

MUNICIPAL GUARDS IN POLAND. SOME REMARKS CONCERNING PUBLIC  
SECURITY IN MUNICIPALITY

(Piotr Szymaniec, Dr. habil. in legal sciences, professor)  
Angelus Silesius University of Applied Sciences in Wałbrzych, Poland  
pszymaniec@poczta.onet.pl,  
ORCID: 0000-0002-5415-9215

In 1990, local government in Poland was restored. At that time, the formation of self-government units of quasi-police character began from the very beginning. The legal basis for their introduction was the new Act of 6 April 1990 on the Police. Its article 23 gave the mayors and presidents of the city the power to create – in consultation with the Minister of the Interior – uniformed city guards. The Act on communal guards was adopted on August 29, 1997. This act in article 1 clause 1 indicates that municipal guards are intended to protect public order, not public security. Such a definition certainly more broadly outlines the framework of these guards than the phrase “administrative and order operations” used in the original version of the Police Act, but it certainly does not make municipal guards the form of local police. After analyzing the parliamentary debate around this act, one can come to the conclusion that adopting a model of local police was the furthest from the intention of the legislator.

The latest amendments to the Act on municipal guards concern three issues: direct coercion measures, powers in the field of road safety, as well as powers of municipal guards to carry out personal checks (the latter changes were made as a result of the implementation of the judgment of the Constitutional Tribunal of December 14, 2017, K 17/14 ). The Act of 2013 allowed municipal guards to use firearms and direct coercion measures in the cases specified therein. The regulation of the 2013 Act met the requirement stated in the judgments of the Constitutional Tribunal, which called for clarifying the provisions on the use of direct coercive measures. It supplemented and remodeled the catalog of the previously used direct coercion measures, but did not bring any fundamental changes in the scope of competence of municipal guards. In the 2007–2008, there was a sharp increase in the number of municipal guard formations in Poland. However, this was due to changes in regulations enabling the use of speed cameras by municipal guards. Municipal guards were, therefore, treated as a tool for obtaining money for municipalities. The Act of July 24, 2015 deprived municipal guards of the possibility of using speed cameras. After this change, many municipalities decided to liquidate the municipal guards.

The Act of August 29, 1997 on municipal guards is not based on a clear concept of the functioning of these units and subsequent amendments to its provisions have caused a growing pathology, namely the focus on obtaining money for municipalities. For this reason, legislative changes depriving municipal guards from the possibility to use speed cameras should be assessed positively as combating this pathology. However, regulations on municipal guards are not based on some holistic and coherent concept of the role that municipal guards should play in the system of protecting security and public order. Implementing community policing could be a step in the right direction. However, it would require strengthening cooperation with the Police,

introducing the multi-faceted activities that must cover the entire area of the municipality, instead of focusing on traffic offences, designating areas of “public disorder” and their constant monitoring, as well as building real ties with local communities. The role of district guards should be considered as part of good practice that should be disseminated. It is worth considering introducing a minimum catalog of mandatory tasks that they would have to perform by the municipal guards. This would force them to diversify their activities, which could not concentrate only on traffic offences. This would mean, however, that the municipality’s decision to set up a guard would have to be thoroughly considered, and this step could be afforded only quite prosperous municipalities. Other municipalities would have to focus on the cooperation with the Police, but in the current legal framework there are not many mechanisms to force the latter to act in accordance with the demands of local authorities.

In current legal regulations, the scope of cooperation between local government units and the Police is not large, and the possibilities of influencing these units on the work of the Police are not great. As for the level of local government institutions, perhaps in Polish conditions it would be a good solution to equip local governments with instruments enabling more effective implementation of the concept of community policing.