

COOPERATION PRACTICE BETWEEN ELECTION AUTHORITIES AND LAW
ENFORCEMENT ORGANS

1. Voting rights are elements of essential importance for the citizens' political rights. Whereas elections performed in the form of voting act are the means through which decisions are taken in any organization based on democratic rules; therefore, legal importance of the act of voting is closely related to democratic features of the state system. If unconstrained, election or referendum voting event can be considered as an exercise of freedom and citizen rights and therefore it can also be recognized as an indication of democracy.

Considered as the objective of protection there should be proper performance of voting process, in both national and individual aspects i.e. whether complaining with the election regulations and the election organs' regulations as well as whether proper and reliable citizen voting rights were guaranteed, respectively. Summing up, protective function should cover the citizen voting rights as well as the public interest.

Applying this kind of approach to the problem it can be generally stated, that any election process, considering its function and its importance to the nation and to its citizens, is disclosing a nature of the institution of public rights; therefore it follows that its protection remains within capacities of public organs responsible for preparation, organization and management of the election events. There is no doubt, that according to Polish legislation system, these organs include Police and election authorities (or election commissions).

It should be also remembered, that protective function is naturally referring to all the procedures and ways of behavior which are specific for all the election process, starting the day elections were announced till voting day. Therefore, regulations intended to protect Polish election process should be these, included in the penal code and in the so called off code regulations, which are included in the individual election and/or referendum acts.

2. This presentation is to explain how the election authorities and the law enforcement organs (Police) are expected to cooperate with each other. It is natural, that this cooperation practice is relating most specifically to the period immediately before the voting day and to the very voting day itself.

Polish legislation however, is not much detailed with respect to security of the elections and referendums.

Historically, the first published Act on elections issued for regained independence of the State, included in the State Commander Decree dated November 28, 1918 on the statute for Parliament elections, this question was dealt with in Article 66: **„In order to ensure directions of the Chairman were fulfilled [with reference to free accessibility to polling stations], guard personnel of adequate force shall be put at his disposition.”**

This laconic regulation has been applicable till present day in a slightly modified wording. Since found in the election Acts is identical requirement: **“At a request of the local returning commission Chairman adequate support shall be provided by the competent Chief of Police Station.”**

Also, the Act on Police (dated April 6, 1990), which actually plays the role of the regulation on tasks, operation modes, and the methods of performance of the „uniformed and armed units remaining in public service and dedicated to protect safety of people and to maintain safety and public order” is not directly referring to protection of the elections; for such a task is not literally specified in the regulations covering essential Police functions.

It should however be not understood, that for Police and election authorities, security of the election events and voting organs is a problem of minor importance. On the contrary, however laconic the statutes requirements are specified, the practice of very effective and multiple forms of cooperation between these two organs have developed.

3. Cooperation practice between election authorities and Police in the period immediately preceding the voting day and on the very voting day itself is both of organizational/legal (*as performed by election commissions*) and of preventive/security nature (*as performed by Police*), with the following tasks covered:
 - 1) to undertake a survey through criminal environment and individuals for information on the risks if any, which might have any impact on security and public order during election period (*Police*);
 - 2) to ensure security of the election organs through provision of the rules and protection methods for the polling station premises and for the election boards of higher rank up to and inclusive the National Electoral Commission. (*Police and Chairmen of the respective Election Commissions*);
 - 3) to plan emergency information exchange scheme as well as Police calling and intervention procedure in case of disturbances in polling station (*Police and Chairmen of the respective Election Commission*);
 - 4) to identify, together with the respective Election Commissions, the range of help which might be required to ensure security of voting documents (*Police and Chairmen of the respective Election Commissions*).

Re 1) Police are using their specific operation methods to identify criminal/terrorist threats. Election Commissions might naturally be not acquainted with the Police methods. However, the National Electoral Commission are notified of the risk of such threats, if any, through direct personal contacts with the Police Supreme Headquarters.

Re 2) To ensure security of the election commission and their premises including polling stations, the following steps are taken:

- areas in direct surrounding area of the election commission offices are regularly inspected by the 24 hour Police patrols until the commission members have completed their tasks,
- guards are provided in places of particular threat, which should deserve permanent Police supervision,
- careful and detailed inspection of the area surrounding polling stations is carried out on voting day before voting procedure starts; should any doubts or illegal situation (e.g. whether canvassing materials placed in vicinity of the polling station be not breaching election procedure regulations) be raised, the police officers are obliged to immediately report the case to the election commission Chairman,
- specific inspections are carried out for explosive hazard conditions, on the consent and with the election commission members duly informed beforehand, on the voting day but before voting procedure has started, in polling stations where persons employed on top State Administration positions in the (or VIPs) are to vote.

Re 3) Any Police intervention in polling station can be carried out only on request from the election commission Chairman. Police might be required to enter polling station particularly in case of a voter (or voters) breaching election significance, or in case of direct violence against persons present in the station (which also applies to the election commission members), and also in other cases of people or property, whether personal or public, being put to hazard of injury or

damage. Police is also obliged to enter polling station in case of explosive threat conditions when such an intervention should be required.

All the Police intervention proceedings within the polling station must be recorded with video camera.

Police intervention in polling station as in the above described cases is the only legally accepted deviation from the strict rule preventing armed persons being present in polling station.

Re 4) Police can also be asked by election authorities to protect the election documents. In particular this applies to printing, keeping and delivery of voting cards to polling station as well as to handling of the protocols and other documents produced in voting procedure within the election commissions system.

Any operation of the Police within this scope might be performed only on request of the competent election authorities and with the following rules duly observed:

- Police in their local competence must provide specially marked with proper signs police passenger cars for use of the election commission and other auxiliary vehicles specially adjusted for technical back up in case of emergency or damage to a vehicle; but election documents must not be carried in Police service vehicles;
- Police must provide proper crews for the Police vehicles; policemen must carry handguns;
- Police must provide necessary means of communication at the time election documents are handled as well as necessary supervision and communication at a place selected by the election commission for the documents to be kept. On line communication must be permanently maintained with the appointed Police divisions, but in case of the documents to be delivered to the National Electoral Commission, communication is to be established with consequent voivodeship Police divisions. Police guards are obliged to report any events or no events while on the way.

4. In order to ensure Police operations efficient, Chief Police Commandant Operation Center is established at central level, but Voivodeship Coordinator multiple staff position is established at the voivodeship level to direct operations of the Police for protection of the election procedures. Operation Center and Voivodeship Coordinators are cooperating with the National Electoral Commission and Regional Board Chairmen on running basis. This communication system is also employed to inform the election organs of any events reported by the Police in connection with current elections.

5. With no detailed statutory regulations available, cooperation practice between election organs and security/public order organs has been developed on general terms of reference of the two parties. Provided for the election authorities are the election statutes where they are identified as the organs responsible for organization and for performance of the voting event, but for the Police these are the regulations contained in the Police statutes, which require Police to "...protect the people and the property against illegal attempts to injure or to damage these" and also to "... protect security and public order including peaceful public places ..."

Temporary Direction of the Chief Police Commandant on the tasks of the Heads of Police Divisions in relation to the actually announced elections (for election of President, Parliament Members, Senators, European Parliament Members) or nationwide referendums provides legal basis for cooperation of Police and election organs. Draft Direction is every time discussed with respect to the functions of election organs by the Chief Police Commandant with the National Electoral Commission before publication. The arrangements as resulting from the Direction of the Chief Police Commandant is conveyed to respective Election Commissions.

6. The National Electoral Commission consider the existing forms of the Police and Election Commissions cooperation, as well as the respective range of material, technical and organizational operations to be efficient and adequate. It must be stressed that Police operation limits as defined above, raises no objections from any of the subjects taking part in the election events (such as political parties) nor from the voters.

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