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# Apolitical reality of Polish Police

## Introduction

According to *Nowy słownik języka polskiego* (the Polish language dictionary), “apolitical” means “not taking part in political life, not interested in politics.”<sup>1</sup> On the other hand, apoliticality is a “legal principle that obliges persons who perform certain functions in the state not to engage in any political activity, also related to membership in a political party and trade unions. The principle of apoliticality results from the norms adopted in democratic countries, which are based on the constitution and relevant laws.”<sup>2</sup>

At the same time, it is a position of indifference to current political issues, and it is also based on the withdrawal of one’s direct involvement towards a specific party force. Undoubtedly, apolitical are those citizens who completely exclude themselves from following political events and changes, are not eager for current news from the world of politics, analyses, comments or forecasts. Paradoxically apolitical are also those who follow media-political duels, at the viewer’s level, without taking sides, and

<sup>1</sup> *Apolityczny*, [in:] *Nowy słownik języka polskiego*, ed. E. Sobol, Wydawnictwo Naukowe PWN, Warszawa 2002, p. 19.

<sup>2</sup> *Apolityczność*, <https://pl.wikipedia.org/wiki/Apolityczno%C5%9B%C4%87> [accessed: 2.03.2021].

at the same time do not realize that the division of the roles of vanquished and losers can have a significant impact on their further life. Such an attitude does not mean that they are not participants in politics, because indifference, passivity, and consent are a kind of perpetration. At this point, it should be indicated that misunderstandings with the word “apoliticality” consist in confusing the intention to exclude from politics and the illusion of one’s own political indifference. Nothing could be more wrong. In this matter, the analysis of Mirosław Karwat deserves special attention. He pointed out that the “political ignorant, undeclared consumer of various promises, calls, provocations, and propaganda campaigns does not cease to be an accomplice of politics,” although he plays a special role as a cog in the machine.<sup>3</sup>

Moreover, apolitical nature can be considered in terms of legal enforcement directed at a person performing a specific function in the state. In this case, it is about the prohibition of engaging in political activity, which also constitutes membership of a political party or trade unions. The principle of clerical apoliticality is the result of norms adopted in democratic countries. In Poland, with regard to certain persons holding certain offices, the ban on membership of political parties is laid down directly in the Constitution.<sup>4</sup> Also, the ban on membership in a party was included in 18 basic laws concerning persons performing public functions. They prohibit other categories of public officials from belonging to political parties, and include: professional soldiers; prosecutors and officers of the Police, Special Services, Border Guard, Prison Service, firefighters of the State Fire Service, guards of municipal guards; presidents and full-time members of local government appeals boards; vice presidents and general director of the Supreme Audit Office; customs officials and officers of the Customs Inspection; the general inspector of personal data protection; public interest spokesman; the head and employees of the National Electoral Office, as well as civil servants.<sup>5</sup> In 2002, the Ombudsman spoke on this issue, pointing out that the prohibition in question is extended on an unprecedented scale. He stated that “in the European Union countries the ban on membership of political parties applies only in France, solely in relation to professional soldiers [...]. However, basically, government officials have the same political rights as other citizens.”<sup>6</sup>

<sup>3</sup> M. Karwat, *Polityka, apolityczność i metapolityka*, Strajk.eu, 30.07.2017, <https://strajk.eu/polityka-apolitycznosc-i-metapolityka/> [accessed: 2.03.2021].

<sup>4</sup> Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r., Dz.U. [Journal of Laws of the Republic of Poland], 1997, no. 78, item 483, as amended. This applies to: judges of common courts, judges of the Constitutional Tribunal, the president of the Supreme Audit Office, the Ombudsman, members of the National Broadcasting Council and the president of the National Bank of Poland.

<sup>5</sup> *Ibidem*, Article 153: “In order to ensure professional, reliable, impartial and politically neutral performance of state tasks, the civil service corps operates in government administration of offices. The Prime Minister is the head of the civil service corps.”

<sup>6</sup> Wyrok Trybunału Konstytucyjnego [The judgment of the Constitutional Tribunal] z dnia 10 kwietnia 2002 r., sygn. akt [file ref.] K 26/00, Dz.U. 2002, no. 56 item 517, p. 6.

Karwat, mentioned earlier, rightly noticed that when talking about offices, public institutions as well as state bodies and their functionaries, an adequate term is “political neutrality”<sup>7</sup> of officials, judges, prosecutors, policemen, and the Ombudsman.

Focusing on the apolitical nature of the Police, or more rightly, when describing its nonpartisan nature, we refer to a narrow scope of its understanding. Therefore, the question is whether the institution mentioned in the title of the study has a real impact on the attitudes and behaviour of police officers towards apoliticality, having both the objective and subjective dimension. The subject regulation covers the behaviour and attitudes of Police officers, characterized by apolitical nature, while the subjective approach is included in Article 115 of the Penal Code,<sup>8</sup> according to which a policeman is a state official (an officer) of a body appointed to protect public security. At the statutory level, the principle of apoliticality was implemented in relation to policemen. Specifically, under Article 63 of the Police Act, the civic rights of a policeman were narrowed.<sup>9</sup> The norm maker stated that a police officer cannot be a passive as well as an active member of a political party, thus excluding the possibility of suspending the membership of a political organization for the period of service. Thus, “once a policeman is accepted into service, his membership in the political party ceases.”<sup>10</sup> This fact occurs *ipso iure*, that is with the force of law, and not through the manifestation of the individual action of the subject of law. Moreover, it must not appear in the registers of political parties. Wojciech Kotowski is of the opinion that political neutrality is an obligatory element.<sup>11</sup> However, an official belonging to an association may act as a member of the editorial board or an editor of legal journals.

The termination of membership in political parties was also expressed in Article 152 of the Police Act, which indicates that “upon the entry into force of this Act, the membership in political parties of those policemen who previously belonged to such organizations shall cease to exist.”<sup>12</sup> In this case, the termination of membership may not be suspended, but obligatorily terminated. Apoliticality as a legal principle resulting from the provisions of the Police Act was limited to the prohibition of belonging to a political party. At the same time, this scope of regulation was extended by Order No. 805 of the Police Commander in Chief of December 31, 2003 on the “Principles of Professional Ethics of a Policeman.”<sup>13</sup> § 6 of the appendix states that the

<sup>7</sup> M. Karwat, *Polityczność i upolitycznienie. Metodologiczne ramy analizy*, “Studia Politologiczne” 2010, vol. 17, p. 79.

<sup>8</sup> Ustawa z dnia 6 czerwca 1997 r. – Kodeks karny, Dz.U., 1997, no. 88, item 553, as amended.

<sup>9</sup> Ustawa z dnia 6 kwietnia 1990 r. o Policji, Dz.U., 1990, no. 30, item 179, as amended, Article 63.

<sup>10</sup> *Ibidem*, Article 63 sec. 2.

<sup>11</sup> W. Kotowski, *Ustawa o Policji. Komentarz*, 3<sup>rd</sup> edition, Wolters Kluwer Polska, Warszawa 2012, p. 656.

<sup>12</sup> Ustawa z dnia 6 kwietnia..., *op. cit.*, Article 152.

<sup>13</sup> Zarządzenie nr 805 Komendanta Głównego Policji z dnia 31 grudnia 2003 r. w sprawie “Zasady etyki zawodowej policjanta”, Dz.Ur. KGP [Official Journal of the Police Headquarters], 2004, no. 1, item 3.

demeanour of a police officer should be based on impartiality that excludes political prejudices.<sup>14</sup> Also indirectly, at the international level, Resolution 690, known as the “Declaration on the Police”, drew attention to this aspect by expressing the position that “a Police officer shall act with integrity, impartiality and dignity.”<sup>15</sup>

## Apoliticality and its concept

Eugeniusz Młyniec in his reflections, emphasises that apoliticality is “an attitude or behaviour of separation, fighting or negation of politics.”<sup>16</sup> He also points out that apoliticality is wrongly “equated with nonpartisan – non-partyism or anti-partyism.” This results in erroneous reasoning “that it is possible to have an apolitical judiciary, prosecutor’s office, army, police or state administration.”<sup>17</sup>

The discussed issue is multidimensional and can be analysed, *inter alia*, in the political science context. Delving into the legal determinants of apoliticality, it is necessary to explain the definition of politics which, in short, means the art of governing the state. Max Weber maintains that politics is a multifaceted issue, constituting at the same time “the desire to participate in authority or to exert influence on the division of power, whether between states or within the state, between the groups of people it comprises.”<sup>18</sup> Undoubtedly, “belonging to a particular party is an expression of political views and thus a denial of apoliticality.”<sup>19</sup> A separate position in this respect was presented by the Ombudsman. He drew attention to the necessity of distinguishing between apoliticality and non-partyism, at the same time conveying that “in European legislation, the principle of public officials is apoliticality and impartiality, and not nonpartisan.”<sup>20</sup> Therefore, in the opinion of the Ombudsman, apoliticality in itself means a prohibition of public manifestation of political views, and thus an absolute prohibition of using this criterion in the performance of the duties of a police officer. Unfortunately, the cited position in the current social reality raises a lot of controversy and, according to Michał Kruk, may constitute a threat to unacceptable public perception, leading to the labelling of officials who are members of

<sup>14</sup> *Ibidem*, Appendix § 6.

<sup>15</sup> *Declaration on the Police*, Resolution 690 (1979) of the Parliamentary Assembly of the Council of Europe, 8 May 1979, Appendix Declaration on the Police: Ethics, No. 2.

<sup>16</sup> E. Młyniec, *Apoliticalność*, [in:] *Leksykon politologii: wraz z aneksem o reformie samorządowej, wyborach do sejmu, prezydenckich oraz gabinetach rządowych*, eds. A. Antoszewski, R. Herbut, 6<sup>th</sup> edition, Alta 2, Wrocław 2003, p. 26.

<sup>17</sup> *Ibidem*, p. 27.

<sup>18</sup> M. Weber, *Polityka jako zawód i powołanie*, foreword, introduction and compilation Z. Krasnodębski, transl. A. Kopacki, P. Dybel, Znak – Fundacja im. Stefana Batorego, Kraków–Warszawa 1998, p. 56.

<sup>19</sup> Wyrok Trybunału Konstytucyjnego z dnia 10 kwietnia 2002..., *op. cit.*, p. 8.

<sup>20</sup> *Ibidem*, pp. 6–7.

political parties.<sup>21</sup> Also a little earlier, in the judgment of 1998, the Constitutional Tribunal referred to the issue under consideration, stating that “an integral component of the concept of impartiality is apoliticality, which means not the lack of political views, but not manifesting them at work.”<sup>22</sup> One should agree that belonging to a political party is a declaration of political sympathy, thus contradicting apoliticality. This doubt would, to a large extent, undermine public confidence in the proper functioning of individual institutions or bodies.<sup>23</sup>

## Apoliticality of the Police

According to Michał Brzeziński, being apolitical means a lack of involvement in political activity, a ban on membership in a political party and its termination upon admission to service in the Police. It also results in the obligation to inform the supervisor about membership in associations operating outside of official activities. In this regard, the approval of the Commander in Chief must be obtained for membership in an organization. In addition, the concept of apoliticality should also be associated with the inability to perform the mandate of a deputy or senator while serving in the Police.<sup>24</sup> The legislator rightly takes the position that the purpose of limiting civil freedom in this respect is reliable and impartial performance of official duties.<sup>25</sup>

Therefore, it is reasonable to try to define the scope of meaning apoliticality in relation to the Police, which as an important state organ performs tasks for the benefit of safety. In Article 1 of the Police Act the legislator indicated the role played by the Police in the society, stressing that “[...] it is a uniformed and armed formation serving the society and intended to protect human safety and to maintain public safety and order.”<sup>26</sup> Undoubtedly, as it has already been emphasized, the Police are a participant in political life, and therefore they are not indifferent to current social or socio-political issues. Most often, the “apolitical nature of the police” is synonymous with resistance to all influences from politicians, serving them and the goals related to creating a game for power.<sup>27</sup> However, the illusion of apoliticality is

<sup>21</sup> M. Kruk, *Prawne aspekty apolityczności Policji*, “Studia nad Bezpieczeństwem” 2018, no. 3, p. 148.

<sup>22</sup> Wyrok Trybunału Konstytucyjnego z dnia 17 listopada 1998 r. sygn. akt K 42/97, Dz.U., 1998, no. 143, item 928.

<sup>23</sup> *Ibidem*.

<sup>24</sup> M. Brzeziński, *Apolityczność policjantów*, [in:] *Słownik wiedzy o Policji*, eds. P. Bogdalski, M. Świdorski, K.A. Wojtaszczyk, Oficyna Wydawnicza Aspra-JR, Warszawa 2015, p. 35.

<sup>25</sup> *Apolityczność*, [in:] *Leksykon policyjny*, eds. W. Pływaczewski, G. Kędzierska, Wydawnictwo Wyższej Szkoły Policji, Szczytno 2001, p. 23.

<sup>26</sup> Ustawa z dnia 6 kwietnia 1990 r. o Policji..., *op. cit.*, Article 1, sec. 1.

<sup>27</sup> M. Otrębski, *Apolityczność policji. Nakaz prawny czy zobowiązanie moralne władzy państwowej?*, “Bezpieczeństwo. Teoria i Praktyka” 2008, special number, p. 9.

extremely vivid and as naive as the misunderstanding of the word. As Karwat points out, some proponents of other professions with public trust do not want to adopt this principle. He further argues that their private obsessions with the claims of conversion constitute an abuse of their professional role.<sup>28</sup> It is similar with articulating the terms that the Police is an apolitical institution. In this case, we are not truthful, because the matter of their actions is ultimately political, related to the enforcement of the law against citizens. At this point, another question can be asked – is the state an “apolitical” formation? So how can state authorities and agencies be “apolitical”? One should express the belief that they are meta-political. It can be indicated that an attribute of such an attitude is the representation of interests and particular aspirations in connection with the propaganda bias.

Nevertheless, a fundamental obligation of a policeman is impartiality, including political neutrality, broadly understood as not being influenced by parties, political clubs or other social and professional organizations. A police officer must be fully guided by the law and the public interest. Political neutrality also means the inability to influence politics and politicians on the professional and non-official activity of a policeman.<sup>29</sup>

The problem of the apolitical nature of the Police as a significant threat to sovereignty and good name was noticed by the community of Polish policemen associated in the Independent Self-governing Trade Union of Police Officers. They have repeatedly pointed out that the apolitical nature of the police formation is necessary, which seemed to be an obvious element assigned to this formation. At the same time, they point out that the reality is different. An example is the procedure for appointing the Provincial and Municipal (County) Police Commanders, who should formally begin their office after receiving an opinion respectively from the Voivode, President and Starost. According to trade unionists, it is a process of unauthorized politicization of the Police. It is especially noticeable when appointing the provincial police commander. In this case, the Voivode, being a representative of the government, issues an opinion, which is in principle consent or not, for the appointment of the person to this position. The solution in question indicates that politicians *de facto* influence the appointment of managerial positions in the Police. In this case, the topical question is whether the Police Commander in Chief, when appointed by the Prime Minister at the request of the Minister of Interior and Administration, can be independent of politics and politicians. Other examples of politicization include the lack of appropriate state budgetary resources for the efficient functioning of the Police. Governments, due to the lack of funds to cover all the needs of the Police, allow it to be supported by local government units,

<sup>28</sup> M. Karwat, *Polityka, apolityczność...*, *op. cit.*

<sup>29</sup> A. Zdybała, *Państwo transformacyjne. Politycy i urzędnicy*, “Służba Cywilna” 2006, no. 14, pp. 41–42.

state organizational units, associations, foundations, banks or insurance institutions as well as monetary donations from other entities, made only by the Police Commander in Chief. However, there is a departure from the principle. If the amount of the donation does not exceed half of the lowest remuneration for work, the acceptance of the support may be materialized by the heads of units that are administrators of budgetary funds. One should wonder what this may lead to, it is certainly an invitation to create agreements and commitments for support, threatening the formation of pathological arrangements at the interface between the authorities, business and the Police.

The politicization of the Police is also clearly visible during election campaigns, when policemen (police commanders) undertake actions aimed at “seeking favour” of political leaders. This form of real politicization of the Police is gaining more and more proportions, as the representatives of political parties that gain power implement their own scenarios of “police control.” According to Józef Penc, the behaviour of politicians may raise objections, as it gets people used to underestimating honesty, and thus trust. By making a synthetic description, he indicated that the behaviour of the elites is characterized by moral relativism and the fabrication of illusions.<sup>30</sup>

Based on the experience of the past years, it seems quite simple. As before, or as always, with the accession to power of a certain political force, there is a change in the position of the Police Commander in Chief, who appoints new provincial Police commanders, justifying it with the need to “choose a team” with which he will implement another “police reform” outlined by politics – the minister responsible for internal affairs. The commandants, who are unable to present a logical and coherent concept of action to politicians, are to some extent responsible for this state of affairs. Therefore, every 4 years they become victims of political changes, preceded by camouflaged races to take up high management positions. These dependencies, in consequence, result in the creation of mechanisms of personal dependencies, influencing the service in the police, and thus its effectiveness. With such a solution, leadership, which should be neutral in making decisions and expressing concern for the public interest, may be of an uncertain nature. This important problem was pointed out by Janusz Gierszewski, who indicated that deep and recurrent staff changes in managerial positions in the police do not affect the effectiveness of the entire formation. He also pointed out that the process itself is questionable without taking into account the social, financial and legal consequences.<sup>31</sup>

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<sup>30</sup> J. Penc, *Zachowania organizacyjne w przedsiębiorstwie. Kreowanie twórczego nastawienia i aspiracji*, Wolters Kluwer Polska, Warszawa 2011, pp. 194–195.

<sup>31</sup> J. Gierszewski, *Polityka zarządzania zasobami ludzkimi i jej wpływ na funkcjonowanie policji*, [in:] *225 lat policji w Polsce*, vol. 2: *Policja współczesna*, eds. P. Majer, M. Seroka, Wydział Prawa i Administracji Uniwersytetu Warmińsko-Mazurskiego, Olsztyn 2017, p. 100.

As a proof of the above, it is worth quoting here an important part of the research carried out in 2016,<sup>32</sup> the purpose of which was to examine the perception of political neutrality of the Polish police in the context of personnel changes.<sup>33</sup> The quantitative research was carried out using the questionnaire method with the use of a standardized paper questionnaire. The study was attended by students of three universities: the Pomeranian University in Słupsk, University of Humanities "Pomerania" in Chojnice and the University of Business and Administration in Gdynia. A total of 173 first- and second-cycle students took part in the study. Women constitute 124 respondents (59.9% of the respondents), 83 are men (40.1%). 34 respondents are policemen. Therefore, the analysis of the answers was made with division into two groups: student, policeman. The basic research tool in the study was a questionnaire consisting of two parts: respondent's particulars and questions. The basic part of the questionnaire contained 8 closed-ended questions (marking the answer on a 5-point Likert-numeric scale from "definitely yes" to "strongly disagree"). In the questionnaire, the questions were additionally supplemented with a disjunctive cafeteria-style checklist and a conjunctive cafeteria-style checklist in the nature of a semi-closed question. The remaining questions were open-ended. Closed questions related to the perception of the impact of staff changes in the positions of commanders, the impact of politics on the functioning of the police, the implementation of the principle of apoliticity, the need for the opinion of commanders by local government units, corruption, financing the police by other institutions, standing in elections, impartiality in appointing commanders. The age of the students was in the range of 21 and less – at the level of 61%; between 21 and 26 years old – 27% and 12% for the age of 26 and more. The age situation of police officers is a little different, as approximately 9% of respondents were 28 years or less, while between 28 and 35 years old were slightly more than 44%; 35 years and more were about 47%.<sup>34</sup>

When asked about party preferences, 43% of students did not declare sympathy for any political party, while the remaining percentage distribution – for Platforma Obywatelska (PO, the Civic Platform), Kukiz'15, Prawo i Sprawiedliwość (PiS, Law and Justice), Nowoczesna (Modern) was hover around 10% each; other parties (6%): Sojusz Lewicy Demokratycznej (SLD, Democratic Left Alliance) 4% and Polskie Stronnictwo Ludowe (PSL, Polish People's Party) 2%. The results are distributed somewhat differently among the police officers. The analysis of the polls shows 82% of the respondents do not sympathize with any political party and the parties that the police sympathize with are Nowoczesna (11%), PO (5%), Kukiz'15 (2%).<sup>35</sup>

<sup>32</sup> Only a significant part of the studies carried out are discussed as being representative and relevant to the theme of the article.

<sup>33</sup> J. Gierszewski, J. Piwowarski, J. Pruchniak, *Perception of Apoliticism of the Police*, "Security Dimensions. International and National Studies" 2016, no. 19, pp. 30–54.

<sup>34</sup> *Ibidem*, p. 41.

<sup>35</sup> *Ibidem*, p. 41–42.



When asked about the impact of politics on the functioning of the Police, 37% of the students answered “definitely yes”, “rather yes” – 54%, “probably not” – 4%. About 5% of students did not have an opinion on this matter.<sup>36</sup> On the other hand, policemen mostly confirmed the influence of the policy on the functioning of the Police: 60% of the respondents answered “definitely yes” and “rather yes” – 35%. Only about 2,5% of the policemen answered “rather no” and the same percentage of respondents did not express an opinion.<sup>37</sup>

The principle of apoliticality and its impact on the work of the police is noted by 71% of students, answering “definitely yes” (29%) and “rather yes” (42%). It can also be noticed that 18% of students did not have an opinion on this matter and 11% of respondents decided that this rule did not affect work: “rather not” (10%) and “definitely not” (1%). Police officers also confirmed that the principle of apoliticality influences the work of the police, 34% of the respondents supported the answer “definitely yes”, while the answer “rather yes” was chosen by 23% of the officers. In this case, 28% of policemen did not express their opinion. The lack of influence of the policy on the work of the Police is noted by 15% of respondents: “rather not” (9%) and “definitely not” (6%).<sup>38</sup>

When the students were to finish the sentence: “Recent changes in important positions in the Police (commanders) are the result of...,” they indicated at the level of 40% that they are the result of a change of government, while in 13% that it is the result of their failure to perform in these positions, and in 12% they motivated it with a lack of competence. Also, 10% of the opinion-forming bodies stated that the reason for this are contacts and relationships, while for 5% of the respondents it is nepotism and corruption. 20% of the surveyed students did not answer this question. 40% of police officers indicated that this is the result of a political choice, and in 20% of friendships and ties between politicians and the police, and in 14% of government failure. Also at the level of 6%, it was indicated that this was a part of a bashing and competitions. 14% of the surveyed policemen did not answer this question.<sup>39</sup>

With regard to the selection criteria for managerial positions in the police, 22% of the students indicated that this is a process subject to substantive criteria. On the other hand, students believed that it is a political (39%) or social effect (39%). The responses of police officers were slightly different, as 14% of them indicated that it results from the substantive criteria, 26% supported the political effect, while as many as 57% of the surveyed policemen were of the opinion that it is a part of the social criterion. Other criteria were indicated by 3% of policemen.<sup>40</sup>

<sup>36</sup> *Ibidem*, p. 44.

<sup>37</sup> *Ibidem*, p. 43.

<sup>38</sup> *Ibidem*, p. 44–45.

<sup>39</sup> *Ibidem*, p. 46–47.

<sup>40</sup> *Ibidem*, p. 48.

In the case of a descriptive question, the respondents were to refer to the problem, what actions should politicians take to ensure the apolitical nature of the Police? The solutions proposed by the students were as follows. Isolation of politicians from the police (35%), elimination of nepotism (12%), systematic control of the Police (7%), selection of competent persons (5%), selection of police officers by commanders (4%) and terms of office of management (2%). In this case, 18% of the students did not answer. On the other hand, referring to the policemen, 40% of them did not answer, and 23% indicated not to change managerial positions after the elections. 17% of officers are of the opinion that the police should finance themselves, and 11% indicated that election to senior police positions should take place through competitions conducted by impartial entities. Moreover, 9% of the surveyed policemen take the position that the Police Commander in Chief should not be appointed by the Minister of the Interior and Administration.<sup>41</sup>

These statements indicate that apoliticality is a highly abstract phenomenon. Undoubtedly, the established practice for decades has insufficiently protected this institution from the influence of politics, contributing in consequence to lowering its effectiveness and thus reducing social trust.

The decline in public confidence in this formation was also confirmed in a study by IBRIS Market and Social Research Institute commissioned by Interia. They were carried out on a representative group of 1,100 respondents on 20–21 November 2020. The respondents answered the question: “What is your attitude towards various public institutions: the police”. The survey showed that nearly one-third of Poles do not trust the police (33.1%), of which 16.5% “definitely do not trust” and “rather does not trust” 16.6%.<sup>42</sup>

Therefore, the decline in trust in the institution of the Police may be influenced by the events that have recently dominated Poland (2020–2021), as well as the fight against the COVID-19 pandemic, together with social concerns related to it. In addition, the women’s strike, the actions of the police during the Independence Day on November 11, 2021, are situations where the majority of society considers the police to be repressive, indicating that it has become a tool in the hands of the authorities.

The acceptance of the thesis that the institution in question has *de facto* become a tool in the hands of the authorities may also be inferred from the contents of the bulletin “Information on the activities of the Ombudsman in 2021”. The Ombudsman pointed out explicitly that in 2020, “as a result of the introduction of the state of epidemics, there has been a restriction of fundamental freedoms or human

<sup>41</sup> *Ibidem*, p. 49–50.

<sup>42</sup> *Sondaż dla Interii: Co trzeci Polak nie ufa policji*, Interia, 24.11.2020, <https://wydarzenia.interia.pl/polska/news-sondaz-dla-interii-co-trzeci-polak-nie-ufa-policji,nId,4874689> [accessed: 4.02.2021].

rights. [...] but the formal condition for the permissibility of a restriction of freedoms or rights is that it must be done by law.”<sup>43</sup>

The established case law of the Supreme Court in this respect Supreme Court jurisprudence indicates that the police, without sufficient legal grounds for doing so, in a performed in a mass manner, in the state of epidemics, legitimisation, arrests, imposed criminal fines and as a public prosecutor, sent to the court unjustified, in the light of the applicable law, motions for punishment. As a consequence, the police thus violated personal freedom, the right to privacy [...].<sup>44</sup>

Also, the evaluation of police interventions carried out in the second half of 2020 against participants of social protests (from the point of view of respecting their rights and freedoms) shows that in cases pending before the District Court for Warsaw-City Centre, “331 detentions were unjustified, in 136 cases, they were conducted in an improper manner, while 83 detentions were deemed illegal by the court.”<sup>45</sup> This means that there were numerous violations of the sphere of constitutionally protected personal freedom during police operations.<sup>46</sup> The circumstances may indicate the existence of a problem in the Police of the unjustified use of a coercive measure such as detention. Such excesses of police officers also lead to their failure to fulfil their duty to respect human dignity and to respect and protect human rights.<sup>47</sup> At the same time, the justified conclusion that disciplinary superiors protect subordinate officers from disciplinary liability for violations of the law confirmed by valid court decisions raises deep concern.

Highlighting the importance of the problem raised, a debate was organised in January 2021 on the police response to citizens’ demonstrations. The pretext for this remained the report of experts and staff of the National Mechanism for the Prevention of Torture at the Office of the Ombudsman, who, during the autumn demonstrations in 2020, visited places of detention, interviewed people, reviewed documentation and surveillance recordings.<sup>48</sup> This description shows that the police were brutal during the intervention and during the transport of detainees. At the police stations, these persons were not well informed of their rights and often spent long hours waiting for further action or legal assistance. Undoubtedly, police officers in Poland are aware that “peaceful demonstrations are a legally protected

<sup>43</sup> *Informacja o działalności Rzecznika Praw Obywatelskich oraz o stanie przestrzegania wolności i praw człowieka i obywatela w roku 2021*, compilation I. Kumidor, Biuro Rzecznika Praw Obywatelskich, Warszawa 2022, p. 12.

<sup>44</sup> *Ibidem*.

<sup>45</sup> *Ibidem*, p. 63.

<sup>46</sup> Konstytucja Rzeczypospolitej Polskiej..., *op. cit.*, Article 41 sec. 1.

<sup>47</sup> Ustawa z dnia 6 kwietnia 1990 r..., *op. cit.*, Article 14 sec. 3.

<sup>48</sup> *Informacja o działalności Rzecznika Praw Obywatelskich...*, *op. cit.*, p. 358. “The Ombudsman’s Office and «Gazeta Wyborcza» organised a debate on 15 January 2021 on the police response to citizens’ demonstrations”.

form of public assembly, also under the laws related to the current epidemic state. For these reasons, state authorities are not only obliged to refrain from unjustified interference with the freedom of assembly, but are also bound by the duty to ensure the safety of all demonstrators.”<sup>49</sup> Police officers should use the provisions on detention and official actions with great caution and, as a rule, apply them only in cases where the assembly loses its peaceful character.

## Conclusions

Referring to the analysis of the problem, which brings closer the answer to the question of whether the Polish Police nowadays is adequately protected against the influence of political pressure. It should be noted that such protection is an illusory value. Undoubtedly, no changes have been made in this respect for two decades. There is no need to justify that properly understood trust as a decision-making criterion in police personnel processes should be based on values such as knowledge, competence, honesty, rule of law, and responsibility for its actions. However, a necessary condition to meet these expectations should be resistance to being pressured by specific interest groups, including the political class. The problem in question was already described in 2006, where every fourth policeman pointed to the involvement of this institution in politics as the cause of dissatisfaction with work.<sup>50</sup> It is also worth recalling in the summary the study by Gierszewski from the turn of 2015/2016, in which the officers of this service indicated that social (57%) and political (26%) criteria decide about the election to a managerial position in the Police.<sup>51</sup>

Undoubtedly, in the recent history of the Police, all personnel decisions of key importance for the process of managing it, apart from appointing municipal / district commanders, are made by persons holding offices from the granting of political parties. In the absence of legal mechanisms restricting the freedom of persons authorized to make these decisions, the phenomenon of a “staff comet” will persist and deepen at the same time. The more so because politicians or people closely related to this social group do not have to justify their decisions, because their substantive content is not subject to assessment, for example, in appeal proceedings. In 2000, when designing the country’s administrative reform, an attempt was made to make the process of appointing Police bodies less authoritarian. However, as it turns out, it was a purely formal process.

<sup>49</sup> *Ibidem*, p. 144.

<sup>50</sup> *Wyniki badania na temat satysfakcji policjantów z pracy w policji – opinie o sytuacji i warunkach pracy oraz kondycji materialnej gospodarstw*, compilation I. Czerniec, cooperation M. Fuhrmann, A. Kowalczyk, Biuro Komunikacji Społecznej KGP, Warszawa, November 2006.

<sup>51</sup> J. Gierszewski, *op. cit.*, pp. 116–117.

These considerations indicate that in the Polish system of governing and in the established practice, the Police are not adequately protected against interference by the political class. At the same time, it is done through a system of connections and dependencies, which are a consequence of the freedom in the implementation of personnel policy by those in power. This situation may cause negative consequences in the sphere of management of the formation in question, as pointed out by Otrębski, and others. Undoubtedly, in an optimal situation, politics should not play a role in the police administration. However, it is the fact that the appointed police officer cannot be separated from the political environment that has “endowed” him with the key position, awaiting the support of their program.

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## *Apolitical reality of Polish Police*

### *Abstract*

The aim of the study is not only an attempt to define the concept of “apoliticality of the police” and its meaning, but above all, to draw attention to the increasingly emerging problem of interference by the participants of the political scene in the work of the Polish Police. For the purposes of this study, the notions of “political neutrality” and “apoliticality” are equivalent and synonymous. The main problem is the search for an answer to the question of whether the Polish Police nowadays are adequately protected against the influence of political pressure? The text uses theoretical research methods, including literature analysis and statistical data analysis. It was assumed that the apolitical nature of the police means the lack of involvement of police officers in political activities and the scrupulous and impartial performance of official duties, regardless of what is happening on the Polish political scene. The results of the conducted analyses allow the conclusion that the apolitical nature of the Polish Police is a mystification because it is insufficiently protected against the influence of politics, which as a consequence leads to a reduction in its effectiveness and social trust.

Key words: apoliticality, non-partyism, the police, politics, politicians, political neutrality, uniformed groups