Academy of the Police Force in Bratislava

Police Academy of the Czech Republic in Prague

Law as a Fundamental Base for a Police Officer´s Activity

Conference proceedings

Public Law Department

Academy of the Police Force in Bratislava

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Jozef Medelský

(eds.)

Bratislava 2021

ACADEMY OF THE POLICE FORCE IN BRATISLAVA

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Introduction

Academy of the Police Force in Bratislava organized a scientific conference titled "Law as a fundamental base for a police officer's activity ". Although due to persistent situation in connection with COVID -19, the conference was held in a distance form (a video conference via MS Teams). The Public Law Department, which traditionally belongs to the regular organizers of scientific events, took part in its organization, along with the research team of the project “Service actions performed by a police officer and the application of a principle of appropriateness from the perspective of criminal and administrative law” The conference was supported by the Agency for Research and Development.

The International Scientific Conference "Law as a fundamental base for a police officer's activity " was held under the auspices of the Rector of the Academy of the Police Force in Bratislava, Dr. h. c. prof. JUDr. Lucie Kurilovskej, PhD. and with the participation of a partner institution of the Police Academy of the Czech Republic in Prague.

The aim of the conference was to point out the importance and role of law in the performance of activities of a member of the Police Force, to define the rights and obligations of a member of the Police Force, to point out problematic areas of service interventions or to emphasize the need to adjust the activities of a member of the Police Force. The organizers of the conference thus created a space for scientific discussion on the issue in a broader context, opened a space for the exchange of theoretical knowledge and their confrontation with applied practice.

The conference also focused on the presentation of the achieved results in connection with the solution of the presented project, on a global scale, but also the acquaintance with the acquired knowledge of individual researchers. The expectations of the organizers as well as the research team of the project were fulfilled and the presented contributions aroused several questions, further impulses, which is the added value of the realized scientific events.

Conference participants, scientific and pedagogical experts, as well as other specialists presented valuable outputs that are intended for a wider range of readers, not only from scientific circles. It has the ambition to be a quality publication that provides answers to (un) spoken questions, new information and suitably complements scientific and professional works.

We hereby express our gratitude and conviction for fulfilling the mission of exchanging experiences, developing scientific disciplines and mutual interaction. We would like to thank the rector of our university, Dr. h. c. prof. JUDr. Lucie Kurilovská, PhD., as well as partner institutions who are regular supporters of scientific and pedagogical activities of our university.

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Janka Hašanová

Is a member of the Police Force entitled to check the person's health certificates?[1]

Abstract: The paper deals with the rights of a member of the Police Force with emphasis on the existence of the right to check certificates of the health of a person. The article considers whether a member of the Police Force is entitled by law to request the submission of a document that concerns the health of persons or whether such an act is in conflict with the current legislation.

Key words: Act on the Police Force, authorizations of a member of the Police Force, certificate on the state of health of a person, state of emergency.

Introduction

At a time when people's daily activities are affected by the SARS-CoV-2 epidemic and many restrictions on the fundamental rights and freedoms of individuals are (have been), a many questions arise as to the constitutionality and legality of the actions of the various public authorities involved in protection of life and health of persons in the Slovak Republic. There are a huge number of legal problems that could be pointed out and analyzed, as many of the measures taken and the subsequent monitoring of compliance with the measures taken by the relevant bodies are often on the margins of the law. The paper will focus on one of the authorizations applied by members of the Police Force and still raises doubts about the legality of this authorization, namely whether members of the Police Force were/are empowered by law to check a person's health by requesting the result of an antigen test certified in the European Union for COVID. -19 or the result of the RT-PCR test for COVID-19 (hereinafter referred to as the "certificate"). Questions about this authorization came from experts as well as the general public, especially at the time of the so-called second wave of a pandemic, which culminated in late winter and during which severe anti-epidemic measures were put in place.

A resolution of the Government of the Slovak Republic (hereinafter referred to as the "Government of the Slovak Republic") declared a state of emergency, a curfew was adopted, from which there were certain exceptions.[2] Persons who wanted to go to work, to nature, resp. leaving their homes for reasons other than the acquisition of necessities of life, were required to demonstrate a negative result from antigen or PCR testing for COVID-19. One of the bodies that were obliged to control compliance with the measures and the curfew was the Police Force (hereinafter also referred to as "PF"). In order to answer the question of whether a member of the Police Force is authorized to inspect certificates, it is necessary to define the legal status and tasks of the Police Force, the duties of a member of the Police Force, as well as the rights granted to members of the Police Force by law.

Definition of the legal status and tasks of the Police Force

The legal basis for the regulation of the position and activities of the Police Force is the Act of 6 July 1993 no. 171 on the Police Force (hereinafter also referred to as the "PF Act"). The Act on the Police Force is one of the most frequently amended legal regulations. Since its

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[1] This work was supported by the Agency for the Support of Research and Development and is the output of project no. APVV-17-0217 Service interventions of members of the Police Force and application of the principle of proportionality from a criminal and administrative point of view..

[2] Bl For more details on the reasons and conditions for declaring a state of emergency, see Constitutional Act no. 227/2002 Coll. on the security of the state in time of war, state of war, state of emergency and state of emergency.

inception, it has, on average, had two amendments each year responding primarily to the changing security and socio-political situation.[3]

The Police Corps is defined in the Expressis verbis Act as ***an armed security corps that performs tasks in matters of internal order, security, the fight against crime, including its organized and international forms, and tasks arising for the Police Corps from the international obligations of the Slovak Republic.***

The police force has coercive power to perform the assigned tasks, as well as the appropriate range of legal powers. The tasks performed by the Police Corps result for the Police Corps primarily from the basic definition of the Police Corps as an armed security corps, which has general competence in matters of internal order and security, the fight against crime, including its organized and international forms, and the competence resulting for the International Corps. obligations of the Slovak Republic.

The specification of general scope in the form of specific tasks can be found both in § 2 of the Police Force Act and in many other legal regulations. The tasks arising for the Police Force from legal regulations can be divided into several groups:

a) the section of protection of public order and security,
b) the section of the fight against crime and other anti-social activities,
c) section of state administration,
d) prevention section.

In connection with measures in the fight against the epidemic, the competence of the Police Force in the area of protection of public order and security, the performance of state administration and prevention is particularly relevant. Per the Act on the Police Force, the police force performs the most tasks in connection with the protection of public order and security. Although the Act on the Police Force uses the terms public order and security and establishes extensive obligations for the Police Force in connection with ensuring their protection, it does not define the above terms. It also does not characterize the term internal order, which it uses to define the position of the Police Force. As the Law on the Police Force does not contain their legal definitions, it is permissible in police practice, when applying the provisions of the Law on the Police Force, these terms should be interpreted differently, taking into account the specific situation that the PF member must address, about place, time, circumstances, persons, etc. The specific content of this term is given only by the police authority applying the law, which, of course, cannot be interpreted arbitrarily by the said legal institutes, but deliberately and reasonably.[4]

To ensure public order and security, the Police Force, by the Act on the Police Force, performs e.g. the following tasks:

a) cooperate in the protection of fundamental rights and freedoms, in particular in the protection of life, health, personal liberty and security of persons, and in the protection of property. The police force is obliged to participate in ensuring the above-mentioned fundamental rights and freedoms, within the scope of its competence. In this context, PF participated in targeted and random control of certificates for persons who applied for an exception to the curfew,
b) cooperate in ensuring public order; if it has been violated, it takes measures to restore it - ensuring public order is a priority for the municipality, which is per Act no. 369/1990 Coll. on the municipal establishment, as amended, obliged to ensure public order in the municipality and protect the life, health and property of its inhabitants. At the same time,

[3] Information on frequent amendments to this Act is given because, despite its frequent changes, members of the National Council of the Slovak Republic were unable to amend the Police Force Act so that there were no doubts about the legality of the right to inspect certificates. they had no problem requesting certificates from individuals.
[4] For an explanation of the basic concepts of police law, see, for example: HAŠANOVÁ, J., BALGA, J., ANDOROVÁ, P., DUDOR, L. Police administration. page. 35 - 36.

it is the right of the municipality's inhabitants to demand from the municipality cooperation in the protection of his person and family and his property located in the municipality. To maintain public order, the municipality is entitled by regulation to establish municipal police, or to conclude a written agreement with another municipality that the municipal police of this municipality will perform tasks in its territory.

It follows from the above that the Police Force generally participates in ensuring public order only secondarily, if other entities are not able to ensure this situation by their forces and means or if an immediate solution to the situation is required and no other authorized entity is present, cooperate in ensuring public order; if it has been violated, it takes measures to restore it - ensuring public order police of this municipality will perform tasks in its territory.

c) *ensures the control of the borders of the Slovak Republic* - the control of state borders is carried out by the Schengen Borders Code, Act no. 404/2001 Coll. On the stay of foreigners and on the amendment of certain laws as amended, international treaties and other legal regulations.[5] The Police Force is obliged to ensure that persons enter and leave the territory of the Slovak Republic by legal regulations, also about anti-epidemic measures taken in the fight against SARS-CoV-2, by which members of the Police Force checked certificates at persons crossing the state borders of the Slovak Republic,

d) *oversees the safety and smoothness of road traffic and cooperates in its management* - in performing this task, the Police Force acts in particular by Act no. 8/2009 Coll. on Road Traffic, and Decree of the Ministry of the Interior of the Slovak Republic no. 9/2009, which implements the Act on Road Traffic, both by exercising supervision and oversight of road traffic, but also in the position of an administrative body. In performing this task, PF members checked the health certificates of the persons in the vehicle,

e) *detects offenses and identifies their perpetrators, and if so provided by a special law, the offenses are also clarified and discussed* - The police force is obliged not only to detect illegal actions of natural persons, which the law designates as a misdemeanor, but also to actively search for perpetrators of these illegal actions,

Special laws stipulate which offenses PF not only detects, but also clarifies or discusses. The general regulation that defines the jurisdiction of the PF to clarify and discuss offenses is Act no. 372/1990 Coll. on Offenses as amended (hereinafter referred to as the "Offenses Act"). In connection with anti-epidemic measures, Act no. 355/2007 Coll. on the Protection, Promotion and Development of Public Health and Amendments to Certain Acts, as amended (hereinafter referred to as the "Health Protection Act").

According to § 56 par. 1 letter c) and f) of the Health Protection Act, a public health offense is committed by a person who does not undergo the ordered isolation or does not tolerate the ordered increased health supervision, medical supervision or does not undergo the ordered quarantine measures, as well as the person who does not comply with the ordered measure in public health threats. health according to § 4 par. 1 letter g) or § 48 par. 4 letters a) to d), f) to i), n), r), t), u), y) and z). For an offense under paragraph 1 (a) (c) and (f) committed in a time of crisis, a fine of up to EUR 1000 shall be imposed in block proceedings; these offenses in block proceedings may also be discussed by the bodies of the Police Force.

Under the Act on the Protection of Health in the Time of a Crisis Situation, the PF authorities were given an additional obligation, namely to discuss selected offenses in the area of public health care.

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[5] Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 establishing a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (Codified version) (OJ L 77, 23.3.2003, p. 1). 2016).

To fulfill the indicated tasks, legal obligations arise for the PF member and the PF member also has legal rights. In this context, it is necessary to define the duties and authorizations of a PF member, which will lead us to answer the question of whether a PZ member is authorized to check the certificates of the health of persons.

Duties of a member of the Police Force

The duties of a member of the PF are directly related to the performance of official activities, as well as the performance of coercive state power, and are regulated primarily in Sections 8 to 16 of the Police Force Act. However, a police officer is not only bound by the PF Act. In addition to the PF Act, the activities of police officers are legally regulated by many other legal regulations, namely the Charter of Fundamental Rights and Freedoms, the Constitution of the Slovak Republic, laws but also by secondary legislation and internal acts of superior bodies (orders, orders, regulations, etc.).

When performing tasks arising from the law, a police officer has the status of a state body to which Art. 2 par. 2 of the Constitution, according to which "***State authorities may act only based on of the Constitution, within its limits and to the extent and in the manner provided by law."*** A police officer may act only what the law requires and within its limits. The principles of legality and legitimacy must be respected. If he acts beyond the scope provided by law, he may commit unlawful conduct.[6]

He term duty of a member of the PF can be understood as a certain set of moral, ethical and official duties that every police officer is obliged to observe when performing an official activity. Violation of the police officer's duties may also be associated with certain sanctions, e.g. conducting disciplinary proceedings against him (breach of official discipline).

The duties of a police officer are legally regulated:

- the Act on the Police Force,
- Act no. 73/1998 Coll. on Civil Service on Civil Service of Members of the Police, the Slovak Information Service, the Prison and Judicial Guard Corps of the Slovak Republic and the Railway Police, as amended (hereinafter referred to as the "Act on the Civil Service of Police Officers), as well as
- special legal regulations (eg the Road Traffic Act, the Health Protection Act).

We divide the rights and obligations of a police officer into two basic groups: general (they are subject to the legal regulation of the Act on Civil Service of Police Officers and the Act on PZ) and special (they are the subject of special supplementary legal regulations).[7]

The duties of a police officer under the Act on the Civil Service of Police Officers can be divided into:

a) fundamental rights of a police officer (§ 48 para. 1)
b) basic duties of a police officer (Section 48, Paragraphs 3 to 7, Section 48a, Paragraph 1),
c) obligations arising from the wording of the oath of office (§ 17),
d) basic duties of a superior (§ 49),
e) other duties of a PZ member (eg § 136, 141 para. 2, 159 para. 2, etc.).[8]

[6] ANDOROVÁ, P. Police Corps. In: HAŠANOVÁ, J., BALGA, J., ANDOROVÁ, P., DUDOR, L. Policajná správa. page 51.

[7] ŠIMONOVÁ, J. Service activities and service interventions of a member of the Police Corps. In: HAŠANOVÁ, J., ŠIMONOVÁ, J., MARCZYOVÁ, K., MEDELSKÝ, J., PIVÁČEK, M. Police law and police administration. Plzeň: Aleš Čeněk, 2020, p. 98.

[8] MEZEI J., ŠIMONOVÁ J., NOCIAR J., DINIČ J., FUFAL I. Civil service and employment of PZ members. with. 159 et seq.

Obligations in the performance of official activities

By official activity we mean the activity of a police officer connected with the performance of tasks under the Act on PF or other generally binding legal regulations. In the exhaustive definition of these duties, it is necessary to proceed from the special position of a police officer, who is de facto a representative of the preventive but also repressive activities of the state about to other entities.

When performing official activities, a police officer is obliged to:

a) *To pay attention to the honor, seriousness and dignity of the person and his own* - the police officer should behave appropriately in relation to his position and act in such a way as to respect the honor, seriousness and dignity of each person in the first place. 19 paragraph 1 of the Constitution of the Slovak Republic and Article 10 of the Charter of Fundamental Rights and Freedoms. [9] At the same time, however, not only during the performance of official activities, but also during personal time off, he must pay attention to his honor, seriousness and dignity, so that she does not suffer in any way, so as not to commit a crime or misdemeanor.

b) *Do not allow a person to suffer unjustified harm in connection with his activity and that any interference with his rights and freedoms* does not go beyond what is necessary to achieve the purpose pursued by his official activity - compliance with this obligation is closely linked to the application of the principle of legality , on the performance of which there was no legal or other relevant reason) and with the principle of proportionality of the performance of the official activity (the police officer may interfere with the rights and freedoms of the person only to the extent necessary to achieve the objective).

c) *Adhere to the code of ethics of a police officer, issued by the Minister of the Interior of the Slovak Republic* - the code of ethics represents a certain set of rules of conduct for a police officer, his moral norm, not only during the service but also outside it. Given the importance of such a document and the role of the police officer, the European Code of Police Ethics was adopted at transnational level, on a proposal from the European Committee on Crime, with a 2001 recommendation from the Committee of Ministers of the Council of Europe. principles and guidelines for the work of the police as a guarantor of security and a defender of human rights in a democratic state governed by the rule of law. The Code of Ethics for Police Officers also imposes obligations on the police officer-superior, specifically to ensure that their subordinate police officers are adequately prepared for service activities. He is obliged to create a favorable working atmosphere and adequate working conditions for the performance of the service. The superior adheres to the code of ethics of the police officer and is an example for his superiors. At the same time, however, it motivates and encourages subordinates to behave ethically.

d) When performing an official activity connected with the interference with the rights or freedoms of a person, the person obliged *to inform this person as soon as possible about his rights,* which are stipulated in the PF Act or another generally binding legal regulation. This obligation takes into account the specificity of the situation, ie. the person does not have to be exclusively informed about his rights on the spot, if the nature of the situation does not allow it, or if the person cannot understand the instruction itself (eg a person under the influence of narcotics and psychotropic

[9] Recommendation Rec (2001) 10 of the Committee of Ministers to Member States on a European Code of Police Ethics.

substances). The instruction should be clear, comprehensible, and it must be clear from it that the person has understood it.[10]

Authorizations of a member of the Police Force

In addition to his duties, the police officer also has some powers. The rights of a police officer are set out in § 17 –3 4 of the Police Force Act. ***A police officer's authorization can be defined as a set of legal instruments available to a police officer when the conditions stipulated by law are met.***[11]

The rights of police officers can be divided in terms of the generality of their application, namely:

a) *general authorizations* - these are the authorizations available to every police officer when performing an official activity (eg the authorization to request an explanation, the authorization to request proof of identity, the authorization to detain a person),

b) *special authorizations* - these are authorizations for the implementation of which a certain specificity is required, e.g.

- a specific place of performance of official activity (eg authorization to ensure the safety of civil air transport and other public transport, ensuring the control of the state borders of the Slovak Republic),
- a special item for the performance of a business activity (eg authorization to use a service dog for odor work, authorization to use explosives and explosive articles).
- special classification of the police officer (eg authorization to detect tax evasion, illegal financial operations, money laundering and terrorist financing, which can only be claimed by a financial or criminal police officer).[12]

In terms of the subject to be achieved by applying a specific authorization, the authorizations can be divided into:

- authorization to acquire the necessary knowledge, resp. information (eg authorization to request information, explanation, proof of identity),
- rights by which it interferes with personal, resp. physical integrity of the person (eg the right to present the person on request, to detain the person),
- authorization of a property nature (eg authorization to seize a thing, withdraw a weapon),
- authorizations that secure the space, resp. place (eg authorization to prohibit entry to a designated place or order to remain in a designated place, expulsion from a shared dwelling),
- specific owers related to the clarification and detection of illegal proceedings (eg authority to clarify the offense, authority to detect tax evasion, illegal financial transactions, money laundering and terrorist financing).[13]

The Act on the Police Force stipulates the following authorizations of a police officer:

- authorization to request an explanation (§ 17),
- authorization to request information (§ 17a),
- authorization to present a person based a request (§ 17b),

[10] ŠIMONOVÁ, J. Service activities and service interventions of a member of the Police Corps. In: HAŠANOVÁ, J., ŠIMONOVÁ, J., MARCZYOVÁ, K., MEDELSKÝ, J., PIVÁČEK, M. Police law and police administration. Plzeň: Aleš Čeněk, 2020, p. 103 – 105.

[11] ANDOROVÁ, P. Police Corps. In: HAŠANOVÁ, J., BALGA, J., ANDOROVÁ, P., DUDOR, L. Policajná správa. page 58.

[12] ŠIMONOVÁ, J. Service activities and service interventions of a member of the Police Corps. In: HAŠANOVÁ, J., ŠIMONOVÁ, J., MARCZYOVÁ, K., MEDELSKÝ, J., PIVÁČEK, M. Police law and police administration.. Plzeň: Aleš Čeněk, 2020, p. 109.

[13] SOBIHARD J .et al. *Police administration.* Plzeň: Aleš Čeněk, s. 25 – 26.

- authorization to request proof of identity (§ 18),
- authorization to detain a person (§ 19),
- authorization to use a service dog for odor work (§ 20),
- authorization to scan identification marks (§ 20a),
- authorization to seize the thing (§ 21),
- authorization to withdraw a weapon (§ 22),
- authorization to stop and inspect the means of transport (§ 23),
- authorization to ensure the safety of civil air transport and other public transport (§ 24),
- authorization to ensure the safety of designated persons (§ 25),
- the right to prohibit the disclosure, provision and publication of personal data of designated persons (§ 25a),
- authorization to ensure border control of the Slovak Republic (§ 26),
- the right to prohibit entry to a designated place or to order to remain in a designated place (§ 27),
- the right to expel from the common dwelling (§ 27a),
- the right to close publicly accessible places (§ 28),
- authorization to open an apartment (§ 29),
- authorization to detect tax evasion, illegal financial operations, money laundering and terrorist financing (§ 29a),
- authorization to use explosives and explosive articles (§ 30),
- authorization to hold dangerous substances and prohibited articles (§ 31),
- authority to clarify offenses (§ 32),
- authorization to ensure the safety and fluidity of railway transport (§ 33).

Authorizations for a member of the PF may also result from special laws. E.g. under § 69 par. 1 of the Road Traffic Act, a member of the PF is authorized to:

a) prohibit the driver from driving for the necessary time or show him the direction of travel if the safety or smoothness of the road so requires,
b) prohibit the driver from driving on the motorway and urge him to leave the motorway at the nearest exit or to park the vehicle in the car park if the vehicle does not reach the speed according to § 35;
c) require the driver to produce the documents required for driving and operating the vehicle and for transporting persons and goods; if they are not submitted, require the driver to report the data on the vehicle and its holder according to § 111 par. 2 letter a), b), e) and f),
d) invite the driver to undergo an examination to determine whether he is affected by alcohol or any other addictive substance or by drugs that may impair his ability to drive safely,
e) check the technical capability of the vehicle and the completeness of its equipment and fittings or invite the driver to undergo such a check, as well as compare the data given in Part I or Part II registration certificate, the foreign registration document or the vehicle technical certificate with the data on the vehicle,
f) measure the dimensions and weights of the vehicle,
g) control compliance with the obligations of a road user or other persons pursuant to this Act,
h) use technical means to prevent the departure of the vehicle until the time of demonstrable payment of the fine pursuant to § 72a par. 1 or a monetary guarantee according to § 72a par. 2.

However, in accordance with no legal regulation (or the Act on the Protection of Public Health), a member of the Police Force does not have the legal authority to check a person's health certificates. This consideration would theoretically come from the application of the authorization under the PF Act, namely the authorization to clarify offenses, as the person who violated the Health Protection Act commits an offense and the selected offenses are also discussed by the PF authority.

When clarifying offenses, the police officer has a number of powers. Part of the police authority's rights in the area of clarifying offenses is regulated by the Act on PF, selected rights in the area of clarifying offenses are regulated by the Act on Offenses. Pursuant to § 60 par. 1 of the Act on Offenses, a member of the PF is entitled to:

a) to require an explanation from natural or legal persons; an explanation from a minor or juvenile may be requested only in the presence of his/her legal representative or a natural person who personally cares for a minor or juvenile on the basis of a decision pursuant to special regulations, or a representative of a facility in which a minor or juvenile is placed by the court pursuant to special regulations, or a representative of the body for social protection of children and social guardianship,
b) demand an explanation from state authorities or the municipality,
c) request expert advice from the competent authorities,
d) perform or require actions necessary to establish the identity of persons and their stay,
e) require the submission of the necessary supporting documents, in particular files and other written material.

For the purposes of the paper, the authorization to require the submission of the necessary documents (especially files and other written materials) is particularly relevant. However, in order for a police officer to be able to apply the above-mentioned provision of the law, which entitles him to submit documents necessary to establish the facts of the offense (eg a certificate), it would be necessary under the law to initiate infringement proceedings or at least officially begin clarification. offenses. In such a case, it would be necessary not only to start clarifying the offenses, but also to end them legally. The methods of terminating the clarification and negotiation of an offense are laid down in the Offenses Act.

Clarification of offenses is a pre-procedural stage in which the documents necessary for initiating infringement proceedings and issuing a decision on an infringement are procured. Clarifying an offense is not an infringement procedure, the bodies clarifying the offense do not have the status of an administrative body. The clarification of the offense is used to obtain the documents necessary for the decision of the administrative body on the offense, in particular whether the act was an offense, whether it was committed by a person suspected of committing an offense, whether a sanction is imposed or waived. it is sufficient to hear the offense alone, whether a protective measure is imposed and whether the perpetrator is obliged to pay for the damage caused. The clarification of the offenses shall, as a general rule, end within one month from the date on which the administrative authority or body authorized to clarify the offenses became aware of the offense by postponing the case, depositing the case, handing it over to the competent authority or.

The handling of offenses is the stage of the infringement proceedings. Public administration bodies that deal with offenses are referred to as administrative bodies. In dealing with offenses, the administrative authorities also apply Act no. 71/1967 Coll. on administrative proceedings (administrative order) as amended. The purpose of dealing with an offense is to issue a decision on an act that is an offense. The basis for initiating infringement proceedings may be a report on the outcome of the clarification, notification to a state body, municipality, organization or natural or legal person, knowledge from one's own activities or referral of a case to law enforcement authorities. The administrative authority shall initiate the proceedings without delay, no later than 30 days from the receipt of the complaint, if the matter is not

referred or postponed. If the notifier so requests, the administrative authority shall notify him within one month of the notification of the measures taken.

The hearing of offenses may be terminated by referring the case, suspending the proceedings or by issuing a decision on the offense by which the accused is found guilty of the commission of the act.[14]

However, there was no official, legal procedure for clarifying and discussing offenses when checking certificates by PF members, therefore, in my opinion, it is not possible to presume that the authority to check certificates of a person's health resulted from the rights of PF members under offense law. .

Conclusion

The contribution showed that in terms of valid and effective legislation, members of the PZ were not entitled to become acquainted with the health status of natural persons by requesting to submit a certificate of testing. Although natural persons were obliged to undergo testing by the decrees of the Public Health Office of the Slovak Republic, I believe that it cannot be inferred from the obligation of persons to perform such an obligation by extensive interpretation that a member of the Police Force automatically has such an obligation to control. It would be debatable at least why the certificates are checked on behalf of the state by members of the Police Force, why they are not checked by e.g. firefighters, customs officers, or employees of district offices who also perform state administration and who also do not explicitly derive such authorization from any legal regulation - just as it does not follow from members of the Police Force.

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[14] HAŠANOVÁ, J., DUDOR, L. *Fundamentals of administrative law. 5. updated ed. Plzeň: Aleš Čeněk, 2021, p.* 154 – 159.

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Summary

The paper deals with the rights of a member of the Police Force with emphasis on the existence of the right to check certificates of the health of a person. The article considers whether a member of the Police Force is entitled by law to request the submission of a document that concerns the health of persons or whether such an act is in conflict with the current legislation.

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Prophylactic police public order method of operation of a senior officer for work in communities in the process of preventing and resolving police-relevant events in Roma settlements[15]

Abstract: Her scientific study focused on the prophylactic police public order method of operation of a senior officer for work in communities in the process of preventing and resolving police-relevant events in Roma settlements. The author characterizes the Roma community in the conditions of the Slovak Republic and the basic unit of the riot police service, which systematizes the function of a senior officer for work in communities.

Key words: Roma community, Roma settlements, senior clerk for community work, prophylactic method of police public order activity.

Introduction

In this scientific study I will focus my attention on the Roma community, more specifically on Roma settlements, which in our conditions belong to the minority and with its number of members belong to the largest community in the Slovak Republic and also point to problems resonating with the Roma community for example, crime, public nuisance and wrongdoing and others. Subsequently, the author characterizes a selected department of the riot police service within the competence, which includes the solution of Roma issues, that is, the district department of the Police Force, under whose competence the senior clerk for work in communities performs his activity. The next part is devoted to the prophylactic police public order method and its operation through a selected department of the law enforcement service. The prophylactic method of police public order activity is a method in which a harmful consequence is already imminent, but has not yet occurred and may not occur with the timely performance of a service intervention, a typical representative of this method is a police call in the name of the law, where a police officer calls on a person she abandoned the illegal action, otherwise coercive means will be used against her, and it is possible to see here that the consequence was already imminent, but if the police officer used the summons and was obeyed, it did not occur. The aim of the scientific study is to define the prophylactic method of police public order activity and the extent of its use in the process of eliminating the occurrence of police-relevant events in Roma settlements and to define its scope in the process of eliminating police-relevant events in Roma settlements. The contribution of the scientific study will be to point out the competence of a senior officer for work in communities as an effective and efficient implementation of a prophylactic method of police public order can prevent and prevent problems in Roma settlements and compare comparisons of experts, their views and new proposals for possible improvement for application practice. We assume that empirical research conducted in full-time form at the basic units of the riot police in the form of a guided interview with experts on the issue, will identify some problems in preventing and addressing Roma issues and demonstrate the validity of senior community work in the field of public order, because many policing activities in policing practice are so complicated that they can only be handled by highly rational methods, systems, means, procedures, and operations that rely on scientific knowledge. This scientific study was created with the support of the Agency for the Support of Research and Development and is the input of project no. APVV-17-0217 Service interventions of members of the Police Force and application of the principle of proportionality from a criminal and administrative point of view.

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[15] The paper represents a partial outcome of the national research task No. APVV-17-0217 - “Service actions performed by a police officer and the application of a principle of appropriateness from the perspective of criminal and administrative law” which is supported by the Slovak Research and Development Agency.

Roma community

Different communities are formed between people, which have their own specifics that differ from other groups, thus becoming members of a certain state according to their place of establishment. Due to the emergence of different communities, minorities are formed in the state, which are integrated into the majority community. In every civilized society, minorities are formed that are different from the majority, and it is necessary to integrate, share and accept each other. The Roma community, which is also located in the Slovak Republic, where the role of the state is to solve the given issue, is no exception in the given ranking.

The communities that emerge differ in their specifics, but the differences also unite them, creating their own communities. Each community is located in its own dedicated area, where it carries out daily activities and satisfies its own social needs, thus gaining the status of a community.[16]

The strategy sets out the principles of solidarity, legality, partnership, complexity, conceptuality, a systemic approach and sustainability, respect for regional and sub-ethnic characteristics, gender equality, responsibility and predictability. Using the right principles of the strategy, the integration of communities is successful, even though it is not an easy matter and takes a long time.[17]

In connection with the Roma community, many regulations and measures have been adopted in the last few years in our country, but also at the international level, the main goal of which was to integrate minority groups into the majority society so that they would not be socially excluded. The Roma currently live in all European countries, most of whom suffer from serious social problems, such as unemployment, housing, but also the health conditions in which they find themselves, and this is one of the reasons why they are perceived negatively by the population of the majority society, which stems from prejudices, but also from experience with the group. Despite many efforts in the countries, whether in terms of political, social and economic transformation, the gap between the majority and minority populations is only widening, because the Roma ethnic group is not ready for many changes. If we want to address the Roma issue globally, we must respect their peculiarities, their different historical origins, mentality and culture.[18]

Despite the fact that there are regular censuses in Slovakia, unfortunately it has not yet been possible to obtain a real situation about the Roma population, because the census between them is a complicated and demanding matter due to the inaccuracies of their group. Many Roma do not refer to the Roma ethnic group in the census, but to the Slovak nationality, which creates many discrepancies and outdated census data. We must remember that a large part of the Roma did not assimilate, they did not feel the need to organize, to create a common language, associations, they live due to their way of life and today the Roma are the one whom others call it. Due to the fact that several censuses have taken place in our country, according to the official last 2011, it is stated that 105,738 people declare their Roma nationality, which represents 2% of the total population, but according to the Atlas of Roma Communities of 2019 it is estimated the number of Roma in Slovakia is around 440,000.[19]

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[16] HOTAR, V. a kol., 2000. Výchova a vzdelávanie dospelých. Bratislava: Slovenské pedagogické nakladateľstvo, 2000. s. 24 - 27

[17] STRATÉGIA SLOVENSKEJ REPUBLIKY PRE INTEGRÁCIU RÓMOV DO ROKU 2020: Úrad vlády Slovenskej republiky, 2012. (online) (cit. 01.10.2020). Dostupné na internete: https://www.employment.gov.sk/files/legislativa/dokumenty-zoznamy-pod/strategia-integracie-romov-do-roku-2020.pdf

[18] DAVIDOVÁ, E. a kol., 2010. Kvalita života a sociální determinanty zdraví u Romů v České a Slovenské republice. Praha : Triton, 2010. s. 15 - 18

[19] HAJKO, J. 2015. Hoď do mňa kameňom. Spolužitie s Rómami na Slovensku. Bratislava: Slovart, 2015. s. 78 - 80

Prophylactic method of police public order activity

The method of prophylactic police public order activity is a direct active activity placed between the preventive and repressive activity of police public order activity, because its external action can have the features of both of these methods. The term prophylactic method of police public order activity can be understood as a deliberate, purposeful and conscious way of action of public order subjects, which is aimed at influencing elements of imminent danger arising from a specific police situation, to prevent or minimize the occurrence of adverse effects. other activities than the preventive method of police public order activity. It is necessary to focus on the concept of immediate threat, where the situation was conditioned by qualitative and temporal dimensions of danger, which manifests itself in the consequence, it is a moment when it is no longer possible to prevent the situation preventively but it is necessary to implement prophylaxis.

A characteristic feature of the prophylactic method of police public order activity is its implementation, which can be carried out in a threefold situation. The first situation is when there is a danger of an immediate adverse effect, where in terms of time prophylactic activities are measured to prevent the adverse effect just before the onset, it can be noted that they are defensive, resulting in the qualitative dimension of the immediate effect. threats in a specific situation. Another situation is if the consequence is already occurring but not yet complete, here the prophylactic activities have a defensive-rescue character, but their purpose is that the emerging consequence is not completed, larger, but at the same time they are aimed at minimizing it. The last situation is if the consequence has already arisen, it has been completed, in it prophylactic activities have a rescue character aimed at eliminating such phenomena, the consequences that are a prerequisite for the emergence of another as well as a new unwanted consequence.[20]

District department

The district departments of the Police Force are the basic units of the riot police service, but it can be stated that the main, dominant and supporting units within the entire Police Force, not only in terms of the number of systemized functions, but also because citizens first and foremost turn to asking for help or advice, resolving any problems or police-relevant incidents. They most often deal with these issues with the police officers of the district departments of the Police Corps, regardless of whether they appear at the district departments, or the police officers arrive at the site of the event or report the patrol to the district police department that performs patrol service in its district.[21]

Police officers of district departments must build the trust of citizens, also on the basis of personal knowledge, where in their entrusted territory they know citizens (mayors, mayors, people working at the post office, restaurants, bars, restaurants, discos, citizens who often commit police-relevant events , recidivists, fighters, citizens who often commit domestic violence and many others) as well as local knowledge, where in their entrusted territory they know important places (district office, municipal office, church, bars, discos, restaurants, restaurants, places where criminals and many others meet), it follows that they are essential in shaping the public opinion of citizens on the Police Office.[22]

Typing and systematization are very closely connected, because what type of district department we have will depend on what the systemization will be in a given district

[20] CUĽBA, M., KLAČAN, M., 2004. Vybrané problémy verejného poriadku, jeho ochrana a činnosti obvodného oddelenia Policajného zboru. Bratislava: Akadémia Policajného zboru v Bratislave. s. 109 - 111

[21] LOFFLER, B., ZÁMEK, D., 2017. Aplikácia vybraných subsystémov ochrany osôb a majetku pri eliminácii hromadného narušenia verejného poriadku. 2017. s. 142

[22] KURILOVSKÝ, R., Obvodné oddelenie a jeho pôsobnosť na mieste vzniku policajne relevantnej udalosti, In: Teória a prax vyšetrovania, Bratislava : Akadémia Policajného zboru v Bratislave, 2020, s. 75-76

department, ie the specific assignment of police officers to the relevant functions. Typing represents the number of police officers assigned to the district department of the Police Corps, while 56 or more police officers are assigned to the Type I department, and to the II. type 31 to 55 police officers are included, in department III. 16 to 30 police officers are enrolled in this type and 3 to 8 police officers are enrolled at the police station, but this is not a type of Police Corps department, but an extended workplace, which will be set up only where the security situation requires it. Systematization can be described as the inclusion of police officers in the relevant functions.[23]

We know the forms of service activity of the basic unit of the riot police service of the district department:

- permanent service,
- patrol service,
- patrol service,
- reporting service,
- administrative work,
- other service activities.[24]

Senior clerk for clerk management

The senior officer for work in the communities is included in the district departments of the Police Force, which are the basic units of the riot police service, in the 4th grade, where the rank of lieutenant is planned. Its basic tasks are defined in Article 28 of Regulation No. 80/2018 on the activities of the basic units of the Police Force, such as, in particular, to manage and organize its service activities, which relate to the creation, maintenance, consolidation and direction of mutual relations between the Police Force and the socially excluded group, also to perform service activities in crime prevention and other anti-social activities targeted at socially excluded people, which means visiting Roma settlements, patrolling Roma living in these settlements, advising them on various applications and providing them with information on laws and generally binding legal regulations.

At the relevant regional directorate of the Police Force, he participates in regular quarterly cooperation meetings of senior clerks for work in communities. It performs tasks such as the protection of public order, which is the mainstay of its service activities in the community entrusted to it, then fights against crime, oversees road safety and traffic flow, detects, clarifies, reports and then discusses offenses, if possible in block proceedings, identifies their perpetrators, also performs tasks in the field of documents and records, where it helps persons from socially excluded groups to obtain new documents, for example in their state or theft and last but not least performs tasks according to the decision of the director of the district police department. The senior officer for community work performs tasks in a socially excluded group to the extent of at least 50% of the basic time of service, but where the director of the police department of the district directorate of the Police Force may decide in writing on the proposal of the director in case of an emergency to reduce the scope of tasks in social to the excluded group and the decision in question must contain the extent of the basic fund of service time expressed as a percentage, it is also issued for each calendar month separately and for each basic unit separately.[25]

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[23] Nariadenie prezidenta Policajného zboru č. 99/2018 o zásadách dislokácie, typizácie a systemizácie základných útvarov Policajného zboru

[24] Nariadenie prezidenta Policajného zboru č. 80/2018 o činnosti základných útvarov služby poriadkovej polície Policajného zboru

[25] Nariadenie prezidenta Policajného zboru č. 80/2018 o činnosti základných útvarov služby poriadkovej polície Policajného zboru

Another invaluable activity of senior clerks for work in communities is the personal knowledge of the Roma community, which was assigned to them if the Roma community has a boom, to have contact with him in case of need for business activities, as well as the Roma patrol, with which they have good relationship, because mostly the patrol in question comes from the community and has a high level of personal and local knowledge and Roma from the community have some respect for them, which has a positive effect on the prevention of wrongdoing by the Roma population. Senior community labor officers should have knowledge of persons from the Roma population who have been convicted of criminal offenses several times, as well as of persons who can be classified as dangerous offenders, who should know by name or nickname, and also have knowledge of the place where they reside, to create among them, if possible, their informants.[26]

Composition of the sample

Respondents who formed a sample and were involved in our empirical research were asked to answer the questions of a guided interview and were selected from a specific group of experts who professionally deal with issues of protection of public order, life, health and property of marginalized groups. Due to the fact that the professional qualification of experts was especially important for the purposes of our work, it was not possible to contact a large group of experts and a narrowed group of experts with the number of 11.

Guided interview

When compiling the guided interview, questions in the form of closed questions were used to determine the real state of knowledge. Closed questions were developed from different alternatives and types of these questions and from such classification categorical questions were used, where the statistical file chose from various predefined answers and last but not least list questions were used, where the statistical file chose a relevant answer for it, such as yes, partially, no. For the needs of the scientific study, descriptive statistics were used for processing, survey, analysis and presentation of results, where the basic element or statistical unit consisted of an individual, a member of the Police Corps assigned to the basic unit of the riot police service in the district department, a senior officer for community work. . The statistical set is a set of statistical units, which consisted of the number 11 and the subject of statistical research, and at the same time the statistical feature was the knowledge of the statistical set in the area of marginalized groups. When evaluating the controlled interview and sorting the statistical file, we used one-stage sorting with the help of absolute, so numerical and relative, is % frequencies.
Question: Number of years served in the Police Force:

5-9 years	**10-14 years**	**15-20 years**
2	6	3

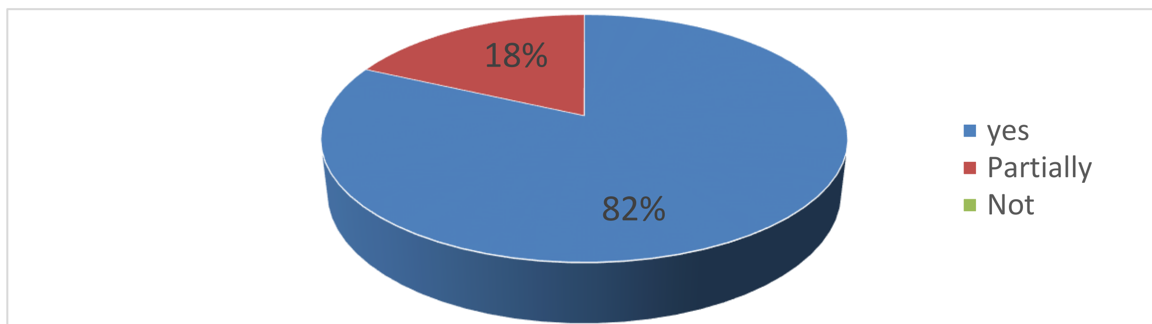
Table n. 1
***(Source:** Author)*

The subject of the research using the given question was the finding of years worked in the Police Corps of members of the Police Corps. The results of the answers of the monitored statistical file show that the most numerous group of 6 respondents are members of the Police Force, who have worked in the Police Force from 10 to 14 years, which is also 55% of the total number of the statistical file. From 15 to 20 years of service in the Police Force, 3 respondents have, which is 27%, and from 5 to 9 years of service in the services of the Police Force, 2

[26] KURILOVSKÝ, R., Teoreticko-spoločenské východiská komunít a komunitnej policajno-bezpečnostnej činnosti na území Slovenskej republiky, In: 100 rokov Československej štátnosti, právnictva a bezpečnosti, Bratislava : Akadémia Policajného zboru v Bratislave, 2019. s. 285

respondents have, which represents 18% of the total number of 11 responses. When evaluating the achieved results, we can state that the largest group of respondents were members of the Police Force, who have worked from 10 to 14 years in the service of the Police Force, and the second group of respondents were police officers who have worked from 15 to 20 years, which we consider more experienced and qualified members of the Police Force.

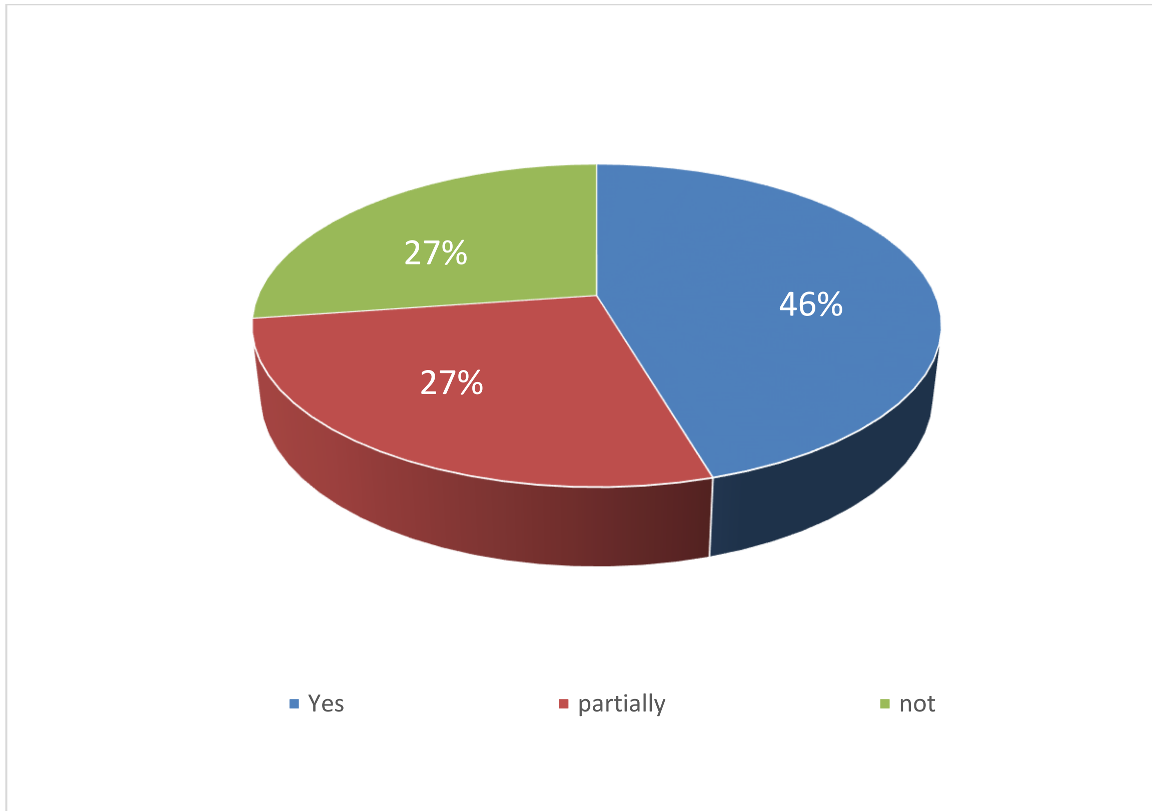
Question no. 1: Do you agree that the challenge as an implementation element of the prophylactic method of police public order before performing a service intervention in a Roma settlement has higher efficiency and a chance to be accepted if the challenger is a senior officer for community work and not another intervening police officer.



Graph n. 1
*(**Source:** Author)*

The subject of the examination of question no. 1 is to find out whether the challenge as an implementation element of the prophylactic method of police public order activity before performing a service intervention in a Roma settlement has higher efficiency and a chance to be accepted if the caller is a senior officer for community work and not another intervening police officer intervening at the scene of a police relevant incident. Of the 11 responses, 9 respondents, representing 82%, are of the opinion that the challenge, if the challenger is a senior community work officer in a Roma operation, has a higher efficiency and chance of being accepted, and 2 respondents answered, which is 18%, that has a partially higher efficiency. So 100% of respondents said that the challenge, if the caller is a senior community work officer, is more efficient, or only partially higher, mainly due to their personal and local knowledge, relationships with Roma living in settlements and their mutual respect.

Question no. 2: Do you take the view that the prophylactic applicability of the Anti-Conflict Team in the event of a mass disturbance of public order in Roma settlements in the implementation of police and security activities is currently realistic?

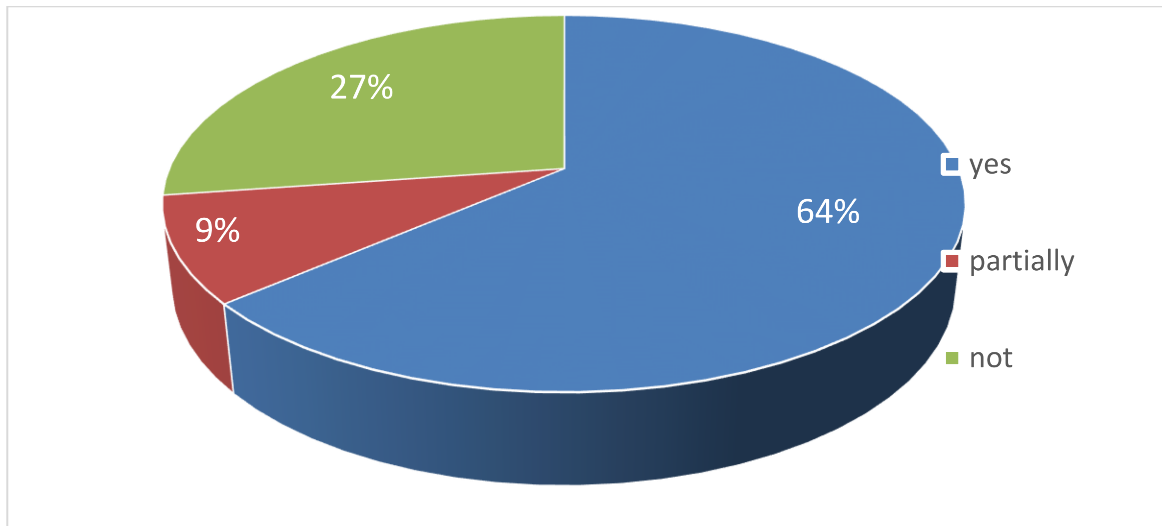


Graph n.2
*(**Source:** Author)*

When evaluating question no. 2 on the applicability of the prophylactic method of the Anti-Conflict Team in the event of a mass disturbance of public order in Roma settlements in the implementation of police and security activities, the largest group of 5 respondents, which means 46%, were respondents 27% that the usability of the prophylactic method is only partially and 3 respondents answered, which represents 27% that the applicability of the prophylactic method is not real. The evaluation of the question can be based on the fact that 73% of respondents think that the prophylactic applicability of the Anti-Conflict Team in the event of a mass disruption of public order in Roma settlements team in the event of a mass violation of public order makes sense and is effective.

<u>Question no. 3: Indicate whether you agree with the statement that senior community labor officers should have 12/24 working hours and then 12/24 on-call time to be available at all times in the event of a sudden (unforeseen) emergency in a Roma settlement located in a Roma settlement. in the district of the given district department of the Police Force. These are mainly</u>

cases (mass disturbance of public order, rioting or domestic violence) when the implementation of the prophylactic method of police public order activity can prevent disturbance of public order.



Graph n.3
*(**Source:** Author)*

The subject of the examination of question no. 3 was to find out whether the implementation of the prophylactic method of police public order can prevent the disruption of public order if senior officers for community work had 12/24 working hours and then 12/24 readiness to be available continuously in case of sudden (unforeseen) of the occurrence of an extraordinary event in a Roma settlement located in the district of the given district department of the Police Force. The largest group consisted of police officers in the number of 7 respondents, which is 64%, who think that such working hours and subsequent readiness of a senior officer for community work would be beneficial in implementing a prophylactic method of police public order and 1 respondent, which means 9 %, thinks it would be only partially beneficial. 3 respondents, representing 27%, are of the opinion that such working hours and subsequent readiness would not lead to an improvement in the implementation of the prophylactic method of police public order activity. In evaluating the question, we conclude that 73% of respondents think that if they had 12/24 working hours and then 12/24 on-call time, it would improve, or at least partially, the implementation of the prophylactic method of police public order and would be continuously available in case of sudden (unforeseen) occurrence of an extraordinary event in a Roma settlement located in the district of the given district department of the Police Force, assuming an increase in the number of table positions of senior clerks for work in communities in district departments, or adjustment of working hours and emergency coverage.

Conclusion

The title of the scientific study prophylactic police public order method of operation of a senior officer for community work in the process of preventing and dealing with police-relevant events in Roma settlements implies that it is aimed at solving problems in Roma

settlements from the point of view of senior officer for community work using prophylactic method. police public order activities. In the theoretical part of the scientific study, the author focused mainly on the Roma community, the prophylactic method of police public order activity, a senior officer for community work and empirical research.

The solution of police relevant events in Roma settlements falls within the competence of the senior officer for work in communities, whose at least 50% of the time fund of the service is to be a service activity with the Roma community. The senior officer for community work performs tasks on the basis of the regulation on the activities of basic departments, in particular independently manages and organizes activities related to creating, maintaining, consolidating and directing mutual relations between the Police Force and socially excluded group, performs prevention, also lectures, lectures and publishing, legal education and others.

A senior community labor officer often prevents and addresses police-relevant incidents using a prophylactic method of policing, in which there is an imminent threat of a detrimental effect that has not yet occurred, such as the early intervention of a senior community labor officer and a call on behalf of the law to the inhabitant of the Roma settlement refrained from illegal action.

Every police officer should perform his / her professional activity professionally, ethically, which is enshrined in the Act on the Police Force as well as in the Code of Ethics of a member of the Police Force of the Slovak Republic. performing an official intervention. It is up to each police officer to comply with the code of ethics, whether he complies with all laws, regulations, instructions, the constitution and whether his service, performance and work in the Police Force is in accordance with these standards, laws, because often citizens assess the deeds of the individual and attribute own experience of the whole team, or the Police Corps as a whole, which is not a relevant output at all, and honest police officers who deploy their lives and health on a daily basis to protect the lives, health and property of citizens cannot be blamed for the subjective failure of the individual. The aim of the scientific study was to define the prophylactic method of police public order activity and the extent of its use in the process of eliminating the occurrence of police-relevant events in Roma settlements and to define its scope in the process of eliminating police-relevant events in Roma settlements. We also managed to meet the goal of the work with the help of empirical research, in which we focused on a guided interview, where the research sample consisted of 11 respondents (senior clerks for work in communities). The obtained determinants from empirical research can be stated that the prophylactic method of police public order activity is performed at an adequate level and often its final effect depends on the specific policeman who performs it, which we came to on the basis of empirical research, from which the results can be pointed out. that if a senior community labor officer uses the call in a Roma settlement, it will be more effective than if it had been used by a police officer systematized in another table.

The aim of the work was, after gaining knowledge from empirical research from respondents in a guided interview and interview to concretize the findings and determine specific proposals for solutions and recommendations for application practice, such as: to install a camera system in Roma settlements, such as somewhere in the city center. which, on the one hand, would help to prevent preventive action in Roma settlements, as the inhabitants of Roma settlements would be aware that there are cameras and would commit less police-relevant situations, would also help the camera system to deal with things back from the records. A senior community labor officer would be able to identify and identify residents who have committed the offenses and would also perform a prophylactic role, because as soon as the offenses were recorded on camera, patrols of the riot police would immediately be sent to the police station. and one of the members of the patrol in the event of mass violations of public order should also be a senior officer for community work, as he has the best personal and local knowledge in the Roma settlement, so that at least one member is included in the anti-conflict

team within the scope of the Roma community. senior officer for work in communities, in order to better manage the situation in case of mass violations of public order, because in the performance of service activities of the anti-conflict team will draw on their experience with the Roma population, communication, knowledge of its behavior, more effective prevention of illegal and their inclusion in the anti-conflict team would make the team more effective in the event of a mass disturbance of public order in Roma settlements, so that the senior officer for community work has a divided service time so that one of them is always available in the district. district directorate of the Police Force, under which he is included in the district department of the Police Force, so that he would have 12 hours of service and subsequently have a 12-hour reach, or if this could not be covered due to insufficient number, he would have a 24-hour reach always one of them, during which he would be available on the phone in the event of a more serious police-relevant event, such as a mass violation of public order, which would need to be addressed in the territorial part of the district police directorate, because he has better personal and local knowledge as a police officer listed in another table position, has work experience with a Roma settler me and can communicate with them better, as he knows their mentality and culture well. It will also be able to deal more effectively with the situation at the scene of a police-relevant incident, as well as use a call on behalf of the law to refrain from wrongdoing, because if used by a senior community labor officer based on his experience with the Roma population, he will be largely more acceptable. and the Roma will refrain from illegal actions. He has sufficient experience to know how to express it, with what emphasis, with what intonation so that it is better understood by the Roma population, and thus he is able to prevent illegal proceedings more effectively from the position of his position. He will also manage the prophylactic method of public order activity at a higher level than the police officers of the basic units of the riot police service, whose priority service activity is not to work with the Roma population. Our knowledge gained from empirical research is only of a recommendatory nature, as it would be appropriate to incorporate the views of certain current officers of the Police Force, legal experts as well as representatives of the Roma population. The author is of the opinion that this scientific study only marginally intervenes in a wide range of important issues concerning the solution of the issue of Roma settlements, where the basic departments and components of the riot police service carry out their service activities.

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Summary

The title of the scientific study prophylactic police public order method of operation of a senior officer for community work in the process of preventing and resolving police-relevant events in Roma settlements implies that it is aimed at solving problems in Roma settlements from the point of view of senior officer for community work using prophylactic method police public order activities. In the theoretical part of the scientific study, the author focused mainly on the Roma community, the prophylactic method of police public order activity, a senior officer for community work and empirical research. The solution of police relevant events in Roma settlements falls within the competence of the senior officer for work in communities, whose at least 50% of the time fund of the service is to be a service activity with the Roma community. The senior officer for community work performs tasks on the basis of the regulation on the activities of basic departments, in particular independently manages and organizes activities related to creating, maintaining, consolidating and directing mutual relations between the Police Force and socially excluded group, performs prevention, also lectures, lectures and publishing, legal education and others. A senior community officer often prevents and addresses police-relevant incidents using a prophylactic method of policing, in which there is an imminent threat of a detrimental effect that has not yet occurred, such as the early intervention of a senior community officer and a call on behalf of the law to the inhabitant of the Roma settlement refrained from illegal action. The aim of the scientific study was to define the prophylactic method of police public order activity and the extent of its use in the process of eliminating the occurrence of police-relevant events in Roma settlements and to define its scope in the process of eliminating police-relevant events in Roma settlements. We also managed to meet the goal of the work with the help of empirical research, in which we focused on a guided interview, where the research sample consisted of 11 respondents (senior clerks for work in communities). The obtained determinants from empirical research can be stated that the prophylactic method of police public order activity is performed at an adequate level and often its final effect depends on the specific policeman who performs it, which we came to on the basis of empirical research, from which the results can be pointed out that if a senior community labor officer uses the call in a Roma settlement, it will be more effective than if it had been used by a police officer systematized in another table.

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COVID -19 and service actions performed by members of the Police Force[27]

Anotácia: Authors point out the latest information and current events in the Slovak Republic in the context of the worldwide pandemic situation caused by COVID-19 and focus on certain constitutional and legal issues as well as related activities of the police. The paper also deals with the issues such as a declaration of the state of emergency, its consequences on the enforcement of fundamental rights and freedoms, role of the police, performance of service actions.

Key words: human rights, state of emergency, Constitution, Constitutional Law, police, service action

Introduction

Likewise other countries, the Slovak Republic has been facing difficult times affected by the COVID-19 pandemic situation what has, without any doubts, a crucial and serious impact on the functioning of the state. Measures adopted by the Slovak Government for the protection of citizens, state functioning in the time of a crisis and extraordinary situations intervene into the constitutional and legal framework and influence the enforcement of fundamental rights and freedoms. The paper deals with selected issues of the referred questionable areas.

A long-lasting situation has required several measures to be adopted in Slovakia, declaration of a state of emergency and unfortunately limitations to fundamental rights and freedoms. Fundamental rights and freedoms are a part of every human being and a subject of general interest.

Constitutional Law No. 227/2002 Coll. on State Security at the Time of War, State of War, State of Emergency, and State of Crisis as amended which is supported by the Constitution of SR stipulates the scope of limitations to fundamental rights and freedoms as well as activities and tasks of the state authorities in crisis situations. Article 102 (3) states that conditions for declaring war, declaring a state of war, declaring an exceptional state, declaring an emergency state and the manner of exercising public authority during war, a state of war, an exceptional state, shall be laid down by a constitutional law. Article 51 (2) states that the conditions and extent of restriction of the fundamental rights and freedoms and the extent of duties in a time of war, a war state, an exceptional state or an emergency state shall be laid down by a constitutional law.

Overview of COVID19 related events in Slovakia

Considering the worldwide development of a pandemic and the first identified properties of coronavirus, it is difficult to determine an exact date of the pandemic beginnings, however, for our needs, we will focus on individual selected measures adopted by the state authorities in our territory. The Government of SR adopted the Resolution No. 114 of 15 March 2020[28] and declared a state of emergency for healthcare providers. It followed the declaration of an extraordinary situation (of 12 March 2020) which should have created conditions for necessary limitations in order to eliminate and **relieve the consequences of endangerment to public health. A declaration of the state of emergency in Slovakia led to the enforcement of working obligation for healthcare provision and restriction of the right for strike to certain employees. The state of emergency lasted until 13 June 2020 when it was abolished by the Government Resolution. Later, the state of emergency was declared from 1**

[27] The paper represents a partial outcome of the national research task No. APVV-17-0217 - “Service actions performed by a police officer and the application of a principle of appropriateness from the perspective of criminal and administrative law” which is supported by the Slovak Research and Development Agency.

[28] This resolution was published in the Collection of Laws of the Slovak Republic No. 45/2020 Coll.

October 2020 for the entire Slovak territory for the period of 45 days. By the Government Resolution No. 718 of 11 November 2020[29] **the state of emergency was extended for another 45 days. Thereafter the Government approved other resolutions to extend the period of the state of emergency in the territory of the Slovak Republic. For instance, the Constitutional Court of the Slovak Republic made a decision on the consistency with the Government Resolution No. 587 of 30 September 2020 on the proposal to declare the state of emergency according to Article 5 of the Constitutional Law No. 227/2002 Coll.** on State Security at the Time of War, State of War, State of Emergency, and State of Crisis as amended published in the Collection of Laws of the Slovak Republic no. 268/2020 Coll. On the basis of its finding from 14 October 2020 the Constitutional Court decided that *„the Government Resolution No. 587 of 30 September 2020 on the proposal to declare the state of emergency according to Article 5 of the Constitutional Law No. 227/2002 Coll. on State Security at the Time of War, State of War, State of Emergency, and State of Crisis as amended published in the Collection of laws of the Slovak Republic No. 268/2020 Coll., which declared the state of emergency,* ***is consistent*** *with Article 1 (1) and Article 2 (2) of the Constitution of the Slovak Republic and Article 1 (1-4) and Article 5 (1-3) of the Act No. 227/2002 Coll. on State Security at the Time of War, State of War, State of Emergency, and State of Crisis as amended“.* [30]

At the initiative of members of the National Council of the Slovak Republic and general prosecutor of the Slovak Republic the latest Government Resolution No. 160 of 17 March 2021 which extended a period of the state of emergency for another 45 days effective of 20 March 2021 covering the affected Slovak territory was examined by the Constitutional Court in conformity with Article 129 (6) of the Constitution of the Slovak Republic in terms of the consistency of the Government Resolution No. 160 of 17 March 2021 on the proposal to repeatedly prolong the state of emergency with the Constitution of the Slovak Republic. The Constitutional Court decided that *„ the Government Resolution No. 160 of 17 March 2021 on the proposal to repeatedly prolong the state of emergency according to Article 5 (2) of the Act No. 227/2002 Coll. on State Security at the Time of War, State of War, State of Emergency, and State of Crisis as amended, declared by the Government Resolution No. 587 of 30 September 2020 and to adopt the measures in line with Artciel 5 (4) of the Act No. 227/2002 Coll. on State Security at the Time of War, State of War, State of Emergency, and State of Crisis as amended published in the Collection of Laws No. 104/2021 Coll.* ***is consistent*** *with Article 1 (1), Article 2 (2), Article 13, Article 16 (1) and Article 23 (1) of the Constitution of the Slovak Republic and Article 5 (2, 3) of the Act No. 227/2002 Coll. on State Security at the Time of War, State of War, State of Emergency, and State of Crisis as amended.“* [31]

The state of emergency **does not apply to the territory of the Slovak Republic** as of Saturday 15 May 2021, i.e. that curfew and groupping restrictions have been abolished. However, the extraordinary situation has persisted. Measures at the point of entry to the Slovak Republic have not been amended.

In the course of the state of emergency the Slovak Government approved several decisions in a form of the government resolutions which led towards limitations to fundametnal rights and freedoms. We will address certain decisions in the following part of the paper.

Problematic areas in terms of the performance of service actions during a pandemic

Article 2 (2) of the Constitution of the Slovak Republic (No. 460/1992 Coll. as amended) clearly stipulates that state bodies may act solely on the basis of the Constitution, within its scope and their actions shall be governed by procedures laid down by a law. Article 2 (3) states

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[29] [29] This resolution was published in the Collection of Laws of the Slovak Republic No. 315/2020 Coll.

[30] For details see Finding of the Constitutional Court of SR 22/2020-104 dated 14 October 2020.

[31] For details see Finding of the Constitutional Court of SR 2/2021-80 dated 31 March 2021.

that everyone may do what is not forbidden by a law and no one may be forced to do what the law does not enjoin.

Pursuant to Article 11 of the Constitutional Law No. 227/2002 Coll. on State Security at the Time of War, State of War, State of Emergency, and State of Crisis as amended, the decisions on the declaration of war and peace conclusion, on the declaration of state of war and state of emergency and their termination and on limitations to fundamental rights and freedoms and imposing obligations as well as resolutions of the Parliamentary Council, Security Council, regional security councils and district security councils shall be immediately disseminated through the press and broadcasted in the radio and television, and reported in the Collection of Laws of the Slovak Republic.

The Police Force tasks are stipulated in section 2 of the Act no. 171/1993 Coll. on the Police Force as amended. The Police Force perform the following tasks:

- co-operate in protecting fundamental human rights and freedoms, especially by safeguarding the life, health, personal freedom and security of persons and in the protection of property,
- detect criminal acts and identify their perpetrators,
- co-operate in detection of tax evasions, illicit financial transactions and legalisation of incomes from criminal activities,
- carry out investigations of criminal offences,
- lead combat against terrorism and organised crime,
- ensure personal security of the President, chairman of the National Council of the Slovak Republic, prime minister of the Government of the Slovak Republic, chairman of the Constitutional Court of the Slovak Republic, The Minister of the Interior of the Slovak Republic and other persons designated by the Government,
- ensure protection of the diplomatic missions and other premises designated by the Government a co-operate by the physical protection of the nuclear facility,
- ensure protection of the state borders,
- co-operate in safeguarding public order and in case of its breach take measures for its renewal,
- monitor and co-ordinate safety and smooth flow of traffic,
- disclose minor offences and identify their perpetrators,
- carry out searches for missing persons and things,
- offer protection and help to the threaten witness a protected witness,
- carry out forensic investigation.

The cited section stipulates several tasks which are related to a pandemic. Basic tasks of the Police Force include co-operation in protecting fundamental human rights and freedoms, especially by safeguarding the life, health, personal freedom and security of persons and in the protection of property, and cooperation in maintaining the public order. The police activities, fullfillment of the police related tasks in the period of a current epidemiological situation have been affected by a present-day circumstances in conformity with adopted measures and regulated by several internal regulations, measures.

With regard to the mentioned facts, the general public have been challenged by a question whether police officers are entitled to control the coverage of upper respiratory tract by a facemask or respirator.

On 30 September 2020 the Government of the Slovak Republic approved a proposal to declare the state of emergency and as of 1 October 2020 the state of emergency was declared for the period of 45 days what was published in the Collection of Laws of the Slovak Republic

No. 268/2020 Coll.[32] Paradoxically, the resolution **does not introduce any restrictions** for citizens. Later, on 28 October 2020 the Government of the Slovak Republic adopted a resolution No. 693 published as No. 298/2020 Coll. which imposed **limitations to freedom of movement and residence** by imposing curfew from 2 November 2020 until 8 November 2020 in the period from 05:00 hrs until 01:00 hrs the following day. Such a restriction did not apply, beside others, to a person **with negative RT-PCR test** taken between 29 October 2020 and 1 November 2020 or a certificate issued by the Ministry of Health of the Slovak Republic indicating a negative result of antigen swab test certified for the territory of the European Union conduted between 29 October 2020 and 1 November 2020 by subjects involved in the mass testing operation Common Responsibility.

Pursuant to the statement of the Government of the Slovak Republic, mass testing of the Slovak citizens was/is voluntary – there is no law which would impose such an obligation to Slovak citizens.[33]

Likewise the previous resolution, the Resolution No. 298/2020 Coll. **does not introduce** entitlements for members of the Police Force or other forces of the Slovak Republic to check negative RT-PCR test certificates. It is important to mention that no law has been adopted which would regulate an obligation to check the certificates; National Council of the Slovak Republic did not approve an amendment to the Act No. 576/2004 Coll. on Health Care and on Services related to Health Care which would impose an obligation to check negative certificates by members of the Police Force or armed forces of the Slovak Republic. Provisions stated in sections 17 – 34 of the Act on the Police Force regulating the police officers' entitlements do not stipulate the authority to a police officer to detect and check health-related data of Slovak citizens. There is no ground for a police officer to require information related to health status of Slovak citizens, in our viewpoint COVID-19 negative certificates belong to such data. On the other hand, a police officer is entitled to perform certain activities related to health care for instance to check parking certificates of the seriously disabled. [34] A question remains to what extend a police officer is entitled to get informed with a personal health status in a meaning of a possible infridgement of medical confidentiality.

Another problematic topic is the power of police officers to check the coverage of upper respiratory tract by a respirator or other protective means – a facemask or scarf. The latest decree on termination of the state of emergency related to an obligation to cover upper respiratory tract is a **Decree No. 206/2021 issued by Public Health Authority of the Slovak Republic dated 13 May 2021**[35] which imposes measures to be taken in the endargement to public health following section 5 par. 4 letter k) of the Act No. 355/2007 Coll. on Protection, Encouragement and Development of Public Health and Amendments and Supplements to Certain Acts, as amended. Section 2 states that in conformity with section 48 para. 4 letter r) of the above mentioned act all persons are obliged to cover upper respiratory tract (nose and mouth) by a respirator[36] in public places in all indoors, means of public transport, taxi or other

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[32] Resolution of the Government of the Slovak Republic no. 587 of 30 September 2020 on the proposal to declare a state of emergency in conformity with the Constitutional Law no. 227/2002 Coll. on the security of the state in time of war, state of war, state of emergency and a state of emergency as amended

[33] KOLLÁR, P. 2020. *Môže požadovať policajt alebo zamestnávateľ doklad o negatívnom teste na COVID-19?* Available online at https://www.epravo.sk/top/clanky/mze-pozadovat-policajt-alebo-zamestnavatel-doklad-o-negativnom-teste-na-covid-19-4941.html [25.5.2021]

[34] Act No. 8/2009 Coll. on Road Traffic and on amendment of certain acts as ameded

[35] This Decree abolished a Decree of the Public Health Authority of the Slovak Republic No. 175/2021 which specified measures in the endangerment of public health by an obligation to cover upper respiratory tract.

[36] For the purpose of this decree, a respirator is a device worn to protect nose and mouth without an exhalation valve of the category FFP2 and is a special protective equipment according to a special regulation of the category KN95 or N95 or other product which was approved by the Slovak Office of Standards, Metrology and Testing and introduced to the market without conformity assessment.

means of transportation with persons who are not members of common household. Referring to section 48 para. 4 letter r) of the Act on Health Care a decree imposes an obligation to **all people staying outdoors** in the territories of districts at the Degree of Monitoring, Degree of Alert I or II according to the COVID Automaton[37] (green, yellow, orange colour of district) - the nose and mouth must always be covered by respirator or other protective equipment such as a facemask, scarf of shawl. The same obligation applies to all people staying in the districts at Degree of Monitoring I of II according to the COVID Automaton at **mass events**.

In our opinion, members of the Police Force are entitled to check if persons do wear a facemask, respirator or other protective equipment since wording of the section 2 letter a) of the Act on the Police Force states so: *„**co-operate in protecting** fundamental human rights and freedoms, especially by safeguarding the life, health, personal freedom and **security of persons** and in the protection of property"*. This possibility has been indirectly regulated by the Act No. 69/2020 Coll. on Emergency Measures in relation to the spread of the dangerous contagious human disease COVID-19 in the field of health and amending certain laws by amendment to the Act No. 355/2007 Coll. on Protection, Encouragement and Development of Public Health and Amendments and Supplements to Certain Acts, as amended. A person who does not apply binding measures in the endargement to public health – wearing preventive and other protective equipment[38] shall be guilty of an offence in the field of public health.

In the light of a current epidemiological situation in the territory of the Slovak Republic in the context of the COVID-19 spread, members of the Police Force have been executing checks aimed at detection of failure to obey the measures. Checks are executed within their police service. Police officers continue to support medical staff in testing and vaccinating centres. They also check if people self-isolate themselves if prescribed by a doctor. In the period between 24 May – 30 May 2021[39] they checked 32.000 persons. They detected:

- 16 violations of quarantine,
- 73 cases of not wearing facemasks,
- 3 violations of a ban to open service facilities for public.

Police officers issued 33 warnings, 53 penalties in the amount of 5.140 EUR. Another 29 cases have been handed over to relevant regional public health authorities. Since the beginning of the year, police officers have detected:

- 1324 violations of quarantine,
- 130 violations of a ban to open service facilities for public,
- 19.046 cases of not wearing facemasks,
- 44.498 violations of curfew.

Most offences related to anti-epidemiological measures have been detected in:

- Prešov region – 12.529
- Košice region – 9.743
- Banská Bystrica region – 9.743. [40]

[37] A role of the system is to provide early warning against uncontrollable spread of a disease so that health care system could take necessary preventive steps to stop the spread as well as to contribute to stabilization and improvements. It enables to take predictable measures – balance in economy activity and public health. The aim of the system is to provide measures which are simple, understandable, predictable, enforceable, safe in conformity with legislation.

[38] Section 56 para. 1 letter f).

[39] State of play as of 30.5.2021. Data are updated at the web page of the Ministry of Interior.

[40] Available online at https://www.minv.sk/?tlacove-spravy-2&sprava=aktualne-vysledky-policajnych-kontrol-dodrziavania-protiepidemiologickych-opatreni [5.6.2021].

Police officers' powers during a COVID-19 pandemic

As already mentioned above, the Police Force fulfils tasks stipulated in the Act on the Police Force; these must be fulfilled in any circumstances and extraordinary events. A COVID-19 pandemic is understood as an extraordinary event. Police officers are thus entitled to follow sections 17 – 33 of the Act on teh Police Force. In cooperation with members of other security forces of the Slovak Republic, police officers have been carrying out numerous checks aimed at if people obey anti-pandemic measures resulting from the resolutions of the Government of the Slovak Republic. Powers stated in section 26 and section 27 of the Act on the Police Force are considered special measures.

There is the power stipulated in section 26 of the Act on the Police Force (authority while safeguarding the protection of state borders) which has been frequently applied by police officers during a pandemic. It defines powers of police officers in ensuring state border checks. While safeguarding the protection of state borders, a police officer is authorised to check travelling documents of persons crossing state borders. Also, a police officer is entitled to check other document and examine facts surrounding the border crossing as stipulated in a special regulation i.e. a decree of Public Health Authority of the Slovak Republic No. **218/2021** which imposes measures in the endangerment to public health through a quarantine of persons entering the territory of the Slovak Republic. This decree determines quarantine conditions for people entering Slovakia from the countries listed in green, red and black zones according the Travel traffic light system adopted by the Government of the Slovak Republic.[41]

With regard to the right to assembly, the police power stipulated in section 27 of the Act on the Police Force (authority to forbid entry into a designated place, or order to remain at a designated place). If required in terms of the national security, maintenance of public peace, the protection of health or the protection of rights and freedoms of other persons, a police officer is authorised to order anybody, not only Slovak citizens[42]

a. not to unnecessarily enter a designated place or remain there,

b. to remain at a designated place for inevitably necessary time.

Škrobák states that *„this power is applicable to regulate movements of persons in public to eliminate their groupping and an increasing spread of the disease. It also may be applied to protect the public against their entrance to the virologically risky place.“* [43]

Such limitations to freedom of movement and residence follow the aim of reaching the above mentioned objective and may persist solely within inevitably necessary time period. It is up to a decision of a police officer to enforce this power which is needed, besides others, to protect public order and public health.

Restrictions to the right to assembly were also stipulated in the Government Resolution No. **645/2020 of 12 October 2020**; as of 13 October 2020 within the declared state of emergency according to Article 5 of the Constitutional Law No. 227/2002 Coll. on State Security at the Time of War, State of War, State of Emergency, and State of Crisis as amended,

[41] As of 7.6.2021 green countries listed in the Travel traffic light system: *Andorra, Australia, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, People' Republic of China, Denmark, Estonia, Faroe Islands, Finland, France, Greece, Greenland, Netherlands, Hong Kong, Ireland, Island, Israel, Japan, South Korea,* Liechtenstein, *Lithuania, Latvia, Luxembourg, Macau, Hungary, Malta, Monaco, Germany, Norway, New Zeland, Poland, Portugal, Austria, Romania, San Marino, Singapur, Slovenia, Vatican, Spain, Switzerland, Sweden, Taiwan, Italy. Red countries: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Montenegro, Georgia, Jordan, Canada, Kosovo, Cuba, Libanon, Moldova, Puerto Rico, Russian Federation, North Macedonia, Serbia, USA, Tunisko, Turkey, Ukraine. Black countries: all countries not listed above.*

[42] TITTLOVÁ, M. – MEDELSKÝ, J. 2017. *Zákon o Policajnom zbore. Komentár*. Bratislava, Wolters Kluwer, p. 161.

[43] ŠKROBÁK, J. 2020. *Správne právo v časoch pandémie koronavírusu. Časť druhá: Úlohy a oprávnenia polície.* Available online at https://comeniusblog.flaw.uniba.sk/2020/03/17/spravne-pravo-v-casoch-pandemie-koronavirusu-cast-druha-ulohy-a-opravnenia-policie/ dated 30.5.2021.

adopted by the Government Resolution No. 587 of 30 September 2020, the Government decided that no **more than 6 people** can gather in public, besides people sharing the same household, according to Article 5 para. 3 letter h) of the Constitutional Law No. 227/2002 Coll. on State Security at the Time of War, State of War, State of Emergency, and State of Crisis as amended.

The power stipulated in section 27 of the Act on the Police Force may have been applied during mass events. The latest decree of the Public Health Authority of the Slovak Republic No. **216/2021** of 10 June 2021 introduces limitations in the endargement to public health at mass events. The decree determines general rules for church services, church and civil wedding ceremonies, wedding receptions, baptism ceremonies, sporting events, cultural events, meetings of the public power bodies and their advisory bodies and other events which are organized in conformity with the law and elections.[44]

It is important to mention that police officers have been entitled to use all other powers stated in the Act on the Police Force, also during a pandemic situation COVID-19. Every police officer is obliged to respect the challenge, instruction, order and demand given by the police officer during the performance of his authorities pursuant to above mentioned powers.

Throughout coronavirus pandemic there have been numerous discussions among general public on the legal nature of the resolutions adopted by the Government of the Slovak Republic, their binding character and means of enforcement; whilst there are many legal voices which declare that the resolutions are not in conformity with the Constitution, are unlawful, ineffective, not binding and unforceable. The Constitution of the Slovak Republic declares that limitations to fundamental rights and freedoms shall be regulated only by a law and under the conditions set in the Constitution. The Constitution however specifies the protection of fundamental rights and freedoms in common situations but at the same time takes into account special situations *„where availability of fundamental rights and freedoms is reduced or eliminated“*[45]. Article 51 para. 2 of the Constitution of the Slovak Republic stipulates that the conditions and extent of restriction of the fundamental rights and freedoms and the extent of duties in a time of war, a war state, an exceptional state or an emergency state shall be laid down by a constitutional law i.e. the Constitutional Law on the State Security. Its introductory provisions specify that a basic role of the public power in time of war, a war state, an exceptional state and an emergency state is to exercise all necessary measures for the protection of the state and its security, for the protection of life and health of persons, property, for the adherence of fundamental rights and freedoms, for averting the danger or restoration of disrupted economy, mainly normal functioning of supplies, transport and public services in municipalities and proper functioning of the constitutional bodies. The resolution of the Government of 30 September 2020 which declared the state of emergency for the whole territory of the Slovak Republic was contested at the Constitutional Court of the Slovak Republic. The Constitutional Court in its decision as of 14 October 2020 stated that *the contested resolution of the Government of the Slovak Republic No. 587 on the state of emergency and the Government order No. 269/2020 Coll. as of 30 September 2020 are in conformity with Article 1 para. 1 and Article 2 para. 2 of the Constitution and Article 1 para. 1 – 4 and Article 5 para 1 -3 of the Constitutional Law on the State Security (point 1). In the point 62 the Consitutional Court found that „As already indicated, fundamental rights and freedoms may be directly limited by the Government resolution on the basis of the state of emergency. Moreover, several regulations of the legal order include a term the state of emergency which, in case it is declared, may lead to predictable consequences; existence and nature of activating effects of the state of emergency in a specific legal regulation are after the declaration of the state of emergency in some parts clear and in some parts they require*

[44] For details see Decree No. 216/2021. Measures are amended according to the development of the pandemic situation in line withe the COVID automaton.

[45] DRGONEC, J. 2015. *Ústava Slovenskej republiky*. Bratislava, C.H.Beck, p. 986.

additional interpretation". [46] A final decision by the Constitutional Court is *generally binding*. After the decision was made public, multiple legal viewpoints were presented. For instance Skurka indicates that *„in given circumstances no conclusion can be made in a meaning that the Government had adopted the resolutions limiting fundamental rights and freedoms during the state of emergency by annuled acts – legally non existing and thus not binding for the Slovak citizens. On the contrary, as confirmed by the Constitutional Court of the Slovak Republic, the Government resolutions which do limit certain rights and freedoms and were adopted during the state of emergency in conformity with the Constitutional Law on the State Security are the Government´s decisions related to the state of emergency and the Government has the power to declare the state of emergency on the basis of this act. It means that limitations to fundamental rights and freedoms must be fully respected. If not, disrespect becomes a criminal offence which is a subject to penalty"* [47].

At present, pursuant to the Act on the Police Force police officers are, within the performance of service actions, obliged to follow strict hygienic standards to eliminate the spread of COVID-19 according to Guidelines of the Chief Hygienist of the Ministry of Health of the Slovak Republic as of 20 April 2021. It is required that while performing their duties outdoors (e.g. at border crossing points) police officers must wear a facemask. Investigators and police officers who carry out the urgent activities with a detained person (irregular migrant) must wear a respirator FFP2 and disposable gloves. If forcible means are used against a person with the disease symptoms according to the Act on the Police Force, there is no need to wear protective equipment and this act is considered an ordinary contact. After a service action is completed, police officer must wash their hands with hand sanitizer and ensure that a person against whom a service action was performed covers his/her upper respiratory tract.

Conclusion

Police as an armed safety corps is predominantly a body whose role is to protect the realization of human rights which form the basis of every democratic and fair society. Members of the Police Force act in very complex circumstances every day and are surrounded by two obligations - to protect fundamental rights and freedoms and to bargain desired conditions within careful application of legal possibilities. With reference to the above mentioned facts, we conclude that Police Force supervise the enforcement of legal regulations and in case of a breach, they take measures to remedy the situations – warnings, orders, performance of service action, use of forcible means. A pandemic has opened many questions related to limitations to fundamental rights and freedoms as well as certain police powers. There is still an open discussion about the protection to public health to the detriment of an individual's rights and limitations to certain rights and freedoms.

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Summary

The paper focuses on the ongoing worldwide pandemic situation that also persists in Slovakia. The attention is paid mainly to COVID-related limitations to fundamental rights and freedoms. Authors provide an overview of selected legal regulations governing the pandemic situation, and focus on the activities of the Police Force in the problematic areas such as the performance of police activities and service interventions. Authors point out the contrast between human rights guaranteed by constitutional and international standards on the one hand and their restriction in times of a pandemic situation on the other hand by members of the Police Force. This has caused a lot of discussions and questions addressed by the general public, e.g. checking if a person is wearing a facemask or respirator to protect the upper airway, or handing over the certificate on a negative RT-PCR test result. Several regulations have been adopted by the authorities imposing restrictions and, in particular, interfering with fundamental human rights. Some were also subject to a decision by the Constitutional Court of the Slovak Republic. The authors focused their attention on these matters, but due to the complexity of these issues, they approached only selected questions.

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Criminal law regulation of Stalking and Dangerous threats and the importance of their knowledge and assessment from the point of view of the work of a police officer[48]

Abstract: The article deals with the legal regulation of Dangerous Threats and Stalking with a focus on their assessment in terms of the facts of the crime and their subsequent distinction from the possible more serious consequences that may result from this illegal activity. The aim of the article is to point out how members of the Police Force should assess each act individually in terms of the threat that may arise for the injured party from the perpetrator's actions.

Key words: The Dangerous Threats, the Stalking, the cyberbullying, ultima ratio, Criminal Code.

Introduction and theoretical background of the researched issues

Activities of a member of the Police Force by an Act no. 171/1993 Coll. on the Police Force, as amended, is based on the implementation of several tasks that result from § 2 of this Act. One of these tasks performed by the Police Force can also include the detection of criminal offenses and the identification of their perpetrators, and this is a task which, by its nature, is one of the activities arising from Act no. 300/2005 Coll. The Criminal Code as amended (hereinafter referred to as the Criminal Code) and Act no. 301/2005 Coll. Criminal Procedure Code as amended (hereinafter referred to as the Criminal Procedure Code). In this regard, the tasks arising from § 2 of the Police Force Act are explicitly bound only to the provisions of these two basic laws, which stipulate in which cases it is possible to assess the wrongdoing as a criminal offense and subsequently adjust the procedure of relevant entities so that these crimes were duly identified and their perpetrators were punished fairly by the law. The new legal regulation of criminal codes, which is effective from 1 January 2021, has also strengthened the possibility of confiscating the proceeds of crime.

In addressing and assessing the fundamental issues arising from the activities of members of the Police Force, it is therefore essential that the provisions of the legislation governing the various types of illegal proceedings be comprehensible and set up in such a way that criminal offenses and their perpetrators can be effectively prosecuted. In this respect, however, criminal law must fulfill its fundamental role within the system of legal norms only as a means of the "ultima ratio", i.e. as an extreme means of protecting society. At the same time, however, it is essential that criminal law also responds appropriately to changes in society, e.g. in the area of newer types of illegal proceedings, which it will include in its provisions but also to apply elements of restoration, which will not only highlight the repressive element of criminal law, but also the possibility of using more lenient means. The principle of ultima ratio is in the Criminal Code especially in the case of criminal offenses which are following § 10 par. 1 offense. The mentioned paragraph wording at the same time in par. 2 defines the so-called a substantive corrective, which states that "it is not an offense if, given how the act was committed and its consequences, the circumstances in which the act was committed, the degree of fault and motive of the perpetrator, its severity is negligible." also the principle of subsidiarity of criminal repression, which means that the provisions of the Criminal Code can be applied if the legal possibilities of other branches of law are not sufficient to restore broken social relations. The principle of ultima ratio is an important element among the principles of criminal law in the past, this principle was also referred to as the principle of the auxiliary role of criminal

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repression. [49] Efforts to increase the preventive role of criminal law (not just repression) have been present in criminal codes since the 1950s, ie they sought to prevent crime by using means other than criminal law and, if these were not sufficient, to use elements of criminal law. prevention - general and individual, which is based on the purpose of punishment. Individual authors also referred to this section as the economics of criminal repression[50]

From the point of view of the repressive component, it is a precisely criminal law that is the tool which, in comparison with other branches of law, has the most serious means of state coercion, by which it interferes with fundamental human rights and freedoms. The fact that criminal law should be of a subsidiary nature is also inferred from the fact that it protects social relations which have their basic legislation expressed in other branches of law, which no longer have the means to protect the rights and obligations arising from them and the legality. the application of criminal law is necessary for their protection.

The principle of ultima ratio in case law has even been accepted by the Supreme Court of the Slovak Republic, which even rejected it for a certain period (2013)[51] as a separate principle related to the application procedure of bodies active in criminal proceedings and the court. However, the rejection of the ultima ratio principle is relatively confusing in this respect, given the fact that the Criminal Code legislation allowed its possible use by law enforcement and court authorities in assessing whether the offense and its seriousness to stated facts in terms of § 10 par. 2 (or § 95 para. 2) must be assessed as a criminal offense.

In the previous legislation, the principle of *ultima ratio* in criminal law was also linked to the material expression of a criminal offense, when a criminal offense was considered to be a dangerous act for society, the features of which were listed in the Criminal Code[52] , who was affected by the act, the manner of execution of the act and its consequences, the circumstances under which the act was committed, the person of the perpetrator, the degree of his fault, and his motive. The degrees of the danger of an act for society were stated in this Act concerning individual institutes of criminal law, while the degree of danger of an act for society, which was less than insignificant, meant that the act was subsequently not considered a criminal offense. In this way, criminal law should also be prevented from being used for offenses whose danger was not high. It might therefore seem that even in the current formal understanding of the crime, the principle of ultima ratio is applied only in the assessment of the so-called material corrective in the sense of § 10 par. 2 of the Criminal Code, which partially expresses the assessment of the material feature, similar to the previous wording of the Act. [53] However, the application of the *ultima ratio* principle is also possible in other criminal law institutes within the current wording of the law - e.g. can also be used in the interpretation of formal features of a specific factual nature of a crime - e.g. gross indecency, riot, frustration, etc. but also in the assessment of individual features of the factual nature of the crime - e.g. if the objective aspect was filled with illegal conduct, but it is not possible, resp. there are doubts about the subjective side.

Dangerous pursuit and Dangerous threat

Although the principle of *ultima ratio* is one of the important principles of criminal law, the basic purpose of criminal law is to protect the rights and legitimate interests of society, as well as natural and legal persons, from illegal acts which have the characteristics of a criminal offense. Whereas, in the sense of the subsidiarity of criminal repression, criminal law applies

[49] for more details see e.g.: Čič, M. a kol. Trestné právo hmotné. Praha: Panorama. 1984s. 19. alebo Matys, K. Trestní zákon. Komentár. Praha: Panorama 1980 s. 20.
[50] tamtiež
[51] ŠAMKO, P., 2014. Základné východiská princípu ultima ratio. [online]. [cit. 13. 05. 2021] Dostupné na internete: http://www.pravnelisty.sk/clanky/a288-zakladne-vychodiska-principu-ultima-ratio
[52] In the law No. 140/1961 Zb. - § 3
[53] Nejde o prečin, ak vzhľadom na spôsob vykonania činu a jeho následky, okolnosti, za ktorých bol čin spáchaný, mieru zavinenia a pohnútku páchateľa je jeho závažnosť nepatrná.

only if it is necessary since other branches of law do not provide a sufficient guarantee of the protection of the most important rights. In this regard, the legal branch, which is very close to the assessment of illegal conduct, is the right law, within its provisions of Act no. 372/1990 Coll. on offenses. Certain facts of criminal offenses, as set out in the Criminal Code, are relatively close to the factual nature of the offenses in terms of the expression of certain features. These offenses may also include the facts of the offenses of Dangerous Threats according to Section 360 and Dangerous Persecution within the meaning of Section 360a, for which a sentence of imprisonment of up to one year may be imposed by the basic facts, which essentially means that it is possible to apply a material corrective for them, which is bound to the principle of ultima ratio. However, because of the gravity of the unlawful conduct, which is defined in those facts, they are criminal offenses which, by their nature, are criminal offenses of domestic violence, [54] which is why they need to be given greater attention.

Dangerous threats under Section 360 of the Criminal Code and dangerous persecution under Section 360a of the Criminal Code are relatively young criminal offenses in the Slovak legislation, although the legal regulation of similar unlawful proceedings already existed in some legal systems. Dangerous persecution - ie stalking, is not a new phenomenon, but the individual features of this crime were introduced into the Criminal Code only in 2011 - by the amendment to the Criminal Code no. 262/2011 Coll. Before this amendment to the Criminal Code, it was not possible to effectively prosecute illegal actions of this type and it was possible to use only those cases which could be subsumed under one of the other facts in the Criminal Code. Dangerous threats are a phenomenon that has been present in society since time immemorial, but many times there is a very thin line between harmless threats and threats, which is already so serious that it is necessary and necessary to punish them by criminal law. In assessing whether a particular action fulfills the elements of the criminal offense of dangerous threat, it is important to pay attention to the specific circumstances of the case, the subjective feelings of the addressee of the threats and not to focus only on the actual conduct of the potential offender. It is necessary to know the specific circumstances of the case and all the smallest details so that the act can be properly legally assessed. It is in this context that it should be noted that the Slovak legislature has left the courts a relatively large margin of discretion in interpreting certain elements of fact, in particular in the event of a threat of other serious harm and the need for the threat to give rise to reasonable concern. In the case of dangerous persecution, we can speak of a sign of the longevity of the persecution. The facts of both offenses appear to be relatively simple, but their complexity does not then lie in defining the individual features of the offense, but rather in the practical application of a particular infringement fulfilling the relevant facts of those offenses. In general, it can be stated that the legal application of the provisions of the Criminal Code must, after correct application, result in an appropriate legal assessment. In assessing the issues in question, the police officer is subject to several considerations within his or her limited procedural autonomy and must decide in such a way as to prevent possible further wrongdoing on the part of the offender by anticipating possible risks that may arise. If it misjudges an act in the case of those offenses, it may have much more serious consequences than simply jeopardizing the relevant protected interests, as expressed in the wording of the facts of those offenses.

The criminal offense of dangerous threats within the meaning of § 360 is as follows:

[54] Nariadenie ministra vnútra Slovenskej republiky 175/2010 o vymedzení príslušnosti útvarov Policajného zboru a útvarov Ministerstva vnútra Slovenskej republiky pri odhaľovaní trestných činov, pri zisťovaní ich páchateľov a o postupe v trestnom konaní

§ 360 Dangerous threats

(1) Whoever threatens another death, severe personal injury, or other severe damage in such a way that it can raise cause for concern, shall be punished by imprisonment of up to one year.

Although the criminal offense of dangerous threat was not adopted in the legislation of the Slovak Republic until the recodification of criminal law in 2005 until the current wording of the Act was possible following § 197a[55] (Violence against a group of inhabitants and an individual)[56] 140/1961 Coll. to prosecute unlawful conduct which has constituted the substance of the offense. This factual substance with only a new name is, in fact, still valid today.

The object of this crime is not explicitly stated in the provision, but in terms of objective aspect, as stated, we can state that these are the values that the Criminal Code considers necessary to protect against threats, i.e. life, and health, but also such values, the threat of which may represent another serious harm to the injured party. The objective aspect, which is formed by the action, the consequence, and the causal relationship between the action and the consequence, is in this case threatening, in which the perpetrator directs to endanger the victim in a way that may cause him a reasonable concern for his life or health. The damage itself, i.e. the failure of the protected interest, may not occur as a result of the perpetrator's actions, it is sufficient that the origin of the concern is real. The threat itself must always be assessed individually, taking into account the specific circumstances of the case. To assess the fulfillment of the facts - the objective aspect of the facts, it is necessary to determine whether the threat was capable of raising legitimate concerns. The threat must be objectively capable of raising a reasonable concern, but the threat must not necessarily raise it in the addressee, which was emphasized by the Supreme Court of the Slovak Republic[57], which stated in one of its decisions that the offender's threats "*were capable of raising He responded to the attack in such a way that he called on the perpetrator to go to it immediately, because the perpetrator repeatedly threatened to kill him using a drastic description, while the perpetrator had a reputation as a perpetrator knowing what the victim knew.* ", but also a legal entity following § 3 of Act No. 91/2016 Coll. However, from the point of view of the statistical indicators of this crime, no legal entity has yet been criminally liable for such a crime, and *de lege ferenda*, it would be appropriate to assess whether the provision in question is not superfluous in this catalog of crimes defined by a special law. The subjective side of the crime, in this case, requires intentional fault.

The criminal offense of dangerous persecution within the meaning of § 360a is as follows:

§ 360a Dangerous persecution

(1) Whoever persecutes others for a long time in such a way that it may raise a reasonable concern for his or her life or health, the life or health of a person close to him or substantially impair his or her quality of life, by

a) threatens to injure himself or otherwise harm him or a person close to him,

b) seeks out his personal proximity or monitors him,

c) contacts him through a third party or electronic communication service, in writing or otherwise against his will,

(d) misuses his personal data for the purpose of obtaining personal or other contact; or

e) otherwise restricts him in his usual way of life,

shall be punished by imprisonment for up to one year.

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[55] This crime has been adopted an amendment to the Criminal Code no.56/1965 Zb.

[56] § 197a - „*Whoever threatens another with death, serious injury or other serious harm in such a way as to raise a reasonable concern shall be punished by imprisonment for up to one year..“*

[57] Uznesenie Najvyššieho súdu Slovenskej republiky zo dňa 23. 06. 2015, *sp. zn. 2T do 35/2015*

In the past, this crime was mainly associated with the persecution of celebrities abroad, but in the last decades, this modern phenomenon has also been associated with ordinary people. In the conditions of the Slovak Republic, it is often associated with cases of domestic violence, especially in the case of former partners. Dangerous stalking is also referred to as stalking, which does not have a uniform definition, but represents unwanted and/or repeated surveillance of a person by an individual or group, and the behavior of that individual or group may be related to harassment or intimidation. Personal monitoring can be a part of stalking, but the current possibilities of information technologies also bring new types, such as cyberstalking, which can then also escalate into much more serious offenses, especially if the victim is a child. *"Becoming a victim of stalking is a highly stressful situation in which negative feelings accumulate not only from the persecution itself, the loss of privacy but also the misunderstanding of the environment. As a result, feelings of helplessness, self-blame, and often psycho-reactive anxiety-depressive states or psychosomatic disorders develop. It also has a significant and adverse effect on the social and professional life of the victim and leads to social isolation, change of work or. downloading. "*[58]

Due to the fact that even in the conditions of the Slovak Republic there were increasing illegal actions of this type, which could not be punished criminally, it was necessary to introduce a new criminal offense into the Criminal Code. The factual situation of dangerous persecution *de facto* existed but *de jure* could not be resolved criminally.

It also follows from the wording of the facts that the method of committing a criminal offense may take various forms, which may take the form of an explicit contact form but also a non-contact one, but at the same time, it is sufficient to raise legitimate concerns about life or health itself. a persecuted person or a person close to him or may significantly impair his quality of life. Contact attacks can have physical or even psychological consequences, with contactless methods leaving "only" psychological consequences, which, however, can often have much more serious and long-term consequences for the injured party than physical harm.

Thus, as in the previous provision, the object of the crime is the life or health of the persecuted person or a person close to him, as well as the possible rights of the person concerning his personal liberty or his physical integrity and private life. The objective aspect of the factual nature of the offense is also threatening, so that the failure of the said protected interests may not occur at all, it is sufficient that the manner of persecution may raise the already mentioned legitimate concern. At the same time, the long-term persecution is a sign of the factual nature, which it presupposes in the sense of individual ways of acting, which are defined in letter a) - e), various ways. It goes e.g. o at least a few contacts within the meaning of letter c), or at least attempts at these contacts, which cannot be only isolated but repeated, which go beyond the usual way of behaving in society. It can go e.g. o sending SMS messages, e-mails, letters, some of these forms fulfill the signs of cyberstalking. However, longevity in these cases poses considerable problems from the point of view of proof and is rather only a certain "harassment" or possible bullying, which is currently not punishable from the point of view of legislation. Here it is possible to mention the amendment to the Criminal Code, which is currently in the legislative process and which brings this area to the forefront, while with effect from 1 July 2021 to introduce a new crime - § 360b Dangerous harassment (renamed in the second reading Dangerous electronic harassment).

[58] PFUNDTNER, E. ŠANTA, J. Nebezpečné prenasledovanie – stalking. Justičná revue, s. 273

(1) Who intentionally degrades the quality of life of another person by means of an electronic communication service, a computer system or a computer network by:

a) humiliates, intimidates, misuses on his behalf or otherwise harasses him on a long-term basis; or

b) unjustifiably publishes or makes available to a third party a visual, audio or visual-audio recording of his expression of a personal nature obtained with his consent, capable of significantly jeopardizing his seriousness or causing him other serious harm to his rights,

shall be punished by imprisonment for up to three years.

(2) The offender shall be punished by imprisonment for one to four years if he commits the act referred to in paragraph 1

a) on the protected person, or

b) for a specific motive.

(3) The offender shall be punished by imprisonment for two to six years if he commits the act referred to in paragraph 1

a) and causes significant damage,

b) with the intention of obtaining a significant benefit for himself or another, or

c) although he has been convicted of such an offense during the previous 24 months.

Similar legislation also exists in Austrian criminal law.[59] As this is a piece of legislation that is in the legislative process, it is not possible to evaluate its wording. However, the mentioned criminal offense is not a part of this contribution and possible application problems will be shown only by the adopted legal regulation and possible illegal actions. However, it must also be considered, in the light of the *ultima ratio* principle, whether it is really necessary to accept the facts of the offenses without there being relevant research in this area, because of the need and necessity to consider such offenses a criminal offense. infringements, including offenses.

Subsequently, it is necessary to examine another feature of fact and that is a matter of reasonable concern or deterioration in the quality of life, which, however, must always be assessed strictly individually in the light of all the facts of the case. From the point of view of a thorough recognition of these facts, it is necessary to always think about the possibility of subsequent escalation of these actions by the offender. Thus, if the injured party feels a legitimate concern for life or health, from a follow-up point of view, it is necessary to ensure that there is no real failure. For the offender to fulfill the objective aspect of the crime, several conditions must be met. These can be summarized in fact in three parts (conditions):

- Presence of a sign of time - longevity depends on the circumstances of each case
- Presence of a sign of intensity - raising a reasonable concern or deteriorating quality of life.
- The presence of any of the proceedings expressed in canine a) - e). [60]

[59] § 107c. (*1) Wer im Wege einer Telekommunikation oder unter Verwendung eines Computersystems in einer Weise, die geeignet ist, eine Person in ihrer Lebensführung unzumutbar zu beeinträchtigen, eine längere Zeit hindurch fortgesetzt*
1. eine Person für eine größere Zahl von Menschen wahrnehmbar an der Ehre verletzt oder
2. Tatsachen oder Bildaufnahmen des höchstpersönlichen Lebensbereiches einer Person ohne deren Zustimmung für eine größere Zahl von Menschen wahrnehmbar macht, ist mit Freiheitsstrafe bis zu einem Jahr oder mit Geldstrafe bis zu 720 Tagessätzen zu bestrafen.

[60] BRIEŠŤANSKÝ, A. *Trestnoprávna úprava stalkingu -aktuálne otázky teórie a praxe* [online]. [cit. 13. 05. 2021]. Dostupné na internete: http://www.pravnelisty.sk/clanky/a654-trestnopravna-uprava-stalkingu-aktualne-otazky-teorie-a-praxe

43§ 22 Criminal Law č. 300/2005 Z.z.

44§ 23 Criminal Law č. 300/2005 Z.z.

This fact must then be able to be evaluated by the police officer[61] who is dealing with the act, which therefore presupposes a thorough knowledge of the legislation, but also the experience of assessing the possible risk. From the point of view of substantive jurisdiction, in the given cases, the authorized member of the PZ[62] is competent to conduct the proceedings.

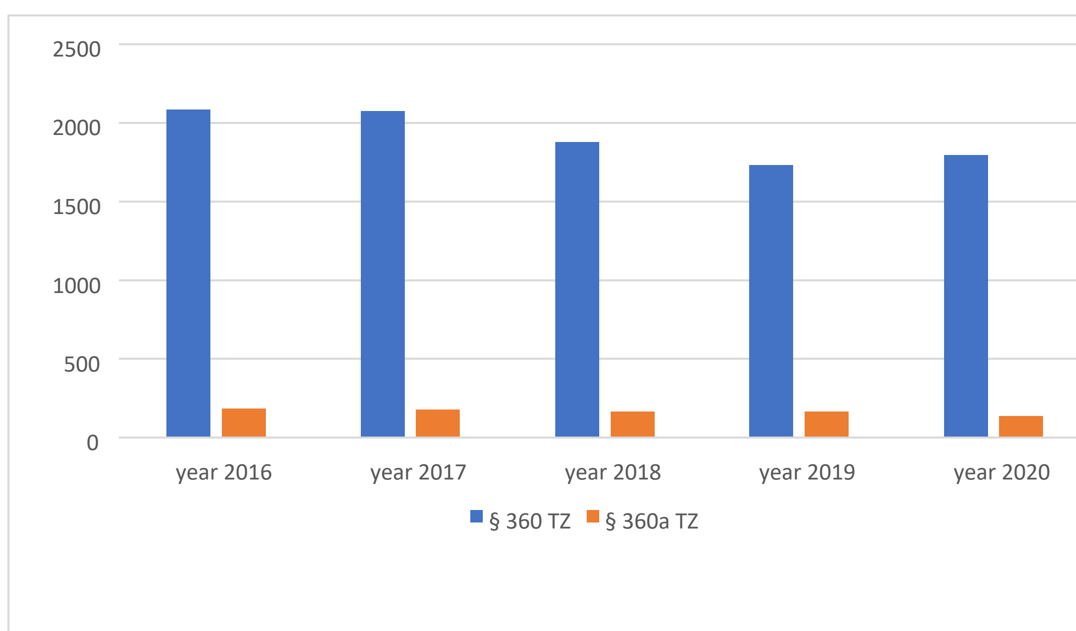
The subject of the facts of this crime is general and this crime cannot be committed by a legal person. The subjective side assumes intentional fault.

Application context of the assessment of criminal offenses of dangerous threats and dangerous persecution

If we look at the statistical indicators of these crimes in previous years (period 5 years - 2016 - 2020) it is possible to state a certain disparity in the idea itself, which can also be attributed to the fact that in the case of § 360a it is a relatively younger crime.

Based on the above statistics, it can be stated that there is a higher number of crimes of dangerous threats than crimes of dangerous persecution, while the clarity in terms of indicators is at about the same level - 90%. In recent years, the development trend of these crimes has been relatively stable, although a certain decrease in the overall idea can be observed in the crime of dangerous threats. During this period, both crimes were committed not only by adult offenders, but also by juveniles, and there were even cases in which minors also committed offenses.

Comparison of criminal offenses according to § 360 and § 360a of the Criminal Code in the years 2016 - 2020.



To assess whether an act fulfills the facts of the criminal offense of dangerous threat, it is, therefore, necessary that it is not just a matter of ordinary threat, but an action which raises a legitimate concern, that is to say, a higher degree of distress. It is necessary to distinguish outputs where strong words were used and in reality nothing serious, from the crime of

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[61] Police officer - § 10 ods. 7 Criminal Procedure Code.

[62] Čl. 11 Nariadenia MVSR č. 175/2010 - Obvodné oddelenie je vecne príslušné na skrátené vyšetrovanie o prečinoch, za ktoré Trestný zákon v osobitnej časti ustanovuje trest odňatia slobody, ktorého horná hranica trestnej sadzby neprevyšuje tri roky, okrem prečinov proti životnému prostrediu,13a) a okrem prečinov, ktoré sú vo vecnej príslušnosti okresného dopravného inšpektorátu, krajského dopravného inšpektorátu alebo oddelenia železničnej polície krajského riaditeľstva, ak o nich nekoná útvar uvedený v čl. 2 písm. a), b), d) alebo j).

dangerous threats. It is therefore important to take into account not only the content of the verbal statement but also the verbal statements themselves, which need to be analyzed in connection with the perpetrator's actions. Subsequently, to conclude a possible criminal assessment, it is necessary to comprehensively evaluate the whole situation, but above all the nature of the threat, character, and physical characteristics of the offender in comparison with the character and physical characteristics of the injured party, taking into account their relationship and others.

In the case of a dangerous threat, it is irrelevant whether it is to be carried out immediately or in the future, whether the threat is declared orally, in writing, or through a third party. The decisive attribute is that the threat is expressed or written and the perpetrator's intention is to make the threat real to the injured party or a person close to him.

In the context of dangerous persecution, it is also necessary to consider the circumstances of a particular act, which in turn affect whether the act will be considered a criminal offense or an offense. If it is an isolated act of the perpetrator, even if it consists of several attacks, the sign of longevity is not formally fulfilled, but if it is a repeated act of the perpetrator, or. for the continuation of partial attacks against the same victim and preceded by a solution in misdemeanor proceedings, this is already a criminal offense.

According to the case-law[63] of the Czech Republic, which deals with the concept of longevity in terms of their legislation, the assessment of this concept is linked to at least three attacks, between which there is a time interval of 72 hours. It is necessary to preserve the essence of the temporal connection of the act. This is controversial if there is a long time lag between attacks. As this is a mass crime, if there is a time lag of more than a year, the time coherence is unlikely to be maintained. However, we are not entirely sure whether this method of assessing the case is appropriate in terms of the concept of the factual nature of this crime in our circumstances. I am inclined to choose a relatively strict individual approach to the facts of each case, to assess whether there is a certain hourly or daily link between the attacks.

Likewise, when assessing a legitimate concern, it is necessary to address the subjective perception of the injured party, but if he perceives it as a trauma, it is taken into account when assessing the facts. However, determining the permissible limit subsequently is not always an easy and unambiguous decision, because exceeding the permissible limit often takes place gradually. Quite certainly, the permissible level of persecution occurs when the perpetrator continues to persecute for months and years and the intensity of the persecution and harassment increases.

Application problems in the assessment of crimes of dangerous threats and dangerous persecution

In cases where not all the obligatory features for the fulfillment of the factual substance of the criminal offense of dangerous persecution under § 360a of the Criminal Code are met, but the case "cannot be thrown off the table" with the conclusion that no wrongdoing occurs, such a reported qualify as an offense against civic cohabitation. If the authorized member of the PZ has sufficient experience, he/she can evaluate the extent and seriousness of the reported facts at the initial notification and on that basis classify the act as an offense against civil cohabitation according to § 49 par. 1 letter d / Act no. 372/1990 Coll. on offenses as amended.

All facts related to the act must be able to be correctly assessed by the law enforcement authority, as in the cases of these acts there is very little room to evaluate which procedure the police officer chooses in a particular situation, and this method can significantly affect subsequent the conduct of the offender and the possible threat to the victim from this crime. The assessment of the situation resulting from the filed criminal report may, in the case of an incorrect and inadequate procedure, which is assessed as an illegal act showing signs of an

[63] Uznesenie Najvyšší súd ČR sp. zn. 8 Tdo 1082/2011

offense, lead to more serious conduct of the offender. Each incident under consideration should be rigorously evaluated, and the information provided in the criminal report needs to be thoroughly examined from the outset and the subsequent conduct of the police officer adapted accordingly. Such an assessment of the report is usually a relatively complex thought process for the police officer, as to proceed correctly and make a decision, he must take into account a lot of objectives as well as subjective information that is directly related to the act committed. It is necessary to examine the actions of the presumed perpetrator, his motive, motive, temporal connections, relationships between the perpetrator and the victim, kinship, local conditions, place of the act, but also education, ethnicity, religion, family environment, etc. All these facts can subsequently influence the view of raising the legitimate concern of the injured party. What e.g. in one group of persons it may arouse indignation or reasonable concern, in the other group behavior is acceptable.

The ability to assess the composition of an act and to draw the appropriate conclusions is usually also influenced by the practical experience of a police officer who performs criminal proceedings. After receiving the criminal report, the police officer has the opportunity to use one of 4 procedural procedures:

- to initiate criminal prosecution in the matter by a procedural procedure according to Section 199 para. 1 TP of the Criminal Procedure Code and subsequently perform all necessary acts
- initiate criminal prosecution according to § 199 par. 1 TP and at the same time bring an accusation according to § 206 par. 1 TP
- hand over the case to the competent authority for the hearing of a misdemeanor or other administrative offense according to § 197 para. 1 letter a) TP, most often an offense against civic cohabitation in accordance to § 49 of Act no. 372/1990 Coll. on offenses,
- reject the case according to § 197 par. 1 letter d) of the Criminal Procedure Code, provided that the proceedings do not even meet the signs of a misdemeanor.

If an act is on the verge of a crime and an offense, an unexpected situation may arise, which may result in a much more serious consequence. It is, therefore, necessary to take appropriate initiative on the part of the police and to check all the facts thoroughly, but this may result in the criminal report being dealt with for a longer period, as a result of which the whistleblower or the injured party may think that the police officer is not acting. However, this is always related to the person and initiative of the police officer who performs the acts and his activities concerning getting acquainted with the perpetrator's profile from various records, which may already provide information in the initial acts on which procedure will be most appropriate in the situation. The acquired habits in the investigation of criminal offenses, usually of a violent nature, can then be applied more effectively so that all acts of criminal proceedings are carried out in a lawful manner, which can contribute to the indictment and subsequent conviction. The low effectiveness of the acts and evidence provided may subsequently result in an acquittal, which in the case of violent crimes only gives the perpetrator the perception that his activity is not punishable by criminal law. If the facts of the case are not sufficiently proven, it applies in criminal law *in dubio pro reo* - in case of doubt in favor of the case (accused).

As criminal liability for solved crimes can be assessed even without the presence of physical harm, it is necessary to thoroughly assess the risks posed by the perpetrator of the offense. Other activities of the perpetrator can be used to fulfill threats as well as legitimate concerns, which can lead to a breach of the protected interest. In application practice, there are also those cases where the intensity of the perpetrator's actions showed a lower degree of seriousness of the proceedings, but gradually increased over time, or there were unpredictable events or short circuits and interfere with the physical integrity of another person. more serious factual nature of the crime.

In connection with the crime of dangerous persecution, there may be incidents where e.g. also long-term and intense manifestations, in some cases assessed as inconspicuous, but may gradually increase in intensity. It is possible to speak of exceeding such a limit when the perpetrator's efforts to gain the victim's interest increase in intensity and he continues this process for a long time. It is necessary to compare this time with the intensity of individual attacks by the perpetrator. The police officer needs to be able to properly analyze the situation in advance, to think and reflect based on the circumstances that have already taken place, where the perpetrator's activities can continue, and what else - the subsequent situation can still take place.

Looking at the person of the offender, we can state that the subject of this crime can be any natural and mentally healthy person, but the mental state of the offender can have a negative impact on his behavior, which often results in short-circuit proceedings. The perpetrator's conduct and the intensity of his conduct may go through several stages. The first phase includes such an act of the perpetrator, in which there is an effort to establish contact between the perpetrator and the victim. Subsequently, this procedure passes to the phase where the perpetrator begins to look for the victim's physical proximity. In the forthcoming phase, threats, insults, insults, but also intimidation of the victim appear in the perpetrator's proceedings, and there may also be situations where the perpetrator discloses the victim's privacy, for example through social networks. The most serious phase is the moment when there is physical violence from the perpetrator."[64]

Conclusion

The assessment of the perpetrator's conduct and the decision under which factual substance of the crime stated in a special part of the Criminal Code can be subsumed itself creates space for different opinions and situations. In any case, the assessment of the perpetrator's person, his criminal background, and other significant circumstances cannot be underestimated, because in application practice there are often examples of the so-called escalation of criminal activity. In cases where the perpetrator's actions can be reliably assessed and qualified as a criminal offense, subsequent unpredictable developments may also occur. It must be stated that no legal procedural procedures of a police officer can prevent the perpetrator from following more serious proceedings. However, it is possible to assume or to anticipate the possible undesirable development of the offender's illegal activity, which, however, can only be achieved through the experience of a police officer, which he acquires through regular training, e.g. on campus, but also practical experience gained during the performance of the service.

It is therefore a combination of theoretical and practical knowledge, which is irreplaceable in the correct assessment of any case, and this combination plays an important role in assessing the quality of work of a police officer from the perspective of the lay public, which has no experience with criminal law.

This experience is particularly needed in the case of crimes of dangerous threats and dangerous persecution, as the perpetrator's actions in the most critical cases can lead to the commission of more serious crimes - crimes, especially serious crimes. Of course, the investigation of these crimes cannot be preventive and the worst-case scenario cannot be expected immediately, but it is right for a police officer to think about how far the perpetrator's actions can be directed in the worst case.

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[64] DESET, M, 2018. Niekoľko poznámok k trestnému činu nebezpečného prenasledovania. In*: Ústavnoprávne, zákonné a kriminologické atribúty o obetiach trestných činov.* Zborník príspevkov z medzinárodnej vedeckej konferencie Bratislavské právnické fórum 2018, s. 49 [online].[cit. dňa 02. 05. 2021]. Dostupné na internete: https://www.flaw.uniba.sk/fileadmin/praf/Veda/Konferencie_a_podujatia/bpf_2018_new/Zbornik_BPF2018_sekcia_1.pdf

It should be reiterated that a timely and prompt response to the information contained, whether in a criminal report or a victim's interrogation, can yield a positive outcome in the overall assessment of the Police Force's conduct, and thus in the investigation of the case itself. It is therefore reasonable and reasonable to state that the provisions on dangerous threats and dangerous persecution have, so to speak, a theoretical connection with the more serious offenses listed in Title I of a special part of the Criminal Code, namely the crime of assassination, homicide or personal injury (causing serious injury). The real fact is that when the perpetrator fails to commit any illegal act of a violent nature, resp. for certain reasons, it is not possible to decide on the indictment, resp. no indictment is filed, on the second attempt, he has even fewer obstacles, and the more the intensity of his attack may increase. It is, therefore, necessary to note that under the threat of criminal prosecution, the perpetrator will consider further attacks, resp. may consider. Already during the preparatory proceedings, the adoption of timely procedural measures results in averting, resp. prevention of subsequent serious crime. These measures are, in particular, precautionary acts, which will interfere with personal liberty, thus preventing a person from continuing to commit a criminal offense. The questionnaire (in accordance with the instruction of the President of the Police Force of the Slovak Republic of 19 December 2016) should also have a certain preliminary character to determine the risk of endangerment, according to which the risk assessment of the injured person was assessed. From the point of view of practice, the effectiveness of this procedure is not completely unambiguous due to the nature of the individual questions, which were formulated alternatively and it was not possible to accurately assess the facts of which the real threat to the injured party affects. As the questionnaire is evaluated by a points system, in the case of obtaining and more points, this meant that the attacker must be detained and the assessment of the act as an offense was not possible. In this way, it is consequently impossible to make an individual assessment depending on the circumstances of the act, which ultimately criminalizes proceedings that may otherwise be merely an approach. Instead of questionnaires, police training would be more effective in this regard to properly assess and identify threats from a criminal report or the interrogation of an endangered person.

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Summary

The article deals with the legal regulation of Dangerous Threats and Stalking with a focus on their assessment in terms of the facts of the crime and their subsequent distinction from the possible more serious consequences that may result from this illegal activity. The aim of the article is to point out how members of the Police Force should assess each act individually in terms of the threat that may arise for the injured party from the perpetrator's actions.

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Legal framework as a basis for the activities of a member of the Police Force (evaluation and vision)[65]

Annotation: The article emphasizes the role of law in relation to the activities of members of the Police Force. It points to the legal basis as well as the forthcoming legislative changes. It reflects on specific areas that are regulated by law and points to the need to reform them in order to increase efficiency. At the same time, an analysis of the legal protection of a member of the Police Force is offered. In conclusion, the author emphasizes the role of education in the field of legal sciences, which is the basis for the effective performance of the activities of a member of the Police Force.

Key words: police officer, law, legal sciences, state de lege lata, state de lege ferenda, vision, analysis, evaluation, conclusions, recommendation.

Introduction

The law was and will be the basis of all activities, as well as tools in the fight against any negative facts or illegal actions. The law forms the basis for the further building of specific tools. This also applies to the activities of a member of the Police Force, whose activities are necessarily regulated by the legal framework. Only a high-quality legal framework enables further building and creation of effective tools in the fight against illegal activities of natural or legal persons. Without the legal framework of activities, the implemented actions would be thwarted and thus their effectiveness at the practical level would be lost.

For this reason, it is possible to consider the principle of legality, concerning the activities of members of the Police Force, as an essential requirement, without which no activity or activity is real. The law regulates all activities of members of the Police Force. These are not only the basic requirements necessary for admission to the Police Force but also other essential requirements for the performance of other activities. The issue of legal regulation of the activities of members of the Police Force is relatively demanding, primarily because the activities themselves cover a very wide range of areas that interfere with the rights and legally protected interests of others. For this reason, the formation of the legal framework, its maintenance, and possible reform must be planned and concrete. To this end, the implementers themselves must be in charge of those who know the rights and, consequently, that their knowledge is linked to theory as well as practice. The circle of persons who directly implement the individual activities must be heard. These findings must then be evaluated and, as far as possible, incorporated into any proposals.

Status de lege lata and de lege ferenda in the area of activities of a member of the Police Force

As society develops, it is necessary for the development and creation of new institutes within the activities of members of the Police Force. New, resp. reformed instruments should be an adequate response to developments, e.g. in the field of new types of crime. The changes depend both on the requirements and needs of the development of society, as well as on the will to make changes based on political will, which are based on the needs of the practice. This is currently happening. The proof is the preparation of a relatively extensive reform of Act no. 171/1993 Coll. on the Police Force, as amended, or Act no. 73/1998 Coll. On the civil service of members of the Police Force, the Slovak Information Service, the Prison and Judicial Guard Corps of the Slovak Republic, and the Railway Police. The Civil Service Act introduces several

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substantial changes concerning the activities of a police officer in the Police Force. As an example we can mention:

a) a change in the age of enlistment in the Police Force from the current 21 to 18 years, as it was before 1 January 2016,
b) a change in the requirements for the performance of the function, which is linked to the completed level of higher education. The new proposal also provides for the wording of the posting of a function to complete higher education in the relevant field.
c) changes in the inequality surcharge,
d) changes in the housing allowance,
e) changes in the new incentive.
f) the obligation to submit to psycho-physiological verification of veracity if so determined by the Minister,
g) the obligation to undergo not only a breath test but also a blood sample if required by a superior and the like.

The Law on the Police Force brings significant changes in some areas. An example would be:

a) Change in proving affiliation to the Police Force (§ 13 paras. 2 of the PZ Act). In this case, it is the cancellation of the labels that are part of the uniform. The proposed change is based on several suggestions from members of the Police Force, who were identified by name and surname in the course of their activities, which ultimately led to insults from the member concerned, as well as his family on social networks or in person. These cases have been increasing in recent months. In some cases, the threats are documented by killing, liquidation of the person himself, resp. family members. This intolerable situation caused considerable pressure from the members of the Police Force themselves on competent persons to implement the legal change. The only requirement, in this case, was the removal of the name of a member of the Police Force. The basic identifier will remain the identification number, which is specific to each member of the Police Force. A specific number allows you to identify each member. The explanatory memorandum to the forthcoming legislative change adds: “We propose to abolish the obligation for a police officer to use a name tag when performing an official activity, as in many cases Abolition would respect the private and family life of police officers, but also their family members. It would also help to make the profession of a police officer more attractive. ” I believe and I am in favour of the need to remove the name and surname from uniforms. The identifier is sufficient data to point to a specific member of the Police Force. The number is also sufficient data for the needs of control or inspection of possible suspicion of illegal activities of a member of the Police Force, resp. on suspicion of other illegal activity, or violation of the principles of legality and proportionality, for example in the case of the use of coercive means. By removing the name and surname from the uniforms of members of the Police Force, there will be greater protection of their privacy, as well as the privacy of loved ones.

Just as members of the Police Force must comply with the conditions of legality in the performance of their activities, it must be emphasized that the members themselves have a certain legal framework that protects their status as well as the performance of official activities. At present, there are increasing attacks on members of the Police Force, who are being recorded in the course of their duties. Nothing illegal can be objected to the realization of the recording itself. A member of the Police Force is obliged to tolerate such recording. At present, they are appearing more and more on social networks, resp. in another median environment, various recordings, where a member of the Police Corps who carries out an official intervention

following the requirements of the principle of legality is often insulted and dishonoured. It is necessary to emphasize that such recordings can be used only for control purposes, respectively. Inspections that may initiate and conduct proceedings if the recording reveals a breach of the principle of legality or proportionality in the case of the performance of service intervention. The publication of recordings on social networks, in the media, and the like is a gross violation of the personal liberty of a member of the Police Force. This can be stated based on specific articles of the Constitution of the Slovak Republic as well as the Civil Code.

In the case of the Constitution of the Slovak Republic, it is Art. 19:
(1) Everyone has the right to respect for human dignity, personal honour, reputation, and the protection of the name.
(2) Everyone has the right to protection against unauthorized interference with his or her private and family life.
(3) Everyone has the right to protection against unauthorized collection, disclosure, or other misuse of personal data. "(Article 19 of the Constitution of the Slovak Republic)

Since the Constitution of the Slovak Republic mentions the word "everyone" at the beginning of each paragraph, these rights undoubtedly also belong to the police officer. The police officer has the right to civil honour and dignity. The civic honour of a natural person is an expression of respect, recognition, and appreciation, which this person gradually acquires and enjoys for his attitudes and behaviour and which influences the assessment of his position and application in society.

Article 12. of the Constitution of the Slovak Republic guarantees equality of people in dignity and rights. The protection of this right consists of the prohibition of unauthorized or destructive interference. An example may be a written, oral presentation made by technical means.

In the case of the Civil Code, this is the provision of § 12: "Documents of a personal nature, portraits, images, and video and audio recordings concerning a natural person or his expressions of a personal nature may be made or used only with his permission." (§ 12 para. 1 OZ) The right to privacy is infringed without a permit. Interference with the right to privacy can therefore be in oral or written form. Based on the cited provisions, it is possible to state the right of a member of the Police Force to legal protection through the relevant courts. However, it is up to each member of the Police Force to be willing to initiate such protection of their rights in their own time and at their own expense. I do not record a case where a member would turn to the relevant courts to protect their rights. In this case, it would be appropriate in the future to offer more, especially legal support and protection, within the Police Force. I think that such assistance would be welcomed by every member of the Police Force, as there would be real support from the "employer" in the protection of his violated or damaged rights. Greater legal protection would be a great positive and a kind of protective shield for a member of the Police Force who carries out service interventions, resp. performs another official activity.

a) Amendment of Section 17 of the Act on the Police Force, where there was no request for an explanation from a person who could contribute to the clarification of facts important for the detection of a criminal offense,
b) The right to detain a person, as amended, is extended from a person caught committing an offense to persons who commit another administrative offense,
c) In the case of detention of a person, it is proposed in the amended wording to write only an official record which would replace the decision on detention of the person,
d) The amended wording extends the possibility to inspect a means of transport even if it is suspected that an offense has been committed on the use of the means of transport, on the means of transport or in connection with the means of transport. The explanatory memorandum to the proposal adds: "In connection with the right to stop and inspect a

means of transport, the proposal extends the powers of a police officer to inspect a means of transport as well as in the event of an offense. As the number of items seized during road traffic offenses is related not only to the crime but also to the offense, we propose to take this fact into account in the authorization itself. "

e) The amended wording introduces a new authorization for a member of the Police Force, a specific authorization to place a person in a designated area,
f) Authorization to close publicly accessible places also in cases where there is a threat of violation/violation of public order (§ 28 para. 3 of the proposal),
g) The amended wording (§ 32a of the proposal) introduces the right to ensure the consumption of alcohol or other addictive substances. The explanatory memorandum to the proposed change adds: “Based on experience from application practice, it is appropriate to regulate by a separate provision the authority of a police officer to request an examination to determine alcohol consumption by an indicative breath test or another addictive substance. The ability of a person with whom a police officer performs acts related to the clarification of an illegal act, such as interrogation, confrontation, reconstruction, may be affected by the consumption of alcoholic beverages or other addictive substances. Unless the possibility of influencing a person's ability to perform the required action by consuming alcohol or other addictive substances is demonstrably ruled out, the evidence thus taken may be called into question.'
h) In the case of the use of technical means to prevent the departure of a means of transport, the use of this authorization shall be extended also in the case of the driver's participation in a traffic accident (§ 55 letter e). The explanatory memorandum to the proposal adds: “It is proposed to extend the police authority's right to use technical means to prevent the departure of a means of transport even in the event of a driver participating in an accident and not staying at the accident site. This is a case where the driver who was involved in the traffic accident did not fulfil the driver's obligations to remain in the place of the car accident. The addition of the stated reason for the use of this technology means will have a positive effect on the speed of clarifying the traffic accident to the authorized member of the PZ. "
i) Other provisions are amended as a result of planned organizational changes in the Police Force.

The relatively complex changes that are proposed should bring new authorizations, resp. modify existing authorizations to make them more beneficial to police practice. A total of 41 changes are proposed.

Law in specific contexts and visions

As pointed out in the introduction to the article, it can be stated that the law is the absolute basis for the creation of effective tools, as well as the basis for the actual implementation of the activities of members of the Police Force. For the effective exercise of the rights and rights of members of the Police Force, it is necessary to comply with the law. It is the basis for the success of any action that a member performs. Otherwise, such acts are null and void, which ultimately indicates the inability of the state branch to comply with the basic principle, and thus legality. At present, there is a huge number of legal, but also by-law, internal regulations that regulate the individual activities of members of the Police Force. The huge number of such regulations makes it confusing and almost unrealistic to be aware of all the provisions of such regulations. It is, therefore, appropriate to provoke a professional discussion, the aim of which should be to clarify the current regulations (legal and secondary) for the needs of the practice. Transparency would be of considerable benefit to members of the Police Force, who would be able to orient themselves more effectively in a large number of regulations.

Cooperation with other institutions is essential for the effective implementation of the activities of a member of the Police Force in individual areas of his activity. An example is the cooperation of law enforcement agencies with each other, ie a member of the Police Force and a prosecutor. This cooperation is a prerequisite for success in criminal proceedings where certain persons are suspected of having committed a criminal offense. In practice, it is often said that a member of the Police Force does his work, which the prosecutor makes difficult for him, for example by his inaction, with negative opinions. The prosecutor, on the other hand, complains about insufficient documents, the legal qualification of the act, vagueness, a bad evidentiary situation, and the like. Even today, there is an internal dispute within the OČTK, where both a member of the Police Force and the prosecutor have their truth. However, their cooperation is an essential requirement for the success of criminal proceedings. For this reason, I believe that it is necessary to create a discussion platform between members of the Police Force and prosecutors, which would certainly be mutually beneficial. It would be appropriate to create such a platform throughout Slovakia, as the cooperation between members of the Police Force and prosecutors is different in individual districts. Such a platform should be set up regularly and should be open to the widest possible circle of persons concerned. It should not be a platform open only to a limited number of members of the Police Force and prosecutors. In this way, it is possible to ensure regular communication and especially the exchange of relevant information on individual cases and thus streamline the course of criminal proceedings themselves.

The problematic area is also the inconsistent procedure, resp. diverse interpretation of legal regulations within the Police Force. Unfortunately, this negative phenomenon in the conditions of the Slovak Republic is also present in many other areas, such as the courts or the prosecutor's office. In practice, it may be found that, for example, an investigator draws up a relevant resolution concerning the stage of criminal proceedings. During processing, it proceeds following the provisions of Act no. 301/2005 Coll. Criminal Procedure Code. After processing the resolution following the current legislation, he submits it to his superior. However, the resolution is rejected by superiors because they use a different template. The problem is that in some cases, these templates are outdated and do not reflect the current legal status. Such a discrepancy causes the legal action to be null and void, which harms the ongoing criminal proceedings. The example given relates to a specific, specific area. In practice, however, it is possible to encounter many similar cases. In this case, too, it is necessary to point out the importance of the law, as well as monitoring the various changes that the amendments bring. Emphasis needs to be placed on a uniform procedure and a uniform interpretation. Only in this way is it possible to ensure the most efficient performance of business activities.

A member of the Police Force must know the law. It is a necessary prerequisite for the implementation of any of its activities. For this reason, it is necessary to emphasize the importance of teaching legal subjects, whether at vocational high schools or the Academy of the Police Force in Bratislava. Law, represented by individual branches of law, has its justification within the educational process. However, it is necessary to emphasize the educational process, where theoretical knowledge, as well as practical experience, will be balanced. With such a combination, it is possible to prepare educated members of the Police Force, who will be ready to perform the service. Education is a means by which it is possible to eliminate the ignorance of certain legal regulations or incorrect implementation of legal procedures. Even in this way, it is possible to avoid the case when a member of the Police Force performs a service intervention, resp. another relevant act, which the prosecutor subsequently rejects/cancels due to non-compliance with the law, the legal procedure itself. There are quite a few such cases, and the educational process can be helpful in the elimination, respectively. minimizing such practices, which will sometimes allow offenders to be at large.

Conclusion

In conclusion, it is necessary to emphasize that the law is an essential requirement for all activities, as well as the overall activities of a member of the Police Force in Bratislava. Continuous education of future but also current members of the Police Force in legal sciences is necessary. By combining theoretical knowledge and practical experience, it is possible to implement quality training of members who will be beneficial for practice.

At the same time, it is necessary that the law also dominates the protection of the members of the Police Force themselves, from often pointless attacks on their person, resp. and family members. It is therefore necessary to create new, resp. to support existing mechanisms that can provide greater legal protection for members of the Police Force. Such protection is needed, which is also emphasized by the growing stimuli from the members of the Police Force themselves. At the same time, such a mechanism would increase the efficiency of the implementation of activities of members of the Police Force.

In addition to the very existence of a number of legislation, it is necessary to appeal to the same interpretation, which will ensure the same procedures, which is also essential for the successful performance of official activities. At the same time, it is necessary to emphasize the need for dialogue between the competent institutions, which is essential for the successful implementation of actions. The discussion platform can bring positives, especially in terms of practical work.

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Summary

The article emphasizes the role of law in relation to the activities of members of the Police Force. It points to the legal basis as well as the forthcoming legislative changes. It reflects on specific areas that are regulated by law and points to the need to reform them in order to increase efficiency. At the same time, an analysis of the legal protection of a member of the Police Force is offered. In conclusion, the author emphasizes the role of education in the field of legal sciences, which is the basis for the effective performance of the activities of a member of the Police Force.

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Forms of intercultural communication in detention facilities across the EU member states with regard to the EU legislation

Annotation: *The present paper intends to shed a light on the forms of intercultural communication in detention facilities/centers across the EU Members States that is conducted in compliance with the requirements set in the EU legislation. The perspective from the countries of first entry/hotspot countries, transit countries and destination countries is explained in relation to the communication practices in detention centers within the respective countries. The fundamental human rights of third-country nationals and the right to communicate in language a person understands in case of detention are highlighted in the context of the Convention on Protection of Fundamental Human Rights and Freedoms, and respective EU secondary legislation. The general overview of the current challenges are presented along with the proposed solutions.*

Key words: *Intercultural communication, migrants, detention centers, interpreting, translation, fundamental human rights.*

Introduction

Migration is currently an issue that evokes many emotions not only among the country's political representatives, but also among the general public. For European countries in particular, migration is an area that requires solutions that take into account not only the interests of the recipient countries, but also of migrants as human beings who have their rights. The European Union (hereinafter referred to as 'the EU') as a political and economic union of the European Member States, has taken a number of joint actions to address migration and its impact on the economies and cultural environments of the individual Member States as effectively as possible. The common framework, which lays down uniform procedures and standards for proceedings concerning third-country nationals staying (usually illegally) in the territory of the Member States, consists of secondary European Union legislation which transposes EU law into national law systems. However, the current migration situation is marked by many obstacles that significantly affect human rights and freedoms. These barriers include communication with third-country nationals, with the linguistic and cultural aspects being particularly important.

Communication with third-country nationals is often problematic, not least in view of the fact that many of the arriving third-country nationals do not usually speak languages that are widely spread around the world such as English, French, German, etc. at the communicative level. The arriving third-country nationals are often foreigners who do not speak any language other than their mother tongue. However, the communication itself is also influenced by other factors, not only the language barrier. The aim of this paper is to approach the issue of intercultural communication with third-country nationals in the environment of detention centers (in the context of the Slovak Republic it is the environment of so-called *Útvar policajného zaistenia pre cudzincov*, hereinafter referred to as 'ÚPZC') while taking into account the fundamental human rights and freedoms of migrants in this quasi-legal environment. Attention is paid mainly to the context of the EU Member States, including the Slovak Republic. As different Member States use different terms to refer to facilities that are used for the temporary detention of third-country nationals staying in the territory of a Member State without a residence permit, the unifying term *detention centers* will be used for the purposes of the current paper. To denote the regime, which is determined by the order of detention centers, the unifying term *regime of the facility* will be used for the purposes of the current paper, as due to the variety of names of facilities, the terms related to the regime in the facility also differ across the EU Member States.

Legal Framework for Immigration Detention

What is immigration detention? The question has multiple answers depending on the authority, the country (origin, destination or transit one) and several other factors. Possible answers include in compliance with the attitude of Jesuit Refugee Service: *'Immigration detention refers to the detention of migrants (including asylum seekers), either upon irregularly seeking entry into a country or pending deportation, removal or return from a country.'*[66] In the words by the International Detention Coalition: *'Immigration detention is the deprivation of liberty for migration-related reasons. In most countries, immigration authorities have the power to hold non-citizens on grounds relating to a person's migration situation. This is an administrative or civil power that operates separately to the powers given to the police and criminal courts. In contrast, criminal incarceration is the deprivation of liberty of a citizen or non-citizen due to criminal charges or convictions.'*[67] According to the International Organization on Migration, the definition of immigration detention is as follows: *'Immigration detention is often an administrative measure, but in States where unauthorized entry is a criminal act, detention can be imposed pursuant to criminal law. Most international bodies consider the criminalization of irregular entry as disproportionate and recommend that it be considered an administrative infringement. In many cases, however, the detention of migrants lacks regulation altogether and falls into a legal vacuum, leaving migrants with little to no safeguards or remedies for any abuse suffered while in detention or for arbitrary or extended detention.'*[68] The European Asylum Support Office (hereinafter referred to as 'the EASO') views the immigration detention as: *'Detention is defined as the confinement of an applicant for international protection by a Member State, where the applicant is deprived of his or her freedom of movement.'*[69] Even though, there is no unified definition of immigration detention, the immigration detention within the territory of the EU Member States is governed by the EU law, particularly:

- the recast Reception Conditions Directive,
- the recast Asylum Procedure Directive,
- the Dublin III Regulation.

All of the above-mentioned documents include a list of grounds under which a third-country national who is willing to submit the asylum application, can be detained during the asylum procedure. The respective documents also include detailed description of procedural safeguards of the detained persons regarding, for example, the length of detention and judicial review, and also the conditions of detention.

Article 8 (3) of the recast Reception Conditions Directive comprises six grounds for detention of asylum applicant which are as follows:

(a) in order to determine or verify his or her identity or nationality;

(b) in order to determine those elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding of the applicant;

(c) in order to decide, in the context of a procedure, on the applicant's right to enter the territory;

(d) when he or she is detained subject to a return procedure under Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals ([9]), in order to prepare the return and/or carry out the removal process, and the Member State concerned can substantiate on the basis of objective criteria, including that he or she already

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[66] Jesuit Refugee Service (JRS). Available [online] at: https://jrseurope.org/en/programme/immigration-detention/

[67] International Detention Coalition. Available [online] at: https://idcoalition.org/about/what-is-detention/

[68] IOM. Immigration Detention and Alternatives to Detention. Available [online] at: https://www.iom.int/sites/default/files/our_work/ODG/GCM/IOM-Thematic-Paper-Immigration-Detention.pdf

[69] EASO Asylum Report 2020. Available [online] at: https://easo.europa.eu/asylum-report-2020/7-8-detention

had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that he or she is making the application for international protection merely in order to delay or frustrate the enforcement of the return decision;

(e) when protection of national security or public order so requires;

(f) in accordance with Article 28 of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.[70]

However, as stated by the EASO, in practice, immigration detention may occur at different stages of the asylum procedure:

At the start of the asylum procedure, when an individual lodges an application for international protection;

Pending the examination of a claim for international protection, based on grounds set out in the EU *acquis*, for example in order to determine or verify the applicant´s identity or nationality, decide on the applicant´s right to enter the territory or organise a transfer to another Member States under the Dublin procedure.

Upon completion of the asylum procedure, when a former applicant is detained pending return.[71]

In general, each person detained in the premises of the detention center shall have his/her fundamental human rights guaranteed, including the right to communicate in the language a person understands. In accordance with Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms (also widely known under the title the European Convention on Human Rights): *'No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: (...) (f) the lawful arrest or detention of a person to prevent his effecting an unauthorized entry into the territory of the State, or of a person against whom proceedings for dismissal or extradition are being instituted'*[72] The prohibition of arbitrary detention is an absolute and unconditional prohibition in accordance with the norms of Customary International Law (*jus cogens*) and of which no exceptions are possible, and it is the duty of all states to protect, investigate and punish its use (*erga omnes*), as set out in Article 9 of the International Covenant on Civil and Political Rights and related case law, Article 6 of the Charter of Fundamental Rights of the European Union and the national constitutions and laws of the Member States, as the various conventions and protocols on deprivation of liberty and monitoring mechanisms adopted at the European and international level. In order to ensure respect for human rights and freedoms while providing guarantees for their observance, the EU has reflected Member States' efforts to improve the return management of illegally staying third-country nationals, in all its dimensions, with a view to lasting, fair and effective implementation of common standards on return and developed Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, so-called *Return directive*. The Return Directive is a key document in the field of migration, providing a single framework for all EU Member States as defining an effective return policy is crucial to gaining support for elements such as legal migration and asylum.

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[70] Article 8 (3) of the recast Reception Conditions Directive. Availabe [online] at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033

[71] EASO Asylum Report 2020. 7.8 Detention. Available [online] at: https://easo.europa.eu/asylum-report-2020/7-8-detention

[72] Article 5 (1) (f) of the European Convention on Human Rights. Available [online] at: https://www.echr.coe.int/documents/convention_eng.pdf

Despite the common standards set for all EU Member States, several countries have recently amended their national legislations concerning detention in the asylum procedure in 2019. As stated in the EASO Asylum Report 2020, for example, Hungary added new criteria for compulsory confinement of third country nationals under the Aliens Policing Procedure with a legal amendment in 2018, which entered into force in 2019 (HU LEG 03). Lithuania introduced non-cooperation with authorities during the asylum application as a ground for detention. As of 1 July 2019, when grounds for detention are established, the Migration Department must inform the SBGS, and the SBGS refers to a district court requesting to sanction the detention of an asylum applicant. Prior to 1 July 2019, the institution in charge of accepting an asylum application referred to the court. Luxembourg addressed the prolongation of detention by initiating a systemic verification process by administrative jurisdictions on the conditions for prolonged administrative detention of third country nationals in case of a fourth and fifth renewal of the decision to detain (LU LEG 03). The issue of asylum seekers posing a threat or a danger to national security was of particular concern to various EU+ countries in the context of applying detention, such as Austria, Czechia and Cyprus.[73] Thus, it is worth to point out, that at the national level of the respective EU Member States, each of the countries is responsible for implementation and amendment of the effective measures in relation to asylum procedure and detention of arriving third-country nationals. However, at the same time each of the EU Member States needs to guarantee the fundamental human rights listed in the European Convention on Human Rights, particularly in relation to the provision of language assistance in the process of intercultural communication with third-country nationals detained in the detention facilities across the EU Member States.

Legal Grounds for Provision of Intercultural Communication in Detention Centers

In accordance with Article 5 (2) of the European Convention on Human Rights, third-country nationals detained in detention facilities, '(…) *shall be informed without delay and in a language he understands of the reasons for his arrest and of any charge against him.'*[74] Every third-country national detained in a detention facility shall have the right to communicate in official communication with the competent authorities in a language which he understands. The Member State is therefore required to provide an interpreter in order to ensure a standard procedure, i.e. that the third-country national can understand and communicate in the interpreted language in all procedural proceedings. Legislation on standards and procedures for communication in the framework of official relations with third-country nationals is similar in all EU Member States as they are governed by a common European legislation. In practice, however, the legislation in question is implemented with regard to specific conditions in individual countries.

The primary goal of detaining third-country nationals in detention centers is the preparation and implementation of the expulsion of a foreigner to the country of origin or transit country or to a country which, according to the so-called *Dublin system*, is responsible for examining the application for asylum. Detention is carried out by members of the Police Force and the stay in a detention facility can last (in most countries) up to one and a half years, in the case of families with children up to six months. In the case of placement in a detention facility, foreigners are obliged to follow the regime of the facility. Adherence to the regime of the facility affects the daily functioning of the third-country nationals in the environment of the detention center and affects relationships and communication not only with members of the Police Force. The communication itself in the context of detention centers takes place basically on two levels:

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[73] EASO Asylum Report 2020. 7.8 Detention. Available [online] at: https://easo.europa.eu/asylum-report-2020/7-8-detention

[74] Article 5 (2) of the European Convention on Human Rights. Available [online] at: https://www.echr.coe.int/documents/convention_eng.pdf

1. official communication between detained third-country nationals and competent authorities,

2. daily communication (outside official communication) between detained third-country nationals and members of the Police Force, or other persons that provide detained third-country nationals with free/paid social support or legal advice.

The EU background documents for competent authorities dealing with the stay of third-country nationals in the territory of the Member States and the establishment of rules for communication with them include in particular:

- the European Convention on Human Rights,
- Directive 2013/32 / EU of the European Parliament and of the Council of 26 June 2013 on Joint Procedures on the Grant and Withdrawal of International Protection,
- Directive 2008/115 / EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning third-country nationals who are staying illegally on their territory,
- Regulation (EU) No 182/2011 of the European Parliament and of the Council 439/2010 of 19 May 2010 establishing a European Asylum Support Office.

In accordance with the above-mentioned documents, a third-country national detained in a detention center has the right to language assistance/interpreter for the purposes of official communication if the third-country national does not speak the language of the country in which he is detained at the communication level. On the basis of this entitlement, it is necessary for the Member State to ensure the presence of an interpreter and to ensure a standard procedure, i.e. the third-country national understood and could communicate in the interpreted language in all procedural proceedings. The legislation on standards and procedures for communication by official communication is similar for third-country nationals in all the EU countries, as they are EU Member States governed by common European legislation. The different arrangements concerning in particular:

1. the form of interpreter´s assistance, i.e. the interpreter is physically present or the interpretation takes place via telephone videos/audio calls;

2. the level of interpretation services provided depends on the individual Member State, i.e. the interpretation is provided by a highly qualified professional or an unqualified non-professional volunteer, a member of the Police Force or another foreigner detained in a detention center who speaks the language of the country of detention.

Thus, communication outside official relations is not subject to legislation either at the level of national legislation of individual EU Member States or at the European level. The provision of interpreters and cultural mediators in detention facilities is provided in some countries with the support of non-governmental and non-profit organizations that have professional and non-professional volunteers at their disposal.

Intercultural Communication Across the Detention Centers of the EU Member States

In general, there are three types of countries regarding the migratory flows from the countries of origin into the EU Members States:

1. ***countries of first entry*** – countries in the first line that are most affected by the migratory waves among the EU Member States. In order to mitigate the consequences of the migration crisis in these countries, the EU has introduced, for example in Italy and Greece, the so-called *hotspots*, which serve as reception centers and aim to facilitate the work of identifying incoming migrants, their subsequent registration, fingerprinting and screening interviews to identify persons in need of international protection. Temporary relocation mechanisms have also been introduced. The hotspot-based approach is based on the idea that EU agencies (in particular the EASO, Frontex and the European Union Agency for Law Enforcement Cooperation) should provide first-hand assistance to Member States on the ground. However,

Greece and Italy apply the hotspot approach differently (for more detailed information, please, see EASO Asylum Report 2020). When registering and identifying migrants, both countries record whether the incoming third-country national intends to apply for international protection. In Italy, persons intending to apply for international protection are transported by bus or boat to detention facilities throughout the country. In the Greek islands, following the adoption of the EU-Turkey declaration of 18 March 2016, migrants (except for vulnerable persons, family reunification cases and Syrians whose application is admissible) are obliged to stay on the island where the hotspot is located. The hotspot therefore also serves as a detention center. Temporary relocation mechanisms were introduced by two Council Decisions in September 2015. These mechanisms were used from 24 March 2015 to 26 September 2017 to relocate 160,000 migrants on the basis of quotas in order to share the burden between Member States and alleviate the pressure to countries of first entry. EU organizations supporting and assisting continuously the Greek and Italian authorities include EASO and Frontex. At the request of the Member States, Frontex, which coordinates the return of migrants, is also an active member involved in the return of migrants. Frontex's European Return Center provides operational and technical support to Member States and countries associated with the Schengen area during pre-return and return operations. Frontex staff also provide language support. In each hotspot, a group of experts is available at all times for language support, assisting the police officers in the fingerprinting process. Information on the possibility to apply for asylum and individual types of residence in is in most countries usually provided in (at least) four world languages, i.e. Italian, English, French and Arabic. Due to the fact that the command of world languages is rather unique for arriving migrants, the information in question is provided not only by the EASO under the ACCESS project, but also by the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) under ASSISTANCE project, even in less widely used languages, i.e. Kurdish and its widespread dialects - Kurmanji and Sorani and in Tigrinya. Migrants are informed about the relocation to the detention center through a special leaflet.

In general, it is difficult to find a qualified interpreter/translator into/from less widely used languages not only in the case of hotspots or countries of the first entry. Thus, as the solution often so-called double interpretation/translation takes place. Frontex provides its interpreters for the process of verifying the nationality of third-country nationals, and the interpretation is mainly conducted for Persian, Arabic and its dialects. IOM provides its interpreters as part of the registration and identification process. EASO interpreters are available for admissibility interviews, interpreting mainly into/from Arabic, Persian, English, French, Kurdish, Urdu, Dari and Pashto. General leaflets informing about asylum are available in multiple languages depending on the nationality of arriving migrants, however, most of them are Arabic, Amharic, Ukrainian, Turkish, Russian, Moldovan, French, Georgian, Chinese, Spanish, Persian, Albanian, Swahili, Bengali, and speaking the Dari and Sorani, Urdu, and Tigrinya languages. The admissibility interview is carried out exclusively in a distance form, via audio/video calls. The committee together with an interpreter are located outside the detention center, and the asylum seeker is in detention center. In this case, the communication is very often affected by a weak signal, problems with technology and impersonal approach, or lack of privacy. Within the individual stages, there is always a different interpreter, in most cases there is also a police officers present together with interpreters from the Frontex agency when screening nationality and taking fingerprints, IOM interpreters are present during registration and identification, and the interview itself is mainly covered by interpreters from non-governmental organizations (NGOs). The vast majority are non-professional interpreters.

2. ***transit countries*** - the countries through which migration flows (regular or irregular) move; this means the country (or countries), different from the country of origin, which a

migrant passes through in order to enter a country of destination.[75] In general, transit countries are affected by migration significantly less than the above-mentioned countries. In order to ensure effective communication between foreigners detained in the detention center and the competent authorities, the interpreters/translators providing official communication within individual procedural acts are in most cases selected from a list of highly-qualified experts, interpreters and translators. In terms of the EU secondary legislation in the field of migration, as a starting framework for communication with third-country nationals, the interpretation requirement is formulated only for the purposes of procedural acts and official communication with the competent authorities. In view of the fact that, in other times, detention centers have mainly housed foreigners whose mother tongue is not a widespread language (e.g. foreigners from Afghanistan, Pakistan, Bangladesh, Sudan, Morocco, Turkey, etc.), communication without the participation of an interpreter is usually very challenging. In practice, therefore, communication outside of official communication is provided by the members of the Police Force with the help of detained foreigners who speak at least one of the world's languages, most often English. Assistance to foreigners is often also provided by non-profit organizations, which use both professional and amateur interpreters for communication, thus, the area of community interpreting is on the rise.

3. ***destination countries*** - countries that are a destination for **migration flows** (regular or irregular).[76] In order to strengthen the protection of the internal borders of the country, the destination countries implemented several measures aiming at the effective and efficient protection from the illegal border crossing and raising migratory flows. As most of the EU countries, even destination countries require the official language as the one being used in official communication with the competent authorities. Thus, the country is obliged to provide an interpreter/translator for the mentioned purpose, particularly, in the context of administrative procedures. The introductory meeting, the medical examination and the communication with the competent authorities in the context of official communication shall take place with the participation of an interpreter, whether physically present or by telephone. At this point, however, it is also necessary to draw attention to the fact that the need for an interpreter/translator is decided by the competent authority, not by a third-country national detained in a detention center. Detention centers in most of the destination countries (e.g. Sweden, Austria, Germany etc.) often use their staff as interpreters/translators as there is usually no formal requirement of highly-qualified and skilled interpreters included in the national legislation for the purposes of the asylum procedures or the official communication with migrant, in general. When the member of the Police Force is conducting the interpretation/translation services, often the conflict situations and also conflicts of interest arise. It is also worth mentioning that as part of everyday communication, foreigners detained in detention centers should have the right to written information about local conditions and the regime in the detention center, in a language they understand. In most cases, such information is provided in the form of leaflets, occasionally by interpreters. However, the interpretation services are provided at different qualitative levels as most of the communication is covered by the NGOs. The number of languages used for this purpose is not explicitly stated but in most countries the languages used reflect the nationality of migrants arriving into the respective Member State most frequently. However, in most cases, the destination countries require the arriving third-country nationals to sign so-called integration agreement which obliges all third-country nationals that are willing to stay in the territory of the Member State (e.g. Austria,

[75] The European Comission´s definition. Available [online] at: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/country-transit_en

[76] The European Commission´s definition. Available [online] at: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/country-destination_en

Germany etc.) to learn language of the country within the particular period of time (from three to up to four years).

Conclusions

It follows that the right of third-country nationals staying illegally within the territory of a Member State to communicate in a language which they understand in the case of official communication with the competent authorities is significantly affected by the way in which interpretation services are provided. In the environment of hotspots or hotspots, which also serve as detention centers, professional interpreting services are essentially non-existent. The constant need for linguistic and cultural mediators, of which there is a significant shortage, also contributes to the seriousness of the situation and the intense need to address the current challenging situation. Detained third-country nationals as well as members of the Police Force or organizations providing support face problems in the field of intercultural communication on a substantially continuous basis, and this fact has a direct impact on the fundamental rights of migrants declared in the European Convention on Human Rights and subsequently also within the European legislation. In the current situation, the starting point for both parties is spontaneous forms of linguistic or cultural mediation.

The common feature of all the EU Member States is the lack of interpreters, translators, linguistic or cultural mediators (whether professionals or (un)skilled volunteers), especially for less widely used languages such as sub-Saharan languages. The question of the qualifications of invited interpreters is perceived as secondary, especially in front-line and destination countries such as Italy, Greece and Sweden, especially from the point of view of the competent authorities of the individual Member States (providing the data for further processing by the European institutions – e. g. the European Commission, EASO, etc. that provide analysis or elaborate reports on the topic of migration and the challenges the countries are currently facing). From the perspective of third-country nationals seeking asylum in the EU countries, dissatisfaction with the quality of the translation and interpretation services provided (which in most cases are provided through video/audio conference calls) is explicitly expressed, especially in hotspots (particularly in Greece). When interpreting, the interpreter often relies on visual and audible signals to determine the meaning, style and tone of the speech to be interpreted. The distance form of interpretation does not always make it possible to capture visual stimuli, as the sound quality on office equipment is not always sufficient for the needs of this type of interpretation. The use of a telephone call usually suffers not only from poor call quality but also from frequent disconnections, which contribute to the overall frustration of migrants, as in the event of an interruption the interview must either be repeated on the same day or rescheduled, automatically extending migrants' stay in detention centers. Without the proper equipment for interpreting through audio/video calls, the migrant's right to communicate confidentially with his/her legal representative through an interpreter is also affected. Another disadvantage of using interpreting services at a distance is the mere absence of an interpreter at the place of detention of third-country nationals (in the Greek environment on islands where detainees are detained, the interpreters arranging the access interview are not physically present).

Absence of personal contact with an interpreter appears to be an extremely negative aspect from the point of view of migrants, while the use of migrants' right to privacy is also affected by the use of audio/video conference interpreting. In most cases, the communication itself is also affected by insufficient connections to the mainland. The efforts of the EU institutions and organizations to address the current situation are also evidenced by the fact that EASO provided a significant budget to provide interpretation and translation services, and Frontex also invested significant amount of funding for this purpose. At the same time, EASO

and Frontex ensure the continuous physical presence of their staff providing interpretation services in hotspots. EASO sends the largest number of interpreters and cultural mediators to Greece, Italy and Cyprus. In exceptional cases, EASO interpreters are also seconded to Bulgaria.

The overall lack of interpreters/translators/mediators significantly affects the fundamental human rights and freedoms and the right of third-country nationals to communicate in a language they understand, whether for procedural purposes or in day-to-day communication in detention centers. Despite this fact, it is more than welcomed that the protection of fundamental rights and freedoms is always the priority of the EU and the needs of third-country nationals are taken into account at the time of the waves of migration. However, respect for the rights enshrined in the European Convention on Human Rights must also be ensured in the context of detention centers, taking into account the need to communicate and not to come to different solutions within countries of the same union, i.e. EU. The general framework which is the starting point applicable to the development of current legislation both at the level of individual Member States and at the level of the EU should stay the priority.

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Summary

Cieľom predkladaného príspevku je objasniť formy interkultúrnej komunikácie v detenčných zariadeniach v členských štátoch EÚ, ktoré je realizované v súlade s požiadavkami stanovenými v právnych predpisoch EÚ. Perspektíva krajín prvého vstupu, resp. krajín zaradených do systému tzv. hotspotov, tranzitných krajín a cieľových krajín je vysvetlená vo vzťahu ku komunikačným praktikám v detenčných zariadeniach v príslušných členských krajinách EÚ. Základné ľudské práva štátnych príslušníkov tretích krajín a právo na komunikáciu v jazyku, ktorému osoba rozumie v prípade zadržania, sú zdôraznené v kontexte Dohovoru o ochrane základných ľudských práv a slobôd a príslušných sekundárnych právnych predpisov EÚ. Súčasťou príspevku je taktiež všeobecný prehľad súčasných výziev v danej oblasti spolu s navrhovanými riešeniami.

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English for Policing – state of play in Slovakia[77]

Annotation: The paper deals with a membership of the Slovak Republic in the standing corps which was established by Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard. Frontex should, either on its own initiative and with the agreement of the Member State concerned or at the request of that Member State, organise and coordinate joint operations for one or more Member States, deploy border management teams, migration management support teams and return teams from the standing corps. In this regard, English language is a necessary equipment of every border guard.

Key words: European Border and Coast Guard, standing corps, foreign unit of the Police Force, English language

Introduction

Steps taken to strengthen the external borders of the European Union and the redefinition of the organization and role of Frontex confirm the opinion that international border policing cooperation is needed. International communication, which is mostly conducted in English remains important and is essential in the specialized language training to members of border and foreign police in the European context. *Internal Security Strategy for the European Union – Towards a European Security Model*[78] is based on the cooperation between member states as well as national and international organizations. Following the document, the main crime-related risks and threats facing Europe today are:

- terrorism,
- serious and organised crime,
- drug trafficking, cybercrime,
- trafficking in human beings,
- sexual exploitation of minors and childpornography,
- economic crime and corruption,
- trafficking in arms
- cross-border crime.

The document of the internal security strategy emphasises the cooperation of law-enforcement and border authorities, judicial authorities and other services in, for example, the health, social and civil protection sectors. Europe's internal security strategy must exploit the potential synergies that exist in the areas of law-enforcement cooperation, integrated border management and criminal justice systems. Indeed, these fields of activity in the European area of justice, freedom and security are inseparable: the internal security strategy must ensure that they complement and reinforce one another. Europe must consolidate a security model, based on the principles and values of the European Union: respect for human rights and fundamental freedoms, the rule of law, democracy, dialogue, tolerance, transparency and solidarity. The document appeals to the Lisbon Treaty,which has created the *Standing Committee on Operational Cooperation on Internal Security*[79] to ensure effective coordination and cooperation between law-enforcement and border-management authorities, including the control and protection of external borders, and when appropriate judicial cooperation in criminal matters relevant to operational cooperation.

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[77] The paper represents a partial outcome of the national research task No. APVV-17-0217 - "Service actions performed by a police officer and the application of a principle of appropriateness from the perspective of criminal and administrative law" which is supported by the Slovak Research and Development Agency.

[78] The internal security strategy has been adopted in order to help drive Europe forward, bringing together existing activities and setting out the principles and guidelines for future action. It is designed to prevent crimes and increase the capacity to provide a timely and appropriate response to natural and man made disasters through the effective development and management of adequate instruments.

[79]Abbrev. COSI

Stringent cooperation between EU agencies and bodies involved in EU internal security (Europol, Frontex, Eurojust, CEPOL and Sitcen) must be also ensured by *Standing Committee on Operational Cooperation on Internal Security*so as to encourage increasingly coordinated, integrated and effective operations. Such players must continue to improve the provision of effective support to specialist services in Member States.Point *VII — Integrated border management* tackles illegal immigration in maintaining security. The integrated border management mechanism must be reinforced in order to spread best practice among border guards. The cooperation and coordination of Frontex with other EU agencies and Member States' law-enforcement agencies is a key issue for the success of this agency. The entry into force of the Visa Code, further development of the Schengen information system as well as electronic border-control systems, such as an exit–entry system, contribute to intelligence-led integrated border management.

As regards professional training of border guards, point *VIII — A commitment to innovation and training* calls for a strategic approach to professional training in Europe: this objective is essential in establishing law-enforcement, judicial and border-management authorities that have advanced technology and are at the forefront of their specialisation, and in enabling European law-enforcement training to take a major step forward and become a powerful vehicle for promoting a shared culture amongst European law-enforcement bodies and facilitating transnational cooperation[80]. The strong emphasis given to the international dimension of border policing cooperation and training makes it reasonable to examine the state of training in Police English and English for Border Policing in the institutions of Member States, this being the most frequently used working language in the EU.

Strategic documents and impacts for professional language training

At the request of the European Commission, in the years 2011 - 2012 CEPOL mapped national and international law enforcement training courses conducted in member states and summarized the results of the survey. Following this report, in accordance with the strategic guidelines for developing internal security, the communication from the Commission was published in 2013 to outline the factors making the establishment of the Law Enforcement Training Scheme[81] necessary, the main areas of its operation and strategy along with ways to assure quality standards and organisational frameworks[82].Almost all of the four training strands identified in this document are related to international border policing cooperation which **require knowledge of English for Border Policing**. The strong emphasis given to the international dimension of border policing cooperation and training makes it reasonable to examine the state of training in Police English and English for Border Policing in the institutions of Member States, this being the most frequently used working language in the EU.

Section *Current EU training context* declares that there are structures for training law enforcement officials in all Member States, as well assystematic cooperation with EU agencies. At EU level,the followingagencies are active in training law enforcement officials: CEPOL, EUROPOL, FRONTEX, Fundamental Rights Agency (FRA), OLAF, The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and the European Asylum Support Office (EASO). They have developed several courses related to crime analysis and specific types of crime, such ascybercrime, common curricula implemented by Member States,

[80] Council of European Union, 2010. *Internal Security Strategy for the European Union – Towards a European Security Model*. Online, [cit. 28.05.2021], available athttps://www.consilium.europa.eu/media/30753/qc3010313enc.pdf

[81] abbrev.LETS

[82] European Commission, 2013. *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions establishing a European Law Enforcement Training Scheme*. Online, [cit. 28.05.2021], available at https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0172:FIN:EN:PDF

including a quality framework forguarding borders, specific programmesdealing with training on fighting euro counterfeiting and on protecting the financial interest ofthe EU, fundamental rights training tools for police trainers etc. Referring to specialized language training at national levels, experts highlighted the fact that it is necessary to offer more trainings supported by the EU. Section *2.3. Training gaps* declares that more generally, language skills, including English, which is increasingly used in cross-border cooperation, are a crucial competence for all law enforcement officials involved in cross-border cooperation. However, there are still too few officials available with language skills of a sufficiently high standard in many Member States[83].

Coordinated by FRONTEX, from the initial project-based cooperation to today's training programmes, harmonised with the EU Sectoral Qualifications Framework, this unification process was marked by milestones, such as introduction of the first and then of the revised version of the Common Core Curriculum, the mid and high-level training projects and the establishment of the network of partnership academies. The latest achievement of this development is the first Joint Master's in Strategic Border Management programme[84].

Following the requirements stated in the Schengen Borders Code, a Member State shall be obliged to deploy enough personnel for border control activities. Such personnel shall be border guards trained in the field of border control. Requirements for specialized training of border guards are stipulated in Common Core Curriculum. Back to history, Common Core Curriculum for border guards training were for the first time developed in 2003 and implemented in Member States in 2004. Since that time, they are under permanent update by Frontex. In 2016 Frontex decided to launch its 4th update which was finished and approved in June 2017 at the event of European Border Guards Day. The last update was aimed at its compatibility with Sectoral Qualification Framework for border guards and the content revision. Upon successful accomplishment of the basic training in line with Common Core Curriculum, police officers acquire working competences according to Sectoral Qualification Framework for border guards which are needed for the performance of specific service actions. The purpose of Common Core Curriculum is to enforce strict regulations and best practices in operating legal regulations of the European Union in the field of border management. Member States are further obliged to involve Common Core Curriculum into service training provided for border guards and police officers in charge of returns at national level. In the Slovak Republic basic service training for border guards is offered solely at the Secondary Police College in Košice. Within further education there is also language training provided at all management levels of border and foreign police. Currently, foreign language training (English, Russian and Ukrainian) is realized in three language level according to Common European Framework for Languages on the basis of grant agreement between Ministry of Interior of SR and PLUS Academia SK[85].

Frontex has also had its Language Training Project in operation for several years, with the aim of developing language competences of the EU Member States' and Schengen Associated Countries border guards working at airports to enable them to conduct communication in English when performing daily tasks and during joint operations. The project ended with the development and implementation of several multimedia study tools:

- Basic English for Border Guards at Airports (2010),
- Mid-level English for Border Guards at Airports (2012),

[83]European Commission, 2013. *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions establishing a European Law Enforcement Training Scheme*. Online, [cit. 28.05.2021], available at https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0172:FIN:EN:PDF

[84]BORSZÉKI, J. 2016. Training border policing experts in English for Specific Purposes (ESP): Uniform trends in EU member states. In *Sisekaitseakadeemia Teadusartiklid*: *Valikkogu*. 2016. p.32.

[85]National strategy of integrated border management for the years 2019 - 2022. p. 22-24.

- Mid-level English for Air and Maritime Crews (2013),
- online language tool for land, sea and air border (Frontex Virtual Aula, 2016).

FRONTEX standing corps and Foreign unit of the Police Force

Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 has strengthen the Frontex mandate. The new rules now need to be formally adopted by the European Parliament and the Council. Stronger external border protection is essential for a safer Schengen area and a more efficient management of migration. The new rules will allow Frontex to provide faster, more efficient support to member states on a number of tasks, including border controls and returning those without a right to stay. The European Border and Coast Guard Agency (Frontex) is being strengthened in terms of staff and technical equipment. It is also being given a broader mandate to support member states' activities on border protection, return and cooperation with third countries[86].

The Regulation states that the European Union framework in the areas of external border control, return, combating cross-border crime, and asylum still needs to be further improved. To that end, and to further underpin the current and future envisaged operational efforts, the European Border and Coast Guard should be reformed by giving Frontex a stronger mandate and, in particular, by providing it with the necessary capabilities in the form of a **European Border and Coast Guard standing corps** (the 'standing corps'). The standing corps should gradually but swiftly reach the strategic target of having a capacity of 10 000 operational staff, with executive powers, where applicable, to effectively support Member States on the ground in their efforts to protect the external borders, to fight cross-border crime and to significantly step up the effective and sustainable return of irregular migrants. Such a capacity of 10 000 operational staff represents the maximum available capacity required to effectively address existing and future operational needs for border and return operations in the Union and third countries, including a rapid reaction capacity to face future crises. The standing corps should be composed of four categories of operational staff, namely statutory staff, staff seconded to the Agency by the Member States for a long term, staff provided by Member States for short-term deployments and staff forming part of the reserve for rapid reaction for rapid border interventions. Operational staff should consist of border guards, return escorts, return specialists, and other relevant staff. The standing corps should be deployed in the framework of teams. The actual number of operational staff deployed from the standing corps should depend on operational needs[87].Member States should contribute to the standing corps in accordance with Annex II for long-term secondments and Annex III for short-term deployments. The individual contributions of Member States should be established on the basis of the distribution key agreed during the negotiations in 2016 on Regulation (EU) 2016/1624 for the purposes of the rapid reaction pool. That distribution key should be proportionally adapted to the size of the standing corps. Those contributions should also be established in a proportionate way for the Schengen associated countries.[88]

[86]Council of the European Union. 2019. *European Border and Coast Guard: Council confirms agreement on stronger mandate*. Online, [cit. 28.05.2021], available athttps://www.consilium.europa.eu/en/press/press-releases/2019/04/01/european-border-and-coast-guard-council-confirms-agreement-on-stronger-mandate/

[87]point (5) a (58)of the Regulation2019/1896

[88]point (60) of the Regulation 2019/1896

Category/Year	Category 1 Statutory staff	Category 2 Operational staff for long-term secondments	Category 3 Operational staff for short-term deployments	Category 4 Reserve for rapid reaction	Total for the standing corps
2021	1 000	400	3 600	1 500	6 500
2022	1 000	500	3 500	1 500	6 500
2023	1 500	500	4 000	1 500	7 500
2024	1 500	750	4 250	1 500	8 000
2025	2 000	1 000	5 000	0	8 000
2026	2 500	1 250	5 250	0	9 000
2027 and beyond	3 000	1 500	5 500	0	10 000

Table 1 Capacity of standing corps per year and category[89]

Slovakia	2021	2022	2023	2024	2025	2026	2027 and beyond
Long-term secondments	9	12	12	18	23	29	35
Short-term deployments	84	82	93	99	117	123	128

Table 2 Annual contributions to be provided by Slovakia to the standing corps through long-term secondment and short-term deployments[90]

As stated in the Regulation, the main responsibility for borders management will be put on Member States while Frontex and its personnel will provide technical and operational assistance. In circumstances requiring the deployment of border management teams from the standing corps to a third country where the members of the teams will exercise executive powers, a status agreement drawn up on the basis of the model status agreement referred to in Article 76(1) shall be concluded by the Union with the third country concerned on the basis of Article 218 of the Treaty on the Functioning of the European Union. Standing corps have been deployed since 1st January 2021.

On the basis of the above listed facts, in 2020 Bureau of Border and Alien Police of the Presidium of the Police Force of the Slovak Republic drafted a new Regulation on the **Foreign unit of the Police Force** No. 164/2020. The main aim of the new regulation was to amend the existing Slovak legislation and thus fulfil the obligations resulting from the Regulation EU 2019/1896. Article 2 of this Regulation introduces terms such as foreign unit, rapid border intervention, foreign long-term activity and foreign short-term activity. Foreign unit shall fulfil the tasks related to the European integrated management of EU Member States' borders and the third countries' borders surveillance as well as border control at the Slovak territory. Foreign activity means deployment of a police officer through Frontex into short-term or long-term operations, deployment of a police officer into rapid border intervention, deployment of a police officer for border control to other states based on international treaties or upon the request of other state approved by the Slovak government. Rapid border intervention means rapid response to a situation which features special problem at the borders of some Member State of

[89]Source: Annex I of the Regulation 2019/1896
[90]Source: Annex IIand Annex III of the Regulation 2019/1896

the EU or at the territory of third countries; this activity is realized during a limited period. Foreign long-term activity means deployment of a police officer from the database to Frontex as a team member of a foreign long-term activity. Foreign short-term activity means deployment of a police officer from the database to Frontex as a team member of a foreign short-term activity.A member of the foreign unit shall, besides others, have a good command of the English language at B1 level according to the European Framework of Reference for Languages. Article 6 defines the recruitment conditions - **English language examination** comes to the front and is performed by the Language Department of the Academy of the Police Force in Bratislava or Secondary Police College. Article 7 and 8 stipulate the training of to be deployed police officers. Training consists of the English language course and special training. Language courses are realized according to the *Order of the rector of the Academy of the Police Force in Bratislava no. 91/2018 on principles and criteria for examination English language knowledge for the purpose of Foreign unit of the Police Force*. The English language examination tests the general and specific English language skills. It consists of two sections: written test and speaking. During the written test, border guards are asked to perform tasks to combine more than one skill. The test is further divided into use of English: grammar skills and use of specific border-related terminology. The speaking test is taken face to face, with one candidate and three examiners. This creates a more reliable measure to check the ability to communicate in border related matters.[91] The purpose of specialized language is the enhancement of professional language competences of the border guards through writing, speaking, reading comprehension and listening comprehension in an integrated form such as in real life[92].

Conclusion

In 2020 87 members of the Foreign unit of the Police Force were deployed to support Frontex and Member States' operations. In the years 2015 – 2020 a total number of 1 271 border guards were deployed, 571 border guards were supporting Frontex operations and 700 border guards were assisting other states based on bilateral treaties. Now, there are 414 police officers in the Foreign unit database; 60 police officers are databased in rapid border intervention.[93] In 2021, Slovakia has been active in Frontex standing corps. English language for Policing and issues of intercultural competences come to the front since English language is becoming not a finish line but a means for understanding and communication among border guards during short-term secondments or long-term deployments.

	country	**No. of border guards**	**profile**
FRONTEX	Greece	31	readmission, escorts, border surveillance
	Italy	10	registration of migrants
	Spain	2	1st and 2nd line, registration, border surveillance
	Hungary	16	border surveillance
	Poland	1	1st line

[91] NOVÁKOVÁ, I. 2018. Analysis of ESP in the context of Rapid Border Teams. In *Internal Security*. Police Academy Szczytno. 2018. p. 249.

[92]MEŽDEJOVÁ, K. 2017.Realizácia odborného jazykového kurzu pre policajtov určených na pôsobenie v medzinárodných policajných mierových misiách In: *Policajná teória a prax*. Academy of the Police Force in Bratislava. Vol. 25, No. 2(2017), p. 74.

[93]Source: Bureau of Border and Foreign Police of the Presidium of the Police Force

	Belgium Albania	1 8	2nd line border surveillance
Total		69	
Bilateral deployments	Macedonia	18	border surveillance
Total		87	

Table 3 Preview of Foreign unit deployments in the years 2015-2020

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Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624

Regulation of the Minister of Interior of SR No. 164/2020on the Foreign unit of the Police Force

Summary

An outline of strategic documents and impacts for specialized English language training clearly shows that knowledge of English for Policing is crucial for every member of the Frontex standing corps, well, and of the Foreign unit of the Police Force. Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard has strengthen Frontex mandate and led Member States to prepare and train their border guards not only in special service actions to be taken during border control, but also in English language for Border Policing. When conducting professional communication in English the complex system of competencies is essential. As a result, Slovak border guards are

guided by the Regulation No. 164/2020 on the Foreign unit of the Police Force which stipulates the recruitment requirements along with English language skills.

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Principle of appropriatness when using a remote electric stunner TASER[94]

Abstract: To comply with the legal status, if the police officer did not abandon the illegal proceedings, the police officer has the right to use the means of coercion defined by law, and thus also the so-called non - invasive technical means distance electric stun gun. The technical coercive measure in question also directly affects the fundamental rights and freedoms of the person, but its application should not cause unjustified harm, nor should the interference with their rights and freedoms exceed the extent necessary to achieve the purpose. In her contribution, the author defined very narrowly the application of the principle of adequacy in the use of the Taser distance electric stun gun, both in terms of the time of use and in terms of methodological and tactical. In particular, the principle of proportionality in the use of the Taser can be assessed from the point of view of the person against whom it is intervened. Given the specificity and originality of the coercive device in question, as well as it is innovative introduction into the service, we consider it important to emphasize and analyze the use of Taser following the Police Force Act and by the principle of proportionality.

Key words: stun gun, coercive means, active resistance, the principle of proportionality, policeman, taser.

Introduction

In performing the tasks of the Police Force, as well as other tasks arising from special legal regulations and the effective performance of official activities, police officers are exposed daily to various situations, during which there is a threat and violation of interests protected by law.

From the point of view of police activity, one of the consequences is interference with fundamental rights and freedoms. In any intervention, the police officer must take care to preserve the essence and meaning of a particular right or freedom. The intensity of the intervention must not exceed what is necessary for achieve the purpose pursued by the official activity. The proper, lawful and constitutionally use of coercive measures in the context of fundamental rights and freedoms can in principle only take place if it is necessary in a democratic society, the purpose pursued by the public interest cannot be achieved otherwise and all rules laid down by law. The principle of the rule of law implies not only the requirement to prohibit disproportionate interference with fundamental rights and freedoms (Article 4 (4) of the Charter of Fundamental Rights and Freedoms), but also the requirement of sufficient resources for the state to fulfil its functions in protecting the public interest.[95] For the effective performance of the tasks of PZ, guaranteeing the rights and freedoms of persons, protection of life, health, property and other activities, police officers are required by law or 171/1993 Coll. on the Police Force, as amended (hereinafter referred to as the PZ Act), equipped with general and special rights of a PZ member and a set of exhaustively defined coercive means, specifically against entities carrying out illegal activities. It is a set of mostly technical means and the purpose of their use is to prevent the occurrence of danger or to prevent persons from further proceedings that endanger the interests protected by law.

The Act of the Police Force does not define for us anywhere, and therefore not even in § 50 of the Act of the Police Force, what we mean by coercive means. Drdák defines coercive means as a set of technical means, the purpose of which is to prevent the occurrence of danger or to prevent persons from further illegal actions that endanger the interests protected by law,

[94]This publication was created with the support of the Agency for the Support of Science and Research and is an output of project no. APVV-17-0217 entitled "Service interventions of members of the Police Force and application of the principle of proportionality from a criminal and administrative point of view"

[95]Resolution of the Constitutional Court II. ÚS 200/98

i.e. j. protection of life, health and property.[96] Coercive means represent a legal legal instrument regulated in § 50 to § 62 the Act of the Police Force, the use of which is available to the police officer to eliminate illegal actions or eliminate imminent danger, or existing danger against life, health, property or disturbing public order. Thus, comprehensively, a means of coercion represents a legal instrument and a technical means, the use of which per the law is chosen by the police officer at his discretion depending on the specific situation to ensure the purpose pursued by the service, while respecting the principle of proportionality concerning the danger of attack. The basic criteria for choosing a suitable means of coercion include the seriousness of the situation, the purpose pursued by the service intervention[97] and compliance with legal grounds for the use of coercive measures. Interference with rights and freedoms must not go beyond what is necessary to achieve the purpose pursued by law (that is, if the call is sufficient and fulfils the purpose itself, then it is not appropriate to use coercive means). However, this does not apply if there is a risk of injury to life or health and at the same time there is a risk of delay, or also in a situation where the procedure must be performed immediately, otherwise damage to life or health will occur.[98]

Distance electric stun gun TASER

The term Taser is of historical origin and stands for Thomas A. Swift's Electric Rifle.[99] The Taser distance electric stun gun (hereinafter referred to as the Taser) is without any doubt categorized into a group of non-lethal weapons that use an electric source of energy when acting on an illegal person, while having a non-invasive character. Innovative technologies are gradually being introduced into the systematisation itself, which is positive, not only due to their non-invasiveness, but also thrift, while their use ensures care for the life and health of the perpetrator. Tasers are groundbreaking non-lethal police weapons that reliably paralyzes the attacker for the necessary time and does not cause any harm to his health.[100]

In terms of legal categorization, we include the Taser distance electric stun gun by § 50 art. 2 of Act no. 171/1993 Coll. On the Police Force, as amended, among the means to overcome resistance and avert the attack. From a general point of view, the Taser distance electric stun gun according to Act no. 190/2003 Coll. on firearms and ammunition and the amendment of certain laws, as amended, included among the weapons of category A, specifically prohibited weapons under § 4 para. 2 of the Firearms and Ammunition Act, which is a weapon that uses electric voltage or electric current to hit a human or animal.

The Taser electric stun gun is defined as an electric shock device operating on the principle of transmitting electric current through wires to an attacker. It is equipped with a laser sight, LED flashlight, safety switch and display, while allowing the insertion of two cartridges with compressed nitrogen and each of them fires two small arrows. The technical parameter of the operating voltage is 50 kV with a T-pulse, which lasts in the range of 50-125 microseconds, while the effect is paralysis of the muscles of the musculoskeletal system. The firing head comprises firing needles that are fired in the direction of the longitudinal axis of the electric stun gun. The important fact is that each warhead is equipped with an AFID system and is identifiable.

[96]DRDÁK a kol. Order service. Interpretation of concepts of duties, authorizations and use of coercive means in the sense of the Act on the Police Force. s. 54.

[97] The purpose of a service intervention is primarily to prevent a person from committing an illegal act, to mitigate or eliminate the consequences and to restore the disturbed public order, resp. restore the legal status, find out the identity of a person, or show him / her, detain, detain, arrest, etc.

[98] VANGELI, B. 2014. Act on the Police Force, s. 221-223.

[99] TALLO A. a kol. Technical systems and police measures. Bratislava: Akademy of the Police Force in Bratislave, 2001. s. 231

[100] TUREČEK J., ODLEROVÁ, M., HAJDÚKOVÁ T. Non-lethal and firearms as coercive means of police. Bratislava: Academy of the Police Force in Bratislava, 2021, s. 47

TASER X2

Source: Axon Enterprise, Inc., www.axon.com/training/resources

The principle of proportionality in the use of coercive measures Taser

If a crime or misdemeanour is committed, but also if there is a reasonable suspicion of their commission, the police officer is obliged to intervene, which is related to the application of the principle of officiality, ie. a member of the PZ is obliged ex officio to carry out a service intervention during the service, but also outside the service, provided that the legal conditions are met. However, it is up to the police officer to decide whether it is necessary to carry out an official intervention or to refrain from performing it, if it is clear that a less strict intervention or a verbal solution to a policy-relevant event is sufficient. Then we are talking about the principle of opportunity, within which the police officer evaluates objective and subjective facts so that in the case of official intervention, its purpose is achieved. Proper consideration in the activities of a police officer has an irreplaceable place, given the local and personal knowledge, his experience, as well as concerning the choice of a specific means of coercion. As the process of using coercive means takes a certain period time, there are stages of the police officer's obligations that he must comply with, namely the obligations before, during and after the use of coercive means. Before using coercive means, the police officer is obliged to call on the person against whom he is intervening to refrain from illegal activity, with a warning that one of the coercive means will be used, or the use of a repressive warning, ie. if he does not heed the call, a specific means of coercion will be used, in our case Taser.

According to § 50 of the Act on the Police Force, the Taser distance electric stun gun is one of the coercive means available to police officers when performing service interventions ie. its choice is conditioned not only by the principles of the implementation of official interventions but especially in its use it is necessary to pay attention to the application of the principle of proportionality, as one of the legal and tactical principles. The service intervention must be proportionate to the nature and extent of the breach of public policy so as not to cause unjustified harm to persons. A police officer may interfere with the rights and freedoms of a person only to the extent necessary to achieve the objective pursued. We see an emphasized legal definition of compliance with the principle of proportionality in the given case in § 8 par. 1, as well as in § 50 art. 4 Act of the Police Force. According to § 8 art. 1 Act of the Police Force, a police officer is obliged to appropriately choose the procedure of official intervention so that it does not exceed the extent necessary to achieve the purpose and at the same time does not cause unreasonable harm. When using coercive means according to § 50 art. 4 Act of the Police Force emphasizes compliance with the principle of proportionality, in particular, the intensity of its use can not be disproportionate to the danger of attack. The use of the Taser

distance electric stun gun undoubtedly interferes with bodily integrity, and the principle of prudence is closely related to the principle of prudence so that despite its non-lethal nature, its use does not endanger life of the person against whom the service is directed.

Service interventions should therefore be carried out appropriately concerning a specific situation, to an imminent or pre-existing danger or to an illegal situation against which action is taken. The purpose of this principle is to seek a balance between the purpose and the means used. The application of this principle can also be perceived from a tactical point of view, and thus as appropriate and appropriate to wear the Taser or the adequacy of the method of its application.

The principle of proportionality is therefore manifested comprehensively at the following levels:

a) adequacy in the choice of means (principle of minimizing the use of force),
b) in the appropriate way of using these means (appropriate procedure and intensity of use, person of the offender, adequacy of inclusion in the equipment, handling and safe wearing),
c) in the timeliness of the implementation of the procedure and the use of means (time- related to the imminent or existing danger).[101]

One of the advantages of smart weapons Taser with non-lethal effect is the ability to eliminate the perpetrator while allowing to overcome the so-called. created air gaps.

The primary purpose of the principle of adequacy is to find a suitable harmony between the purpose pursued by the service intervention and the procedure chosen by the police officer, ie. also by choosing a Taser and a way to handle it safely. In a policy-relevant event, a police officer must have a rational factual reason why he or she specifically applies the use of Taser. Any interference with the personal integrity of an individual in any action of the state against him must be justifiable by specific circumstances or reason for such a restriction and not carried out merely because a State authority is formally empowered to do so[102]. However, part of the principle of adequacy is also the application of the principle of gradation, so if it is possible to solve a policy-relevant event by methods of prophylaxis of public order activity, it is desirable. Within the framework of repressive methods of public order activity, if there is a technical means or procedure by which we interfere with the rights and freedoms of a person more mildly or less emphatically manner and at the same time achieve the goal pursued by official intervention, the police officer is ex lege obliged to apply such a procedure or means. Here, too, we see the interconnectedness of several principles and principles, whether the already mentioned principle of minimizing force, but also subsidiarity or the unity of prevention and repression.

Adequacy is also stated negatively in § 50 art. 4 Act of the Police Force, and thus that the intensity of the use of coercive means must not be manifestly disproportionate to the danger of attack. If the police officer neglects this obligation, e.g. by using coercive measures in a much more severe or intense manner than was desirable in the situation in question will constitute a breach of manifest disproportion, since the damage caused to the offender was manifestly disproportionate as a result of the use of coercive measures. There must therefore be no apparent disparity between the purpose pursued by the service and the choice and method of use of the Taser. For example, Taser is not recommended for use in pregnant women, people with severe disabilities, the elderly, minors and adolescents, or people with a low BMI. The reason is the apparent disproportionate nature, as these people have an increased risk of greater harm, in particular, more serious injury or even death. From a positive point of view, however, it is

[101] MARCZYOVÁ, K., HAŠANOVÁ,J., STRÉMY T., ŠIMONOVÁ J. A kol. Police Law. Plzeň: Aleš Čenek, 2019, s. 45 a nasl.

[102]VANGELI, B. 2014. Act on the Police Force. Praha: Nakladatelství C. H. Beck, 2014. s. 221-223. ISBN 978-80-7400-543-5

recommended to use against an aggressive perpetrator, as well as against a mentally unstable person armed with e.g. knife. Also when using Taser, care must be taken to minimize the number and duration of exposures, which is objectively reflected in the adequacy of achieving legal objectives. From the point of view of this principle, it is necessary to evaluate the current situation as well as the behaviour of the person who is being intervened and against whom the Taser has been used before the start but also the continuation of the exposure.

The principle of adequacy is also influenced by the time aspect, and from this point of view we perceive the following elementary stages, namely:

- the Taser customisation process and the associated safe handling,
- procedure before the actual intervention and use of the Taser,
- the procedure for using the Taser,
- procedure after service intervention and use of Taser.

First of all, in terms of the systematisation of equipment and armaments, the police officer must have a Taser systemized and at the same time, he must be adequately trained before he can use the Taser at all. The effectiveness of the use of the Taser is directly dependent on the completed regular training provided by the training instructor for the end-user. A secondary element is to ensure the safe handling and safe carrying of the Taser X2 distance electric stun gun on the service uniform during service, to prevent and minimize the possibility of confusion with the service firearm. The Taser should be worn on a service belt, and its location and carrying must be on the opposite side of that of the officer with the service weapon. The case is equipped with a safety mechanical fuse, which the PZ member is obliged to deactivate manually by pushing inwards of the case. Activation of the fuse is automatic by re-inserting the Taser.

Source: KR PZ v Bratislave

If the police officer is equipped with a tactical or conversion vest with a conversion to attach the Tasera X2 via a "mole" system, it is desirable and appropriate to primarily place and wear it on this vest.

Before the procedure itself, it is necessary to determine the appropriate tactics of the service intervention, as well as a purposeful procedure. Practically, a police officer is often forced to choose a suitable tactic in a short period time to eliminate a policy-relevant event, which shows his readiness, knowledge, experience and adequate training. Due to the number of determinants influencing the choice of appropriate coercive means and its appropriate use,

police decision-making is influenced mainly by the person against whom the police intervene, tactics, training and model determinants (readiness), systematization of weapons, legal awareness of the police officer.

Immediate intervention and the appropriate use of the Taser are accompanied by stricter conditions that allow it to be carried out, as well as the obligation to use the call. The police officer is obliged to use the summons if the nature and circumstances of the official intervention allow it. Thus, these are not cases that require immediate action and the execution of the call could logically frustrate them, or cause damage to property, health or other damage. Also, the police officer is not obliged to use the summons if there is an immediate violation of a legally protected interest and it is more than desirable for him to carry out an official intervention immediately. From a conceptual point of view, the current situation is important when creating a challenge, as well as the level of the person against whom it is used, and it does not have to contain elements of sophistication. It focuses primarily on the security aspect, followed by tactics, adequacy and legality. It is relevant to make it clear to the person called to refrain from the infringement. According to § 12 par. 2 of the Act on Police Force, if required by the nature of the service intervention, it is necessary to use the words "On behalf of the law" before the call. The summons is required of the person to refrain from his unlawful conduct. It may include a notice of what will follow if it is disobeyed. Such a prompt can be referred to as an alert prompt. The type of call in question is regulated from the legislative point of view in § 50 par. 3 Act on the Police Force, while the police officer is obliged to call on the person against whom he intervenes to refrain from illegal activities with a warning that it will be used before using the Taser. Of course, from a tactical point of view, the police officer is not obliged to explain a legal provision that empowers him to call or intervene, and he also does not have to specify how he will use coercive means. Before using the Taser, it is desirable to allow the person to be intercepted to be able to comply with the police call before using the resistance overcoming means, ie if the situation allows, a repeated call is also given.

As mentioned above, the choice of Taser affects the level of resistance, the character of the person against whom the police intervene respectively. the specifics of the person committing the offence. Such persons may be of various levels of intelligence, temperament, mental state, or maybe under the influence of an addictive substance. It is very important for a police officer performing an official intervention to identify, according to their own experience and knowledge, psychological aspects, external characteristics, mentality, characteristics and evaluation must be prepared to anticipate the actions of the person acting unlawfully and choose appropriate tactics. The Taser is suitable for use when there is active resistance. It is undesirable to choose it in a verbal attack, but also passive resistance. From the point of view of the analysis of external features, it is relevant to examine not only the age, but also the weight of the person against whom the intervention is performed (BMI index is examined), or whether the person is not severely disabled or has heart disease. The police officer is also obliged to evaluate the surroundings of the policy-relevant event, specifically, there must be no flammables or explosives in the vicinity. As part of the tactical procedure, the police officer must always keep a safe distance, which in each situation can again be affected by various externalities. At a target distance of 2.7 meters, the scatter is in the range of 30 cm. The upper and lower lasers show the most accurate point of impact at a distance of approximately 4.5 m. At a shorter distance, the upper probe hits the target slightly below the laser's aiming point. At a distance of 7.6 meters, the scattering widens to 91 cm, with the upper probe reaching about 18 cm below the laser point and the lower below about 25 cm. From a tactical point of view, the police officer must take a position that will allow him to escape in all circumstances. At the same time, he is obliged to constantly check the situation in front of him as well as behind him, while another person who would like to attack the police should not get behind her. When maintaining a safe distance, the police officer is based on the range necessary to overcome the active resistance of the

perpetrator, also concerning the possibility of using a service weapon as a last resort to eliminate the perpetrator. Tactically during the resolution of a policy-relevant event, the area must be secured by another police officer, which is desirable not only for control but also for the subsequent handcuffing of the perpetrator.

When using the Taser, the recommended scheme of its application is proclaimed, before the actual firing of the warhead and then the contact mode (firing of the warhead). As mentioned above, the actual placement of the Taser on the police officer during the performance of the service, the effective communication of the police officer at the place of resolving a policy-relevant event, as well as the use of a call by the police officer to refrain from illegal action have their justification. Concerning the application of the principle of proportionality, it is appropriate to first pull the Taser out of the case and use the psychological effect on the perpetrator. If the minimalist visualization of the electric stun gun in question is not sufficient and the person continues his actions, the PZ member will use a warning discharge. The team uses the so-called discouraging Taser value. Before the warhead is fired, the last step is to aim the laser at the person being intercepted. Within the above, we see a clear gradation of the use of Taser through the lens of process tactics. From findings from other countries, it is clear that the mere threat of using a Taser can result in the effective achievement of the goal pursued by the official intervention, as well as the elimination of active resistance, in up to 84% of cases.

Despite the threat of using a Taser, a person continues to put up active resistance, a police officer will fire ahead at the subject. Appropriate use is also influenced by the preferred target area of intervention, in particular, the police officer should aim at large muscle areas, ideally the back, while the inappropriate preferred zone is the head, eyes, neck, chest or genitals. Shooting the head paralyzes the attacker's musculoskeletal muscles and results in partial nerve and muscle impairment. During the paralysis, the attacker is conscious and immediately after the end of the shock, which automatically (unless the police himself interrupts) lasts 5 seconds, can move and continue the attack. By pressing again, the police officer can start another 5 second interval.[103] Contact mode can also be used when using the Taser.

After using the Taser, if a person surrenders or is detained and under the control of a police officer, it is first necessary to stop exerting any force. The police officer is obliged to monitor the situation and select probes. It shall subsequently establish whether the person is otherwise injured and, if the circumstances allow, he shall provide the injured person with first aid and medical treatment, regardless of whether the injured person was in the position of an assailant, rapist, rioter, a public nuisance or just a passing witness. While the first aid is given by the police officer directly at the place of the conflict situation (disinfection and sealing of wounds, possibly stabilized position, fixation of the fracture), medical treatment, if necessary, is provided by notification of ambulance. If a person refuses to receive first aid and medical treatment, the decision shall be entered in the official record.

After performing a service intervention and using the Taser, the police officer is obliged to immediately report the use of the Taser to his / her superior. The most standard way is to report by technical means to the direct superior. In addition to the above method, the use of coercive measures may also be reported in person, by telephone or in writing. The written report on the use of coercive measures shall include:

- time, place of use of the coercive means and its type,
- the provision of the law according to which the means of coercion was used,
- who used coercive means (with the signature clause of the superior),
- identification of the person against whom they were used,
- use of the call,
- whether the person was injured,

[103] TUREČEK J., ODLEROVÁ, M., HAJDÚKOVÁ T. Non-lethal and firearms as coercive means of police. Bratislava: Academy of the Police Force in Bratislava, 2021, s. 49.

• another measure was taken by the police officer,
• whether they were witnesses to the service intervention (if so, their identification),
• the reasons that justified the use of coercive means,
• whether damage to property has occurred due to the use of DP,
• the signature clause of police officers who used coercive means.

The supervisor is obliged to evaluate the use of the Taser and if there are doubts about the correctness or if their use would cause death or injury, the supervisor is obliged to determine whether it was used following the law, the official record. The police officer is obliged to report the use of coercive means outside the place of his / her service office to the nearest police unit. When evaluating the legality and adequacy of the use of the Taser, it is possible to analyze the chronological sequence of its use concerning a policy-relevant event, the conflict that has arisen and its possible misuse. A legal evaluation of the legality of the use of the Taser in the context of the principle of proportionality may also indirectly result in a possible sanctioning of a police member. Most often we talk about the application of the provisions of the disciplinary authority of the superior, but we are growing the number of so-called criminalization of such a practice.[104] The law does not regulate expressis verbis when a police officer is obliged to use a specific means of coercion and the moment of termination.

Conclusion

When choosing the most optimal means of coercion, the police officer must take into account several determinants, which he will logically evaluate and based on which he will also choose to use the Taser X2 distance electric stun gun. We must realize that the assessment of the principle of adequacy in the use of the Taser is not so clear-cut, because on the one hand, it is possible to evaluate its choice from a set of exhaustively defined coercive means and subsequently from the temporal, tactical and legal use of the Taser. Adequate service training, continuous improvement and consolidation of habits and skills through training, even in model situations with test heads, control of the tactics of performing the intervention, sequence and gradation of the use of the Taser within a policy-relevant event is justified for the effectiveness of the Taser use. In some cases, the emphasis on holding the Taser by pulling it out, or using a warning shock or aiming with a laser, can optimally and without harm achieve the goal pursued by the intervention. We must realize that the responsibility for the use of coercive means lies primarily by law with a specific police officer who has applied the right reasoning to his choice.

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Summary

To comply with the legal status, if the police officer did not abandon the illegal proceedings, the police officer has the right to use the means of coercion defined by law, and thus also the so-called non - invasive technical means distance electric stun gun. The technical coercive measure in question also directly affects the fundamental rights and freedoms of the person, but its application should not cause unjustified harm, nor should the interference with their rights and freedoms exceed the extent necessary to achieve the purpose. In her contribution, the author defined very narrowly the application of the principle of adequacy in the use of the Taser distance electric stun gun, both in terms of the time of use and in terms of methodological and tactical. In particular, the principle of proportionality in the use of the Taser can be assessed from the point of view of the person against whom it is intervened. Given the specificity and originality of the coercive device in question, as well as it is innovative introduction into the service, we consider it important to emphasize and analyze the use of Taser following the Police Force Act and by the principle of proportionality.

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