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Crisis Situations in the Aspect of Police Activities in Poland

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CRISIS SITUATIONS IN THE ASPECT OF POLICE ACTIVITIES IN POLAND

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ABSTRACT

The text is devoted to the subject of crisis situations within the meaning of police operations. Depending on the categories and types of these situations, the author lists their typologies and legal grounds to conduct police operations in the event of their occurrence. The publication also provides a fairly detailed description of the character and nature of particular types of crisis situations.

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The Police are a uniformed and armed formation serving the public and intended to protect human security and to maintain public safety and order. The Chief Commander of the Police is the superior of all Police officers and reports to the Minister of Internal Affairs. It is the central body of government administration, competent in matters of protecting human security and maintaining public safety and order¹.

Police officers take care of security and public order, and their professional roles are clearly disciplinary towards members of society. The Police

¹ Article 1, Article 5 of the Act of 6 April 1990 on the Police (UPol), (Journal of Laws of 2015, item 355, as amended).

are a segment of the justice system in the social system through direct contact with members of society (mainly as law enforcement authorities and order services). Intervention, prevention (including surveillance prevention), law enforcement, surveillance, maintaining social order and control are standard actions of the Police. The institution is a uniformed public service, ensuring primarily legal order and security in social systems of local communities².

The basic tasks of the Police include:

- protection of life and health of people and property against unlawful attacks violating these goods,
- protection of public safety and order, including ensuring peace in public places and in the means of public transport, in road traffic and in waters intended for public use,
- initiating and organizing activities aimed at preventing crimes and offenses as well as crime-inducing phenomena and cooperation in this respect with state and local government bodies and social organizations,
- conducting counterterrorism activities within the meaning of the Act of 10 June 2016 on counterterrorism activities (Journal of Laws, item 904),
- detection of crimes and offenses and prosecution of perpetrators,
- supervision of specialist armed protective formations within the scope specified in separate regulations,
- control of compliance with order and administrative regulations related to public activities or in force in public places,
- cooperation with the police of other countries and their international organizations, as well as with the organs and institutions of the European Union on the basis of international agreements and arrangements and separate regulations,
- gathering, processing and transfer of criminal information,
- keeping the register of data sets containing information collected by authorized bodies about fingerprints of people, unidentified fingerprints from crime sites and the results of analysis of deoxyribonucleic acid (DNA),
- implementation of tasks resulting from the provisions of the European Union law as well as international agreements and arrangements according to the rules and within the scope specified in them³.

² J. Maciejewski, *Grupy dyspozycyjne analiza socjologiczna*, 2nd extended edition, Wydawnictwo Uniwersytetu Wrocławskiego, Wrocław 2014, p. 129.

³ J. Stelmach, *Instytucje Bezpieczeństwa Narodowego*, Wrocław 2016, p. 51–52.

While performing their statutory tasks, police officers use of the following **rights and forms of their implementation**:

- a) performing operational and exploratory, investigative as well as administrative and order activities to:
 - recognize, prevent and detect crimes and offenses,
 - seek fugitives from law enforcement or judicial authorities, hereinafter referred to as “wanted persons”;
 - look for people who, due to the occurrence of an event that makes it impossible to determine their whereabouts, should be found to ensure the protection of their lives, health or freedom, hereinafter referred to as “missing persons”,
- b) performing activities at the request of the court, prosecutor, state administration bodies and local self-government insofar as this obligation is specified in separate acts,
- c) using personal data, including in the form of electronic records, obtained by other authorities, services and state institutions as a result of performing operational and exploratory activities and process them within the meaning of the Act of 29 August 1997 on the protection of personal data⁴ without the knowledge and consent of the data subjects,
- d) using to the extent necessary to perform their statutory tasks of criminal information collected in the National Center of Criminal Information,
- e) as part of performing operational and exploratory, investigative as well as administrative and order activities, **they have the right to**:
 - check documents of persons in order to establish their identity,
 - detain persons in the mode and cases specified in the provisions of the Code of Criminal Procedure and other acts,
 - detain persons deprived of liberty who, on the basis of the authorization of the competent authority, left a detention ward or prison and did not return to it within the prescribed period,
 - detain persons who obviously pose a direct threat to human life or health as well as for property,
 - take fingerprints or cheek swabs of persons in the procedure provided by the Act,
 - search people and rooms in the mode and cases specified in the provisions of the Code of Criminal Procedure and other acts,

⁴ The Act of 29 August 1997 on the protection of personal data (UOchrDanOs) (Journal of Laws of 2002 No. 101, item 926, as amended).

- observe and record, by means of technical means, images of rooms intended for detainees or persons brought for sobering up, Police minors detention centers, interconnecting rooms and temporary interconnecting rooms,
 - make a personal inspection, as well as view the contents of luggage and check cargo in ports and stations and in means of land, air and water transport, in the event of a justified suspicion that an offense punishable by law has been committed,
 - observe and record, using technical means, images of events in public places, also the sound accompanying these events, in the case of operational and exploratory activities as well as administrative and order activities taken on the basis of the Act,
 - demand necessary assistance from state institutions, government administration bodies and local self-government units as well as entrepreneurs conducting activities within the scope of public utilities,
- f) applying and using direct coercion measures and firearms, and document this application and usage, on the terms set out in the Act of 24 May 2013 on measures of direct coercion and firearms⁵,
- g) conducting operational control carried out after meeting specific statutory conditions, implicitly and consisting in:
- controlling the contents of correspondence,
 - controlling the content of consignments,
 - using technical means to obtain in an implicit manner information and evidence and their recording, and in particular the content of telephone conversations and other information transmitted via telecommunications networks,
 - conducting operational and exploratory activities consisting in submitting proposals for the purchase, sale or confiscation of proceeds from crime from offenses, subject to forfeiture or whose production, possession, carriage or trade is prohibited, as well as the acceptance or giving of a financial advantage,
 - using documents that make it impossible to establish identification data of a police officer when carrying out operational and exploratory activities⁶.

⁵ The Act of 24 May 2013 on measures of direct coercion and firearms (UŚrPBiBP), (Journal of Laws of 2013, item 628, as amended).

⁶ Articles 14–22 of the Act on the Police (UPol).

The aforementioned powers and competences do not exhaust the catalog of the rights entitled and duties of police officers. Noteworthy are also duties resulting from a broadly defined task of protecting life and health of people and property against unlawful attacks violating these goods, and expressing themselves in specific tasks as part of the anti-terrorist system functioning in Poland. The Police are the leading institution in the event of responding to a terrorist action that has taken place in the country. Police officers are responsible for direct command over the security system forces at the scene of event, and the Police special units carry out activities in the field of force and negotiating actions.

The exceptionally wide task range of the formation makes the Police a service that has become universal to attribute to it competences of reacting in almost all crisis events. However, in accordance with the statutory provision contained in Article 7 §1 point 2 of the Act of 6 April 1990 on the Police, the Commander-in-Chief of the Police determines the methods and forms of performing tasks by individual Police services, to the extent not covered by other regulations issued on the basis of the Act. It follows that the Order No. 23 of the Police Commander-in-Chief of 24 September 2014 on the methods and forms of preparation and implementation of activities of the Police on the occurrence of crisis events is the legal act regulating the scope of actions taken in crisis situations by the formation. This document changed the Regulation No. 213 of the Commander-in-Chief of the Police of 28 February 2007 on methods and forms of preparation and implementation of the Police tasks in cases of threats to life and health of people or their property or to public safety and order, which had functioned for almost a decade.⁷ Along with the change in the legal act, the name of a crisis situation changed into a crisis event as a circumstance entitling the Police to take specific measures.

In accordance with the provisions of the document, a **crisis event** is an event caused by unlawful attacks that may endanger life or health of people or property, characterized by the possibility of loss of control by the entity responsible for the state of security and public order at the scene of the event

⁷ Pursuant to the expired Ordinance of the Police Commander-in-Chief, a crisis situation was an event that threatened the life and health of people or property caused by unlawful attacks violating these goods, or a natural disaster characterized by the possibility of losing control over the course of events, or emergency escalation when protecting security and public order necessitated the use of more police officers, including those organized in troops or units, also armed ones.

or escalation of the hazard to the extent requiring the use of police officers organized in troops or units to protect security and public order⁸.

This definition shows that **crisis events** in the aspect of police actions can be brought about by unlawful situations that can potentially cause a threat to life or health or property, although it is important that during such an event the control over its course may be lost by the entity responsible for the state of security and public order. However, this is not a prerequisite. It is enough that a threat caused by an event can reach a level requiring the use of police officers organized in troops or units, so that the premises for naming a given situation as a crisis event are fulfilled. Such an approach to the concept limits the catalog of crisis events to situations threatening security or public order to the extent that the forces and police measures at the scene are unable to neutralize them. In such cases it is required to introduce additional organizational solutions and strengthen existing officers by using organized police forces. The Commander-in-Chief of the Police orders in the form of the enumerative list **the catalog of crisis events, which include:**

- high-risk mass events and the movement of their participants,
- assemblies whose organization, on the basis of the risk analysis, may pose a threat to life and health of people or property, as well as to public safety and order,
- roadblocks and occupation of buildings,
- organized pursuit activities,
- terrorist offenses within the meaning of Article 115 §20 of the Act of 6 June 1997 – the Penal Code (Journal of Laws No. 88, item 553, as amended),
- collective violation of public safety and order,
- other situations that may pose a threat to life and health of people or property, as well as to public safety and order, characterized by the possibility of losing control over the course of events or of the escalation of the threat, which requires directing an increased number of police officers, including organized troops and units of the Police as well as anti-terrorist units, to counteract or eliminate it⁹.

⁸ § 2 (1) point 11 of the Order No. 23 of the Police Commander-in-Chief of 24 September 2014 on methods and forms of preparation and implementation of the Police activities in connection with crisis events.

⁹ § 3 Ibidem.

The last point of this catalog is open and causes that a broad interpretation of a situation that could pose a threat to life and health of people and property gives the opportunity to include all events fulfilling the general conditions in the scope of the concept. This solution is entirely proper, since in the era of modern threats, it is difficult to explicitly exclude any scenarios that may result in serious consequences for public safety and order.

From a police point of view, a crisis situation can often be identified with the so-called a special situation which is characterized by high violence, a serious threat to life, health of people or property of considerable size, as well as a danger for objects important for security or defense of the state, seats of the highest organs of administrative and public authorities, the economy and national culture as well as diplomatic and consular representations of foreign states, for which additional extraordinary forces and police measures are needed. **Crisis situations may arise as a result of:**

- a) disturbing public order (manifestations, blockades of roads, border crossings, offices, etc.),
- b) terrorist activities,
- c) threats to the security of citizens or the constitutional system of the state,
- d) an external threat to the security of the state, namely a threat of war (a special crisis situation),
- e) natural disasters and technical failures,
- f) natural hazards:
 - strong winds, hurricanes,
 - rapid atmospheric precipitation,
 - floods,
 - droughts,
 - fires,
- g) civilization threats:
 - chemical, biological and radiation contamination,
 - epidemics of diseases of humans, animals and plants,
 - power, water, gas failures,
 - communication threats, disruptions in transport, road, rail, air traffic and telecommunications,
 - construction risks,
 - demonstrations, riots, dissatisfaction and social problems,
 - mass migration to Poland,

- terrorism,
 - war,
- h) unknown, unclear or complex reasons¹⁰.

Taking into account the nature of crisis events listed in the Order, it is worth adding that some of them are based on existing legal acts. These situations are so serious and complex that the actions taken during their occurrence are undertaken not only by police entities. **The following events have the following characteristics:**

- **high-risk mass events** – they should be understood as mass events, during which, according to information about anticipated threats or previous experiences regarding the behavior of participants, there is fear of acts of violence or aggression¹¹. The organization and conduct of mass events are connected with the possibility of public order violations, which may result from various reasons, such as: the meeting of antagonistic supporters, participants are under the influence of alcohol or any other intoxicating substances, improper organization of securing the event, as well as low incentives (devastation and destruction of devices for no apparent reason). The organization of mass event safety means the involvement of various police forces in these activities. They are both police officers of prevention, traffic, as well as those who work in crime departments¹².
- **assemblies**, the organization of which, on the basis of threat analysis, life and health of people or property as well as public safety and order may be threatened – an assembly is a gathering of people in the open space available for unidentified persons in a specific place in order to hold joint debates or to express a common position on public matters. A spontaneous assembly takes place in a relationship with a sudden and impossible to predict event related to the public sphere, which would be futile or irrelevant from the point of view of public debate at a different date¹³. During an assembly, similar threats may occur as in the case of a mass event,

¹⁰ M. Batóg, I. Charko, K. Nowicki, *Zadania Policji w sytuacjach kryzysowych*, Słupsk 2012, p. 7.

¹¹ Article 3 point 5 of the Act of 20 March 2009 on the safety of mass events (UBez-pIM) (Journal of Laws of 2009 No. 62, item 504, as amended).

¹² Z. Małodobry, *Zadania Policji w zabezpieczeniu imprez masowych*, Katowice 2010, p. 27, <http://katowice.szkolapolicji.gov.pl/publikacje/publikacje-2010/?aid=6742&sa=1>, accessed 17.06.2017.

¹³ Article 3 of the Act of 24 July 2015 Law on Assemblies (UPOZ) (Journal of Laws, item 1485).

while the factors characteristic of such meetings are the lack of spatial limitations, social sensitivity due to the political nature and significant difficulties in traffic, causing additional challenges for police operations. From the Police's point of view, in such cases the possible threats include: a paralysis in railway traffic of varying range, a threat to public safety and order in protest areas caused by protesters using dangerous tools, dangerous chemicals and flammable materials, a threat to facilities or equipment important to security or defense of the state or objects of the national economy, a threat to the environment in connection with stopping transports with dangerous and perishable materials¹⁴.

- **roadblocks and occupation of buildings** – depending on the location of the blockage, it can take place in vehicular or rail traffic, and the occupation of buildings can be carried out in administration buildings, workplaces or other public facilities. From the point of view of the Police, the possible threats are: a paralysis in traffic of various range (local, poviát, voivodship, national, international), violation of public safety and order in road traffic, creating dangerous situations for health, life and property of road users and people involved in a blockade, a threat to public safety and order in regions of protest actions caused by protesters using dangerous tools, dangerous chemical substances and flammable materials, a threat to the health and life of police officers¹⁵.
- **organized pursuit activities** – a series of organizational, tactical as well as material and technical activities undertaken to implement activities related to a national or cross-border pursuit carried out in the form of a police action or operation¹⁶. Police officers on duty frequently undertake the pursuit of a perpetrator of a crime or offense. It happens that such a pursuit does not end with the arrest of the perpetrator in the place of the intervention. Blockade and dynamic stopping actions are carried out as part of organized pursuit activities. The blockade actions are aimed at detaining the prosecuted person. They are implemented by organizing blockades, barriers, traffic control, disguised as well as observation

¹⁴ The Regulation of the Police Commander-in-Chief No. 1429 of 31 December 2004 on the introduction of emergency response procedures in the Police (Journal of Laws No. 3 of 28 January 2005).

¹⁵ Ibidem.

¹⁶ § 3 point 1 of the Order No. 1355 of the Police Commander-in-Chief of 20 December 2007 on methods and forms of organizing and conducting pursuit and organized pursuit activities by the Police.

and reporting checkpoints or patrols, interconnected in one system. Depending on the pursuit conducted, the right type of blockade is used in accordance with the current needs¹⁷.

A separate category of a crisis event from a police perspective is a terrorist offense. It can overlap all previous events, causing an additional threat and complicate the actions at the stage of response and reconstruction. It can also exist in a place and time freely chosen by perpetrators and then cause the independent formation of organized police actions supplemented by other relevant services. A terrorist event is a basic concept introduced by the Act of 10 June 2016 on anti-terrorist activities. This is a *situation that is suspected of being a result of a terrorist offense, referred to in Article 115 § 20 of the Act of 6 June 1997 – the Penal Code*¹⁸, or a *threat of such a crime occurrence*¹⁹. The significance of this provision for anti-terrorist activities is crucial, as the occurrence of a situation that is suspected of being a result of a terrorist offense, determines the undertaking of anti-terrorism and counterterrorism activities²⁰.

The construction of a terrorist event refers to the formal side of the selected offense that can be counted as terrorist if it is punishable at the up-

¹⁷ A. Grygutis, P. Sobiech, A. Wilisowski, *Prowadzenie działań pościgowych przez Policję*, Katowice 2009, p. 20–24, katowice.szkolapolicji.gov.pl/publikacje/publikacje-2009/?aid=3397&sa=1, accessed 17.06.2017.

¹⁸ According to Article 115 § 20 of the Penal Code, **an offense of a terrorist nature** is a criminal offense punishable by imprisonment, the upper limit of which is at least 5 years, committed with the aim to:

- 1) seriously intimidate many people,
- 2) force a public authority of the Republic of Poland or another state or a body of an international organization to perform or abstain from specific activities,
- 3) cause serious disturbances in the political system or economy of the Republic of Poland, another country or an international organization
- 4) and a threat of committing such an act.

¹⁹ Article 2 point 7 of the Act of 10 June 2016 on anti-terrorist activities, (UAT).

²⁰ According to the provisions of the Act, *anti-terrorist activities are actions of public administration bodies consisting in preventing terrorist offenses, preparing to take control over them by planned undertakings, responding in case of such events and removing their consequences, including reconstructing resources intended to respond to them. Whereas counterterrorist actions mean actions towards perpetrators, people who prepare or help in committing a terrorist offense, referred to in Article 115 § 20 of the Act of 6 June 1997 – the Penal Code (Journal of Laws, item 553, as amended. 2), conducted to eliminate the immediate threat to life, health or freedom of persons or property using specialized forces and resources as well as specialized tactics of action.*

per limit of at least five years. Currently, in Polish legal and criminal law regulations, one can find many crimes that meet this condition. The legislator does not specify the area extension of such activities, but only indicates the need of the perpetrator (the offending party) to have a purpose – the terrorist intention. It is a material element of the provision, which, due to its nature, requires greater law enforcement authorities' recognition at the procedural stage. Proving the purpose of acting on the side of the perpetrator is complex and causes the need to gather reliable evidence. This material element of a terrorist offense emphasizes the legitimacy of stating that a terrorist is the perpetrator who seeks to achieve the assumed main goal through other crimes – adequately punished – i.e. socially harmful to a high degree (indirect strategy of terrorism). Hence, the burden of a terrorist offender with more criminal liability and the decrease in the possibility of applying for early release from imprisonment²¹.

Due to the nature of modern terrorism, it is difficult to clearly identify all the features of a potential terrorist attack. Certainly, such an event is characterized by high dynamics, it creates a serious threat to public safety due to the perpetrators using not only a large number of victims, but above all, fear followed by panic. The methods applied by perpetrators of modern events are, in addition to bombings, attacks with the use of firearms and other dangerous tools. It is also a hostage situation or threat of using unconventional weapons. The possibility of managing the time by perpetrators leads to additional threats in the form of the need to prepare for simultaneous or sequential attacks. The wholeness of the aspects related to the potential terrorist attack causes that proper preparation to effectively counteract the risk and minimize its effects is a real challenge not only for the Polish Police.

Another catalog of crisis situations is mentioned in the Regulation No. 4 of the Commander-in-Chief of the Police of 26 March 2002 on the forms and methods of tackling police negotiations. This document defines the scope and manner of tackling police negotiations, entities competent to carry out these tasks and situations in which police negotiations can be conducted. The concept of a crisis situation included in this legal

²¹ J. Stelmach, *Działania antyterrorystyczne w kontekście identyfikacji znamion przestępstwa o charakterze terrorystycznym*, [in:] *Polska ustawa antyterrorystyczna – odpowiedź za zagrożenia współczesnym terroryzmem*, W. Zubrzycki, K. Jałoszyński, A. Babiński (ed.), Szczytno 2016, p. 460–461.

act refers only to the specific form of police activities. i.e. negotiations. Therefore, such events cannot be interpreted for the purpose of carrying out other police activities. **In accordance with the provisions on crisis situation management, these are in particular events related to:**

- taking and detaining hostages;
- a harbinger of suicide;
- a threat of the perpetrator using a weapon or a dangerous tool or material in relation to people and property²².

It is not a closed catalog, which means that depending on the circumstances and the need to use police negotiators, they can be in circumstances other than those mentioned above. Such situations have already taken place and talks have been conducted, for example, during blockades of buildings or protests of a social or political nature²³.

²² §2 pkt 3 Zarządzenia nr 4 Komendanta Głównego Policji z dnia 26 marca 2002 r. w sprawie form i metod wykonywania negocjacji policyjnych (Dz. Urz. KGP nr 5 poz. 25). Regulation No. 4 of the Police Commander-in-Chief of March 26, 2002 on Forms and methods of performing police negotiations (Journal of Laws of the Police Department No. 5, item 25).

²³ See. An interesting approach to this issue is the position of the Undersecretary of State from the Ministry of the Internal Affairs of 31 July 2007: "Dear Mr. Speaker! Referring to the letter dated 10 July 2007 (reference number SPS-024-3013 / 07) forwarding the request of the Member of the Polish Parliament, Mr Grzegorz Dolniak, regarding the grounds for using police negotiators to talk with striking nurses, I would like to present the following information. At the outset, it should be pointed out that the police negotiators interviewed striking nurses in accordance with the Ordinance No. 4 of the Commander-in-Chief of the Police of 26 May 2002 on the forms and methods of performing police negotiations (Journal of Laws of the Police Headquarters of 2002 No. 5, item 25). Pursuant to § 2 item 3 of the abovementioned Ordinance, crisis situations are in particular events related to: taking and detention of hostages, a harbinger of committing a suicide, a threat of using a weapon or a dangerous tool or material against people and property by a perpetrator. It should be emphasized that the record "in particular" does not limit the use of negotiators only to the abovementioned events, but also allows for discussions also in other situations that require the use of police forces (including during social protests). The purpose of conducting talks is to resolve the situation without using force. Police negotiators are trained in mediation and problem solving, the scope of their use is not limited to the above situations. At the same time, I would like to emphasize that according to Article 1 item 2 (2) of the Act of 6 April 1990 on the Police (Journal of Laws of 2007 No. 43, item 277, as amended), the basic tasks of the Police include "protection of public safety and order, including ensuring peace in public places and in the means of public transport, in road traffic and in waters intended for public use". Regardless

The above-mentioned examples of definitions of situations or crisis events prove that even in terms of police tasks, these are not unambiguous concepts. Due to the lack of possibility to exhaustively foresee any security threats, it is also impossible to close the categorical scenarios of potential crisis situations. It is important, however, that the definitions included in the normative acts that are applicable to the Police give this formation the legitimacy to undertake actions in favor of security on the widest possible range.

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Legal acts

7. Ustawa z dnia 6 kwietnia 1990 r. o Policji (UPol), (Dz. U. z 2015 r. poz. 355, z późn. zm.)

of the above, I would like to point out that police negotiators do not decide whether a given behavior should be considered a crime, an offense or an allowed act. Yours faithfully, Undersecretary of State, Jarosław Brysiewicz Warsaw, 31 July 2007”, this is the answer of the Undersecretary of State in the Ministry of the Internal Affairs and Administration – under the authority of the Minister – to the question No. 3013, regarding the use of police negotiators for talks with nurses on strike, <http://orka2.sejm.gov.pl/IZ5.nsf/main/2AE23573>, accessed 17.06.2016.

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