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Police in the nation state – an apolitical and independent institution?

Introduction

The role and importance of the nation state has changed with the development of globalization processes. Nation states have been forced to hand over some of their competences and decision-making rights to international organizations. However, in matters related to security (especially concerning citizens of a given country), state institutions still play a leading role (Jakimowicz-Ostrowska, 2010; Chojnacka, 2015). One of the most important institutions related to national security is the police. Stanisław Pieprzny wrote that the police “[...] fulfill a special role, bearing the greatest responsibility for the state of security and public order in the state” (Pieprzny, 2007: 7). The role of the police in the modern state of law such as Poland is clearly defined in the basic document regulating its operation –the Police Act (Polish Parliament, 1990). In Article 1 of the act, it was stated that the police was established to protect people’s safety and to maintain public safety and order (Polish Parliament, 1990, Art. 1). According to the data provided by the Police on the website, as of January 1, 2019, 98,670 officers served in the Police (Polish Police, 2019). From January to October 2020, police officers made an average of 16.6 thousand interventions every day. During this period, they detained over 77,000 people wanted, caught in the act of almost 170,000 perpetrators of crimes and offenses, and over 60,000 intoxicated drivers¹. These numbers show an important role for ensuring safety and social order by the police.

Police are very often the first point of contact for people who have been the victim of a crime or offense. It is often the effectiveness of police activities that determines whether the offender is caught and handed over to the courts. The activities of the police are inextricably linked with society and, to a certain extent, depend on how the society perceives and whether it trusts the police. As Paula Kukołowicz points out: “[...] there are many indications that the acceptance of the police power by the society largely depends on the extent to which the police activities are aimed at satisfying the needs

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¹ Own calculations based on the data available at www.policja.pl.

of the society and to what extent the police are responsible for their actions to the public (Kukołowicz, 2016 : 39). Mariusz Sokołowski, in turn, emphasizes that “[...] there is no effective police without information from citizens. The greater the trust, the more information, and the more information, the greater the effectiveness and greater satisfaction of citizens” (Sokołowski, 2014: 212-213).

During the SARS-CoV-2 pandemic, which also affected Poland in 2020, and which, as a result, also brought about various restrictions in social life, at the time when Poland experienced mass protests initiated by the judgment of the Constitutional Tribunal regarding the law on abortion², the role and activities of the police were at the centre of public interest. In this context, discussions on the independence of the police from decisions and actions of the political authority and the approach of the police and police officers towards citizens were revived. Presented paper is a sociological point of view in the discussion on whether the police can be treated as an institution independent of the decisions of political authorities, as an apolitical institution, and what social consequences the police may incur in connection with its activities, and what significance these consequences may have for national security.

What is security?

The issue of national security is the subject of research and reflection in many academic fields, but there is no one universally accepted definition of this term. The very concept of security poses definition problems. The main difference concerns the question whether, when we speak of security, we mean a certain state or a constantly happening process, or maybe security is a state and a process at the same time. Włodzimierz Fehler states that security is “a state of certainty and peace resulting from a low level of threats, having positive development prospects and effective means of protection against negatively valued phenomena and processes” (Fehler, 2012: 9). According to Witold Pokruszyński, security should be defined in terms of a process that leads to the achievement of a certain type of state. He writes that “there is no such thing as permanent or once established or organized security. In other words, security means the continuous activity of individuals, local communities, states or international organizations in creating the state of security” (Pokruszyński, 2009: 177). In Adam Rotfeld, we read that “security – like peace between nations or the position of states in the international community – is not a state that can be achieved, kept, once and for all” (Rotfeld, 1990: 5). The second element that should be considered in the context of efforts to define a security problem is the issue of threats. Security may be treated as an antonym of a threat, and the more and more popular and dominant view today is that security does not mean a “state of no threat”, but

² By the judgment of the Constitutional Tribunal of October 22, 2020, one of the three prerequisites for performing an abortion legally was found inconsistent with the Polish Constitution (Constitutional Tribunal, 2020).

the minimization and continuous counteracting of potential threats (Szubrycht, 2006). In this context, it should be stated that the approach to security as a process the effect of which is to be as close as possible to the state of security seems to be closer to reality. At the same time, due to the fact that not all threats can be eliminated and new threats are constantly appearing, perhaps we should treat the state of security as a kind of ideal type in the understanding of Max Weber. Security is undoubtedly an ambiguous concept and extends to almost all dimensions of the functioning of human beings, institutions, societies, nations, but also administrative entities such as states, which was emphasized (Beck, 2002).

Security in nation state

Nation state and the concept of nationality are the subject of many scientific considerations and concepts (Habermas, 1993; Brubaker, 1998; Chojnacka, 2015; Nijakowski, 2015), but at present it is becoming increasingly important to know whether the ongoing globalization does not destroy the *raison d'être* of nation states. In the context of the issues raised in the presented article, the statement by Iwona Jakimowicz-Ostrowska writes that although in the economic sphere international organizations have started to dominate, in the context of maintaining the political and military order, nation states remain the main actors. Globalization is also a source of a sense of threat, and in this context, the role of the protector is best performed by nation states. Jakimowicz-Ostrowska points out that

[...] the political reality does not require the state authorities to be ready to take military action, but rather to have competences in the field of international cooperation, as well as building alliances and creating laws that guarantee agreement and stability. The strength of the state is measured by its ability to construct international reality peacefully and to stabilize the situation inside the country (Jakimowicz-Ostrowska, 2010: 201).

We are, therefore, talking about the dimension of national security provided by a national state.

Bernard Wiśniewski points out that “the oldest formula of security for participants in international life is the concept of national security. The security needs and interests of a nation (or nations in the case of multinational states) are realized by state organs. Adequately to this state of affairs, the concept of national security, widely popularized in Western science, is basically equated with state security” (Wiśniewski, 2013: 38). At the same time, there are two dominant approaches in the contemporary literature to this subject. The first one is the subject approach which distinguishes many types of security related to specific segments of the nation-state’s functioning. One can indicate, for example, military, social, religious, maritime, economic, cultural security and many others, because the division depends on the way in which a given sphere is distinguished by researchers. The second approach is the subjective approach which basically distin-

guishes two types of security of a given entity – external and internal. This distinction is based on the location of the source of the potential threat to the entity (Zdrodowski, 2019). When adopting the subjective approach towards a nation state as an entity, one should recognize the division into external and internal security of the state. In the classic sense, this division is based on the territory of a given national (multinational) state and the inviolability of its borders. Currently, however, the definitions of state security based on such a criterion are more and more often questioned as too narrow and the need to take into account the internal differentiation of the state is indicated (Majer, 2012; Szubrycht, 2006). Another problem that should be pointed out is the scope of the concept of national security. According to Karina Paulina Marczuk, there are two comprehensive approaches to the issue of national security. The first, referred to as traditional, rationalist, concerns mainly military threats. The second approach, which has been described as post-Cold War, has a broader character and also takes into account non-military threats, such as social and environmental threats (Marczuk, 2009). The second approach seems to be better suited to the current reality, in which strictly military threats seem to give way to threats of a different nature, e.g. related to the epidemic (the SARS-CoV-2 coronavirus pandemic in 2020), migrations (mass migrations to Europe from Middle East and African countries) or an economic collapse (the financial crisis of 2008 and the expected crisis resulting from the SARS-CoV-2 pandemic in 2020). In this context, the division into external and internal security becomes not so much obsolete, but requires taking into account globalization, new types of threats and accepting the fact that it is more and more difficult to indicate threats of an only external and only internal nature, because they interpenetrate each other. Both the SARS-CoV-2 pandemic and the financial crisis had their origins outside Poland, but very quickly became threats to the internal security of the state. Bogdan Zdrodowski writes that “we are currently meeting numerous opinions about the blurring of the differences between the external and internal security of the state (nation) [...]” (Zdrodowski, 2019: 54). The issue of the external security of the state is mainly used in the context of factors that pose a threat to the autonomy of the state, the integrity and integration of its borders, and are external to the state. Poland’s external security is based not only on state institutions such as the military. One of the key elements strengthening objectively understood security, but also the subjective sense of security, is membership in international organizations such as the North Atlantic Treaty Organization (NATO) (Pokruszyński, 2009) and the European Union. Of course, the level of this security is also influenced by such institutions as the World Bank or the World Health Organization, although this impact seems to be less perceived and noticeable in the public perception. In the case of internal security, we can say that “it is such a state of functioning of the state that ensures counteracting, eliminating or limiting threats to the constitutional system, internal order and peace, and enables protection of the public interest of individual communities and every citizen” (Wojtaszczyk, 2009: 14). Despite the fact that we are talking about the state,

it concerns the process of functioning of the state, which is able to react appropriately in the face of emerging threats. This approach also takes into account the issue of territory, but is not limited only to this dimension, but includes all factors that may threaten a specific state of security of a given state.

Independent and apolitical police?

The task of ensuring internal security of the state is the responsibility of many state administration institutions. The presented article is concerned with one, the largest and the most widely used of them – the police.

The police is the primary state institution serving to maintain internal security and public order. It carries out its tasks throughout the country through a network of local units at various levels (Kołodziej 2019). From the sociological perspective, the police is most often considered as one of the dispositional groups, i.e. constituted groups that are appointed to perform specific tasks related to securing needs and protection against threats that could threaten national security, social order or residents and citizens of a given state. These groups are divided into three types: military (e.g. the army), paramilitary (e.g. the police) and civil (various types of support services and guards) (Maciejewski, 2014). The functioning and organization of the police is based on four basic principles:

1. Rule of law – the police, like all public authorities, operate on the basis and within the limits of applicable law.
2. Hierarchical subordination – the structure of the police is organized in a hierarchical manner and lower units are subordinated to the higher units. It functions on the basis of a system of issuing official orders by superiors.
3. Organizational structure based on the administrative division of the country – according to the administrative division, appropriate police units (e.g. voivodship and poviats headquarters) are provided.
4. The principle of apoliticality – policemen are subordinate only to constitutional state and local government bodies and under the law cannot be members of a political party (Cylkowski, 2015: 136).

These rules, although they are not binding only in the police, reflect well its character and principles of functioning. They show the basics on which the idea of police functioning is based. These principles affect the formal and legal position of the police in the structure of public administration and its internal organization and structure ensuring the most effective operation and efforts to ensure impartiality and equal treatment of all people. The first three points essentially state a certain formal state and usually do not arouse much controversy. The fourth point, however, is an assumption that has been the subject of discussions and doubts for years (Otrębski, 2008; Skąpska, Bryda, 2013; Amrozy, 2017; Gierszewski, 2017; Kruk, 2018). The researchers of this problem very often pay attention to the definition problem related to the term apoliticali-

ty. Is it possible to unequivocally state that the police as an institution and police officers as actors within this institution are apolitical? What does apoliticality in the police mean? In the Police Act, the concept of apoliticality is not mentioned. These issues are regulated by Article 63 and Article 152 of the Police Act (Polish Parliament, 1990). The first of them indicates that a policeman may not be a member of a political party, and that his possible existing membership ends upon admission to the police. The second one states that the membership in political parties of those officials who belonged to them ceases in moment the entry into force of the Police Act. In the field of legal sciences, an interesting analysis of the problem of the apolitical nature of the police was carried out by Michał Kruk. He focused on legal issues and stated that “apoliticality as a legal principle in the analyzed provisions [Art. 63 and Art. 152] of the Police Act was limited to a ban on membership of a political party” (Kruk, 2018: 152). He showed that in terms of being apolitical in the context of the police, one can only speak of a prohibition on the manifestation of their personal views by police officers and obliging them to remain objective and not guided by political prejudices while performing their official duties. The provisions do not in any way refer to the apolitical nature of the police as such. This problem is addressed in part in Michał Otrębski’s publication, which, apart from the reference to the above-mentioned provisions, presents a slightly different view of the issue of apoliticality and a reference to the political independence of institutions. Otrębski points out that the process of appointing the highest positions in the police is a problematic issue in the context of the apolitical nature and independence of the police (Otrębski, 2008). A question should be asked whether it is possible to speak of political independence if in a given institution the highest positions are filled either directly by the politicians of the party that governs the country, or with their consent and approval. Otrębski’s findings are nearly twelve years old. Therefore, it is worth looking at whether there have been any changes in legal regulations in this matter. The answer to this question is unequivocal – the changes, even if they occurred, were of a cosmetic nature and did not change the meaning of the provisions themselves.

The Police Commander in Chief is appointed by the Prime Minister at the request of the Minister of the Interior and Administration. In accordance with Article 5.3 of the Police Act (Polish Parliament, 1990) and the interpretation of these provisions posted on the Polish Police website (Ministry of the Interior and Administration, 2007), as well as the interpretation of Zbigniew Wrona, the Police Commander in Chief does not have to be a policeman. Indirectly, it can be concluded that this provision also applies to the deputies of the Police Commander in Chief, who are not required by the law to be recruited from among police officers (Wrona, 2005). Lower-level commanders and their deputies must be appointed from among police officers, while the political authority of the state may appoint any person for the position of the Police Commander in Chief. This situation is all the more interesting as this provision has not changed in relation to

the original act of 1990, only with regard to the Police Commander in Chief. The Minister of the Interior and Administration also appoints the commanders of two key police units – the Police Central Investigation Bureau (CBŚP) (at the request of the Police Commander in Chief) and the Police Internal Affairs Office (BSWP) (without the participation of the Police Commander in Chief). CBŚP deals with activities related to the identification, prevention and combating of organized crime, while BSWP is a kind of police in the Police, which deals with identifying, preventing and combating crime among police officers. The Minister of the Interior and Administration also appoints all provincial commanders of the police (Polish Parliament, 1990). Otrębski pointed out the apparent importance of the Voivode's opinion in this respect. In practice, the Voivode's opinion is by no means obligatory or necessary for the minister to appoint a specific candidate (Otrębski, 2008). For many years, local government authorities have basically no longer had any real influence on the selection of candidates for commanders (Kołodziej, 2018). In practice, the above findings show that the political power of the state in the person of the Prime Minister and the Minister of the Interior and Administration may directly decide on the personalities of candidates holding the main positions in the Police. The possibility of influencing the filling of specific posts does not yet prove that people holding such positions may feel threatened in the event of political changes related to, for example, elections. However, it is enough to follow the history of changes in the position of the Police Commander in Chief to have doubts about this assumption. From 1990, i.e. from the moment the Police was established (previously there was *Milicja Obywatelska*), the position of the Police Commander in Chief was held by sixteen people (including the current Police Commander in Chief – General Jarosław Szymczyk). Of the last thirteen Police Commanders in Chief, ten were dismissed within six months of the change of the Minister of the Interior and Administration (or the Minister of the Interior), of which seven within two months (five within one week) of the change. Therefore, doubts about the real influence of the political authorities on the Police commanders seem justified. It should be borne in mind that the acting commander may be dismissed at any time and does not generally have any form of immunity that would protect him in the event of a decision not being made in accordance with the expectations of his political superiors. In this sense, persons exercising political power have a real possibility of influencing the actions taken by the Police and the scale of these actions. At the same time, such an approach would explain the previously indicated replacement of the highest police commanders in the event of changes in political authorities. Otrębski put forward the thesis that basically all these activities may take place outside public control as classified decisions. Moreover, leading decision-makers are not obliged to substantiate their decisions and very often there is no appeal path against these decisions (Otrębski, 2008).

Social effects of Police actions

For many years, the police as an institution has enjoyed great social trust and a high evaluation of its work. The research conducted by the Public Opinion Research Center (CBOS) shows that at the very beginning of the first wave of the SARS-CoV-2 pandemic in March 2020, as many as 80% of Poles assessed the work of the Police as good. It should be noted that despite this high rating at the beginning of the year, 71% of Poles declared their trust in the Police in this period, and 21% indicated a lack of trust (CBOS, 2020b). In this first period, the Police were treated, similarly to health care workers, as a service which, risking its life, fights for the safety of Poles. Half a year later, in September, a nearly seven percent drop in the share of people assessing the work of the Police positively was recorded (CBOS, 2020a). This decrease can be largely attributed to the legal solutions adopted by the Government, which obligated police officers to uncompromisingly and strictly prosecute and punish all instances of non-compliance with the restrictions. These legal regulations were questioned and as a result many people refused to accept fines from the Police and decided to defend themselves in courts, where they often won, which was widely reported in the media (Sewastianowicz, 2020). The CBOS research was carried out before the mass protests in response to the judgment of the Constitutional Tribunal of October 22, 2020, which found one of the three premises for legal abortion inconsistent with the Polish Constitution (Constitutional Tribunal, 2020). In carrying out their statutory duties, the Police took actions during these protests to protect the participants of the marches and to counteract potential acts of aggression and vandalism. These actions, however, aroused a lot of controversy, related primarily to the use of excessive aggression and violence by police officers (Karpieszczyk, 2020) and being indifferent to the nationalist aggression towards protesters. These controversies became so great that the Commissioner for Human Rights, Adam Bodnar, took steps to clarify these situations (Commissioner for Human Rights, 2020). At the same time, there were statements in the media from politicians from the ruling coalition calling for more decisive and tough actions against the protesters, and there were voices about plans to break up the protests by force (Kostrzewski, 2020). Recent reports indicated that Jarosław Kaczyński, the president of Law and Justice (the largest party in the ruling coalition), was to put pressure on the use of force. The Police Commander in Chief was to oppose this, and therefore, his dismissal from his position is expected (Kondzińska, 2020). The Police were also accused of focusing their activities primarily on protecting churches and offices of politicians of the ruling coalition and not on protecting protesters (Żemła et al. 2020). The issues indicated here show that the politicization of the Police may, in effect, lead to reducing it to the role of a tool of political power, which is to guarantee the submission of citizens through force and repression. Concerns may also arise when persons holding the highest management positions in the Police

have no protection or immunity and, in a situation where decisions are made that are inconsistent with the political will of the rulers, may simply be removed from their posts.

It can be assumed that the actions taken during the protests will result in a marked decrease in social trust in the Police and a growing conviction that it is dependent on politicians. It seems that in social perception it may not matter whether the Police performed their tasks in accordance with the applicable law and the orders of their superiors. The photos and videos of armored officers using gas and truncheons against protesters, officers protecting the offices and homes of politicians will have a stronger impact on the public perception and evaluation of its activities.

Conclusions

The presented article is a voice in the interdisciplinary discussion on the apolitical nature and independence of the police from political authorities. Is it possible to say with certainty that the institution in which the top management positions are elected and appointed by the political authorities governing the state will remain independent and apolitical?

It should be remembered that the police can perform their tasks effectively as long as they have not only legal legitimacy, but also social legitimacy, expressed, *inter alia*, by the level of social trust. It can be expected that the Police will bear the social consequences of performing the actions to which it has been obliged by the introduced (questioned) legal solutions and the restrictions and sanctions imposed by these solutions related to the SARS-CoV-2 pandemic. The zero level of tolerance (postulated by the political authorities) of the police for any attempts to fail to comply with the political decisions made may, at least indirectly, contribute to a decline in social trust and evaluation of the work of the Police and an increase in the number of opinions about its politicization. It can also be assumed that the controversy related to the actions of the Police in the event of mass social protests in October 2020, allegations of excessive aggression, political subordination and protection, above all, of politicians and their headquarters, and not of the protesters, will lead to a significant deterioration of public confidence in the Police. The decline in trust in this institution, which is crucial in the context of internal security, may lead to deepening social tensions related to the actions of political authorities. The perception of the Police as a politicized institution, and therefore not interested in the security of citizens, but in the interests of political authorities, may increase the risk of further conflicts.

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Abstract: Police is one of the most important institution related to security in nation state, which in the era of globalization is subject to constant changes. The police as institution was established to protect people's safety and to maintain public safety and order. In order to be able to effectively carry out its tasks, the police must have social trust and be perceived as an independent and apolitical institution. Can the institution in which the politicians of the ruling party decide about who will hold the highest positions be independent and apolitical? What can be the social consequences and consequences for national security resulting from the actions of police related to the implementation of political decisions related to the SARS-CoV-2 pandemic and social protests of October 2020? This paper is a voice in the discussion on this topic.

Keywords: Police, dispositional group, social trust, apolitical institution

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