

LEGAL EXPERIENCE REGARDING THE REFORM OF THE POLICE FORCES OF THE REPUBLIC OF POLAND: THEORY AND PRACTICE

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Annotation. *The article contains a study of normative regulation and the specifics of the organization of police forces in Poland. Special attention is paid to the analysis of the law on the police of 1990, as well as other normative acts in this area.*

Police reform was facilitated by the determination of the political elites of Poland regarding the priorities of social transformations, which were embodied in 1996 in the National Integration Strategy, a document that outlined the content of the reforms [, p. 278]. From a political body that was an important attribute of the communist regime, in a few decades the Police of Poland turned into a police organization based on fundamentally new principles, which as of March 2016 was trusted by more than 72% of polled Poles.

Legislative foundations. As noted, in the Republic of Poland, a special law on police forces was approved back in 1990, during the first steps of reforming society and the state. The Police Law of April 6, 1990 (hereinafter - the Law) was amended by 137 acts (laws and decisions of the Constitutional Tribunal) by the end of 2017. In addition to the Law, the normative basis of the activities of the Polish police is a number of subordinate legal acts, namely: the order of the Council of Ministers "On the methods of proceedings in the exercise of certain powers of the police" dated 26.07.2005, the order of the Council of Ministers "On the determination of cases, as well as conditions and methods of use of direct coercion by the police" dated 17.09.1990, the order of the Minister of Internal Affairs and Administration "On Arming the Police" dated 15.11.2000, the order of the Council of Ministers "On special conditions and methods of proceedings in the use of firearms and ambushes by the police use of firearms by departments and subdivisions of the police" dated 19.07.2005, the order of the Minister of Internal Affairs and Administration "On police uniforms" dated 20.05.2009, the directive of the Chief Commandant of the Police "On the actions of police officers against road users who use diplomatic or consular immunities and privileges, and who enjoy domestic immunities" dated 03.01.2006, "Principles of professional ethics of a police officer" (approved by the order of the chief commandant of the police dated 31.12.2003 No. 805), etc.

It was concluded that the main factor in the reform of the Polish police was the obligation to implement the standards and values of EU police activity, the accession to which was a strategic goal of the state.

Keywords: *Poland, police, human rights, EU.*

1. Formulation of the problem.

The Republic of Poland, like other states of Central and Southeastern Europe, carried out purposeful reforms in various spheres of public and state life, which was confirmed by its admission to the European Union on May 1, 2004. The experience of the police reform of this state is important for Ukraine from many aspects. First, the legal means chosen by the legislator to create a new model of police in the state, which is based on the rule of law, are of interest. Second, the reform algorithm in this area, as well as the state of its resource provision, is worthy of attention.

2. Analysis of recent research and publications.

Separate issues of the organization of police forces in Poland were studied in the works of O.S. Pronevycha [1; 2], P.P. Pidyukova [3], O.S. Perederia [4], which, however, due to the specifics of the subject and temporal parameters determines further scientific studies in this direction.

3. The purpose of this article is to analyze the organization of the Police of the Republic of Poland, its resource provision on the basis of the relevant legislative regulation.

4. Presenting main material.

After the democratic revolution of 1988-1989, reforming the Polish police force became one of the priorities of the democratic government. The system of the Ministry of Internal Affairs underwent changes already at the early stage of reforms, when in April 1990 the laws on the Ministry of Internal Affairs, on the police and on the State Security Department were approved. The police, the vast majority, was created instead of the militia former police officers, except for part of the management team, automatically became police officers. For example, out of 100,000 policemen, 97,000 became police officers. However, out of 137 heads of the Ministry of Internal Affairs, only 20 people [5] were transferred to the new updated ministry, p. 148-149. However, the reform was only just beginning and in the following months the number of dismissals from the police did not decrease, which was connected with the parliamentary discussions on the subject of a new law on pensions, less favorable for those who remained in the police service. As a result of this approach, 30,000 completely new employees appeared in the Police already at the beginning of 1993, who had to undergo at least retraining. The need led to the reconstruction of the police education system, in which the leading role is played by the Higher School of Police in Shchytno, created by the order of the Council of Ministers of September 10, 1990. In addition, the structure of police education included those created in the second half of 1990: the Police Training Center in Legionovo, Police School in Slupsk, Police School in Pyla, as well as territorial training centers. In 1999, the police school in Katowice [6] joined them.

Police reform was facilitated by the determination of the political elites of Poland regarding the priorities of social transformations, which were embodied in 1996 in the National Integration Strategy, a document that outlined the content of the reforms [7], p. 278. From a political body that was an important attribute of the communist regime, in a few decades the Police of Poland turned into a police organization based on fundamentally new principles, which as of March 2016 was trusted by more than 72% of polled Poles [8].

Legislative foundations. As noted, in the Republic of Poland, a special law on police forces was approved back in 1990, during the first steps of reforming society and the state. The Police Law of April 6, 1990 (hereinafter – the Law) was amended by 137 acts (laws and decisions of the Constitutional Tribunal) [9] by the end of 2017. In addition to the Law, the normative basis of the activities of the Polish police is a number of subordinate legal acts, namely: the order of the Council of Ministers “On the methods of proceedings in the exercise of certain powers of the police” dated 26.07.2005, the order of the Council of Ministers “On the determination of cases, as well as conditions and methods of use of direct coercion by the police” dated 17.09.1990, the order of the Minister of Internal Affairs and Administration “On Arming the Police” dated 15.11.2000, the order of the Council of Ministers “On special conditions and methods of proceedings in the use of firearms and ambushes by the police use of firearms by departments and subdivisions of the police” dated 19.07.2005, the order of the Minister of Internal Affairs and Administration “On police uniforms” dated 20.05.2009, the directive of the Chief Commandant of the Police “On the actions of police officers against road users who use diplomatic or consular immunities and privileges, as well as enjoy domestic immunities” dated January 3, 2006, “Principles of professional ethics of a police officer” (approved by the order of the chief commandant of the police dated December 31, 2003 No. 805), etc. [10], p. 743.

According to Art. 1 of the specified Law “the Police is established as an equipped and armed formation that serves society and is intended to protect the safety of people, as well as to maintain security and public order” and at the same time the name “Police” has the right to apply exclusively to the formation that it is spoken in it.

The Law includes the following as the main tasks of the Police: 1) protection of life and health of people, as well as property from illegal encroachments that threaten these benefits; 2) protection of safety and public order, including ensuring peace in public places, as well as in means of public transport and public communication, in road traffic and on water bodies intended for public use; 3) initiation and organization of measures aimed at preventing the commission of crimes and misdemeanors, as well as criminogenic phenomena, cooperation in this field with state and local self-government bodies, as well as public organizations; 4) exposing crimes and misdemeanors, as well as prosecuting the persons who committed them; 5) supervision of specialized armed security formations within the limits specified in separate prescriptions; 6) control over compliance with administrative regulations and public order regulations related to public activities or those operating in public places; 7) cooperation with the police of other states, their international organizations, as well as with bodies and institutions of the European Union on the basis of international treaties and agreements, as well as individual regulations; 8) collection, processing and transmission of criminal information; 9) maintaining a database containing information on the results of deoxyribonucleic acid (DNA) analysis. In addition to what is established by the Law, the Police “also performs tasks arising from the provisions of the law of the European Union, as well as international treaties and agreements, on the basis and to the extent defined therein.” Article 2 of the Law stipulates that “to the extent, in the manner and on the basis specified in separate regulations, the tasks provided for the Police are performed in the Armed Forces of the Republic of Poland, as well as in relation to soldiers, the Military Gendarmerie and military law enforcement agencies.”.

Police Organization of Poland. Section 2 of the Law is devoted to streamlining the organization of the Police, which, according to Article 4, consists of the following types of services: criminal, preventive, and auxiliary to the Police’s activities in organizational, logistical, and technical terms. In addition, the Police includes the judicial police, as well as: 1) the Higher School of Police, training centers and police schools; 2) separate preventive squads and anti-terrorist units; 3) research institutes. It should be noted that the organization and sphere of activity of the Higher Police School in Shchytyno, the procedure for appointing and recalling the rector, as well as the appointment, election and recall of vice-rectors are regulated by the Law “On Higher Education” dated July 27, 2005. In 2014, according to Article 5a of the Law in the structure of the Police, a new body was created – the Central Bureau of Police Investigations (“CBŚP”) – which carries out investigative actions throughout the country tasked with the detection, prevention and disclosure of organized crime. The head of the Central Bureau of Police Investigations is subordinate to the Chief Commandant of the Police. He is appointed to the post by the minister responsible for internal affairs, on the proposal of the Chief Commandant of the Police.

The central body of the state administration, responsible for protecting people’s safety and maintaining public safety and law and order, is the Chief Commandant of the Police, who reports to the minister responsible for internal affairs. The Chief Commandant of the Police is the head of all Police officials (“police officers”). The Chief Commandant of the Police is appointed and recalled by the Chairman of the Council of Ministers at the request of the Minister responsible for internal affairs, and his deputies, including the First Deputy, are appointed and recalled by the Minister responsible for internal affairs at the request of the Chief Commandant of the Police. In the event that the position of Chief Police Commandant becomes vacant, the minister responsible for internal affairs, until the appointment of a new commandant, assigns one of his deputies to perform the duties of the Chief Police Commandant for a period of no longer than 3 months. In the case of the temporary inability of the Chief Police Commandant to perform his functions, the minister responsible for internal affairs, until the obstacle in the performance of these functions by the current commandant is removed, but for a period not longer than 6 months, entrusts one of his deputies to perform the duties of the Chief Police Commandant (Article 5 of the Law).

The regional organization of the Police stipulates that the bodies of state administration on the territory of the voivodeship in matters within the competence of the Chief Police Commandant are: 1) the voivode with the help of the voivodeship police commandant acting on his behalf, or the voivodeship police commandant acting on his own behalf, in the following matters: a) performance of investigative, inquiry and investigative actions, as well as actions in the field of prosecution for misdemeanors, b) issuance of individual administrative acts, if so determined by laws; 2) district (city) police commandant; 3) commandant of the police commissariat. The territorial sphere of activity of the above-mentioned police bodies generally corresponds to the administrative division of the state.

The procedure for appointing regional and local heads of police bodies is determined by Article 6b of the Law. It provides that the voivodeship commandant of the police is appointed and recalled by the minister responsible for internal affairs, on the proposal of the chief commandant of the police, made after receiving the opinion of the voivode, and the capital commandant of the police is appointed by the minister responsible for internal affairs, on the proposal of the chief commandant of the police, made after receiving the opinions of the voivode, as well as the opinions of the President of the capital city of Warsaw. The chief commandant of the Police, at the request of the voivodeship commandant or, respectively, the Metropolitan Police Commandant, appoints and recalls up to three deputies of the voivodship commandant or the Metropolitan Police Commandant, including the First Deputy.

As follows from the provisions of the Law, the key role in the management of the Police belongs to the Chief Commandant of the Police, who determines, in particular: 1) detailed principles of organization and the scope of activity of commandant offices, commissariats and other organizational divisions of the Police; 2) methods and forms of performance of tasks by individual police services, within the limits not covered by other provisions issued on the basis of the law; 3) professional training programs for police officers; 4) scope, detailed conditions, conducting procedure, as well as principles of evaluation of the physical training test of police officers; 5) detailed principles of training animals that are used to perform the tasks of the Police, as well as the norms of their nutrition; 6) detailed conditions of safety and security of the service, after consultation with the State Labor Inspectorate; 7) principles of professional ethics of police officers, after obtaining the opinion of the professional union of police officers (Article 7).

Police commanders submit annual reports on their activities, as well as information on the state of law and order and public safety, to the respective voivodes, starosts, voivodships (mayors or city presidents), as well as county councils and commune councils. In the case of a threat to public safety or a violation of public order, reports and information are submitted to these bodies immediately upon each of their requests, however, as part of the detection of crimes and the prosecution of the persons who committed them, reports and information may be transmitted exclusively to courts and prosecutors, at their request. On the other hand, the Viit (mayor, president of the city) or the headman can demand from the relevant commandant of the Police to restore law and order or to take measures that prevent the violation of the law, as well as aimed at eliminating the threat to security and public order, however, such a demand cannot apply to operative- search, inquiry, investigative actions, as well as actions in the field of prosecuting misdemeanors.

The sphere of authority of the Police. According to Article 14 of the Law, within the limits of its tasks, the Police, in order to detect, prevent and expose crimes and misdemeanors, performs actions: operative-investigative, actions related to inquiry and investigation, and administrative and law-and-order, and in addition, it also performs actions on the orders of the court, prosecutor, state authorities administration and territorial self-government within the limits in which this duty is defined in separate laws. Police officers in the process of performing official duties are obliged to respect human dignity, as well as observe and protect human rights

Police officers, performing the actions specified in Article 14, have the right to: 1) demand documents from persons in order to establish their identity; 2) detain persons according to the procedure and in the cases specified in the provisions of the Code of Criminal Procedure and other laws; 2a) to detain persons deprived of their liberty who, on the basis of the permission of the relevant body, left the pretrial detention center or the institution of punishment and did not return to it within the specified period; 3) to detain persons who clearly pose a direct threat to the life or health of people, as well as to property; 3a) to take smears from the mucous membrane of the cheeks: a) according to the procedure and in the cases specified in the provisions of the Code of Criminal Procedure; b) for the purpose of identifying persons whose identity has not been established, as well as persons who try to hide their identity, if it is impossible to establish the identity in another way; 3b) take biological material from corpses of people whose identity has not been established; 4) to search persons and premises according to the procedure and in the cases specified in the provisions of the Code of Criminal Procedure and other laws; 4a) to observe and record using technical means images from premises intended for persons detained or brought for the purpose of sobering up, police children's rooms, transitional rooms, as well as temporary transitional premises; 5) carry out a personal inspection, as well as a review of the contents of the luggage and a check of the cargo

in ports and railway stations, as well as in means of land, air and water transport, in the event of the existence of a well-founded suspicion of the performance of a prohibited act under the threat of punishment; 5a) to observe and register using technical means of imaging events in public places, and in the case of operative-search and administrative-law enforcement actions carried out on the basis of the law, also the sound accompanying these events; 6) to demand the necessary assistance from state institutions, bodies of state administration and territorial self-government, as well as business entities that carry out activities in the communal sphere. The mentioned institutions, bodies and subjects are obliged, within the scope of their activities, to provide such assistance, within the limits of the current encroachment on a convoy guarding people, materials containing classified information, money or other valuable items; 9) for the purpose of capturing or preventing the escape of a person who is detained, temporarily arrested or serving a sentence of deprivation of liberty, if: a) the escape of a person deprived of liberty poses a threat to the life or health of people; b) there is a reasonable suspicion that a person deprived of liberty may use firearms, explosive materials or dangerous tools; c) deprivation of liberty occurred in connection with the well-founded suspicion or discovery of the commission of the crimes referred to in clause 6. The use of firearms must be carried out in a way that causes as little harm as possible to the person against whom the firearm is used (Article 17) .

The law provides for special situations in which the Police can act. According to Article 18, in the event of a threat to public safety or violation of public order, especially by creating: 1) general danger to the life, health or freedom of citizens; 2) direct threat to property in significant amounts; 3) a direct threat to the objects or devices referred to in clause 4 para. 1 Art. 17; 4) threats of a crime of a terrorist nature or its commission against objects that are of particular importance for the security or defense capability of the state, or may result in danger to human life - the Chairman of the Council of Ministers at the request of the minister responsible for internal affairs, in order to ensure public safety or the restoration of public order, may order the use of armed units or units of the Police. In urgent cases, the said decisions are taken by the minister responsible for internal affairs, immediately notifying the Chairman of the Council of Ministers. In the specified cases, if the use of armed units and units of the Police proves to be insufficient, units and units of the Armed Forces of the Republic of Poland may be used to assist the armed units and units of the Police, on the basis of a resolution of the President of the Republic of Poland issued at the request of the Chairman of the Council of Ministers. Soldiers of units and units of the Armed Forces, directed to help armed units and units of the Police, use the powers of police officers, within the limits necessary for the performance of their tasks, in relation to all persons. See: [11].

Budget and number of the Police of the Republic of Poland. In 2015, the state budget provided for expenditures of 8.62 billion zlotys to cover the costs of the Police, of which only 1.3 billion zlotys were allocated for wages. Other areas of financing related to the standardization of training programs and police stations, as well as investment purchases. It is also important to note the fact that, in nominal terms, budget expenditures for the Police increased in the state from 4.7 billion zlotys in 2000 to 8.62 billion in 2015 [12].

In 2015, the Polish Police Force employed almost 100,000 men and women, located in 16 voivodeship police headquarters, the headquarters of the Chief Police Commandant (which also acts as a regional headquarters), 329 district headquarters and 2,072 police stations. As of June 2017, a total of more than 97,700 people worked in the Police, including more than 84,600 people (excluding cadets) in officer positions. Salaries of police officers are differentiated: in the third

in the post class (average career level) it is 3,165 Polish zlotys, and in the 9th class (5,700 officers) – 5,169 Polish zlotys. For comparison: the commandant of the county earns 7,286 Polish zlotys on average, the commandant of the voivodeship – 9,517 Polish zlotys, and the chief commandant of the police – 15,304 Polish zlotys.

Local police. Local police units (Straże Gminne (Miejskie)) operate in Poland on the basis of the Act of August 29, 1997 "On Commune Guards" (hereinafter – the Act), as well as a number of decisions of the Council of Ministers and orders of the Ministry of Internal Affairs and Administration.

According to Articles 1 and 2 of the Law, an equipped formation – "guard" (guard) may be created in the municipality to protect public order, which is created by the council of the municipality after

consultation with the relevant commandant of the police, who is vested with territorial competence and with the notification of the voivode. Several neighboring municipalities can implement a joint "guard" through an agreement. On the other hand, the municipal council can dissolve the local guard. All expenses related to the local guard are carried out at the expense of the community budget. The guard is managed by the commandant, who works under the terms of an employment contract with the head of the municipality. The head of the municipality (mayor) supervises the activities of the local police. The law provides for cooperation between the police and the guard, which in particular includes: 1) constant exchange of information about threats arising in this region within the framework of the security of people and property, peace and public order; 2) the organization of the police and communication security system taking into account local needs and opportunities and ensuring constant communication between police units and security guards; 3) coordination of the deployment of police forces and security guards, including threats arising in this area, etc. (Article 9 of the Law). According to Article 11 of the Law, the tasks of the local guard, in particular, include: 1) protection of peace and order in public places; 2) monitoring the order and traffic control - within the limits defined by the traffic rules; 3) control over public mass transport; 4) provision of assistance, saving the life and health of citizens in places of accidents and disasters; 5) ensuring the protection of the crime scene, disasters or places of other similar nature; 6) protection of communal facilities; 7) cooperation with organizers and other services in maintaining order during gatherings and other public events, etc. In Article 24, the Law established the conditions that a person must meet to serve in the local guard, which included, in addition to Polish citizenship, the achievement of 21 years of public rights, at least a secondary education, integrity, physical and mental fitness, and the absence of a criminal record based on a valid court sentence or prosecution for a willful offense or fiscal offense, orderly treatment of military service.

5. Conclusions.

First of all, the process of reforming the Police of the Republic of Poland took place over a long period of time, in several stages, for almost three decades, and its main factor was the obligation to implement the standards and values of EU police activity, the entry into which was a strategic goal of the state. Secondly, the organization of the Police of the Republic of Poland today demonstrates a balance between organizational efforts and resource provision, which are focused on achieving clear results in the indicators of the effectiveness of police forces.

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