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SPECIAL SERVICES AND SURVEILLANCE OF CITIZENS IN POLAND (2015-2017)

INSTITUTIONAL AND LEGAL CONTEXT

After a new government came to power in 2015 the legislative process became more dynamic in the scope of substantive criminal law, procedural criminal law and legal acts regulating the operation of special services in Poland. In 2015-2017, among others, legal solutions were changed or new ones were introduced with regard to: (1) monitoring and recording conversations (on the grounds of the procedural criminal law), (2) the object of operational control (on the grounds of individual legal acts regulating the operation of special services and the police), (3) new deeds recognised as “terrorist crimes” (on the grounds of substantive criminal law), (4) a particular kind of rights for the Polish counterintelligence with regard to combating and countering terrorist activity (on the grounds of the new Act on *Anti-Terrorist Activities*), (5) extension of the tasks of the Polish civil counterintelligence (Pol. ABW – Agencja Bezpieczeństwa Wewnętrznego – Internal Security Agency), concerned with countering crimes against the justice system (e.g. perjured testimony and false accusations).

Besides, it is to be noted that in the period in question the Polish government worked on changes concerned with the operation of the Polish civil intelligence and counterintelligence. It is highly probable that these two services will be consolidated into one “Agency of National Security.” The new service will be assigned new rights concerned with operational control, while the real court control over special services is to be minimised. Given the changes, establishment of a new ministry (“Ministry of Security”) is also to be expected; such a ministry would be a management centre for all the special services, even special military services [7]. With such an option of institutional changes, the consolidation of the management of special services would resemble the solutions adopted in the USSR (“Ministry of State Security of the USSR,” Russian: Министерство государственной безопасности), in socialist countries (e.g. Polish: “Ministry of Public Security” in 1945-1954), and the current, reformed ones in the Russian Federation [On previous attempts at changing the regulations concerned with the Polish special services before 2015, see 2, 3, 4, 5, 6].

MONITORING AND RECORDING CONVERSATIONS, AND OPERATIONAL CONTROL

On the basis of the information submitted by the Attorney General to the legislature, it is to be pointed out that all the authorised services filed a total of 6035 petitions for monitoring and recording conversations, or for the institution of operational control in 2016. Courts consented to almost 97.5% of the 6035 petitions, and hence the small number of petitions that were recognised as unfounded (noteworthy, as by the general principles enacted, control in Poland is exercised in two stages, that is by



the prosecutor's office first, and by the court second) [1].

The service that accounts for the biggest number of petitions is the Police (almost 80%), Border Guard (6.8%), Internal Security Agency (4.3%), Central Anticorruption Bureau (almost 3.6%), Military Gendarmerie (2.7%), other services (under 1%). The Police is the largest service, which also includes a special uniformed unit – Central Bureau of Investigation, which handles the most serious crimes, and hence the biggest number of petitions concerned with monitoring and recording conversations, and operational control. It is notable that the biggest number of petitions filed by the Police was dismissed by the court and prosecutor's offices in 2016 (125 cases), which may result from the very number of petitions filed by this unit. Were the ratio of petitions dismissed to the petitions filed by a particular unit to be assessed, then the ranking would be as follows: Military Gendarmerie (5.9%), Military Counterintelligence Service (2.9%), Police (almost 2.6%), Border Guard (2.1%), Internal Security Agency (1.5%) and the Central Anticorruption Bureau (1.3%) [1].

LITERATURE:

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