWII vast numbers of Police officers found themselves in the German or Soviet occupation zone. Yet in 1939 all Police officers in the area of the General Government were summoned to serve in the in Polish Police nicknamed “the Navy Blue” by the society. Polish Police was the continuation of the State Police its role was to ensure security and to protect the public order. According to the Himmler’s instructions German Police was to intervene only where the German interest required it.

After the end of the WWII on July 15th 1944 State Police was disbanded by the decree of Polish Committee of National Liberation (polish abr. PKWN). The decision was based on the argument that the officers collaborated with German occupants, which was not true and contributed to the Soviet propaganda.

On July 27th 1944 PKWN issued a Decree of Citizens’ Militia. This formation survived till 1990 and was the longest operating Polish police formation. On October 7th 1944 PKWN issued a subsequent decree defining the legal status of Citizens’ Militia, where in article no. 1 it states that “Citizens’ Militia is a public-law formation of the public security” [11, 172]. Citizens’ Militia started to perform its activities on the liberated areas and it was the Soviet commanders who initialised its formation in individual towns. At first it was the People’s Army (Polish abr. AL) partisans who became members and its first chief constable

was an AL commander Franciszek Józwiak. Only a citizen having the appropriate ideas and originating from the appropriate class could become an officer of the Citizens' Militia. With time passing the Militia's ranks were cleansed of the pre-war officers, it is AK (Polish "Home Army") soldiers of pre-war police officers and its structures were subordinated to the communist party. Citizen's Militia in 1949-1954 was completely subordinated to the Minister of Public Security. In the following years this office was disbanded considering its criminal character and in its place the Ministry of Internal Affairs was created. This organisation survived till 1990 when the Citizen's Militia was disbanded completely [1, 101].

Legal foundations of the police

One of the basic conditions for every state to function is to ensure security and public order. A state is obliged to apply the modern security measures in order to protect its interests and the interests of its citizens. In Poland ensuring security and public order is a duty of various general as well as specialised services. Within the scope of their competences these tasks are fulfilled not only by uniformed or armed formations but also by the local government units, public institutions, non-government organisations, societies or private entities. The activity of these entities is a vital element contributing to ensuring security and public order. The most important state institution taking care of widely understood ensuring security and public order is the police [14, 205]. It is a part of the public administration system. Throughout the years its position was changing but it has always been an armed formation serving the state. Its current position was stated by the changes that happened after 1989. The Citizens' Militia existing at that time was transformed into the Police by the Act of April 6th 1989 [23] on the Police. This act is a basic document regulating the functioning of the organisation and on the basis of that act a series of implementing acts had been issued, describing the detailed scope of activities for this part of public administration. "These are not the only legal acts regarding the police as many other acts apart from the Act on the Police regulate the other tasks of the police or impose some obligations" [13, 180]. One of the most important acts is the Penal Code of June 6th 1997 describing criminal liability, types of offences, and criminal sanctions. The second important act is the Code of Criminal Procedure [25] of June 6th 1997 which shapes the criminal prosecution procedure. Another legal act is the Code of Misdemeanour Procedure of August 24th 2001 regulating the ways of conducting the investigation and the types of offences. It is important not to forget of the Highway Code [27] of June 20th 1997 describing the safety rules of road traffic or the Law on Assemblies of July 5th 1990 regulating the rules and procedures of organising, conducting and dissolving the public assemblies [28]. An important one is also the Act of May 21st 1999 on Firearms and Ammunition regulating the issuing of gun permits, acquiring, registration, safekeeping and depositing of weapons and ammunition as well as their transportation through Polish territory [29].

There are many more legal acts that regulate the police work and the acts mentioned above are only the most important ones. Article 1 paragraph 1 of the Act on the Police describes the police as an uniformed and armed formation, protecting the safety of the people and ensuring security and public order. The police is to serve the society as a whole and the individuals [15, 210], and its tasks are stated in a form of an open catalogue in article 1 paragraph 2 of the legal act mentioned above. These are: the protection of human life, health and all their property against any unlawful behaviours or infringements, ensuring security and public order which means assuring safety in public places, means of mass transport, traffic and the waters intended to common use. In addition it initiates activities preventing criminal offenses, misdemeanours or potentially criminal conducts due to the cooperation with government organisations, local government units or social organisations. According to the Act of 10th June 2016 on anti-terrorist activities the police is to carry out the counter terrorist activities [22].

The police can complete the statutory tasks and perform its duties due to the following types of activities:

1) administrative and law enforcing – all preventive activities such as patrolling the streets, securing law and public order. The administrative character of these activities is aimed at ensuring the mental and physical safety of the citizens. The increased frequency of patrols in certain areas results in the growth in the sense of security among the citizens [23].

2) investigation – these activities are imposed by the Code of Criminal Procedure in article 298 paragraph 1: „Preparatory proceedings is conducted or supervised by a prosecutor and in the range defined by law is conducted by the police. In cases covered by law the competences of the police are entitled to other organs” [25]. The aims of the activities in preparatory proceedings is the establishment if the criminal offence took place and the implementation of actions aiming at detaining the potential perpetrators, gathering the evidences and putting them on a trial [23].

3) operational and exploratory – these activities are the methods of gathering information and evidence

which are meant to help in conviction of the offender. According to the criminologists L. Schaff [18, 77] and A. Tarach [20, 25] these activities are described as operations conducted by the empowered public bodies, such as fulfilling the informative, detective, evidential and preventive functions [23].

The police consists of the following types of services:

- criminal service
- prevention service
- supporting service in organisation, logistics and technology.

Moreover in the ranks of the police there are riot units and anti-terrorist units, research and development units as well as the Police Academy, training centres, police schools and judiciary police [9, 209].

Organisationally the police structure was based on the hierarchic subordination of the lower organs to the highest organs.

Organisational structure of the police:

- General Police Headquarters (KGP)
- Voivodship police headquarters (including the Municipal Police Headquarter)
- District headquarters
- Stations (created for the municipality area, its part or several municipalities)
- Specialised stations (i.e. waterway stations, aviation stations)

There are also separated police units such as riot units, anti-terrorist units, schools and training centres as mentioned above.

Summary

The role of the police in the internal security system as the basic formation serving the society for ensuring security and public order is beyond question. The police, due to the regulations of the Act on the Police of April 6th 1990, can effectively and sufficiently ensure security of the citizens. As an uniformed, armed and disciplined formation has all the means necessary for protecting the safety and public order as well as the health and property of the citizens. The protection works not only in the administrative sphere but also in the military actions when all other measures fail to succeed.

Regardless of the way we define the notion of public security it constitutes a social value, stipulates the adequate functioning of the public organs and the safety of citizens. The developing crime can distort or deter the effective development of social, cultural or spiritual life therefore it is so important for the police units to function properly.

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Новак Бернадета, Історичні та політико-правові аспекти діяльності польської поліції як частини системи громадської безпеки

Почуття безпеки – це основна потреба людини як особистості. Питання, пов’язані з функціонуванням поліції, зокрема зі здійсненням нею владних повноважень, завжди були важливими для суспільства. Протягом різних епох становище поліції змінювалось, але вона завжди була збройним формуванням, яка слугувала державі незалежно від назви чи внутрішніх структурних особливостей. Її метою було забезпечення захисту людей, забезпечення громадської безпеки та порядку, захисту люди, їх життя, здоров’я та майна. У системі державної охорони міліція займає особливе місце, оскільки відповідає за стан громадської безпеки та порядку. Реалізація цих основних завдань особливо впливає на вдосконалення її організаційних структур, впровадження заходів щодо впровадження нових засобів та методів охорони громадської безпеки, освічене та професійне кадрове забезпечення, чіткість правових положень та співпрацю

із зовнішніми структурами. У цій статті розкривається зміст поняття міліції, етимології цього терміну, а також його юридичного визначення. В статті окреслено історичні умови виникнення та розвитку поліцейських структур у Польщі, починаючи з початку польської держави, через часи державної монархії, втрати незалежності, першої та другої світової війни, до формування польської держави в комуністичні часи, аж до створення поліції відповідно до Закону від 6 квітня 1990 року про міліцію. У статті представлена структура організації, описані завдання, компетенції та правова база її функціонування. Окреслені місце поліції в адміністративній структурі держави, її основні цілі щодо охорони громадської безпеки та порядку, а також шляхи виконання завдань, встановлених багатьма правовими актами. Описано інструменти, доступні поліції для забезпечення безпеки та громадського порядку, права та обов'язки офіцерів. Визначено, що характерною особливістю поліції є те, що вона діє в інтересах суспільства в межах, передбачених законом, а сфера її завдань встановлена в Законі про поліцію, у міжнародних угодах, Кримінально-процесуальному кодексі та інших законодавчих актах.

Ключові слова: громадський порядок, поліція, система публічної безпеки, поліцейські структури, внутрішня безпека держави.