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SAFETY OF PERSONS PROTECTED BY THE GOVERNMENT PROTECTION BUREAU

Introduction

The state as a large and complex social organization cannot function normally and perform its functions without efficient administration and management, under the responsibility of the people holding public authority. Among them, a special role is played by persons holding the highest positions in the country, who are its symbol and personification. Hence, it is neither a coincidence nor a privilege to provide them with increased protection. In Polish conditions, it is also historically justified. On 16 December 1922 at “Zachęta” Gallery of Art in Warsaw at the opening of the Annual Exhibition of the Society of Fine Arts, Polish painter and art critic Eligiusz Niewiadomski assassinated the first President of the Second Polish Republic – Gabriel Narutowicz. The event shocked the public and has become the direct cause of the establishment of a protective formation whose task was to ensure the safety of the President of the Republic of Poland. On 12 June 1924, the Minister for Internal Affairs – Zygmunt Hübner established the Protective Brigade, whose task was to ensure the safety of the person of the President of the Republic of Poland. Currently, these tasks are performed by the Government Protection Bureau, acting on the basis of the Act of 16 March 2001 on the Government Protection Bureau (hereinafter: uGPB).

At each stage of the historical development of the state, people holding top positions in the state have always been, and still are, the objects of potential threat. In view of the role they play both at the international level, as entities representing the state as well as nationally as entities ensuring security and public order, an attack directed against these persons has a special meaning. People in authority not only occupy particular positions, but they also embody the authority of the state. An attempt on such a person is symbolic by nature and has a definite psychological effect with a strong influence on the public opinion. Indeed, if a person has become the subject of an attack, who holds the highest position within the organization of the state, who actually governs it, and

yet they have not been able to guarantee their own personal safety, becoming the subject of the attack, it means that the state is not capable of fulfilling its basic functions. Each attack exposes the weakness of the state, at the same time resulting in uncertainty, fear and insecurity, it undermines the authority of the organs of government and trust in state institutions.

There appears a belief that if the state is not able to provide security for those who exercise the leading roles in it, it is even less likely to provide it for ordinary citizens, who have to take care of themselves. This in turn leads to chaos and generates further hazards. In such a situation, the state is associated with helplessness and loses its credibility in the eyes of its citizens. In this way, the protection of those in the highest positions in the country is connected with ensuring an undisturbed functioning of the state, which these people embody. Attackers are well aware of the fact that the easiest way to beat an opponent is by depriving them of persons acting as leaders. Hence, such a large role is attached to ensuring their safety and protection. Should such a situation arise, it may in fact cause unpredictable consequences, which always result in a state of heightened tension, which can lead to chaos, instability, helplessness, an escalation of violence and, in extreme cases, even the outbreak of an armed conflict, which the attackers use to achieve their own goals.

Therefore, ensuring the safety and protection of persons occupying the highest positions in the country is one of the primary responsibilities of the state. This task in Poland is the responsibility of all government agencies, in particular, however, of the Government Protection Bureau, which is a homogeneous, uniformed, armed force which, as intended by the legislator, performs tasks related to the protection of persons, facilities and installations. Organizing and maintaining this type of force is the duty of the state to its citizens, who are to be provided with the rights and freedoms of man and citizen, and safety.

The tasks of the Government Protection Bureau

GPB is a non-political unit, yet functioning within the government, carrying out the tasks of the internal affairs department, including, among others, the protection of public safety and order. GPB's activities are supervised by the Minister of Internal Affairs (see: art. 29 of the Act of 4 September 1997 on government administration, con-

solidated text. Dz. U. 2013, pos. 743, as amended). Expenses connected with the operation of GBP are fully covered by the state budget from the office of the Minister of Internal Affairs.

In accordance with article 2 paragraph 1 uGPB, the tasks of GBP are to protect:

- 1) the President of the Republic of Poland, the Marshal of the Sejm, the Speaker of the Senate, the Prime Minister, the Deputy Prime Minister, the Minister of Internal Affairs and the Minister of Foreign Affairs;
- 2) other persons vital for the interest of the state;
- 3) former Presidents of the Republic of Poland under the Act of 30 May 1996 on the remuneration of former Presidents of the Republic of Poland, whereby former Presidents of the Republic of Poland are entitled to protection in the territory of the Republic of Poland according to the principles laid down by the Minister of Internal Affairs;
- 4) the delegations of foreign countries residing on Polish territory;
- 5) Polish diplomatic missions, consular offices and representations at international organizations outside the country;
- 6) facilities and installations of particular importance and ensuring their functioning;
- 7) screening for explosives and radiological substances in the premises of the Sejm and the Senate;
- 8) facilities of the President of the Republic, the Prime Minister, the Minister of Internal Affairs and Minister of Foreign Affairs.

The list of persons subject to statutory protection includes a category of other people who should be protected for the interest of the state. These persons are protected on the basis of a decision by the Minister of Internal Affairs. Decisions of the minister on these issues are always confidential (Lipski, 2008, p. 22).

As intended by the legislator, organs of government administration, local governments state and other organizational units are required to provide GBP with conditions essential to perform such defined duties. GBP, to the extent necessary to carry out its duties, uses the help and information obtained in particular by: the Police, the Internal Security Agency, the Intelligence Agency, the Coast Guard, the Military Counterintelligence Service, the Military Intelligence Service and the Military Police.

Pursuant to the provisions of article 11 uGPB, in order to protect persons, facilities and installations referred to in article 2 paragraph 1, GBP in particular:

- 1) plans to safeguard persons, facilities and installations;

- 2) recognizes and analyzes potential hazards;
- 3) prevents threats;
- 4) coordinates the implementation of protective measures;
- 5) provides directs protection;
- 6) protects facilities and installations;
- 7) improves its working methods.

The list of these activities is open. Activities related to the protection of persons, facilities and installations have been clarified in subsequent provisions of the Act and normative acts issued pursuant thereto. In terms of its tasks, GPB also performs administrative and law enforcement activities and takes preventive measures aimed at:

- 1) preventing the commission of offences against protected persons;
- 2) the disclosure of people and events and the identification of places and events that may be associated with a risk to protected persons, facilities and installations;
- 3) cooperation with the Police, the Internal Security Agency, the Intelligence Agency, the Military Counterintelligence Service, the Military Intelligence Service, the Military Police, the Border Guard and the State Fire Service in obtaining information about risks to people or facilities and installations to be protected;
- 4) remaining in contact with persons who could provide assistance.

The activities in question are carried out by:

- 1) collecting and processing information (including personal information) that may affect the implementation of statutory tasks,
- 2) planning and systematically checking facilities and installations to be protected,
- 3) using information and data stored in the collection of criminal records and archival collections, to eliminate potential threats to protected people, facilities and installations.

These activities are preventive by nature, which means that their primary purpose is to prevent the occurrence of danger to persons, premises or facilities. It follows that GPB tasks are purely preventive by nature, purely practical – to ensure the protection of people, facilities and installations. GPB is not a judicial body and therefore does not have the right to perform investigations.

Powers of the officers of the Government Protection Bureau

GPB's tasks are performed by GPB's officers, who form a protective barrier, a natural obstacle between the potential attacker and the person being protected. Therefore, that

GPB's officers take on ourselves the attacks directed against persons which they protected, we can call them a "living shield" which should be at the appropriate time between the source of the threat and the protected person (Kaczyński, 2013, p. 330).

In connection with the execution of the tasks assigned to GPB, its officers, according to article 13 paragraph 1uGPB have the right to:

- 1) give orders to persons whose behaviour may pose a threat to the safety of persons, facilities and installations protected by the GPB, in particular, to give instructions: a) that a person leave the place where their presence can pose a threat to a given task, b) stop vehicles, c) remove vehicles from their parking places;
- 2) check the identity of a person;
- 3) detain people obviously posing a direct threat to human life or health and to property, as well as those who grossly violate public order;
- 4) perform body searches, as well as checking the content of luggage and checking loads and premises, in situations where it is necessary to ensure the safety of protected people, facilities and installations;
- 5) request necessary assistance from state institutions, government agencies and local government and business entities operating in the field of general interest; these institutions and entities are obliged, within the scope of their activities, to provide this assistance;
- 6) seek necessary assistance from other entities and social organizations, as well as requesting that any persons in an emergency provide immediate assistance.

GPB in the exercise of its statutory tasks in particularly justified cases can be assisted by persons other than its officers, whose personal details are kept confidential. Details of persons assisting GPB may be disclosed only at the request of the prosecutor, and only in the case of a justified suspicion that such persons have committed an indictable offence connected with such preventive measures. The disclosure of personal details occurs in the manner specified in article 9 paragraph 2 of the Act of 21 June 1996 on some powers of the personnel serving the Minister of Internal Affairs and officers and employees of offices supervised by the minister. Persons who are not GPB officers can be granted a one-time remuneration for their assistance, paid from the funds available to GPB.

In connection with the execution of GPB's tasks, a GPB officer may use and apply means of physical coercion and firearms in cases and on the basis of principles set out in the Act of 24 May 2013 on means of physical coercion and firearms (the Act of 24

May 2013 on means of physical coercion and firearms, Dz. U. 2013, pos. 628, hereinafter: pcfa).

Pursuant to the provisions of article 11 of the said act, when it is necessary to take at least one of the following actions:

- 1) enforce behaviour required by law in accordance with the command issued by an authorized person;
- 2) ward off a direct unlawful attack on the life, health or freedom of the protected or other person;
- 3) prevent actions leading directly to an attack on the life, health or freedom of protected or other persons;
- 4) prevent violation of order or public security;
- 5) prevent a direct attack against protected areas, premises or facilities;
- 6) enforce law or the safety of protected areas or premises;
- 7) protect a convoy or forced appearance;
- 8) arrest a person, to thwart the escape or pursuit of that person;
- 9) detain a person, to thwart the escape or pursuit of that person;
- 10) overcome passive resistance;
- 11) overcome active resistance, a GBP officer can use or take advantage of the following types of coercive measures:
 - a) physical force in the following forms: transport, defence, attack, incapacitating;
 - b) handcuffs;
 - c) an incapacitating net;
 - d) a truncheon;
 - e) a service dog;
 - f) non-penetrating bullets;
 - g) chemical restraints in the form of: hand throwers of incapacitating substances, tear gas grenades, other devices intended to expel incapacitating agents;
 - h) articles intended to incapacitate persons by means of electricity;
 - i) road spikes and other measures to stop and immobilize vehicles;
 - j) official vehicles.

In justified cases, because of the risk that comes with it, GPB officers are allowed to use or application of firearms. Such cases are set out exhaustively in article 45 pcfa

(regarding the use of firearms) and article 47 pcfa (concerning the application of firearms).

In accordance with provisions of article 45 pcfa, firearms can be used if at least one of the following applies:

- 1) the need to ward off a direct unlawful attack on:
 - a) the life, health or freedom of the protected person or any other person or the need to prevent actions leading directly to such an assault,
 - b) vital facilities, installations or areas, or the need to prevent actions leading directly to such an attack,
 - c) property which poses a direct threat to the life, health or freedom of the protected person, or any other person, or the need to prevent actions leading directly to such an attack,
 - d) ensure the security of convoy and forced appearance;
- 2) the need to oppose a person:
 - a) disobeying a call for an immediate abandonment of weapons, explosives or other dangerous objects, the use of which may endanger the life, limb or liberty of the protected or other person,
 - b) who is trying to take firearms illegally from the protected person or another person entitled to possess the said firearms;
- 3) direct pursuit of the person against whom the use of firearms is permitted in cases listed above.

Pursuant to art. 47 pcfa firearms can be application if it is needed to take at least one of the following actions:

- 1) to stop a vehicle if its movement endangers the life or health of the protected person or any other person or which poses a threat to vital facilities, installations or areas;
- 2) to overcome obstacles preventing or impeding the detention of a person or saving the life or health of the protected person, other person or property;
- 3) to raise alarm or call for help;
- 4) to dispose of an animal whose behaviour directly threatens the life or health of the protected person or any other person;
- 5) to fire a warning shot.

Firearms should be used as a last resort, when in the circumstances of a particular case, there is no possibility to complete the task using or applying other, less dangerous coercive measures. It should be born in mind that firearms may be used or applied as

necessary to achieve the objectives of the use or application, proportionate to the degree of threat, causing the least possible damage.

In the course of performing their duties, a GPB officer is obliged to respect human dignity and to respect and protect human rights in a way that in the least possible way violates personal rights of a person against whom they are used. It is incomprehensible why the duty of a GPB officer is limited only to respect the dignity of a person, while the provisions of the Constitution clearly show that the duty of public authorities, and thus also of GPB, is not only to respect but also to protect it, and thus not only to refrain from any actions that may undermine dignity, but also to counteract all actions that threaten or violate it. Accepting this would mean the release of GPB officers from obligations under the Constitution, which is a legislative act of the highest legal force, which is not rationally justified.

Ensuring the protection of persons holding senior positions in the State must take into account the broader context of their public activity. Therefore, GPB officers are also required to have the ability to adjust their behaviour in different official situations, which they often have to deal with while performing their tasks. It is true that an officer performing a task does not take part in the ceremony, regardless of its nature, which means that they do not have to follow its particular rules, but at the same time they are not to hinder its progress in any way (Zeidler, 2008, p. 322). A GPB officer's clothes be appropriate to the nature of the ceremony and the dress code of the protected person and the environment in which protective tasks are performed.

The organizational structure of the Government Protection Bureau

GPB performs tasks within the category of government undertakings, which include ensuring and protecting public safety and order and thus state security. This is confirmed by the organizational structure of the GPB, which is based on the principle of hierarchical subordination and absolute obedience. The GPB is headed by the Head of GPB, who is the superior of GPB and the personnel serving GPB. The Head of GPB is appointed and dismissed by the Prime Minister at the request of the Minister of Internal Affairs, to whom they are also subordinate. The Minister of Internal Affairs also determines, by means of a regulation, the detailed organizational structure of GPB. Due to the nature of its activities and the effectiveness of their implementation, the organizational structure of GPB is kept in strict confidentiality and protected as classified information.

In accordance with article 7 uGPB, the Head of GPB administrates GPB and ensures efficient and effective performance of its duties, in particular by:

- 1) organizing protection;
- 2) conducting personnel policy;
- 3) defining and implementing training program of employees, as well as providing them with the right conditions and procedures for training;
- 4) cooperating with central government bodies subordinate to the Minister of Internal Affairs, organizational units subordinate to and supervised by the Minister of Internal Affairs and the Minister of Defense and other government agencies and local governments in the tasks performed by GPB and these authorities.

Therefore, the said article forms the basis for issuing internal management acts which contain legal standards applying only to officers and employees of GPB, generally in the form of orders, instructions, guidelines, regulations (Lipski, 2008, p. 32).

Conclusion

The protection of persons holding top positions in the country is a prerequisite for the security of each state, which cannot function without a properly organized apparatus of power, without structures responsible for the implementation of its core tasks. It should be emphasized that the persons holding top positions in the country, in order to properly carry out their duties, must be free from any fears about the safety of their and their families. Threat to the safety of the family determines the behaviour of persons who are protected. Therefore, although in different range, it is appropriate the protection of the family members of the protected person. Persons holding public authority must take into account in their lives also inconvenience associated with the permanent presence GPB's officers (Kaczyński, 2013, p. 332), and this situations has a much deeper meaning, only indicated in the introduction of this article. The effectiveness of GPB in the performance of its statutory duties towards persons under protection strengthens the authority of the state and its organs, both at the domestic and international levels, determines the prestige of the state, the way it is perceived and the assessment of the level of its credibility.

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Safety of persons protected by the Government Protection Bureau

Abstract

The state is the organizational structure, which unites the whole nation by providing optimal conditions for the functioning and development. One of the conditions for the basic functions of the state is efficient administration headed by a person with the role of management. They not only hold the highest position, but also represent the

authority of the state. For this reason, they need special protection. Each attack undermines the authority of the administration and trust in the state institutions. For the protection of persons performing managerial functions in the state corresponds to the Government Protection Bureau that providing them protection at the same time protect the state.

Keywords: *security and public order, tasks of the state, VIP, the Government Protection Bureau*