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LEGAL FORMS OF ACTION IN THE POLICE

All activities of the administration must be based on a specific legal basis. This is a principle that has been enshrined in the Constitution. The form of action is a manifestation of the activity of entities that administer¹. As E. Ura rightly points out, the legal form of administration is the type of specific activity determined by law, which may be used by the administration to handle a particular matter. This is equivalent to the concept of legal action in civil law².

The concept of legal forms of administration is a non-acute concept which does not have its only legal definition. It should be noted that this is a legal concept, differently defined on the basis of administrative case law as well as doctrine.

The nature of the tasks carried out by the Police creates the possibility of using different forms adapted to the legal circumstances provided for by law. Due to the nature of the tasks imposed on the Police, this formation most often uses imperious forms, but it should be noted that it can also support non-empowering activities in a supportive way³.

In order to carry out its tasks, public administration has been equipped with so-called administrative authority. Thanks to it, this administration can unilaterally shape the legal situation of an administered entity, thereby realizing the assigned competences and carrying out the imposed tasks.

The term authority belongs to the category of vague terms that have not been given a clear legal and theoretical position. There are ongoing disputes among the representatives of the doctrine regarding the semantic scope of the notion of authority, its sources or legal nature. There is no doubt that the legal concept of authority significantly affects the way we understand many considerations about administra-

¹ K.M. Ziemiński, *Podstawy problematyki [in:] System Prawa Administracyjnego*, Vol. V: *Prawne formy działania administracji*, eds. R. Hauser, Z. Niewiadomski, A. Wróbel, Warszawa 2013, p. 4 n.

² E. Ura, *Prawo administracyjne*, Warszawa 2015, p. 107.

³ B. Jaworski, *Policja administracyjna*, Toruń 2019, p. 106 n.

tive law and public administration⁴. Doctrinal solutions indicate that the term administrative authority appeared most often in the context of the structural element of the concept of public administration body, in the aspect of analyzing the considerations on the concept of administrative-legal relation and legal forms of administration⁵. In the interwar literature, the essence of power can be seen in the ability of state authorities to reliably and unilaterally establish prohibitions and orders for specific behavior, secured by the possibility of using state coercion to enforce them⁶.

Administrative authority must result from public (state) authority. H. Jellinek understood administrative authority as the power to use administrative coercion and to exclude disputes from the jurisdiction of the courts. According to the author, administrative coercion was a legal category⁷. Another representative of the twentieth-century doctrine of T. Bigo professed the view that administrative authority was the power to use administrative coercion, excluding disputes from the jurisdiction of the courts⁸.

Another example of presenting the relationship between administrative authority and an administrative body can be the position represented by M. Jaroszyński, who defined a state administration body as a separate part of the state apparatus, equipped by law with a specific scope of competence and exercising the supreme authority of the state in forms of administration⁹.

In turn, J. Starościak pointed out that “the genus proximum for determining a state administration body is the power to use coercion” – within the limits set by applicable law¹⁰.

It is impossible to disagree with K. Chochowski’s thesis that administrative authority is now understood as a permanent element of the normative order and there is no indication that this state should change in the near future. Administra-

⁴ More: P. Radziewicz, *Administracyjnoprawne pojęcie władztwa publicznego*, „Kwartalnik Prawa Publicznego” 2005, No. 4, p. 121 n.

⁵ L. Bielecki, *Władztwo administracyjne jako istotna cecha definicji administracji publicznej* [in:] *O prawie administracyjnym i administracji. Refleksje*, eds. B. Jaworska-Dębska, Z. Duniewska, M. Kasiński, E. Olejniczak-Szałowska, R. Michalska-Biedziak, P. Korzeniowski, Łódź 2017, p. 31. More: Z. Pulka, *Władztwo administracyjne jako szczególna postać władzy państwowej*, „Acta Universitatis Wratislaviensis” 1992, No. 1313, p. 137 n.; L. Bielecki, *Władztwo administracyjne* [in:] *Prawo administracyjne*, eds. M. Zdyb, J. Stelmasiak, Warszawa 2016, p. 111.

⁶ L. Bielecki, *Władztwo administracyjne...*, p. 30.

⁷ G. Jellinek, *Allgemeine Staatslehre*, Bad Homburg 1959, p. 561.

⁸ T. Bigo, *Stanowisko związków publicznoprawnych w polskim systemie administracyjnym*, Lwów 1928, p. 9.

⁹ As cited in: M. Jaroszyński, M. Zimmermann, W. Brzeziński, *Polskie prawo administracyjne. Część ogólna*, Warszawa 1956, p. 161 n. A similar proposal for the definition of a state administration body was presented by K. Sobczak [in:] J. Służewski, O. Bujko, K. Sobczak, *Polskie prawo administracyjne*, Warszawa 1961, p. 57 n.

¹⁰ P. Radziewicz, *Administracyjnoprawne pojęcie...*, p. 123, as cited in: J. Starościak, *Prawo administracyjne*, Warszawa 1977, pp. 55–56 and J. Starościak, E. Iserzon, *Prawo administracyjne*, Warszawa 1963, p. 47.

tive authority should be seen as a special form of state authority¹¹, whose essence is to authorize the administrative body to unilaterally shape the legal situation of the administered entity by issuing legal acts and using coercion to enforce them¹².

One should also point to the view presented by E. Ur, coercion must be legal, which results from the rule of law, which is of a systemic nature. The author aptly states that one of the consequences of imperious administration is the possibility of using administrative coercion. The element of coercion occurs only in decisions imposing obligations. However, it does not occur in the case of decisions granting only rights¹³.

In the case of public administration, public administration bodies may themselves (without the interference of the courts) use coercion to carry out their orders. In this situation, coercion can be twofold: direct or indirect. As E. Ochendowski rightly observes, public administration has a measure that is not entitled to other types of administration - the possibility of using direct coercion, which is the result of the state's monopoly of using physical force and the ability to use power¹⁴.

Undoubtedly, the above views indicate that in a democratic state ruled by law, administrative authority is not a natural feature of public administration bodies, resulting from the essence of administration. (...) it is the legislator who, while deciding to separate the executive power in the state, equips it with power to some extent¹⁵.

The literature on the subject distinguishes three contexts of public authority: as an attribute of some legal forms of administration; as part of the definition of the concept of a public administration body; in the context of considerations on the concept of administrative relationship¹⁶.

The activities of the Police as a specialized administration body are of a special nature. This formation is entitled to use legal forms with some distinctive specificity only for the operation of these bodies, using legal means only granted to them. This is due to the concentration of tasks related to the protection of security and legal order, performed in specific situations in the event of a road collision, terrorist attack, riots on the streets, stadium brawls, etc.¹⁷ There are many tasks and the Police use imperious forms of action. They can be divided into two spheres of activity: internal and external. The first one is addressed to public

¹¹ As cited in: K. Chochowski, *Istota władztwa administracyjnego (imperium) jako szczególnej postaci władztwa państwowego* [in:] *Władztwo administracyjne. Administracja publiczna w sferze imperium i w sferze dominium*, ed. J. Łukasiwicz, Rzeszów 2012, p. 106

¹² More: M. Wierzbowski, *Prawo administracyjne*, Warszawa 2006, p. 124 n.

¹³ E. Ura, *Prawo administracyjne*, p. 110.

¹⁴ E. Ochendowski, *Prawo administracyjne*, Toruń 1999, p. 24 n., as cited in: K. Chochowski, *Istota władztwa...*, p. 108.

¹⁵ As cited in: L. Bielecki, *Władztwo administracyjne...*, p. 32.

¹⁶ Z. Pulka, *Władztwo administracyjne...*, p. 137.

¹⁷ Check also: E. Ura, *Prawo administracyjne*, p. 111 n.

administration bodies remaining in the structure of personnel dependency and service dependence. The second one is addressed to entities remaining outside the structure of the administrative apparatus.

Due to the diverse nature of the tasks carried out by the Police, as well as the nature of the goods and states protected by it, most often this militarized formation uses imperious forms as well as non-imperious activities as an independent or supporting forms of their operation.

A common catalog of legal forms of administration activities that come down to the external sphere is given by S. Starościak, who divides them into six groups of legal forms of administration activities: establishing general regulations, issuing administrative acts, concluding administrative arrangements, concluding contracts, conducting social and organizing activities, performing material and technical activities¹⁸.

Classification of legal forms of administrative police activities¹⁹ was made by J. Gierszewski, who pointed to: order regulations, general administrative act of a police nature, police orders, police permits, police coercion, police penalties²⁰.

Order regulations are general acts and their primary task is to protect public security and order. They are issued on the basis of a general authorization contained in the following acts: on a voivode and government administration in a voivodship – the authority authorized to enact order regulations is the voivode who issues ordinances²¹; on powiat self-government – powiat councils which issue ordinances in the form of resolutions²²; on communal self-government – commune councils which also issue ordinances in the form of resolutions²³. They are issued to protect such goods as life, health, public safety and environmental protection. Order regulations come into force on the day of announcement, however they are announced in a special mode. Importantly, they can be issued only to the extent not regulated in separate laws or other generally applicable provisions. Order regulations may provide for a fine imposed in breach of the procedure and on the principles provided for in the offenses law²⁴.

The administrative act is an imperious unilateral declaration of intent by the body performing public administration tasks, based on the provisions of adminis-

¹⁸ S. Starościak, *Prawo administracyjne*, Warszawa 1977, p. 231.

¹⁹ Including the Police – added by the author of the text.

²⁰ J. Gierszewski, *Wyodrębnienie policji spośród innych władczych funkcji administracji publicznej*, „Zeszyty Naukowe WSAiB im. E. Kwiatkowskiego w Gdyni” 2011, No. 17, Prawo 2, p. 136 n.

²¹ The Act of 23 January 2009 (Dz.U. 2019, Item 1464).

²² The Act of 5 June 1998 (Dz.U. 2019, Item 511).

²³ The Act of 8 March 1990 (Dz.U. 2019, Item 506).

²⁴ H. Walczak, *Władze formy działania policji administracyjnej* [in:] *Władztwo administracyjne. Administracja publiczna w sferze imperium i w sferze dominium*, ed. J. Łukasiewicz, Rzeszów 2012, p. 712 n.

trative law, specifying in a legally binding manner the situation of a specifically designated addressee in an individually marked case²⁵.

A general administrative act of a police nature is a form of a general administrative act that defines in its content bans and orders addressed to a generally specified addressee. It is used in particular in existing situations or potential threats to security or property. Very often in its content contains orders or prohibitions of specific behavior that are addressed to a generally specific addressee. What should be emphasized is that this act does not regulate the legal status of addressees, but refers to the actual act or omission depending on the content and circumstances in which it is issued²⁶.

The specifics of the activity of the state administration that works in various areas (for example, security and public order) very often requires effective and immediate solutions in urgent situations. An administrative decision taking into account the specificity of actions in the field of security and public order is a direct decision. It refers to issuing permits, prohibitions, orders for specific behavior of an individually indicated addressee in a given situation. To give it legal force, it is necessary to communicate its content in an understandable and clear way to the addressee²⁷. An example of a direct resolution in the activities of the Police is the use of orders and prohibitions in driving traffic by policemen. The legal basis for these decisions is provided by the provisions of the Road Traffic Act²⁸, but it should be noted that the doctrine includes terms treating traffic signs and signals as general administrative ordinances that serve to protect public safety and order²⁹.

In the sphere of order administration (including the Police), apart from individual orders and bans, police acts of a general nature (*erga omnes*) play a significant role in maintaining public order. administrative ordinances³⁰. An example of such an ordinance may be an order for the immediate departure of those gathered upon dissolution of the public assembly, as well as the powers of law enforcement services (including the Police) of the mass event organizer, which involves issuing binding order orders to persons who disturb public safety and order or do not comply with the regulations. event.

The police order is also an administrative act of an individual nature addressed to individually specified persons, the purpose of which is to enforce specific behavior. A police order may take the form of an order or prohibition of specific conduct. The order obliges the addressee to take specific actions – e.g. an

²⁵ More: E. Ura, *Prawo administracyjne*, p. 113 n.

²⁶ H. Walczak, *Władcze formy...*, p. 714.

²⁷ E. Ura, *Prawo administracyjne*, p. 119.

²⁸ The Act of 20 June 1997 (Dz.U. 2018, Item 1990).

²⁹ B. Jaworski, *Policja administracyjna...*, p. 118.

³⁰ More: H. Izdebski, M. Kulesza, *Administracja publiczna. Zagadnienia ogólne*, Warszawa 2004, p. 105 n.

order to leave a parking space which is intended only for disabled people. In turn, the ban obligates to passive behavior – e.g. a ban on entering streets excluded from traffic due to public assembly. At the same time, it should be emphasized that if such a command is aimed at removing an immediate threat, it is subject to immediate execution³¹.

Acts of internal management or legal acts play a special role here, regulating the behavior of recipients located within the organizational structure of public administration – subordinates subordinate to business and organization. Acts apply only to those units which are subordinate to the authority issuing those acts. They cannot directly regulate the sphere of rights and obligations of citizens, they cannot form the basis for decisions against natural and legal persons. A special type of internal management act in the Police is an official order.

M. Kulesza includes internal management files as forms of administrative activity and indicates that “dozens of different organs and institutions of public administration simply have to establish administrative regulations of universal application, because without them collective life cannot function well, and public administration cannot perform its tasks. These are various types of regulations, not only executive but also administrative, «legal acts» issued on the basis of a competence-type authorization, e.g. statutes”³². An example of an internal law act regarding the Police is Order No. 1041 of the Police Commander-in-Chief of 28 September 2007 regarding detailed rules for the organization and scope of operation of police commands, commissariats and other organizational units of the Police”³³.

The legal regulations have assigned the Police authorities a wide catalog of tasks in various spheres of social life. Their implementation is supported by legal methods of action called legal forms of administration. Administrative law doctrine distinguishes several views on the classification of legal forms of administration³⁴. Their most general distinction is the division into forms taking place in the sphere of internal and external relations of the administration. The basic criterion that makes it possible to distinguish internal activities is the organizational structure in which they occur. This can be explained by the fact that they

³¹ For more on the police order: H. Walczak, *Władcze formy...*, p. 715 and B. Jaworski, *Policja administracyjna...*, p. 117 n.

³² M. Kulesza, „Źródła prawa” i przepisy administracyjne w świetle nowej Konstytucji, „Państwo i Prawo” 1998, No. 2(624), p. 14 n.

³³ Announcement of the Police Commander-in-Chief of 25 June 2013 regarding the announcement of a uniform text of the ordinance of the Police Commander-in-Chief regarding the detailed rules for the organization and scope of operation of police commands, police stations and other organizational units (Dz.Urz. KGP 2013, Item 50).

³⁴ More: M. Wierzbowski, A. Wiktorowska, *Prawne formy działania administracji* [in:] *Prawo administracyjne*, ed. M. Wierzbowski, Warszawa 2008, p. 277; K. Ziemiński, *Indywidualny akt administracyjny jako forma działania administracji*, Poznań 2005, p. 166.

occur in a hierarchical subordination system, as well as in the internal administrative relations of the authority. There is a typical hierarchical subordination in the functioning of the Police authorities, internal activities play a very important role here. Their multi-faceted nature means that in many cases they may result in certain indirect consequences, also for the addressee who is outside the organizational structures of the police apparatus. Police authorities issue normative acts in the internal sphere. They are mainly directed to subordinate organizational units. It should be noted that in many cases they also indirectly affect the situation of citizens. An example here may be the norms regulating the way of conducting compliance with the law on traffic on public roads³⁵.

The rule of distinguishing internal forms of activity is the organizational structure in which these forms occur and the addressee remaining within the given organizational structure. They clearly take place in a hierarchical system of subordination and shape the relationship between various organs of a given degree or within the structure of a given organizational unit. In the light of the above, it seems obvious that the legal forms of internal action within the Police in the form of a normative act will be acts of internal management, which include orders, instructions and guidelines belonging to the category of normative acts issued on the basis of a general competence norm resulting from managerial functions. Internal acts include opinions and information provided to bodies. These acts may be internal and individual (e.g. official opinion) or external. The first one gives rise to important effects for the person being reviewed, an example can be the opinion (information) about the suitability or inadequacy for service in a position held in the Police³⁶.

Acts of internal management regulate the behavior of addressees located within the organizational structure of public administration, subordinate service and organizational subordinates³⁷.

The police permit is a category of constitutive administrative act. It is included in a wide group of administrative permits. The police permit belongs to the group of administrative permits, which repeal the statutory ban on developing certain activities³⁸. The revocation of the prohibition under a police permit is a manifestation of a certain freedom, but it is not mandatory, which means that if you cease to fulfill certain guarantees, it may be withdrawn by an authorized body³⁹. As H. Walczak rightly observes, statutory bans on performing specific activities are introduced due to the threat to public interest. The entities to which

³⁵ S. Pawłucha, *Zagadnienia prawne organizacji i funkcjonowania Policji*, Szczytno 1995, p. 31 and n.

³⁶ *Ibidem*, p. 38 n.

³⁷ E. Bojanowski, K. Żukowski, *Leksykon prawa administracyjnego*, Warszawa 2009, p. 12.

³⁸ More: M. Żukowski, *Pojęci, cechy oraz zakres policji administracyjnej*, „Zeszyty Naukowe Politechniki Rzeszowskiej” 2010, No. 272, p. 217 n.

³⁹ As cited in: B. Jaworski, *Policja administracyjna...*, p. 116.

these permits are granted give guarantees by possessing appropriate qualifications⁴⁰. The main purpose of a police permit is to maintain public safety and order, which is also a feature that distinguishes this legal form from other administrative permits. An example of a police permit in the sphere of police activity is the issue of a weapon permit decision, which is issued in the form of an individual administrative act by the provincial police commander.

Police coercion, so-called immediate coercion is a category of state coercion which has no signs of enforcement coercion. It means the possibility of using the measures necessary to force compliance with the decisions of state administration bodies aimed at effective implementation of the tasks and competences entrusted to them⁴¹.

The police are a tool of the executive branch that has the right to apply coercion to citizens to fulfill their tasks. Direct coercion is an imperative form of administration that is used only by statutory police authorities. It is a type of actual activity consisting in causing specific behavior by its addressee in the course of activities performed by the Police authorities. Direct coercion measures may be used or used, in accordance with the Act on direct coercion measures and firearms⁴², through the sub-unit compact. Consent to the use or use of direct coercion measures by a compact unit in the case of the Police is given by the Police Commander-in-Chief, the voivodship (capitalist) commander competent for it or persons authorized by them. Permission for the use or use of direct coercion measures by a compact unit may also be given by its commander, if a delay in the use or use of these means would threaten a direct danger to the life or health of the entitled person, another person or property or an attack on important objects, devices or areas.

Decisions on the use or use of means of direct coercion such as: physical strength, straitjacket, stalling, water staging, chemical staging are taken by the head of the Police organizational unit or persons authorized by him, and in their absence – by the duty officer.

As can be seen from the nature of direct coercion measures, their use or use is associated with interference in the sphere of constitutionally guaranteed rights and freedoms⁴³. The action of using coercion should be undertaken with caution, without exceeding its limits and providing the unit with adequate protection against excessive ailments related to the use of coercion⁴⁴.

⁴⁰ H. Walczak, *Władcze formy...*, p. 715.

⁴¹ W. Lis, *Policja administracyjna jako funkcja administracji publicznej* [in:] *Problemy publicznoprawne i ekonomiczne*, ed. I. Ramus, Kielce 2014, p. 96 n.

⁴² Dz.U. 2018, Item 1834.

⁴³ W. Lis, *Stosowanie przez policję środków przymusu bezpośredniego a ochrona wolności i praw człowieka* [in:] *Nauki społeczne na rzecz bezpieczeństwa wewnętrznego*, eds. P. Bogdalski, M. Napelski, Szczepiński 2014, p. 225.

⁴⁴ J. Radwanowicz, *Metoda przymusu administracyjnego* [in:] *Nauka administracji wobec wyzwań współczesnego państwa prawa*, ed. J. Łukasiewicz, Rzeszów–Cisna 2002, p. 460.

The protection of individual rights is of great importance, however, in some situations these rights are subject to restrictions, and the Police using force can resort to a measure referred to in the literature as a police penalty⁴⁵.

Police penalties are a group of administrative penalties because they are intended to safeguard public order. Most often these are fines imposed in the form of a criminal mandate in a situation where the legislator classifies certain behavior prejudicial to public safety and order. The legal basis for police penalties is given by, among others Act of 20 May 1971, the Code of Offenses⁴⁶. An example here may be criminal fines for selected types of offenses⁴⁷ imposed by police officers, for example for non-compliance with traffic laws⁴⁸.

The administration is imperious, so it may use state coercion, which is administrative power with administrative and legal sanctions, the main assumption of which is to cause negative consequences for persons who violate norms consisting in a specific prohibition or order.

An administrative arrangement is a legal form of non-governmental administration. Its basic element is cooperation of entities. This is a legal act carried out by entities performing public administration tasks. The agreement may be concluded between two or more entities and all entities of administrative law may be parties of this agreement.

The administrative agreement is indicated by the Act on the Police of 6 April 1990, which provides for the possibility of concluding an agreement between the head of the commune and the appropriate poviát (municipal) police commander on the transfer of funds to the Police from the own revenues of local government units for rewards for achievements in the service of policemen who carry out tasks in preventive service.

It is also possible to conclude an agreement on increasing the number of Police posts in districts or posts and in the poviát or commune. Similarly, by concluding an agreement with the commune head, cooperation with commune guards is implemented. Detailed forms and methods of cooperation of territorially competent Police and guard units are specified in the agreement concluded between the territorially competent police commander and the commune head, mayor (city president).

A civil law contract is a form of activity of at least two independent parties and comes into effect as a result of a joint declaration of intent of these parties⁴⁹.

⁴⁵ B. Jaworski, *Policja administracyjna...*, p. 122.

⁴⁶ Dz.U. 2019, Item 821.

⁴⁷ The amount of penalties is regulated by the Regulation of the Prime Minister of 24 November 2003 on the amount of fines imposed by way of criminal fines for selected types of offenses (Dz.U. 2013, Item 1624).

⁴⁸ The Act of 20 June 1997 – Traffic Law (Dz.U. 2018, Item 1990).

⁴⁹ H. Knysiak-Molczyk, *Umowa cywilnoprawna jako forma działania organów administracji publicznej* [in:] *Koncepcja systemu prawa administracyjnego*, ed. J. Zimmerman, Kraków 2007, p. 493.

Administrative activities (including the Police) through civil law contracts are usually associated with the sphere of property relations. An example would be the signing of a contract by the provincial police commander for the provision of moving (towing) business vehicles in the event of a breakdown by a commercial entity. Many civil law contracts are concluded as a consequence of material and technical activities.

It should be noted that both civil law and public law contracts do not serve the basic functions carried out by the Police.

The literature on the subject emphasizes that legal acts give rise to a certain standard of conduct, while factual acts can shape legal relationships through facts, not rules of conduct⁵⁰.

Among the actual activities, there are social and organizational activities as well as material and technical activities.

Social and organizational activities are a non-controlling form of administration and can be taken alongside other forms of administration to deepen the impact of administration or as the primary and only form.

Article 1(2) of the Act on the Police, provides that the basic tasks of this formation include: protection of life, health and property against unlawful attacks that violate these goods; protection of public safety and order, including ensuring peace in public places and means of public transport and public communication as well as initiating and organizing activities aimed at preventing committing crimes and offenses as well as criminogenic phenomena and cooperating in this respect with state authorities. Therefore, it should be stated that these activities can be carried out through social and organizational activities.

It should be emphasized that the legislator left the application of this form and its scope to the recognition and experience of the Police authorities. The use of this form may include, among others organizing meetings with the public on a large scale, organizing meetings with the inhabitants of a given city, lectures or readings on the sphere of security and public order. All kinds of actions organized by the Police to strengthen security, an example of this is the nationwide "Say NO" campaign, in which the Police in Poland are also involved. The action concerns counteracting and combating blackmail and sexual extortion in the virtual sphere committed against children and young people⁵¹.

Material and technical activities are defined as activities of administrative bodies which have their legal basis and cause specific legal effects. The material and technical activities also include a group of tasks carried out by the Police, namely: stopping the driver for control, tapping, on duty, escort service or checking correspondence.

⁵⁰ E. Ura, *Prawo administracyjne*, p. 137.

⁵¹ Compare: E. Kubas, *Czynności faktyczne funkcjonowania Policji* [in:] *Policja. Prawne formy działania*, eds. E. Ura, M. Pomykała, S. Pieprzny, Rzeszów 2019, p. 122.

A characteristic feature of material and technical activities is that they produce certain legal effects by facts and not by creating norms of the legal order. Their attribute is also the fact that citizens must comply with them. The direct legal basis for actions concerning a citizen may be a valid administrative act or a provision of generally applicable law⁵².

The literature presents the view that the legal forms of administrative activity include the inaction of the administration.

J. Zimmerman, writing about legal forms and methods of action, states that if an administrative body does not operate in a situation where the facts and legal norms require it, it does not fulfill the obligation imposed on it. If he does not do so without statutory authorization, the phenomenon of inaction occurs. However, there are also such situations that the act provides for passive behavior of the administrative body and then one can speak of the silence of the body⁵³.

Through silence, the administrative body expresses its will. An example of such a norm will be the regulations contained in the Act on the Police⁵⁴, acting in Art. 6b (and also 6c, 6d)⁵⁵, that the provincial Police Commander is appointed and dismissed by the minister competent for internal affairs at the request of the Chief Police Commander submitted after consulting the voivode. If no opinion is received, the minister may appoint a voivodship commander after 14 days from the day of submitting the request for an opinion.

The provision of Art. 6b of the Act on the Police provides that you may be removed from office at any time. However, in the absence of an opinion, the authority authorized to appoint a commandant may dismiss the provincial commandant accordingly. The above regulation clearly shows that the body authorized to appoint that position may dismiss the position in question at any time. The lack of specific criteria justifying the appeal means that the launch of the procedure specified in the above-mentioned article of the act, it was left to the discretion of the competent public administration body, which may at any time dismiss a person from the managerial position of the unit, provided that the premises justifying the appointment have ceased⁵⁶.

P. Chmielnicki notes that the presented regulation raises the question of whether a necessary solution is to include representatives of public administration bodies in the appointment of commanders of individual Police units. It can be assumed that in light of the principles of legalism and prosecution ex officio and equality before the law, the need to ensure influence on the work of the Police on the part of the executive, and especially local government bodies, is disputable. The adopted solution

⁵² More: E. Ura, *Prawo administracyjne*, p. 139 n.

⁵³ J. Zimmerman, *Prawo administracyjne*, Kraków 2012, p. 420.

⁵⁴ Dz.U. 2020, Item 360.

⁵⁵ Art. 6c – appointment and dismissal of the poviatt police commander and district police commander, Art. 6d – appointment and dismissal of the police station commander.

⁵⁶ More: IV SA/Po 886/09 – Judgment of the Provincial Administrative Court in Poznań, Lex nr 606880.

leads to a situation in which the criterion of professionalism in filling management positions in law enforcement bodies gives way to the influence of a political factor⁵⁷.

In the study, the author presents, in a synthetic way, the problem of legal forms of activity in the Police. Legal forms of police activity are actual activities specified in specific legal provisions which the authority uses to perform specific tasks. Generally, in certain situations, the Police have the option of choosing the form of action that will be most appropriate under certain conditions.

Undoubtedly, these activities condition an important element of the existence and functioning of this uniformed and armed formation to guard public security and order. The presented forms of police activity strictly determine the methods of action, which can be described as the style of dealing with a particular type of case.

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Summary

The Police are a uniformed and armed formation serving society and created to protect human safety and to maintain security and public order. Therefore, it carries out a number of tasks that take various forms of action. The author of the text carries out an in-depth exegesis and analysis of the legal forms of action highlighted by literature and proves that in the activities of the Police, there are legal forms of action which are an important element of the existence and functioning of this uniformed and armed formation to uphold security and public order.

Keywords: Police, legal forms of action

PRAWNE FORMY DZIAŁANIA W POLICJI

Streszczenie

Policja jest umundurowaną i uzbrojoną formacją służącą społeczeństwu i przeznaczoną do ochrony bezpieczeństwa ludzi oraz do utrzymywania bezpieczeństwa i porządku publicznego. W związku z tym realizuje szereg zadań, które przyjmują różne formy działania. Autor tekstu dokonuje dogłębnej egzegezy i analizy prawnych form działania wyróżnionych przez literaturę przedmiotu i udowadnia, że w działalności Policji istnieją prawne formy działania które stanowią ważny element istnienia, a zarazem funkcjonowania tej umundurowanej i uzbrojonej formacji mającej stać na straży bezpieczeństwa i porządku publicznego.

Słowa kluczowe: Policja, prawne formy działania