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THE USE OR APPLICATION OF MEANS OF DIRECT COERCION BY THE POLICE IN POLAND – AN OUTLINE OF THE ISSUE

Abstract

The article presents issues related to the use or application of means of direct coercion by the Police in Poland. Next year (i.e. 2023) will mark a decade since the introduction of the Law on Means of Direct Coercion and Firearms, so it is worthwhile to present to a civilian audience, the catalogue of means of direct coercion and any issues concerning the legal authority of their use. The correct understanding, acquiring and subsequently deployment of means of direct coercion by Police officers is fundamental to the functioning of a democratic state. Any violations of the rules, conditions and cases of use or application of means of direct coercion must be explained in detail, and if confirmed, decisive steps must be taken to eliminate similar behaviour in the future. On the other hand, it is worthwhile for the public to know what powers a Police officer has and one should believe that, if necessary, he or she will not hesitate to deploy measures to restore the violated public order and safety. The Police motto sounds ‘To help and to protect’. During courses and trainings conducted by police schools, teachers are connecting theory and practice, so students of the art of policing are being guided in a way of this aforementioned motto become theirs during the service. They are aware that the great responsibility is directly connected with great powers. So in the subject of using or applying means of direct coercion, every issue is of great importance. Otherwise Police officers expose themselves to criminal and disciplinary responsibility. Broadly speaking, it strikes also at the good name of the Police service.

Key words

Means of direct coercion, Police in Poland, use of means of direct coercion, apply of means of direct coercion

Introduction

Each Police officer, upon entering the service, takes an oath, the rote of which reads: ‘I, a citizen of the Republic of Poland, aware of the duties undertaken as a Police officer, vow to: serve the nation faithfully, protect the legal order established by the Constitution of the Republic of Poland, guard the security of the State and its citizens, even at the risk of my life. While performing the tasks entrusted to me, I vow to diligently obey the law, to remain faithful to the constitutional organs of the Republic of Poland, to observe official discipline and to carry out the orders and instructions of my superiors. I vow to guard the secrets associated with the service, honour, dignity and good name of the service, and observe the principles of professional ethics’¹

From the point of view of the oath rote, a Police officer has great goals to achieve, which he reaches by risking even his life or health. The wide range of tasks that the Act on the Police imposes on a Police officer in Article 1 also requires that he should be equipped with adequate and effective means to fulfill them. The scope of Police powers is indicated in Chapter 3 of the Act on the Police. An immanent power/feature of Police functioning in the world, is the ability to use coercion, whether indirect or direct.

There is a definition of direct coercion in the Polish legal order. Reference

should be made to the text of Article 148 § 1 of the Law on Enforcement Proceedings in Administration, which outlines this act as follows: ‘Direct coercion consists in bringing about the performance of an obligation subject to execution by means of the threat of application or by means of directly effective measures, not excluding physical force, in order to remove the resistance of the obligee and the resistance of other people who stand in the way of the performance of the obligation.’²

A different definition of the term, along with direction on how to apply it, is indicated on the Mental Health Law. Recalling Article 3 (6) we read that ‘Whenever the provisions of this Law provide for (...) direct coercion, this shall be without indicating the means of direct coercion, understood as:

- restraint – pro tem, short-term immobilization of a person with the use of physical force,
- coercive application of drugs – pro tem or provided within the treatment plan, medicining of drugs into the body of a person – without his consent,
- immobilization – incapacitation of a person with the use of belts, holds, sheets or straitjacket,
- isolation – placement of a person, one at a time, in a closed and properly adapted room (...).³

It is worth pointing out another provision in which the concept described is mentioned, *nota bene* which is very similar to the aforementioned. Namely,

¹ Act on the Police of April 6, 1990 (Journal of Laws 2021, item 1882, as amended).

² The Law on Enforcement Proceedings in Administration of June 17, 1967 (Journal of Laws of 2022, item 479, as amended).

³ Law on Mental Health Protection of March 26, 2020. (Journal of Laws of 2020, item 685, as amended).

in the Law on Upbringing in Sobriety and Counteracting Alcoholism, the following legal regulation appears in Article 42: (...) ‘Direct coercion in the form of:

- restraint – consists of per tem, short-term immobilization of a person with the use of physical force;
- immobilization – consists in the longer-term incapacitation of a person with the use of belts, holders, sheets or straitjacket;
- coercive application of drugs – pro tem or provided within the treatment plan, medicining of drugs into the body of a person – without his consent;
- isolation – placement of a person, one at a time, in a closed and properly adapted room.⁴

The above terms were cited for a reason⁵. Because in the aforementioned laws, a Police officer is also included as a subject authorized or designated to assist in the implementation of direct coercion.

However, the most important legal regulation concerning the use or application of direct coercion is the Law on Means of Direct Coercion and Firearms⁶, as it provides the legal basis for the use of direct coercion on duty. The scope of the law’s subject matter is defined in Article 1, which indicates that:

‘The law defines:

- means of direct coercion used or applied by the authorized people referred to in Article 2;
- cases of use or application of means of direct coercion and firearms;
- rules for the use or application of means of direct coercion and firearms;
- procedure before and after the use or application of means of direct coercion and firearm;
- documentation of the use or application of means of direct coercion and firearm.⁷

Article 2 of the law, which is referred to in the text of Article 1, identifies the subjects authorized to use or apply means of direct coercion. These are known as:

- ‘1. Authorized to use or apply means of direct coercion and firearms are:
- officers of the Internal Security Agency;
 - officers of the Intelligence Agency;
 - officers of the State Protection Service;
 - officers of the Customs and Fiscal Service;
 - officers of the Central Anti-Corruption Bureau;
 - (repealed)
 - guards of the State Hunting Guard;
 - guards of the State Fishing Guard;
 - Police officers;
 - officers and soldiers of the Military Counterintelligence Service;
 - officers of the Prison Service;

⁴ Law on Upbringing in Sobriety and Counteracting Alcoholism of October 26, 1982 (Journal of Laws 2021, item 1119, as amended).

⁵ This is not a closed catalogue. Due to the vastness of the subject matter, it is impossible to fully and exhaustively present all the act where a direct coercion appears. Hence, it is limited only to the mentioned regulations, taking as a decisive criterion the knowledge of the frequency of the use of direct coercion based on the cited laws, resulting from professional practice.

⁶ The Law on Means of Coercion and Firearms of May 24, 2013. (Journal of Laws 2022, item 1416, as amended).

⁷ Ibidem, Article 1.

- officers and soldiers of the Military Intelligence Service;
- guards of municipal (city) guards;
- Border Guard officers;
- guards of the Forest Guard;
- officers of the Speaker’s Guard;
- railroad security guards officers;
- officers of the Park Guard;
- soldiers of the Military Police or military law enforcement agencies;
- security guards authorized to use or apply means of direct coercion or firearms under the provisions of the Law of August 22, 1997 on the Protection of People and Property;
- inspectors of the Road Transport Inspection.

(2) Authorized to use or apply means of direct coercion are:

- members of the mass events’ security service, as referred to in the Law of March 20, 2009 on security of mass;
- employees of correctional institutions, juvenile shelters, district educational centres or youth educational centres.⁸

The use or application of means of direct coercion by the Police in Poland – an outline of the issue

Clarifying the subject scope of the possibility of using or applying means of direct coercion, it should be added that not all authorized people have legitimacy for all measures. This scope is determined by substantive laws, such as the Act on the Police. Thus, Article 16 of the

forementioned regulation, indicates that:

‘1. In the cases referred to in Article 11, points 1-6 and 8-14 of the Law on Means of Direct Coercion and Firearms of May 24, 2013, Police officers may use the means of direct coercion referred to in Article 12 (1), items 1-13 and 17-20 of this Law, or apply these means.

(2) In the cases referred to in Article 45(1)(a-c) and (e), (2), (3) and (4)(a and b) and Article 47 of the Law on Means of Direct Coercion and Firearms of May 24, 2013, Police officers may use or apply firearms.

(3) The use and application of means of direct coercion and firearms, as well as the documentation of such use and application, shall be conducted in accordance with the rules set forth in the Law on Means of Direct Coercion and Firearms of May 24, 2013.⁹

As can be seen, Article 16 (3) includes the statutory delegation for relevant legal regulation.

To correctly interpret the issue of the use of means of direct coercion, it is necessary to clarify several statutory terms. A glossary of definitions is included in Article 4 of the Law. Thus, when the use of direct coercion is discussed – it is understood that it is the deployment of direct coercion against a person¹⁰, and the application of direct coercion – it is understood that it is the deployment of direct coercion against an animal or the deployment of direct coercion to stop, block or immobilize a vehicle or

⁸ Ibidem, Article 2.

⁹ Act on the Police..., Article 16.

¹⁰ Law on Means of Direct..., Art. 4 (6).

overcome an obstacle¹¹. One of the most important definitions, which is the essence and direction of the use of means of direct coercion, is the term incapacitation¹², which is understood as depriving freedom of movement or causing reversible, short-term dysfunction of the limbs or senses in order to eliminate a threat from a person or animal or to break the resistance of a person who does not obey orders issued under the law.

The use of means of direct coercion itself is subject to a number of general as well as specific rules dedicated to specific measures and tactical principles that a Police officer must follow. Regarding the general principles, the following should be mentioned: the principle of legalism, the principle of warning, the principle of purposefulness, the principle of necessity, proportionality and least annoyance, the principle of minimizing harm, the principle of extreme caution. The principle of legalism stipulates that a Police officer may use means of direct coercion or firearms or apply them for the purposes specified in relevant law only within the scope of carrying out the statutory tasks of the service in which he serves or in which he is employed.¹³

There is no doubt that the ability to use/apply means of direct coercion by a

Police officer is thus limited to the tasks that the Police Act provides for the performance of. The principle of warning is not expressed explicitly, but is revealed in the framework of activities prior to the use of means of direct coercion. Thus, means of direct coercion can be used after ineffectively calling a person to behave in accordance with the law, and after warning him of the intention to use such measures.¹⁴ Of course, the law provides the possibility of waiving the principle of warning, and it arises in the following situations: there is a direct threat to the life, health or freedom of a Police officer or another person, or delay in using would threaten to endanger goods protected by the law, and in parallel with this the means of direct coercion are used preventively.^{15, 16} The principle of purposefulness dictates that the use or application of means of direct coercion or firearms should be abandoned when the purpose of their use or application has been achieved.¹⁷ The three principles that are, so to speak, complementary to each other, namely the principles of necessity, proportionality and least annoyance, the law combines in one sentence, i. e. : ‘Means of direct coercion shall be used or applied in a manner necessary to achieve the objectives of such use or application, in proportion to the degree of

¹¹ Ibidem, Article 4 (9).

¹² Ibidem, Article 4, (4).

¹³ Ibidem, Article 5.

¹⁴ Ibidem, Article 34 (1).

¹⁵ Ibidem, Article 34 (2).

¹⁶ The preventive use of means of direct coercion by the Police is regulated by Article 13 (1) of the aforementioned law, and stands as follows: ‘The means of direct coercion referred to in Article 12(1)(1)(a), (2-4) and (6) may also be used preventively to prevent the escape of a person apprehended, led, detained, escorted or placed in a guarded centre, detention centre for the purpose of removal or a person deprived of liberty, as well as to prevent the symptoms of aggression or self-aggression of such persons. This refers to specific means, i.e. physical force in the form of transport techniques, handcuffs, straitjacket, incapacitating belt and safety helmet. Cf. *ibid*, Article 13 (1).

¹⁷ Ibidem, Article 7 (2).

danger, choosing the measure with the least possible annoyance.¹⁸ In the context of using a means of direct coercion, the legislator emphasizes the importance of obeying the human rights, as well as the concern for people, which is revealed in the framework of the principle of special precaution. Namely, the means of direct coercion shall be used or applied with extreme caution, taking into account their characteristics, which may pose a threat to the life or health of a Police officer or another person.¹⁹

The rule related to the effect that may occur after the use of means of direct coercion specifies that means of direct coercion or firearms shall be used or applied in a manner that causes the least possible harm.²⁰ In addition, it is also a statutory principle that when the circumstances of an incident warrant it, a Police officer may use more than one means of direct coercion at the same time, or use more than one such means at the same time, under rules that the Law on Means of Direct Coercion and Firearms specifies.²¹ Prohibitions on the combination of certain means of coercion are also indicated in this article.

From the Police practice, as well as from the literature, it is possible to derive tactical principles for the implementation during interventions²². They are intended not only to correspond with the general and specific rules for the use and

application of means of direct coercion, but also to ensure the broadly understood safety of a Police officers and other people involved in the intervention. These are the following principles: use of knowledge and possessed skills, quick and decisive action, safety of oneself and others, tact, personal culture, objectivity of action, analysis and assessment of the situation, making well-considered decisions, helping oneself and others, determining 'who is who,' constant communication with the Police duty officer of the Police organizational unit, creating documentation.²³ As can be seen from the above principles, they are very practical and can be adapted to various professional activities carried out by Police officers.

At this point, it is worth mentioning a particular principle of special treatment of certain people in the context of the use of means of direct coercion against them. This is about subjective prohibitions, which include the following people in partial immunity: women with visible pregnancy, people whose appearance indicates an age up to 13 years, and people with visible disabilities. Against them, a Police officer may only use physical force in the form of incapacitation techniques.²⁴

However, when it is necessary to repel a direct, unlawful attack on the life or health of a Police officer or another person, and the use of physical force against the aforementioned person is insufficient

¹⁸ *Ibidem*, Article 6 (1).

¹⁹ *Ibidem*, Article 7 (3).

²⁰ *Ibidem*, Article 7 (1).

²¹ *Ibidem*, Article 8.

²² Dyduch L., *Środki przymusu bezpośredniego. Ich posiadanie, użycie i wykorzystanie przez policjantów*. Legionowo, 2016, p. 59.

²³ *Ibidem*, p. 59 and following.

²⁴ Law on Means of Direct..., Art. 9 (1).

or impossible, a Police officer may use other means of direct coercion or even a firearms.²⁵ The use of a means of direct coercion in such a case, shall take into account its characteristics and the condition of the person against whom it is to be used.²⁶

The catalogue of rules would not be complete if it did not indicate the proper, professional ethical course of action taken by Police officers. Thus, completing it, it should be indicated that a Police officer in all his actions has a duty to respect human dignity and to respect and protect human rights, in particular expressed in:

- respecting everyone's right to live;
- prohibiting the initiation, use and toleration of torture or inhuman or degrading treatment or punishment.²⁷ In addition, a Police officer, when deciding whether to use firearms or use means of direct coercion, should exercise extreme caution and constantly keep in mind the nature of these measures.²⁸ What's more the conduct of a Police officer in dealing with people should be characterized by benevolence and impartiality that excludes prejudice based on race, nationality, religion, political, worldview or other reasons.²⁹

Before describing the subject of concretized rules on the use or application of particular means of direct coercion, it would be appropriate to indicate which means are dedicated to the Police and in which cases they can be used or applied. These were indicated earlier in numerical

form, as they appear in Article 16 (1) of the Police Law. Thus, the catalogue of the above items is as follows:

1. physical force in the form of techniques:
 - transport,
 - defense,
 - attack,
 - incapacitation;
2. handcuffs:
 - put on the hands,
 - put on the legs,
 - combined;
3. straitjacket;
4. incapacitating belt;
5. incapacitating net;
6. safety helmet;
7. service baton/truncheon;
8. water incapacitating agents;
9. service dog;
10. service horse;
11. non-penetration bullets;
12. chemical incapacitating agents in the form of:
 - hand-held incapacitating substance throwers,
 - backpack incapacitating substance throwers,
 - tear grenades,
 - other devices intended for throwing incapacitating agents;
13. objects intended to incapacitate people by means of electrical energy;
14. not applicable;
15. not applicable;
16. not applicable;

²⁵ Ibid,em Art. 9 (2).

²⁶ Ibidem, Art. 9 (3).

²⁷ Order No. 805 of the Commander-in-Chief of the Police on 'Principles of professional ethics of a Police officer' of 31 December 2003 (Official Journal of the KGP 2004 No. 1, item 3), § 4.

²⁸ Ibidem, § 5.

²⁹ Ibidem, § 6.

17. road spike and other means applied to stop and immobilise motor vehicles;
18. duty vehicles;
19. means intended to overcome building closures and other obstacles, including explosives;
20. pyrotechnics agents with deafening or dazzling effect.^{30,31}

Instances of the use or application of means of direct coercion are included in Article 11. Linking this provision to Article 16 (1) of the Police Law, it should be pointed out that a Police officer use or apply means of direct coercion when it is necessary to do at least one of the following:

- to enforce legally required behaviour in accordance with a Police officer's order;
 - to repel a direct, unlawful attack on the life, health or freedom of a Police officer or another person;
 - to counteract actions aimed directly at an attack on the life, health or freedom of a Police officer or another person;
 - to counteract a violation of public order or safety;
 - to counteract a direct attack on areas, facilities or equipment protected by a Police officer;
 - to protect order or safety in the areas or facilities protected by a Police officer;
 - not applicable;
- counteracting destruction of property;
 - ensure the safety of the convoy or escort a person;
 - capturing a person, preventing his or her escape or chasing after that person;
 - detaining a person, preventing his or her escape or chasing after that person;
 - overcoming passive resistance;
 - overcome active resistance;
 - counteracting actions aimed at self-injury.³²

It is worth recalling another provision of the Police Law, the one that deals with cases of use and specific means of direct coercion against a minor brought to the Police children's chamber.³³ According to an Article 16a of the Police Law, these are the following cases:

- to enforce the legally required behaviour in accordance with the order given by a Police officer;
- to repel a direct unlawful attack on the life, health or freedom of a Police officer or another person;
- to counteract actions aimed directly at an attack on the life, health or freedom of a Police officer or another person;
- counteracting destruction of property;
- capturing a person, preventing his or her escape or chasing after that person;
- detaining a person, preventing his or her escape or chasing after that person;

³⁰ Ibidem, Art. 12 (1).

³¹ The law also indicates a catalogue of direct coercive measures that can be used against an animal whose behaviour directly threatens the life or health of a Police officer or another person. They are as follows: physical force in the form of defence, attack, incapacitation techniques; incapacitating net, service baton/ truncheon, water incapacitating agents, non-penetration bullets, chemical incapacitating agents, objects intended to incapacitate people by means of electrical energy. Cf. *ibid*, Article 12 (2).

³² Ibidem, art. 12.

³³ Juveniles within the meaning of the Law on the Support and Rehabilitation of Juveniles of 9 June 2022 (Journal of Laws of 2022, item 1700, Article 1 (2) in conjunction with (1), are: 1. in the field of demoralisation proceedings – people who have reached the age of 10 and are not of legal age; 2. in the field of proceedings for criminal acts – people who have committed such an act after the age of 13 but before the age of 17; 3. in the field of the execution of educational measures, a therapeutic measure or a correctional measure – persons in respect of whom such measures have been ordered, but no longer than until they reach the age of 21, unless the law provides otherwise.

- overcoming passive resistance;
- overcome active resistance;
- counteracting activities aimed at self-aggression.

These cases, taking into account the previous statutory limitations of the mainstream use of means of direct coercion, involve the following measures:

1. physical force in the form of techniques:
 - a. transportation,
 - b. defense,
 - c. attack,
 - d. incapacitation;
2. handcuffs:
 - a. put on the hands,
 - b. put on the legs,
3. straitjacket;
4. incapacitating belt;
6. safety helmet;
7. service baton;
12. chemical incapacitating agents in the form of:
 - a. hand-held incapacitating substance throwers.^{34,35}

Moving on to discuss the various means of direct coercion, physical force will be discussed first.³⁶ A Police officer in Poland may use or apply it in all

cases specified in Article 11 of the Law on Means of Direct Coercion and Firearms. When using physical force or applying physical force, no blows are inflicted unless a Police officer acts to repel an attack on his own life or health or other person's life or health, or on property, or to prevent escape.³⁷

Next means of direct coercion available to a Police officer are handcuffs. They can only be used in the cases referred to in Article 11 points 1-11, 13 and 14.³⁸ Handcuffs can also be used on the order of a court or prosecutor.³⁹ The purpose of using handcuffs is to partially immobilize the limbs.⁴⁰ The method of putting on handcuffs is specifically defined. Namely, the handcuffs are placed on the hands held behind.⁴¹ Taking into account that in Article 12 (1.2), different types of handcuffs are indicated, the legislator specified the rules for putting on combined handcuffs or handcuffs put on legs, which can only be used against:

- aggressive people;
- detained on suspicion of committing a crime involving firearms, explosives or another dangerous instrument, or a crime referred to in Article 115

³⁴ A director of the chamber shall notify the family court which supervises the performance by the Police or Border Guard of the activities referred to in Article 48, Article 50, Article 59 and Article 98 of the Law on the Support and Resocialisation of Minors of 9 June 2022 and the family court within whose jurisdiction the Police children's chamber is located about the use of direct coercive measures against a minor placed in the Police children's chamber. *Ibid*, Article 40 (2).

³⁵ In the case of the use of a direct coercive measure against a minor placed in a reformatory, a shelter for minors, a district educational centre, a youth educational centre or a Police children's chamber, the authorised person shall each time hand over a note (written after the use of a means of direct coercion – author's note) to the superior, regardless of the type and effect of the use of the means of direct coercion. *Ibid* Article 51 (3). Documentation issues related to the use or application of means of direct coercion are discussed in details later in this article.

³⁶ Law on Means of Direct..., Article 14 (1).

³⁷ *Ibidem*, Article 14 (2).

³⁸ *Ibidem*, Article 15 (1).

³⁹ *Ibidem*, Article 15 (2).

⁴⁰ *Ibidem*, Article 15 (3).

⁴¹ *Ibidem*, Article 15 (4).

§ 20, Article 148 or Article 258 of the Criminal Code of June 6, 1997⁴²;

– deprived of freedom.⁴³

In addition, it is clarified that handcuffs put on the legs shall be used simultaneously with handcuffs put on the hands.⁴⁴

A deviation from the principle of placing handcuffs on hands held behind regards to the following circumstances. In the case of preventive use of handcuffs⁴⁵ or when, in the opinion of a Police officer, the likelihood of an escape attempt, active resistance or the occurrence of behaviour that may endanger life, health or property is insignificant, handcuffs may be placed on hands held in front.⁴⁶

Next means of direct coercion which can be used by a Police officer are a straitjacket and an incapacitating belt. These means shall only be used, what is more, only if the use of other means of direct coercion is impossible or may prove ineffective, in the cases referred to in Article 11, points 3, 4, 6, 10, 11, 13 and 14.⁴⁷ A straitjacket or a one-piece incapacitating belt shall be used to immobilize the hands⁴⁸, and a multi-piece incapacitating belt shall be used to immobilize a person.⁴⁹ The use of a straitjacket or incapacitating belt

must not impede breathing or obstruct blood circulation.⁵⁰ If a straitjacket or incapacitating belt is used against a minor or a woman in a visual pregnancy, the person must be immediately provided with medical assistance, and further use of these means shall depend on the opinion of the person providing such assistance.⁵¹

The mean of direct coercion in which the inclusion of an additional measure is ordered is the safety helmet. It can only be used in the case referred to in Article 11, point 14.⁵² The safety helmet is used to prevent self-injury to the head, after first putting a one-piece incapacitating belt or a straitjacket or handcuffs on the hands held behind.⁵³

A slightly more technically complexed mean is an incapacitating net. It can be used or it can be applied if the use or application of other means of direct coercion is impossible or may be ineffective, in the cases referred to in Article 11 points 2-5, 10 and 11.⁵⁴ The incapacitating net is used to immobilize a person or it is applied to immobilize an animal.⁵⁵ The technique of application is specified as follows: the incapacitating net is thrown by firearms or other devices, or it is thrown by hand.⁵⁶

⁴² I.e. terrorist's crime, homicide, participation in the organized criminal groups.

⁴³ Law on Means of Direct..., Article 15 (5).

⁴⁴ Ibidem, Article 15 (7).

⁴⁵ Cf. Ibid. Article 13 (1).

⁴⁶ Ibidem, Article 15 (2).

⁴⁷ Ibidem, Article 16 (1).

⁴⁸ Ibidem, Article 16 (2).

⁴⁹ Ibidem, Article 16 (3).

⁵⁰ Ibidem, Article 15 (4).

⁵¹ Ibidem, Article 16 (5).

⁵² Ibidem, Article 17 (1).

⁵³ Ibidem, Article 17 (2).

⁵⁴ Ibidem, Article 18 (1).

⁵⁵ Ibidem, Article 18 (2).

⁵⁶ Ibidem, Article 18 (3).

Another mean of direct coercion is the service baton/truncheon. It is used and applied in the cases referred to in Article 11 points 1-11 and 13.⁵⁷ The law introduces restrictions on the principle of combination of means, because it is forbidden to use a service baton against people:

- in relation to whom the means of direct coercion referred to in Article 12 (1), items 2-5 have been used,⁵⁸
- incapacitated as a result of the use of means of direct coercion referred to in Article 12 (1) item 13.⁵⁹

It concerns the following means of direct coercion respectively: handcuffs, straitjacket, incapacitating belt, incapacitating net and (electric) stun gun. A derogation from the above so-called ‘object’ prohibitions is the possibility of using the service baton as a transport joint lock against people against whom the above-mentioned means of direct coercion have been used.

The goal that is envisaged to be achieved in the situation of using the service baton is to incapacitate the person, and the method of use is by inflicting physical pain or to block the limbs. Analogous is the purpose of applying the above measure against an animal.⁶⁰ Additional restrictions on the manner of use of the service baton indicate that no blows or stabs can be inflicted on the head, neck, abdomen and non-muscular

and particularly sensitive parts of the body, except when it is necessary to repel an attack that poses an immediate threat to the life or health of a Police officer or another person.⁶¹

Another technical mean of direct coercion is water incapacitating agent. It can be used or applied through the use of devices intended for this purpose, in the cases referred to in Article 11 points 1, 2, 4, 8, 12 and 13.⁶² Water incapacitating agent shall be used to momentarily incapacitate a person or shall be applied to momentarily incapacitate an animal.⁶³ What’s more, these means can also be used with the addition of a teargas or colouring agent.⁶⁴

Moving on to the group of means of direct coercion, which is usually called ‘service animals,’ the service dog will be discussed first. It can be used in the cases referred to in Article 11 points 2, 5-6, 9-11, 13⁶⁵. As a rule, a service dog is used while wearing a muzzle, unless:

1. it has been trained to operate without a muzzle;
2. the use of a service dog is for:
 - a. repel an attack on the life or health of a Police officer or another person,
 - b. to perform official activities against people against whom the use of firearms is permissible in the cases referred to in:

⁵⁷ Ibidem, Article 19 (1).

⁵⁸ Ibidem, Article 19 (2.1).

⁵⁹ Ibidem, Article 19 (2.2).

⁶⁰ Ibidem, Article 19 (3).

⁶¹ Ibidem, Article 19 (4).

⁶² Ibidem, Article 20 (1).

⁶³ Ibidem, Article 20 (2).

⁶⁴ Ibidem, Article 20 (3).

⁶⁵ Ibidem, Article 21 (1).

- Article 45(1)(a-c), (2) and (3).⁶⁶
- (...).⁶⁷

The next mean of direct coercion from the group of ‘service animals’ is the service horse, which can be used in the cases referred to in Article 11 points 2, 4, 8, 12 and 13.⁶⁸ The service horse is used to control the movement of a group of people, using its weight.⁶⁹

A specific means of direct coercion are non-penetration bullets, which are thrown from firearms⁷⁰ or devices intended for this purpose, and which can be used or applied in the cases referred to in Article 11 items 2-5, 8-11 and 13.⁷¹ In addition, the law adds another action to be implemented in the implementation of the pre-use procedure, which was discussed under the principle of warning. Namely,

in the event of a collective disturbance of public order, the use of non-penetration bullets shall be preceded by a warning shot or a warning salvo in a safe direction, except if this would take place in the premises, facilities of a detention centre, prison, guarded centre or detention centre for the purpose of deportation.⁷² The purpose of the using/applying of this means of direct coercion is to incapacitate people or animals by inflicting physical pain, while not targeting the head or neck.⁷³

Another means of direct coercion are chemical incapacitating agents that come in the form of hand-held incapacitating substance throwers, backpack incapacitating substance throwers, tear grenades and other devices intended for throwing

⁶⁶ It regards to the instances of use of firearms, which are indicated in Article 45 of the Law on Means of Direct Coercion and Firearms (the catalogue of cases dedicated to the Police is more extensive than stated above). They are as follows:

Instance 1) the need to repel a direct, unlawful attack on:

- a) the life, health or freedom of the Police officer or another person, or the need to counteract activities aimed directly at such an attack,
- b) important objects, equipment or areas, or the need to counteract actions aimed directly at such an attack,
- c) property, which at the same time poses a direct threat to the life, health or freedom of the authorized person or another person, or the need to counteract actions aimed directly at such an attack.

Instance 2) the need to counter a person:

- a) who disobeys a call to immediately abandon a weapon, explosive or other dangerous object, the use of which may endanger the life, health or freedom of the Police officer or another person,
- b) who attempts to unlawfully seize a firearms from the Police officer or another person entitled to its possession;

Instance 3) direct pursuit of a person against whom:

- a) the use of firearms was permissible in the cases specified in points 1. a-c and 2,
- b) there is a reasonable suspicion that he or she has committed a crime referred to in Article 115 § 20, Article 148, Article 156 § 1, Article 163-165, Article 197, Article 252 and Article 280-282 of the Criminal Code of June 6, 1997.

⁶⁷ Ibidem, Article 21 (2).

⁶⁸ Ibidem, Article 22 (1).

⁶⁹ Ibidem, Article 22 (2).

⁷⁰ As defined in the Law of May 21, 1999 on Firearms and Ammunition (Journal of Laws of 2020, item 955, as amended), a firearms is any portable barrelled weapon that smites, is intended to expel or can be adapted to expel one or more projectiles or substances as a result of the action of a propelling material (ibid., Article 7(1)). Due to the method of expelling non-penetrating bullets, i.e. from a firearms, indicated in the law, one can observe a mistake in understanding and naming the use of the means of direct coercion. Namely, firing a shot from a firearms with non-penetration projectiles, e.g. from a 12 gauge shotgun, will not be the use or application of a firearms, but the use or application of means of direct coercion. The Law on Means of Direct Coercion and Firearms defines the use of firearms as the firing of a shot in the direction of a person with penetrating ammunition, while the application of firearms is understood as the firing of a shot with penetrating ammunition in the direction of an animal, object or other direction that does not pose a threat to a person. Ibid, Article 4 (7), (10).

⁷¹ Ibidem, Article 23 (1).

⁷² Ibidem, Article 23 (2).

⁷³ Ibidem, Article 23 (3).

incapacitating agents.^{74, 75} They may be used or applied in the cases referred to in Article 11, items 1-13, and are used to briefly disrupt spatial orientation or incapacitate.⁷⁶ As in the case of the use of the service truncheon, the legislator has introduced restrictions on the principle of combining chemical incapacitating agents with other means of direct coercion. Thus, these means shall not be used against people to whom the means referred to in Article 12 (1) (2-5) or (13) have been used.⁷⁷ This refers to the following means of direct coercion: handcuffs, straitjacket, incapacitating belt, incapacitating net and an object intended to incapacitate people by means of electricity. In reference to the above mentioned mean of direct coercion, it is worth noting that it is commonly referred to as a (electric) stun gun. Thus, a stun gun can be used or applied in the cases referred to in Article 11 item 2, 3, 5, 8-11 and 13.⁷⁸ In addition, the following restriction appears, which dictates that stun gun can be used to momentarily incapacitate a person or applied to momentarily incapacitate an animal if the use of other means of direct coercion is either impossible or may prove ineffective. The legislator, as in the case of the service baton or chemical incapacitating agents, introduces object prohibitions on the principle of combining the stun gun with other means.

Thus, objects intended to incapacitate people by means of electrical energy shall not be used against people to whom the means referred to in Article 12 (1.2-5)⁷⁹, i.e. handcuffs, straitjacket, incapacitating belt, incapacitating net, have been used, and when using objects intended for incapacitating people by means of electrical energy, the head shall not be aimed at.⁸⁰

Another mean of direct coercion dedicated to the implementation of Police activities is a road spike and other means for stopping and immobilizing motor vehicles. They can be only applied in the cases referred to in Article 11, points 6, 10 and 11.⁸¹ The means mentioned, do not include spikes connected to the ground and integrated with a barrier, as well as other objects that allow stopping vehicles used in areas and facilities subject to protection.⁸² The manner and tactics for the application of these means of direct coercion are indicated in the following steps:

1. the mean shall be applied by a uniformed Police officer to stop a vehicle or immobilize a stopped vehicle when it is possible to move its away from the place of stopping.⁸³
2. the application of mean, in order to stop the vehicle shall be preceded by:
 - 1) a signal to stop the vehicle given by a uniformed Police officer in a manner understandable and visible to the driver of the stopped vehicle;

⁷⁴ Ibidem, Article 24 (1).

⁷⁵ Cf. Ibidem, Article 12 (1.12).

⁷⁶ Ibidem, Article 24 (2).

⁷⁷ Ibidem, Article 24 (3).

⁷⁸ Ibidem, Article 25 (1).

⁷⁹ Ibidem, Article 25 (3).

⁸⁰ Ibidem, Article 25 (4).

⁸¹ Ibidem, Article 30 (1).

⁸² Ibidem, Article 30 (2).

⁸³ Ibidem, Article 30 (3).

- 2) stopping traffic in both directions at a distance of not less than 100 m from the described measures.⁸⁴
3. In the case of blocking the road with a marked service vehicle, the traffic stop is not obligatory.⁸⁵

The subject prohibition on the application of a road barricade includes stopping a single-track vehicle.⁸⁶

An interesting possibility in the context of the application of means of direct coercion is indicated as an option to apply a service vehicle in this way. It can be applied in the cases referred to in Article 11 points 2, 3, 9-11, if it is moving as:

1. an emergency vehicle⁸⁷, within the meaning of the Road Traffic Law of June 20, 1997,
2. a service vehicle traveling in a column of emergency vehicles.⁸⁸

The purpose of applying a service vehicle is to stop or block another vehicle or overcome an obstacle.⁸⁹

The penultimate means of direct coercion listed in the catalogue are means intended to overcome building closures and other obstacles, including explosives, which can be applied in the cases referred to in Article 11, points 2, 3, 5, 6, 10, 11 and 14.⁹⁰ These means are applied to allow

Police officers to enter premises or other places if:

- the use or application of other means of direct coercion could cause danger to the life or health of a Police officer or another person, or
- the entry of Police officers into premises or other places is impossible without the application of these means.⁹¹

The last means dedicated to Police officers are pyrotechnics with deafening or dazzling properties can be used in the cases referred to in Article 11 items 2, 3, 5, 6, 10, 11 and 14.⁹² These means include, in particular, bang-bang grenades, including those containing tear gas, firecrackers and smoke grenades.⁹³ Pyrotechnic means with deafening or dazzling properties are used to improve security during the performance of statutory tasks by the Police officer, in conditions that pose a particular threat to the life or health of the Police officer or another person.⁹⁴ The aforementioned means are used to restrict the ability of detained people to act by momentarily disrupting their spatial orientation or distracting them from the actions of the Police officer, when there is a suspicion that these people will put up intense resistance.⁹⁵

⁸⁴ Ibidem, Article 30 (4).

⁸⁵ Ibidem, Article 30 (5).

⁸⁶ Ibidem, Article 30 (6).

⁸⁷ Emergency vehicle – a vehicle sending light signals in the form of blue flashing lights and at the same time sound signals of variable tone, driving with dipped or high beam headlights on. The term also includes vehicles driving in a column, at the beginning and end of which are privileged vehicles that additionally send light signals in the form of red flashing lights. Cf. Article 2 (38) of the Road Traffic Law of June 20, 1997.

⁸⁸ Law on Means of Direct..., Article 31 (1).

⁸⁹ Ibidem, Article 31 (2).

⁹⁰ Ibidem, Article 32 (1).

⁹¹ Ibidem, Article 32 (2).

⁹² Ibidem, Article 33 (1).

⁹³ Ibidem, Article 33 (2).

⁹⁴ Ibidem, Article 33 (3).

⁹⁵ Ibidem, Article 33 (4).

As you can see, the catalogue of means of direct coercion provided for the Police is very extensive. Not all means are directly available to Police officers. Although, in principle, the decision to use or apply means of direct coercion is made by a Police officer himself⁹⁶, but the legislator, has introduced a number of restrictions on the decision-making process, which are included in the following provisions. Thus, the decision on the use or application of the means of direct coercion referred to in Article 12 (1) points 3, 4, 6, 8, point 12 b-d (i.e., straitjacket, incapacitating belt, protective helmet) is made for the Police:

- by the head of the Police organizational unit or people authorized by him/her, and in case of their absence – a Police duty officer,
- during convoying, leading or performing other official tasks by a group of officers – the commander of the convoy or group of officers performing the leading or other official tasks,
- to the use or application of means of direct coercion referred to in Article 12.1 item 8 or item 12 letter b-d (i.e. water incapacitating agents, chemical incapacitating agents in the form of backpack throwers of incapacitating substances, tear grenades, other devices intended to throw incapacitating agents), the Chief of Police, the Commander of the Central Bureau of Investigation of the Police, Commander of the Bureau of Internal Affairs of the Police, Commander of the Central Counter

Terrorist Sub-Division of the Police ‘BOA’, Commander of the Central Bureau for Combating Cybercrime, the locally competent Provincial (Metropolitan) Police Commander or people authorized by them.⁹⁷

Describing the issues related to the use or application of means of direct coercion, it is impossible to ignore the issues that concern the actions that a Police officer is obliged to take after any use/application of such measures. Thus, in the event that as a result of the use or application of means of direct coercion a person has been injured or there have been other apparent symptoms of danger to the life or health of that person, a Police officer shall render first aid to that person without delay and, if necessary, ensure that qualified first aid or emergency medical service providers are performed.⁹⁸ A Police officer may refrain from providing first aid if one of the following circumstances exists:

- providing this assistance may endanger the life, health or safety of a Police officer or another person;
- granting this assistance would make it necessary for a Police officer to abandon protective actions against people, important objects, equipment or areas, or as part of an escort or lead;
- granting of assistance to the injured person has been provided by other people or subjects obligated to provide such assistance.⁹⁹

In the event that first aid is waived or the injured person objects to the

⁹⁶ Ibidem, Article 35 (1).

⁹⁷ Ibidem, Article 35,

⁹⁸ Ibidem, Article 36 (1).

⁹⁹ Ibidem, Article 36 (2).

provision of such assistance, a Police officer shall ensure that qualified first aid or emergency medical service providers are performed.¹⁰⁰

It should be emphasized that a Police officer may not refrain from providing medical emergency measures to a pregnant woman against whom he/she has used means of direct coercion.¹⁰¹

The next steps which should be undertaken are as follows. If, as a result of the use or application of means of direct coercion, a person has been injured or there have been other visible signs of danger to the life or health of that person or there has been death of a person, injury or death of an animal or destruction of property, a Police officer shall:

- secures the scene of the incident, including from the access of bystanders;
- establishes witnesses to the incident;
- notifies the incident to the appropriate supervisor or the Police duty officer.¹⁰²

Activities in the form of securing the scene of the incident, including from access by unauthorized people, and determining witnesses to the incident may not be completed if:

- it would endanger the life, health or safety of a Police officer or another person,
- it would make it necessary for a Police officer to abandon protective actions against people, important objects, equipment or areas, or as part of a convoy or lead. Refraining from carrying

out these activities is authorized until the aforementioned danger or said necessity ceases.¹⁰³

The legislator has also indicated the duties of supervisors as well as Police duty, which arise in the following situations. In the event that, as a result of the use or application of means of direct coercion, there are symptoms justifying the need to provide qualified first aid or medical emergency response providers to a person, or the death of this person has occurred or damage to property of significant value has been caused, the competent supervisor or a Police duty officer shall immediately:

- ensure, if necessary, that qualified first aid or medical emergency response providers are summoned to the injured person;
- ensure the preservation of traces and evidence of the use or application of means of direct coercion; (...).¹⁰⁴

In addition, a Police officer's superior or a Police duty officer shall notify the above-described situation, the locally competent prosecutor.¹⁰⁵

A Police officer's superior has an additional duty, as:

- determines whether the use or application of means of direct coercion was lawful;
- immediately notifies the event to the appropriate superior.¹⁰⁶

In order to more fully present the issue of the use or application of means

¹⁰⁰ Ibidem, Article 36 (3).

¹⁰¹ Ibidem, Article 36 (4).

¹⁰² Ibidem, Article 37 (1).

¹⁰³ Ibidem, Article 37 (2).

¹⁰⁴ Ibidem, Article 39 (1).

¹⁰⁵ Ibidem, Article 39 (2).

¹⁰⁶ Ibidem, Article 39 (3).

of direct coercion by Police officers in Poland, it would be appropriate to raise the issue of the use of such means by the riot Police. According to the statutory definition, a riot division is an organized, uniformly commanded group of the Police, Border Guard, Prison Service or Military Police soldiers, performing preventive actions in the event of a threat or disruption of public safety or order.¹⁰⁷

At the outset, it should be pointed out that the law permits using or applying means of direct coercion by a riot Police.¹⁰⁸ However, the requirement is that the following people give their approval for these actions. Namely, this is the Chief of Police, the locally competent provincial (Metropolitan) commander or people authorized by them.¹⁰⁹ However, due to the specific nature of the operation of a riot Police, the law allows for consent for the use or application of means of direct coercion by a subdivision to be granted also by its commander, when a delay in the use or application of these means would threaten direct danger to the life or health of a Police officer, another person or property, or danger of an attack on important objects, equipment or areas.¹¹⁰ The use or application of means of direct coercion by a riot Police in a specific situation occurs on the order of the commander of that subdivision.¹¹¹

Immediately before ordering the use of means of direct coercion by a compact subdivision, its commander calls for lawful behaviour, in particular, to abandon weapons or other dangerous objects or to refrain from using violence, and then warns of the possibility of using means of direct coercion if the call is not obeyed.¹¹² On the other hand, in the event that it is not possible to make contact with the commander or in a situation that threatens the life or health of a Police officer or another person, a Police officer who serves in the riot Police may use means of direct coercion or apply these measures under the rules set forth in the described law.¹¹³ In accordance with the principles of expediency and minimization of consequences, the cessation of the use of means of direct coercion by a riot Police shall be made on the order of the commander or immediately after achieving the intended purpose.¹¹⁴ Regarding the actions to be performed when a particular effect of the use or application of means of direct coercion by a riot Police occurs. They are as follows:

- an injury to a person has occurred,
- other visible symptoms of danger to the life or health of that person have occurred,
- death of a person has occurred,
- destruction of property has occurred,
- injury or death of an animal has occurred

¹⁰⁷ *Ibidem*, Article 4 (5).

¹⁰⁸ *Ibidem*, Article 41.

¹⁰⁹ *Ibidem*, Article 42 (1.1).

¹¹⁰ *Ibidem*, Article 42 (2).

¹¹¹ *Ibidem*, Article 43 (1).

¹¹² *Ibidem*, Article 42 (2).

¹¹³ *Ibidem*, Article 43 (3).

¹¹⁴ *Ibidem*, Article 43 (4).

the provisions indicated in the aforementioned Article 39 of the Law should be applied.¹¹⁵

In addition, incidents in which there is injury to a person, there are other visible signs of danger to the life or health of that person, death of a person or destruction of property, the commander shall immediately notify the authority or person who authorized the use of means of direct coercion, or a Police duty officer.¹¹⁶ On the other hand, if permission for the use or application of means of direct coercion by a riot Police was given by its commander, he must additionally notify the competent person, i.e. the Police Chief, the locally competent provincial (Metropolitan) commander or people authorized by them.¹¹⁷

After the actions performed, Police officers most often have to document them in an appropriate manner. The shape of the document which they will draw up is dictated by the nature of the actions taken and also the relevant applicable regulations. And so it is in the situation of the use or application of means of direct coercion. Chapter Four of the Law on Means of Direct Coercion and Firearms is entitled 'Documenting the use and application of means of direct coercion and firearms.' Thus, a Police officer documents the use and application of means of direct coercion and firearms in a memo (a note).¹¹⁸ Then, he submits

the note to his superior in the case of the use or application of:

- means of direct coercion – when the result of this use or application was the injury of a person or the occurrence of other visible symptoms of danger to the life or health of that person or his death, injury or death of an animal or destruction of property;
- firearms – regardless of the effect of this use or application.¹¹⁹

The legislator allows for the possibility in which a Police officer may document in his or her service notepad the use and application of means of direct coercion and firearms when the effects of injury to a person or the occurrence of other visible symptoms of danger to the life or health of that person or his or her death, injury to or death of an animal or destruction of property have not occurred.¹²⁰

In a situation where a riot Police has used or applied means of direct coercion then its commander shall document immediately after the end of the subdivision's activities during which this use or utilization occurred, make a note, which he shall hand over to the authority or person who authorized the use of such means.¹²¹

Turning to the elements that should be included in the note, it is necessary to recall the content of Article 54 of the Law on Means of Direct Coercion and Firearms. Thus, in the case of the use or application of means of direct coercion

¹¹⁵ Ibidem, Article 44 (1).

¹¹⁶ Ibidem, Article 44 (2).

¹¹⁷ Ibidem, Article 44 (2).

¹¹⁸ Ibidem, Article 51 (1).

¹¹⁹ Ibidem, Article 51 (2).

¹²⁰ Ibidem, Article 51 (4).

¹²¹ Ibidem, Article 52 (2).

resulting in the injury of a person or the occurrence of other visible symptoms of danger to the life or health of that person or his death, injury or death of an animal or destruction of property, the note shall contain:

1. the official identification data of a Police officer;
2. identification of the time and place of use or application of means of direct coercion;
3. the following data of the person against whom the means of direct coercion were used:
 - a. name and surname,
 - b. series and number of identity document,
 - c. date of birth,
 - d. in the case of a person incarcerated in a penitentiary or detention centre, the data referred to in a) and c), and the father's name;
4. identification of the purpose of the use or application of means of direct coercion;
5. information on the reason for the use or application of means of direct coercion;
6. identification of the means of direct coercion used or applied and the manner in which they were used;
7. description of the activities carried out before the use or application of means of direct coercion and after the use or application of these means;
8. description of the consequences of the use or application of means of direct coercion;
9. information on the provision of first aid and its scope or the provision of a

call for qualified first aid or medical emergency providers;

10. the following data of established witnesses of the incident:
 - a) name and series and number of identity document or
 - b) official identification data, if the incident was witnessed by a Police officer;
11. signature of a Police officer.¹²²

If it was impossible to obtain the data of the person against whom the means of direct coercion were used, the note shall state the reasons for their non-inclusion.¹²³

Slightly different is the scope of the content of the note in a situation where, as a result of the use or application of means of direct coercion, there were no consequences, in the form of injury to a person or the occurrence of other visible signs of danger to the life or health of this person or his death, injury or death of an animal or destruction of property, the note shall contain only the following information: referred to in Article 54 (1) items 1-6 and 11 and (2), i.e:

1. the official identification data of a Police officer;
2. identification of the time and place of use or application of means of direct coercion;
3. the following data of the person against whom the means of direct coercion were used:
 - a. name and surname,
 - b. series and number of identity document,
 - c. date of birth,
 - d. in the case of a person incarcerated in a penitentiary or detention

¹²² Ibidem, Article 54 (1).

¹²³ Ibidem, Article 54 (2).

- centre, the data referred to in a) and c), and the father's name;
4. identification of the purpose of the use or application of means of direct coercion;
 5. information on the reason for the use or application of means of direct coercion;
 6. identification of the means of direct coercion used or applied and the manner in which they were used;
 11. signature of a Police officer

In addition, the principle is maintained that if it was impossible to obtain the data of the person in relation to whom the means of direct coercion were used in the note, the reasons for their non-inclusion are given.¹²⁴

The content of the note, which is made by the commander in the case of the use or use of means of direct coercion by a riot Police, should contain the following elements:

1. the official identification data of a Police officer;
2. identification of the time and place of use or application of means of direct coercion;
3. the following data of the person against whom the means of direct coercion were used:
 - a. name and surname,
 - b. series and number of identity document,
 - c. date of birth,
 - d. in the case of a person incarcerated in a penitentiary or detention centre, the data referred to in a) and c), and the father's name;

4. identification of the purpose of the use or application of means of direct coercion;
5. information on the reason for the use or application of means of direct coercion;
6. identification of the means of direct coercion used or applied and the manner in which they were used;
8. description of the consequences of the use or application of means of direct coercion;
10. the following data of established witnesses of the incident:
 - a. name and series and number of identity document or
 - b. official identification data, if the incident was witnessed by a Police officer;

11. signature of a Police officer.¹²⁵

In addition, the note must include:

1. information about the authority or person who authorized the use of these means;
2. a description of the proceedings preceding the use or application of these means;
3. determination of the manner of implementation of actions taken in a situation where any delay in the use or application of means of direct coercion would threaten imminent danger to the life or health of a Police officer or another person, property or the danger of making an attack on important objects, equipment or areas;
4. information on the size of the riot Police.¹²⁶

¹²⁴ Ibidem, Article 54 (3).

¹²⁵ Ibidem, Article 56.

¹²⁶ Ibidem, Article 56 (1-4).

The last issues which will be described are statutorily introduced two types of assistance to a Police officer in the event of the use or application of means of direct coercion, i.e., psychological and legal assistance, the provision of which, however, is conditional on the effect arising after the application of measures. Namely, in the event that the use or application of means of direct coercion or firearms resulted in the death of a person or the injury of a person as a result of the use or application of firearms, the competent supervisor or person on duty – regardless of other duties, (indicated above in the text – author’s note) – shall also immediately provide a Police officer with the necessary assistance, in particular psychological or legal assistance.¹²⁷ In addition, legal assistance, consisting of reimbursement of costs incurred for legal protection up to the amount of the salary of one defence attorney, as defined in the regulations issued pursuant to Article 16 (2) and (3) and Article 29 (2) of the Law on Advocacy of May 26, 1982, depends on the following variables. Criminal proceedings initiated against a Police officer for an act committed in connection with the use or application of means of direct coercion or firearms, which resulted in the death of a person or injury to a person as a result of the use or application of firearms, must be concluded with a final acquittal or a decision to discontinue the proceedings due to the failure to commit a crime or the absence of the statutory elements of the criminal act.¹²⁸

Conclusion

The given analysis of the issue of the deployment of means of direct coercion by the Police in Poland indicates that Police officers are authorized to use or apply an extensive catalogue of such measures. The actions taken are also subject to comprehensive control, as well as supervision and evaluation, starting with a Police officer’s superiors through other authorized bodies, including the prosecutor or, ultimately, the judge. Such regulation of the use or application of means of direct coercion and subsequent evaluation of the actions performed is justified by the essence of the issue, i.e. the profound interference with human rights. Hence the possession of adequate knowledge and skills by all those authorized to use and apply of means of direct coercion, which are the foundations of professional knowledge, should be refreshed by them on an ongoing basis. What’s more this also should stay under constant concern of the superiors.

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¹²⁷ Ibidem, Article 10 (1).

¹²⁸ Ibidem, Article 10 (2).

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