

Wojciech Kubicki

University of Szczecin
wojciech.kubicki96@wp.pl

Weapons licence – administrative and legal analysis

Abstract

Access to weapons has always raised controversy. Different legal systems regulate this issue differently. In some countries the right to possess weapons results directly from the constitutional right to defence. In others, for various reasons, it is close to impossible to obtain a weapons licence necessary from the point of view of legality. It is not an easy task for the legislator to make the regulations not to be too liberal or too restrictive. This publication aims to present existing solutions of the Polish legislator in the substantive scope and to establish the comprehensiveness of the said regulations and the possibility to improve them. The study employs a number of research methods: doctrinal, comparative, historical and analytical method.

Key words:

weapons, weapons licence, administrative discretion

Introduction

The basic legal act in Poland addressing issuing weapons licences is the Act of 21 May 1999 on weapons and ammunition.¹ This act regulates the premises for issuing weapons licences in Poland. The said act grants the power to decide about issuing permits to voivodship police commissioners territorially competent for the place of residence of the applicant. A number of disputes have arisen in the course of exercising this power. These disputes concern primarily the validity of being guided by administrative discretion by the authority issuing weapons licences, and also different interpretation of the law by these authorities. In view of the disputes referred to above, an analysis of the scope of discretion in decision-making granted to a public authority has been carried out. This analysis primarily aims to see whether a competent Police authority employs administrative discretion when issuing a gun licence, and if so, what is its scope.

¹ Consolidated text, Dz. U. (Journal of Laws) of 2019 item 284.

Historical and contemporary approach to weapons

First regulations on access to firearms in Poland date back to 1919. This is when the Chief of State issued a decree about acquiring and possessing arms and ammunition.² In this act the legislator regulated the scope of competence of the Minister of the Interior and bodies authorized by it to issue arms licences. The discussed legal act also specifies sanctions for illegal possession of military or hunting weapons. Possession of such weapons without a necessary permit was punishable by a fine of up to 5,000 Polish marks and imprisonment for up to 5 years.

The next essential regulation was the so-called “Small Criminal Code”, i.e. a decree of 13 June 1946 on particularly dangerous offences in the period of restoration of the country.³ It radicalised sanctions for illegal possession of weapons. Pursuant to Article 4 of the said act, manufacturing, collecting or storing weapons and ammunition without a necessary permit was punishable by no less than 5 years of imprisonment, life imprisonment or the death penalty.⁴ According to the author, the authorities of the Polish People’s Republic feared armed civilians. Such a state of affairs was maintained until the end of this regime.

At the moment, the basic legal act which comprehensively regulates the issue of possession of weapons and ammunition in the Polish legal order is the act of 21 May 1999 on weapons and ammunition (hereinafter referred to as WAA).⁵ In light of its regulation, weapons are no longer a tool threatening public authority, nevertheless access to them is still strictly regulated. The WAA, employing the term “weapons” points to the need to understand this term as firearms, including combat firearms, hunting, sporting guns, gas pistols, alarm guns or signal guns.⁶ As rightly pointed out, At the outset of the reflections a comment needs to be made that until the entry into force of the act of 11 May 1999 on weapons and ammunition there had been no definition as to the content of the concept of “firearms”. Due to research interests of forensics it is this field of study that has become a natural environment where the notion of firearms has developed sufficiently precisely for the needs of criminal law. The said act first introduces the legal definition of firearms, specifying constitutional features that allow classification of a given entity as a designate of the name “firearms”.⁷ By using the term “including” in the legal definition in this act, the legislator created an open catalogue of types of weapons enumerated in it. Moreover, the WAA in Article 4(1) defines the notion of devices and tools the use of which may threaten life and health and they include melee weapons, crossbows, truncheons or items intended to incapacitate by means of electricity.⁸ These definitions are often criticised in the literature. An essential challenge frequently quoted is incoherence between understanding the notion of weapons in the literature and the perception developed in forensics. It is because the current form of the statutory definition does not overlap with any definitions developed by the forensic science. The previous definition of firearms included elements from the definition

2 Decree of the Chief of State of 25 January 1919 on acquiring and possessing weapons and ammunition, Dz. Pr. P. (Journal of Laws of the Polish State) of 1919 item 123.

3 Article 4 of the decree of 13 June 1946.

4 Ibidem.

5 Act of 21 May 1999 on weapons and ammunition, consolidated text, Dz. U. (Journal of Laws) 2019, item 284.

6 Article 4(1) WAA.

7 R. Rejmaniak, *Pojęcie broni palnej*, “Prokuratura Krajowa” 2018, no. 4, p. 79.

8 Article 4(1)(4).

of forensic weapons, developed by the legal thought and was as follows: “A firearm is a device which is dangerous to life or health, which, as a result of the action of compressed gases, created by the combustion of the propellant, is capable of shooting a bullet or a substance from the gun barrel or a component replacing the gun barrel, and thus of hitting targets at a distance”.⁹

Premises for granting a weapons licence

In the light of the current wording of the WAA a weapons licence is treated in the category of a privilege which is afforded to few. As pointed out by B. Kurzēpa “it needs to be highlighted that contrary to the basic law of the United States of America, the right to possess firearms does not in our country form part of absolute citizens’ rights guaranteed in the Polish Constitution”.¹⁰

As the Voivodship Administrative Court in Warsaw concluded in its judgement of 21 September 2017: “Such an assumption corresponds with the views expressed in the decisions of the Supreme Administrative Court, in the light of which the conditions for obtaining a weapons licence should be examined restrictively, while the possibility of not giving consent to their possession should be seen as a preventive measure, aiming to ensure broadly understood security. Possession and use of weapons is regulated and is a type of a privilege rather than a personal right, therefore a person holding such a licence is required to have qualified features of character and behaviour that does not raise doubts from the point of view of a legal order”.¹¹

The legislator included the premises for granting a weapons licence in Article 10 WAA. A competent Police authority (the Voivodship Police Commander competent territorially, hereinafter: VPC) issues a weapons licence if the applicant does not pose a threat to himself, public order and security and presents a valid reason for having a gun. The conjunction “and” which separates the premises is essential here, that is proving that one does not present a threat to public order or security, and also giving the reason for wishing to possess a gun. However, practice points to the need to prove the existence of the reason for such a desire. The applicant’s not being a threat to oneself, to the public order and security is subject to a doctor’s assessment. In compliance with the WAA, the doctor deciding in the case must be certified to conduct medical examinations focused on gun possession and is also required to have additional qualifications allowing them to conduct such examinations. A register of doctors authorised to conduct said examinations is kept by a territorially competent VPC. The applicant is also obliged to obtain a psychological certification from a psychologist, who, similar to the doctor, is obliged to have special qualifications and to be entered in the register of authorized psychologists. This register is also kept by a territorially competent VPC. Requirements for the physical and psychological condition of the applicant are included in Articles 15a-15l WAA. The specific nature of assessments focused on the possibility to own a gun as compared to other assessments is evidenced by the case examined before the Warsaw Voivodship Administrative Court (hereinafter: VAC) in 2015. The case in question concerned a man who

9 L. Stępa, V. Kwiatkowska-Wójcikiewicz, *Istota broni palnej*, in: *Broń. Problematyka prawna i kryminalistyczna*, L. Stępa, V. Kwiatkowska-Wójcikiewicz (eds.), Toruń 2013, p. 42.

10 B. Kurzēpa, *Ustawa o broni i amunicji. Komentarz*, Warsaw 2010, p. 3.

11 Judgment of the VAC of 21 September 2017, II SA/Wa 753/17. Accessed via the Central Base of Judicial Decisions of Administrative Courts available, hereinafter CBOSA, on 08.02.2020.

was subjected to regular restrictive medical examinations due to the fact that he managed a driving school. Examples of tests the man had done include eye tests, which are much less tolerant of vision impairments compared to exams focused on the possibility to issue a gun permit. In his case the applicant quoted having driving instructor's qualifications for all types of driving licences as a proof of his excellent health condition. Yet he did not obtain a weapons licence. Apart from the different nature of the exams, the VPC referred to information he had about the applicant's family being protected under the Blue Card procedure. The reason for this protection was the applicant's use of psychological violence in the form of threats, insults and humiliation. Therefore, the VPC did not deem the doctor's certificate reliable and exercised his right to appeal. As concluded in the judgement in the discussed case: "(...) in accordance with the wording of §8(1) of the regulation of the Minister of Health of 7 September 2000 on medical and psychological examinations for persons applying for or holding a weapons licence (Dz. U. (Journal of Laws) no. 79 item 898 as amended), a medical certificate or a psychological certificate can be appealed against in writing and the right to this appeal is granted to the applicant and the competent Police authority (section 2), and the competent Police authority may file it within 45 days from receipt of the certificate".¹²

The second premise of article 10 WAA necessary to grant a weapons licence involves presenting a valid reason for wishing to own a gun. It needs to be noted that the mere pointing out the reason is not sufficient. It is also indispensable to objectively deem such a premise to be valid. Unfortunately, this is subject to a subjective assessment of the VPC. In most purposes under the statute, documented membership in an association constitutes such a reason. Such an association must correspond in its nature to the purpose of the licence applied for.

A Regulation of the Minister of Health on the list of medical conditions and disorders of psychological functioning excluding the possibility of issuing weapons licences and weapons registration of 23 December 2005¹³ is WAA's implementing act. This act enumerates 13 main diseases and disorders excluding the possibility of issuing weapons licences. This regulation includes schizophrenia, personality disorders, mental handicap or sexual preference disorders out of which sadomasochism and paedophilia were named.

Moreover, it needs to be noted that in accordance to the WAA, the VPC, in the course of administrative proceedings to issue a weapons licence or to revoke it in certain situations, exercises the competence of administrative discretion, which will be analysed in detail in the further part of this study.

Administrative discretion

Administrative discretion as a legal institution has been a constant subject of dispute. The basic problem involves the mere establishment of what this institution is and how it should be interpreted. The above was looked closely at by M. Zimmerman, who pointed out that the contem-

¹² Judgment of the VAC in Warsaw of 12 November 2015, II SA/Wa 1243/15. Accessed via CBOSA on 13.11.2019.

¹³ Regulation of the Minister of Health of 23 December 2005 on the list of medical conditions and disorders of psychological functioning excluding the possibility of issuing weapons licences and weapons registration, Dz. U. (Journal of Laws) 2006, no. 2, item 14.

porary perception of administrative discretion has been significantly affected by the changes in the state and the administration in the 18th and 20th centuries. Administrative discretion is not a novum in the Polish legal system, yet despite this it is still a significantly controversial issue.¹⁴

As pointed out in A. Habuda's publication "the term 'free discretion' is no longer used". It has been superseded (or perhaps better: it has evolved) by the term administrative discretion. It needs to be signalled here that the latter corresponds better to the principle of a strict relationship between administration and the law expressed in the Polish Constitution and ordinary rules of law. It needs to be highlighted that "free" discretion is not identical to "unrestricted" discretion. The signalled doubts, however, determined the gradual departure from this term and replacing it with other terms, such as administrative discretion, discretionary competence or authority's discretionary prerogatives."¹⁵

In the author's opinion, these naming evolutions may have affected the perception of this term. The historical form mentioned by A. Habuda is fatal. It is because according to the Dictionary of the Polish Language edited by W. Doroszewski, freedom means "possibility to act and behave without having to be forced or constrained". In this case, the capability of being guided by administrative discretion would mean that the authority may act without restrictions, and thus it would not be obliged to act lawfully. This would be contrary to Article 6 of the act of 14 June 1960 – the Code of Administrative Procedure,¹⁶ which recognises as one of the basic principles the fact that public administration authorities must act on the basis of provisions of law.¹⁷ It is in the course of administrative procedure, such as applying for a weapons licence, that the public administration authority (territorially competent VPC) is guided by administrative discretion. It needs to be concluded that administrative discretion must be a legally granted power of the authority in order to be compliant with the CAP regulations.

Since the term free discretion was superseded by the newer administrative discretion, the legal scholars and commentators have tried to define it a number of times. Those most widely known definitions assume that "administrative discretion:

- is a construct where the law does not associate legal effects with the occurrence of a given situation; these effects and the very fact whether they should occur are determined by the administrative authority (J. Starościak);
- is a construct where the legal norm in its provision grants a certain competence to the authority, though whether it exercises it in a given case is left to its discretion (E. Smotkunowicz);
- is a construct which prevents the authority in a given situation from choosing between various solutions (E. Ochendowski), decisions (Z. Leoński);
- occurs where we are dealing with both the choice of legal consequences and where it only involves the interpretation of vague terms used by the legislator (A. Wiktorowska, M. Wierzbowski).¹⁸

14 Cf. M. Zimmermann, *Pojęcie administracji publicznej a "swobodne uznanie"*, Poznań 1959, pp. 84–85.

15 *Prawo administracyjne – pojęcia, instytucje, zasady w teorii i orzecznictwie*, M. Stahl (ed.), Warsaw 2000, p. 68, accessed via A. Habuda, *Granice uznania administracyjnego*, Opole 2004.

16 Consolidated text, Dz. U. (Journal of Laws) 2018, item 2096, as amended.

17 Article 6 of the Code of Administrative Procedure of 14 June 1960.

18 Z. Duniewska et al., in: *Prawo administracyjne. Pojęcia, instytucje, zasady w teorii i orzecznictwie*, Warsaw 2002, p. 69.

Views on discretion in administrative procedure will be divided depending on the point of view. From the position of a citizen pursuing a decision the issuance of which entails discretion, the authority's ruling may subjectively seem inequitable to the applicant. Despite meeting all prescribed requirements necessary to obtain a positive decision, the authority may refuse it. An ostensible inequality of citizens before the law is created in this situation, which in consequence involves multiplicity of appeals to such a decision, which in great majority of cases leads to upholding the decision by a higher instance authority or an administrative court.

Administrative discretion and a weapons licence

Referring to administrative proceedings for issuing a weapons licence, it needs to be pointed out that the WAA in various provisions orders the competent authority to be guided by administrative discretion. Other provisions do not grant the VPC such a competence. Article 17 WAA may serve as an example here. The legislator enumerated 6 situations in this provision where the VPC may refuse issuing a weapons licence and two in which the VPC is obliged to refuse the issuance of a positive decision.

Most regulations of the WAA which grant the power to exercise administrative discretion are not controversial since they concern the applicant's violation of formal requirements, e.g. the obligation to inform about a change in the place of permanent residence or violation of the requirements for carrying a gun. However, there are situations where, in the opinion of many, the VPC should not be granted the right of administrative discretion. The most frequently named example involves proceedings to issue a weapons licence for the purpose of personal protection. In Poland almost the least weapons licences are issued this category.

Table 1. Number of weapons licences issued in Poland in 2018

| Number of persons to whom a weapons licence was issued in Poland in 2018 | |
|--|--|
| Purpose for which the weapons licence was issued | Number of persons to whom a weapons licence was issued |
| Personal protection | 121 |
| Protection of persons and property | 0 |
| Hunting | 4,296 |
| Sports | 5,172 |
| Historical reenactment | 3 |
| Collection | 6,522 |
| Souvenir | 16 |
| Educational | 162 |
| Other | 10 |

Source: author's own compilation on the basis of data of the General Police Headquarters published on its website.

The above data shows that among all weapons licences issued in Poland in 2018, permissions for the purpose of personal protection account for approximately 0.47%. It should also be noted that even a licence for the purpose of historical reenactment enjoys an even lower number of licences issued, yet this category does not have a significant impact of the citizen's sense of security, it does not infringe the right to defence either.

The reasons for such a low percentage of positive decisions for the purposes of personal protection need to be sought in the interpretation of the WAA regulations by Police authorities. In accordance with the WAA regulations, an important premise justifying the issuance of a weapons licence for this purpose is the existence of a permanent, real and extraordinary threat to life, health or property.

One police officer was given the opportunity to find about the problematic nature in proving such a reason, who kept being refused such a decision. By appealing against negative rulings, he found himself in the Supreme Administrative Court. Refusals were justified by the lack of express cases which would evidence the existence of a permanent, real and extraordinary threat to life or health of this officer and his relatives. According to the Supreme Administrative Court (hereinafter: SAC): "The appeals body in the reasoning to the challenged decision on the one hand acknowledges that the nature of official duties of I. P. may indicate that he is under a real and extraordinary threat of attack, in reality there have never been incidents in which his life or health or the life or health of his family were indeed threatened (...). It may be concluded from this statement of this authority that the appellant could have the chance of obtaining the permit (...) if an incident had occurred in which his life or health or the life or health of his family were indeed threatened. One cannot agree with this view even for humanitarian reasons, since it moves the boundaries of the threat to life and health too high, and besides, Article 10(3)(1) WAA does not require such sacrifices in order to speak about the existence of a permanent, real and extraordinary threat to life as an express reason for issuing a weapons licence. (...) this does not mean, however, that in order for these requirements to be met an incident has to have occurred in which the applicant's life or health (...) or the life or health of his family were truly threatened".¹⁹ This position of the administrative court indicates that a threat to life or health does not have to be supported by previous cases, thus it may be associated e.g. with the profession – of a Police officer in this case. It is then a threat of a potential nature. However, administrative courts in rulings on analogical cases depart significantly from this stand. The SAC itself denied this statement when examining the case of a jeweller who was refused a weapons licence for the purpose of personal protection despite the circumstances indicating a threat to his health and life as well as property. As it was concluded in the reasoning to the judgement: "Given the content of Article 10(1)(1) and (3)(1) of the act on weapons and ammunition, one needs to agree with the position of the authorities stating that in order to approve the application in the case in question it is necessary to demonstrate, as an important reason for having a gun for personal protection, a permanent, real and extraordinary threat to life, health and property. The party's sense of threat itself is not sufficient here. It was rightly established in this matter that criminal proceedings in the case of addressing to the party on 16 January 2014 punishable threats at a petrol station and in the case of breaking into the basement cannot constitute such circumstances (...). The threats demonstrated above cannot be considered as

¹⁹ Judgment of the SAC of 18 November 2016, II OSK 349/15. Accessed via CBOSA on 13.11.2019.

permanent as they do not feature permanence. (...) Whereas the circumstances cited by the party associated with carrying out economic activity consisting in buying and selling precious metals (...) do not justify granting the right to possess firearms”.²⁰ a similar decision was taken by the Warsaw VAC on 29 May 2019. The case involved an officer of the Internal Security Agency who was refused a weapons licence for the purpose of personal protection. As pointed out by the SAC: “In this state of facts the Court decided that Police authorities of both instances, issuing contrary administrative decisions, established correctly that the Petitioner did not demonstrate that he is the state of continuous, real and extraordinary threat to his life or health, thus rightly concluding that the mere fact of his service in the Internal Security Agency may only constitute a potential threat which in no way justifies the issuance of a firearms licence for the purpose of personal protection”.²¹ One can conclude from this reasoning that it is easy to specify what this threat identified by the act is, yet the problem lies with indicating when it will occur. To sum up, for the majority of licences, for example for sporting or collector’s purposes, the procedure comes down to proving no criminal record and an important reason for the wish to obtain such an administrative decision. Most often, membership in an association of the type corresponding to the purpose of the licence applied for is recognized as such a reason. The procedure then requires obtaining a positive opinion from a doctor and a psychologist, passing a state exam on knowledge of weapons, paying a stamp duty and demonstrating adequate conditions for storing the weapon at the place of residence, i.e. a safe permanently fixed to the building’s structural elements – a wall or floor. One can therefore come to a conclusion that in terms of the institution of a weapons licence there are two completely separate points of view of the VPC. In principle, weapons licences in the sports, hunting, collection and souvenir category are not denied. Only formal requirements need to be met there. Licences for the purpose of personal protection are treated extremely differently in the Polish legal system, both at the law-making stage and during implementation of this law. The chances for obtaining such a licence are minimal. In the author’s opinion, this happens because the statutory regulation itself concerning weapons licences for the purposes of personal protection points to vague premises, which combined with reluctance of the competent authority to issue such a decision results in such a low number of weapons licences held in this category. In author’s opinion, if a potential threat is considered an important premise necessary for obtaining a weapons licence for the purpose of personal protection, it should be sufficient to plausibly demonstrate the existence of such a threat. Lack of clarity of this premise combined with administrative discretion of the authority issuing the licence results in marginal percentage of positive decisions for the purpose of personal protection.

Statistical analysis of the number of weapons licence issued in selected areas of the Republic of Poland

First one needs to ask public opinion whether they believe that under currently applicable laws it is difficult to obtain a weapons licence. The Poles were asked about their opinion on the level

20 Judgment of the SAC of 26 October 2017, II OSK 307/16. Accessed via CBOSA on 13.11.2019

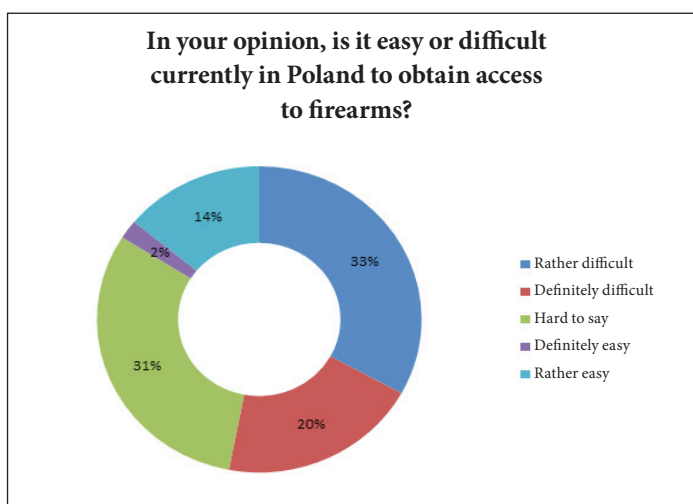
21 Judgment of the VAC in Warsaw of 29 May 2019, II Sa/Wa 397/19. Accessed via CBOSA on 08.02.2020.

of complexity of the administrative procedure for obtaining a weapons licence in a survey by the Public Opinion Research Center (hereinafter: CBOS). The research population included 948 Poles and was held between 5-12 October 2017.

Chart 1: Opinion on access to weapons in Poland

In your opinion, is it easy or difficult currently in Poland to obtain access to firearms?

- Rather difficult;
- Definitely difficult;
- Hard to say;
- Definitely easy;
- Rather easy.



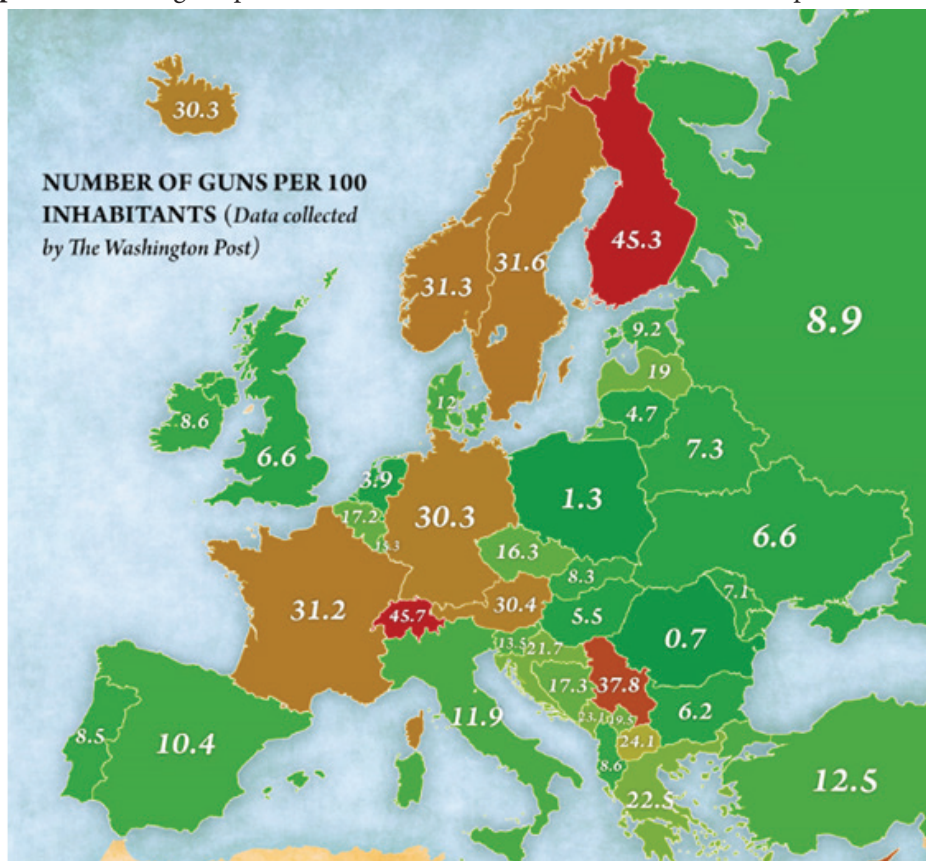
Source: author’s own compilation on the basis of CBOS’s study “Poles on access to weapons”.

More than half of the respondents, as many as 53%, believe that it is rather difficult or definitely difficult to obtain access to firearms in Poland. 16% of respondents believe it is rather easy or definitely easy. Almost every third respondent stated that it was difficult to say. It needs to be concluded from the above that in the public opinion it is not easy to obtain access to weapons in Poland.

The author of the communication on the study, A. Głowacki, believes that “the sense of safety and security of Poles has for a long time now been at a high level. When we last asked and studied this issue, this April (2017), 89% of respondents believed that Poland is a safe place to live and 95% assessed the safety of their neighbourhood well”.²²

Polish regulation of access to weapons results in one of the lowest numbers of guns per citizen yet Polish people assess their safety and the safety of their relatives well.

²² Komunikat z badań *Polacy o dostępie do broni*, CBOS, file no. 5613, communication no. 137/2017, author: A. Głowacki. Accessed via CBOS.pl on 15.11.2019.

Map 1. Number of guns per 100 inhabitants in individual countries of Europe

Source: J. Marian, Number of guns per capita in Europe, <https://jakubmarian.com/number-of-guns-per-capita-in-europe/> (access: 13.11.2019).

It is a fact that it is Romania, not Poland, that features the lowest rate in Europe of guns held, amounting to a mere 0.7. For Poland this rate is only 1.3 guns per 100 inhabitants. The most guns in the hands of civilians calculated per 100 inhabitants can be found in Switzerland. Almost half of the population there (45.7%) own firearms. It is over 35 times more than in Poland. As pointed out at legalna-bron.pl: “In Switzerland the army is based on conscripting all men between 20 and 30. The recruits attend a number of training courses and may hold their own weapons in their own homes according to applicable regulations. Even after their compulsory military service is finished the soldiers do not have to part with their weapons and the rest of the equipment. The state also supports shooting sports which is strongly promoted and sponsored. Each person aged 18 and above may purchase weapons for use in recreational and sporting shooting as well as hunting. It is worth noting that despite universal possession of weapons the number of crimes involving their use are very low.”²³

²³ <http://legalna-bron.pl/pozwolenie-na-bron/posiadanie-legalnej-broni-w-wybranych-krajach-europy/> (access: 15.11.2019).

The statistics on the possession of weapons in various countries differ not only due to the attitude of public authorities. People's interest in weapons and the resulting desire to have them affects it to the largest extent. The social contexts are affected by the tradition of shooting and the current level of crime, in particular with the use of firearms.

At the local level the situation of weapons licences issued is similar to the nation-wide one. On the basis of his own research, the author assessed the possibility of obtaining a positive decision from the VPC in the West Pomeranian Voivodship.

Table 2. Number of filed applications for a weapons licence in the West Pomeranian Voivodship

| Number of filed applications for a weapons licence | | |
|--|------|-----------------------|
| Purpose for owning weapons | 2016 | 01.01.2017–28.02.2017 |
| Personal protection | 4 | 2 |
| Hunting | 304 | 28 |
| Sports | 259 | 28 |
| Collection | 120 | 23 |

Source: author's own compilation on the basis of author's own research by means of public information.

Table 3. Number of weapons licences issued in the West Pomeranian Voivodship

| Number of weapons licences issued | | |
|-----------------------------------|------|-----------------------|
| Purpose for owning weapons | 2016 | 01.01.2017–30.06.2017 |
| Personal protection | 0 | 0 |
| Hunting | 295 | 120 |
| Sports | 251 | 96 |
| Collection | 111 | 64 |

Source: author's own compilation on the basis of author's own research by means of public information.

The above data on the West Pomeranian Voivodship proves absence of a significant disproportion between the number of filed applications for a weapons licence and the number of actually issued licences. One needs to take into account the fact that the lack of a positive decision in this case is not always determined by the lack of willingness of the issuing authority. Formal shortcomings in the application which the applicant did not complete despite the authority's request may also be a reason. A potential reason may also involve the death of the applicant in view of which the administrative proceedings become obsolete, which in turn results in a decision non being issued.

The reasons for not issuing licences in the case of the West Pomeranian Voivodship are not known, since, as the author managed to establish, the VPC in Szczecin does not record statistics on the premises for refusals to issue weapons licences or their withdrawals.

A significant conclusion concerns the lack of weapons licences issued for the purpose of personal protection. Thus it confirmed the conclusions of the CBOS's statistical data which

showed the Poles' sense of safety and security. This, as can be seen, results in a low number of applications for such a decision. A thesis that the problematic nature of substantiating the reason for the wish to have such a licence affects such a low number of positive decisions issued, and in the case of the voivodship in question even the lack of such decisions proved true. It is indeed a true assumption according to which the VPC only in exceptional cases does not issue a weapons licence in such categories as sports or collection, since the Police authority does not have the competence of administrative discretion in these proceedings.

It is also important to demonstrate the number of withdrawn weapons licences.

Table 4. Number of withdrawn weapons licences in the West Pomeranian Voivodship

| Number of withdrawn weapons licences | | |
|--------------------------------------|------|-----------------------|
| Purpose for owning weapons | 2016 | 01.01.2017–30.06.2017 |
| Personal protection | 107 | 29 |
| Hunting | 100 | 43 |
| Sports | 13 | 0 |
| Collection | 0 | 0 |

Source: author's own compilation on the basis of author's own research by means of public information.

The above data shows that the number of withdrawn decisions allowing possession of weapons is relatively high. For example, for merely 300 weapons licences issued for hunting purposes 100 of previously issued licences were withdrawn in 2016. The majority of withdrawn licences is in the category of personal protection, which is also to the detriment of a citizen wishing to possess a weapon for personal safety.

Conclusions

According to universally available statistics referred to in the part "Statistical analysis of the number of weapons licences issued in selected areas of the Republic of Poland" Poland features one of the lowest rates of guns owned by civilians calculated per 100 inhabitants. In the author's opinion the reason for such a state of affairs is the fact that the Polish legislator fears the possible increase in crime. On account of this concern the right to possess a weapon was subject to strict regulation. Moreover, the competence of administrative discretion is considered unfavourable by people applying for weapons possession. This legal institution may potentially result in violations. In view of the above, the circle of persons interested in weapons and defence opposes the possibility of administrative discretion in the course of such proceedings.

Despite understanding the fact that according to some a more universal weapons ownership may bring about negative effects, the author agrees with the claim that administrative discretion when issuing a weapons licence is unnecessary. Resigning from this institution would entail equality in the application of the law felt by the applicants. This would also entail equality in the attitude of authorities issuing licences throughout the country, removing dis-

crepancies and it would streamline the procedure. The absence of administrative discretion, thus binding the authority with a statutory assumption, would result in popularizing shooting in Poland. In turn, an increase in an interest in shooting would contribute to an increase in the level of public safety and security as well as to strengthening Poland's position with regard to other countries of Europe in terms of armament of civilians.

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Judicial decisions

Judgment of the VAC in Warsaw of 12 November 2015, II SA/Wa 1243/15, CBOSA.

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Judgment of the VAC of 21 September 2017, II SA/Wa 753/17, CBOSA.

Judgment of the SAC of 26 October 2017, II OSK 307/16, CBOSA.

List of attachments

Table 1: Number of weapons licences issued in Poland in 2018.

Table 2: Number of filed applications for a weapons licence in the West Pomeranian Voivodship.

Table 3: Number of weapons licences issued in the West Pomeranian Voivodship.

Table 4: Number of withdrawn weapons licences in the West Pomeranian Voivodship.

Chart 1: Opinion on access to weapons in Poland.

Map 1: Number of guns per 100 inhabitants in individual countries of Europe.