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## **Securing conferences, events, ceremonies and other events, including in the context of terrorist threats. A statutory perspective**

### **Abstract**

In the current legal status, during the organisation in Poland of conferences, events, ceremonies or other events, significant due to their scale or rank, especially those of international character, security activities are carried out on the basis of general provisions - primarily pragmatic acts of services and other institutions carrying out these activities or episodic acts. Polish legislation, however, has not introduced regulations permanently defining detailed principles of conduct and the subject and object scope of responsibility for the preparation and security of such events, unless they are qualified as mass events. This article is an attempt to provide a comprehensive overview of the specific legal instruments used in the case of securing this type of events. Based on the analysis carried out, *de lege ferenda* conclusions have been formulated, including the introduction of a new legal institution permanently into the Polish legal order, referred to for the purposes of this article as a 'special event'. As a result of granting a given event or celebration the status of a special event, it would be possible to apply legal instruments hitherto found only in episodic acts, but which are of significant importance from the perspective of ensuring a security standard adequate to the threat.

### **Keywords:**

terrorist threats, events, conferences, celebrations, special event, mass event, security, episodic laws

For many years, Poland has been the venue for numerous conferences, events, ceremonies and other cultural, sporting, religious and political events, significant in regional terms (such as the 2017 Summit of the Three Seas Initiative), European terms (such as events related to the Polish Presidency of the Council of the European Union in the second half of 2011 or the co-organisation of the final tournament of the UEFA EURO 2012 European Football Championship), and global terms (such as the XXVII meeting of the leaders of the North Atlantic Alliance member states in 2016, World Youth Day in 2016, the Ministerial Conference on Peacebuilding and Security in the Middle East in 2019, the three United Nations Climate Conferences, the UNESCO World Heritage Committee Office meeting and the 41st session of the World Heritage Committee in 2017, the 2021 Internet Governance Forum or the Eleventh Session of the World Urban Forum). The aforementioned events are not exhaustive of all those whose significance should be considered from the perspective of the aforementioned - cultural, sporting, religious or political - nature of the event, but they all share a common denominator, which is the social and above-standard manner in which they are organised, including security at the level of both typical security and public order threats and anti-terrorist security.

The organisation of high-ranking international mass events (sporting, religious, political) on the territory of our country is a great distinction, but also a challenge. The credit of trust they receive requires their organisers to take care of every detail, even the smallest ones. One of the most important issues is to ensure safety, and to do so in such a way that the measures taken are as little inconvenient as possible for the participants<sup>1</sup>.

The above-mentioned supra-standard character of security should be understood as the requirement to apply specific statutory instruments going beyond the framework of typical security and public order activities and dependent on the occurrence of a specific type of premises (e.g. the use of the Armed Forces of the Republic of Poland to assist the Police or the introduction of an alert level in the event of an increase

<sup>1</sup> J. Struniawski, *Planowanie operacji policyjnych z wykorzystaniem komponentu antyterrorystycznego* (Eng. Planning police operations with an anti-terrorist component), in: W. Zubrzycki, K. Jałoszyński, A. Babiński, *Polska ustawa antyterrorystyczna – odpowiedź na zagrożenia współczesnym terroryzmem*, Szczytno 2016, p. 484.

in the terrorist threat). In the case of these events, the application of the typical solutions set out in the *Act of 20 March 2009 on security of mass events* or the *Act of 20 June 1997 - Traffic Law* (in relation to events that cause traffic obstructions or require the use of the road in a special manner) is impossible due to the nature of the event or is insufficient for its security and requires additional measures. In this context, it should be noted that according to Art. 3(1), (2) and (3) of the Law on the security of mass events, a “mass event” should be understood to mean a mass artistic and entertainment event that meets certain statutory criteria (i.e. an event of an artistic entertainment or organised public viewing of television broadcasts on screens or devices enabling the acquisition of images with a diagonal of more than 3 m) and a mass sports event (a mass event aimed at sports competition or popularisation of physical culture) - which means that in a significant number of cases the very nature of the events discussed in this article does not allow them to be qualified as a mass event.

The specific nature of some of these types of events necessitated the adoption of comprehensive and permanent legal solutions relevant from a security perspective. More often than not, however, episodic legislation was introduced against them, so that the solutions applied took on a temporary character.

The pace of the legislative process related to the preparation of the Act on anti-terrorist activities<sup>2</sup>, as well as the date on which the Act entered into force, (...) were related to the desire of the drafter, in this case the Council of Ministers, to introduce new solutions before specific events held in Poland in 2016: the NATO summit in Warsaw and the 31st World Youth Day in Kraków. These events, which were particularly difficult in terms of guaranteeing the necessary security measures, were not only organised on the basis of specific and episodic legislation, but also required specific solutions of a systemic nature. The aforementioned events therefore became a catalyst for the implementation of a comprehensive reorganisation of legal solutions with regard to the Polish anti-terrorist system<sup>3</sup>.

<sup>2</sup> *Act of 10 June 2016 on anti-terrorist activities.*

<sup>3</sup> M. Cichomski, I. Idzikowska-Słężak, *Stopnie alarmowe – praktyczny i prawny wymiar ich stosowania* (Eng. Alert levels - practical and legal dimensions of their use), “Terroryzm – studia, analizy, prewencja” 2022, no. 2, pp. 58–59.

The subject of this study is to balance the typical legal instruments used to secure such events. The analysis was made on the basis of selected conferences, events, ceremonies and other significant events (these terms for editorial reasons are used together or interchangeably throughout the text in the same sense) of international dimension and organised in Poland. This juxtaposition serves to verify the research hypothesis according to which, if the same specific security measures are used to secure conferences, events, ceremonies and other events of a cultural, sporting, religious or political nature organised or co-organised by state bodies, and some of these measures are adopted in the form of episodic laws, then recurring measures may be permanently introduced into national legislation. Positive verification of this research hypothesis will form the basis for *de lege ferenda* proposals at the level of national legislation. The assumed comparison will be made from the perspective of statutory solutions, including episodic laws used to ensure the security of this type of events; therefore, it will remain beyond the scope of this article to analyse detailed security plans prepared by voivodes or designated services, and in some cases also by ministries and international organisations that are the organiser of events held in Poland on the basis of relevant agreements. In the selection of events subjected to the analysis, the year 2016 was adopted as the caesura, or more precisely: the date after the entry into force of the Act on anti-terrorist activities (10 June), which means that it was of fundamental importance for the shaping of Poland's current anti-terrorist system. On the basis of the legal instruments specified in this Act, anti-terrorist security measures are carried out for all events taking place in Poland.

**Legal measures to be taken on the basis of general and episodic legislation (special laws) for special conferences, events, ceremonies and other events to be held in Poland between 2016 and 2022<sup>4</sup>**

Between 2016 and 2022, Poland hosted numerous events of an international nature, which, due to the scale or rank of the participants, required not

<sup>4</sup> The chapter was prepared in cooperation with Ms Aneta Suda, in charge of matters related to the coordination of activities within the Ministry of the Interior and Administration in connection with the organisation in Poland of events and conferences requiring special forms of security.

only additional involvement of the services responsible for security and public order, but also the introduction of additional legal solutions aimed at temporarily increasing the level of security. A brief characterisation of these events is presented below, so that it will be possible to analyse the decisions made concerning the selection of security measures for them.

#### Characteristics of selected conferences, events, celebrations and other events

The first such event was the **XXVII meeting of the leaders of the North Atlantic Alliance member states, hereafter referred to as the NATO Summit**, which took place on **8-9 July 2016 in Warsaw**<sup>5</sup>. The main venue was the National Stadium in Warsaw, but many meetings, including bilateral ones, were also held in other locations.

This was the first time an event of this kind was held in Poland and, due to the nature and prominence of the participants, it was an unprecedented challenge in terms of ensuring security. Members of the Polish delegation assessed the event as follows: *The NATO summit in Warsaw, (...) was groundbreaking. The decisions made at it were an appropriate response to the fundamental change in the security conditions in the Alliance's immediate vicinity, including especially on its eastern flank, where Russia's aggressive policy has become a real threat to the security and stability of NATO member states*<sup>6</sup>.

Numerous high-level delegations representing Member States, Partner States and international organisations, the European Union and the United Nations attended. According to the then Government Protection Bureau, responsible for ensuring the security of the most important delegates, the Summit was attended by 17 foreign presidents, 20 prime ministers, 2 deputy prime ministers and 36 foreign ministers<sup>7</sup>.

A few days after the end of the NATO Summit, Poland once again hosted a global celebration. From **26-31 July 2016, World Youth Day**, presided over by Pope Francis, took place **in Kraków**. This was not only a momentous

<sup>5</sup> All distinctions in the text are from the author (editor's note).

<sup>6</sup> P. Soloch, P. Pietrzak, *Szczyt NATO w Warszawie: uwarunkowania, rezultaty, wnioski dla Polski* (Eng. NATO Warsaw Summit: conditions, outcomes, lessons for Poland), "Bezpieczeństwo Narodowe" 2016, no. 37-40, p. 13.

<sup>7</sup> *Działania Biura Ochrony Rządu w kontekście zabezpieczenia Szczytu NATO i ŚDM* (Eng. Activities of the Government Protection Bureau in the context of securing the NATO Summit and the WYD), "Kwartalnik Polityczny" 2016, no. 4, <https://kwartalnik.csp.edu.pl/kp/archiwum-1/2016/nr-42016/3312,Dzialania-Biura-Ochrony-Rzadu-w-kontekscie-zabezpieczenia-Szczytu-NATO-i-SDM.html> [accessed: 1 X 2022].

religious event, but, due to its scale, also a significant challenge for the Polish state and its services responsible for security and public order. World Youth Day was attended primarily by young people from all over the world, and so (...) *it was poles apart from the (...) Warsaw NATO Summit (both in the nature of security and the different distribution of its emphasis). The key task of the Government Protection Bureau (BOR) was to provide security for the special guest, Pope Francis. During the celebrations, protective activities were also carried out with regard to three foreign delegations and representatives of the highest state authorities of the Republic of Poland*<sup>8</sup>. The scale and, above all, the nature of this undertaking required the individual services to prepare accordingly, including increasing their forces and resources. As the Government Protection Bureau indicated: *For all services and formations, securing World Youth Day was a real challenge - due to the large number of participants, their anonymity and difficult-to-verify identity, as well as the heavily 'stretched' timeframe of the celebrations (many pilgrims arrived in Poland much earlier). In addition, the specific nature of this type of celebration multiplies the reactions that are not easy to predict and the potential danger, as possible threats increase*<sup>9</sup>.

Another international event organised in Poland was the **41st meeting of the Office of the UNESCO World Heritage Committee and the 41st session of the World Heritage Committee held in Kraków from 2 to 12 July 2017, hereafter referred to as the UNESCO Conference**. As reported by the Ministry of Culture and National Heritage on its website, the more than 10-day-long deliberations were attended by representatives of 21 member states of the UNESCO World Heritage Committee, with delegations from another 170 countries and delegations representing non-governmental organisations present as observers. The Ministry of Culture reported that some 3,000 people attended these events<sup>10</sup>.

The official organiser of this event was the United Nations Educational, Scientific and Cultural Organisation - UNESCO. It was therefore necessary to conclude an appropriate agreement for the occasion, the so-called *Host Country Agreement*<sup>11</sup>, between the Government of the Republic of Poland

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> <http://www.mkidn.gov.pl/pages/posts/41.-sesja-komitetu-swiatowego-dziedzictwa-unesco-w-krakowie-7463.php> [accessed: 1 X 2022].

<sup>11</sup> *Agreement between the Government of the Republic of Poland and the United Nations Educational, Scientific and Cultural Organisation (UNESCO) on the 41st Session of the World Heritage Committee, signed in Paris on 19 April 2017.*

and the international partner. The agreement regulated, among other things, the responsibility of the Polish side for: (...) *ensuring security and covering related costs, such as police and security protection needed for the smooth running of all meetings taking place before the commencement of the session, as well as during the 41st session of the World Heritage Committee, and all other meetings accompanying the event, so that they can proceed in a peaceful and friendly atmosphere without any disruptions*<sup>12</sup>. The document did not envisage the organisation of a so-called extraterritorial zone, in which the responsibility for ensuring security and public order on the part of the services and institutions would be excluded or at least limited.

Independently of the UNESCO conference taking place in Kraków, Poland simultaneously hosted the participants of the **2nd Summit of the Three Seas Initiative**, which took place on **6-7 July 2017 in Warsaw**. According to the Ministry of Foreign Affairs, the summit gathering 12 leaders of Central and Eastern European countries was co-hosted by the Presidents of Poland and Croatia, with the President of the United States of America as a special guest. A side event was the Global Forum providing a platform for the exchange of information between representatives of governments, business, media and major experts in transatlantic affairs and Europe-America relations<sup>13</sup>.

Poland also hosted a climate summit. On **3-15 December 2018**, the **24th Conference of the Parties to the United Nations Framework Convention on Climate Change (COP24) (UNFCCC COP24)**, the **14th session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP14)** and the **resumed first session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA1.3)**, generally referred to as the **COP24 Conference or Climate Summit**, took place in **Katowice**. Such events are held annually in a country designated by the Parties to the Climate Convention. In 2018, Poland was the host for the third time<sup>14</sup>, however - from the point of view of securing this event - for the first time in a new legal version, i.e. after the implementation of systemic solutions for anti-terrorist activities into Polish legislation.

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<sup>12</sup> Ibid., p. 3.

<sup>13</sup> <https://www.gov.pl/web/dyplomacja/trojmorze> [accessed: 1 X 2022].

<sup>14</sup> Previous COP conferences organised in Poland were held in 2008 in Poznan and in 2013 in Warsaw.

The 2018 Climate Summit was momentous in terms of its purpose. The assumption was that during the sessions planned in Poland, a package of important decisions on climate policy would be reached. According to the Ministry of the Environment's website, approximately 26,000 people from all over the world - representatives of states and international institutions, NGOs and business - came to Katowice for the duration of the Summit<sup>15</sup>. In addition to the official sessions, the Summit also included a number of additional meetings, known as pre-sessions, and side events which, although not on the official agenda, were equally important in terms of ensuring the safety of their participants.

As a result, individual services, especially the Police, were forced to increase their forces and resources beyond the standard. During the Climate Summit, police officers carried out nearly 400 police escorts, over 1,250 bus transit security measures and nearly 90 pyrotechnic checks. According to the Police, the COP24 Conference (...) *was, next to the World Youth Day and the NATO Summit in Warsaw, the biggest challenge for the services in recent years*<sup>16</sup>.

Prior to the start of the conference, the services conducted a number of exercises, including staff drills, to ensure smooth cooperation and information flow both within their formation and between all the formations involved. The services were responsible for the proper security of the event in terms of staffing, anti-terrorism, logistics, information technology and road safety<sup>17</sup>.

The Climate Summit was organised by the Secretariat of the United Nations Framework Convention on Climate Change, the Kyoto Protocol and the Paris Agreement. Consequently, in order to organise the event, it was necessary to conclude an appropriate agreement<sup>18</sup> in the nature of an international agreement between the Government of the Republic of Poland, representing the host country, and the aforementioned United

<sup>15</sup> <https://www.gov.pl/web/klimat/szczyt-klimatyczny-w-katowicach-uroczyscie-rozpozczety> [accessed: 1 X 2022].

<sup>16</sup> <https://www.policja.pl/pol/aktualnosci/167686,Policyjne-podsumowanie-zabezpieczenia-COP24.html> [accessed: 1 X 2022].

<sup>17</sup> Ibid.

<sup>18</sup> *Agreement between the Government of the Republic of Poland and the Secretariat of the United Nations Framework Convention on Climate Change, the Kyoto Protocol and the Paris Agreement on the twenty-fourth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, the fourteenth session of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol, the third part of the first session of the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement and the sessions of the subsidiary bodies.*



Nations agency acting as host, i.e. the *Host Country Agreement* already mentioned at the UNESCO conference. The document in question was signed in Warsaw on 31 October 2018. Pursuant to its Article 10, the Government of the Republic of Poland was responsible for ensuring security and safety to the extent that the meetings could be conducted as planned and without any disruption. At the same time, the concluded agreement separated the responsibility for ensuring direct security, establishing a kind of division into zones ‘inside the Conference Facilities’ and ‘outside the Conference Facilities’. The services of the Polish state were responsible for ensuring security and public order outside the ‘zone of the Conference Facilities’ itself, which was thus recognised as extraterritorial due to its exclusion for the duration of the conference from the authority of the Polish authorities. This place during the conference was managed exclusively by UN services. The detailed division of tasks, as well as the cooperation between the UN services and the Polish services were to be specified in an additional agreement. Pursuant to this agreement, both parties undertook to develop a comprehensive protection plan, created on the basis of the UN’s security assessment. The plan was to form the basis for the performance of all security-related tasks in the extraterritorial zone.

In 2019, two further events of an international nature took place in Poland. The first was the **Ministerial Conference on Peacebuilding and Security in the Middle East, held in Warsaw on 13-14 February 2019**. Poland was the host and organiser of this meeting. States from all parts of the world and representatives of international organisations, including NATO and the European Union, were invited to participate. The main conference venues were the Royal Castle, where the conference’s inauguration ceremony took place on 13 February 2019, and the National Stadium, where the deliberations continued<sup>19</sup>. According to the Ministry of Foreign Affairs, the conference was attended by more than 60 official foreign delegations, a significant number of them of a statutory rank to be protected by the State Protection Service<sup>20</sup>. The conference addressed topics that were both crucial and sensitive to the stability of the Middle East, including terrorism and extremism, missile proliferation, maritime and aviation trade security,

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<sup>19</sup> <https://www.gov.pl/web/dyplomacja/spotkanie-ministerialne-poswiecone-budowaniu-pokoju-i-bezpieczenstwa-na-bliskim-wschodzie-program-medialny> [accessed: 1 X 2022].

<sup>20</sup> <https://www.gov.pl/web/dyplomacja/oswiadczenie-wspolprzewodniczacych-po-spotkaniu-ministerialnym-poswieconym-budowaniu-pokoju-i-bezpieczenstwa-na-bliskim-wschodzie> [accessed: 1 X 2022].

energy security, and cybersecurity, among others. The Chancellery of the President of the Republic of Poland considered the meeting to be (...) *the most important diplomatic event in Warsaw since the NATO summit*<sup>21</sup>.

Another important event organised in 2019 was the **commemoration of the 80th anniversary of the outbreak of World War II**. The main celebrations, hosted by the President of the Republic of Poland, took place in Wieluń and Warsaw on 1 September 2019. Among others, leaders of the North Atlantic Alliance member states, presidents of parliaments and heads of international organisations were invited to attend. The Chancellery of the President of the Republic of Poland reported that around 40 foreign delegations with the rank of heads of state, heads of government, presidents of parliaments, foreign ministers, ministers of national defence, as well as special envoys of royal families from Europe attended the celebrations<sup>22</sup>. The main highlight of the programme was the central celebration at Piłsudski Square at the Tomb of the Unknown Soldier, followed by a meeting at the Royal Castle and a concert at the Grand Theatre. The event was also an opportunity to hold numerous high-level bilateral meetings and more or less formal talks.

In 2020, Poland and the rest of the world were affected by the SARS-CoV-2 virus pandemic, which meant the immediate closure of borders and the reduction of direct contacts between people. Most meetings, including those of an international nature, moved online. Taking into account the rigours of sanitation, Poland managed to organise two important events of an international nature. The first of these was the **Internet Governance Forum 2021 (IGF 2021)**, which took place on **6-10 December 2021 in Katowice**. According to the Chancellery of the Prime Minister responsible for the preparation of the conference, the Forum is an international meeting organised periodically on the initiative of the United Nations, enabling a global discussion on the development of the Internet. It is attended by representatives of various sectors and backgrounds, including government representatives, entrepreneurs, representatives of the world of science and non-governmental organisations<sup>23</sup>. It provides a platform

<sup>21</sup> <https://www.prezydent.pl/kancelaria/aktywnosc-ministrow/konferencja-bliskowschodnia-najwazniejszym-wydarzeniem-w-warszawie-od-czasu-szczytu-nato-,11087> [accessed: 1 X 2022].

<sup>22</sup> <https://www.prezydent.pl/aktualnosci/wydarzenia/obchody-80-rocznicy-wybuchu-ii-wojny-swiatowej,1480> [accessed: 1 X 2022].

<sup>23</sup> <https://www.gov.pl/web/republikakorei/xvi-swiatowy-szczyt-cyfrowy-onz--forum-zarzadzania-internetem-w-katowicach-igf-2021> [accessed: 1 X 2022].

for discussing the opportunities and challenges posed by the Internet, which, in the age of pandemics, has gained added value in human contact and ways of communicating information.

Due to the prevailing epidemic, the conference was held in a hybrid format, i.e. with the possibility to participate onsite and remotely via electronic means of communication. Several thousand participants were willing to take part in the event in question, but it was essentially remote participation. The Forum was attended by some 30 ministers responsible for digital issues, representatives of the European Commission, the World Bank, the European Bank for Reconstruction and Development, NGOs and business. The event was organised by the United Nations, represented by the UN Department of Economic and Social Affairs. A *Host Country Agreement* was concluded between the organiser and the Government of the Republic of Poland<sup>24</sup>, under which the principles of cooperation and division of responsibilities related to the organisation of the event were defined. On the same basis as during the Climate Summit, a division was introduced into a zone 'inside the Meeting Venue' under the authority of UN services for the duration of the conference, and 'outside the Meeting Venue', where responsibility for ensuring security and public order rested with the services of the host country. The detailed division of tasks and the principles of cooperation in this regard were the subject of a separate agreement, an annex to which was the security plan developed by the UN in consultation with the Government of Poland and on the basis of the organiser's assessment of the security of the conference venue.

Another international event organised by the United Nations, the **Eleventh Session of the World Urban Forum 11 (WUF11)**, took place in Katowice, on 26-30 June 2022. The World Urban Forum, considered one of the most important events in the world, is dedicated to urban development. It is held biennially under the chairmanship of the United Nations Human Settlements Programme (UN Habitat), an agency of the United Nations, and brings together representatives of government and local authorities, academia, intergovernmental and non-governmental organisations, as well as entrepreneurs and urban planning experts. The session held in Poland was at the same time the first one organised in Central and Eastern Europe. According to the Ministry of Funds and Regional Policy, the conference

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<sup>24</sup> *Resolution of the Council of Ministers on binding the Republic of Poland to the Host Country Agreement between the Government of the Republic of Poland and the United Nations on the organisation of the Internet Governance Forum 2021, by signing (unpublished).*

was directly attended by more than 10,000 people from 174 countries, and more than 6,000 participated in a remote format.

The organiser of the event was again an agenda of the United Nations, so it was necessary to conclude an international agreement (*Host Country Agreement*), which defined the division of responsibilities and the principles of cooperation. In this case, however, it was decided to conclude two agreements: the Host Country Agreement between the Government of the Republic of Poland and the United Nations concerning the Eleventh Session of the World Urban Forum in 2022 in Katowice<sup>25</sup> and the Agreement between the Government of the Republic of Poland and the United Nations concerning preparations for the Eleventh Session of the World Urban Forum in 2022 in Katowice<sup>26</sup>.

The first agreement was of a more general nature, while the second agreement contained many annexes and referred primarily to technical and organisational matters. In contrast, the responsibility for ensuring public safety and order was discussed in both documents. In principle, the provisions of both agreements did not deviate from the standards already adopted for the organisation of this type of event.

#### Legal remedies under general law

As indicated at the beginning of the text, the subject of the analysis of this article is the supra-standard legal instruments used to secure special events. For the most part, the provisions on security of mass events will not apply to these events. However, taking into account the fact that security and public order are the responsibility of the services, each within the statutory scope, the leading legal acts in this area will undoubtedly be the competence acts of each of these formations, also called pragmatic acts. Given the vastness of the matter contained therein, a detailed analysis of each of the agreements in terms of their application *in extenso* seems to miss the purpose of this article. Assuming *a priori* their comprehensive applicability, interest was shifted to those provisions that served as instruments of a specific nature. With regard to the securing of the events and activities in question, the pragmatic laws were important in obtaining support from other formations. This area is regulated most extensively in the **Act of 6 April 1990 on the Police**, which is related to the fact that

<sup>25</sup> M.P. of 2022, item 129.

<sup>26</sup> M.P. of 2022, item 131.

the Police remain the leading service in ensuring public safety and order, including during the organisation of all kinds of events.

The use of branches and subdivisions of the Armed Forces of the Republic of Poland may take place on the basis of Article 18 of the Act on the Police (although this is not the only provision regulating the possibility of providing assistance to the Police by the Armed Forces of the Republic of Poland), however, after fulfilling the conditions specified by the Act. The first of these is the existence of a threat to public safety or a disturbance of public order, particularly in statutorily designated situations. However, the construction of this provision gives it considerable flexibility. The catalogue of cases contained in Article 18(1) of the Act on the Police is open, and their enumeration is only exemplary<sup>27</sup>. The second condition for the use of the Armed Forces is the prior use of police squads and subdivisions that have proved insufficient, or a prior assessment has been made that such a situation may arise.

Between 2016 and 2022, Article 18 of the Act on the Police was triggered four times, three of which were related to the organisation of important events and activities in Poland. In 2016. On two occasions, the President of the Republic of Poland issued orders for the use of troops and subdivisions of the Polish Armed Forces to assist the police troops and subdivisions. In the first case - from 6 to 9 July 2016. - the military provided assistance to counter threats related to the organisation of the NATO Summit<sup>28</sup>.

In the second case, police forces were provided with military support from 25 July to 1 August 2016 in connection with World Youth Day and the Pope's visit to Poland<sup>29</sup>. The President of the Republic of Poland issued a similar order back in 2018<sup>30</sup>, in which he decided to use troops and

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<sup>27</sup> B. Opaliński, *Rozdzielenie kompetencji władzy wykonawczej między Prezydenta RP oraz Radę Ministrów na tle Konstytucji Rzeczypospolitej Polskiej z 1997 roku* (Eng. Division of executive powers between the President of the Republic of Poland and the Council of Ministers against the background of the 1997 Constitution of the Republic of Poland), Lex 2012.

<sup>28</sup> *Order of the President of the Republic of Poland of 5 July 2016 on the use of branches and subdivisions of the Armed Forces of the Republic of Poland to provide assistance to branches and subdivisions of the Police* (M.P. of 2016, item 623).

<sup>29</sup> *Order of the President of the Republic of Poland of 7 July 2016 on the use of branches and subdivisions of the Armed Forces of the Republic of Poland to provide assistance to branches and subdivisions of the Police* (M.P. of 2016, item 626).

<sup>30</sup> *Order of the President of the Republic of Poland of 28 November 2018 on the use of branches and subdivisions of the Armed Forces of the Republic of Poland to provide assistance to branches and subdivisions of the Police* (M.P. of 2018, item 1167).

subdivisions of the Armed Forces from 3 to 14 December 2018 to assist police troops and subdivisions in countering threats related to the Climate Summit being held in Katowice.

The Act on the Police separately regulates the provision of assistance to the Police by soldiers of the Military Police. Pursuant to Article 18a(1) of this Act, support may be provided in the event of a threat to public safety and order if the Police forces are insufficient or may prove insufficient to perform their tasks in protecting public safety and order. Between 2016 and 2022, the Prime Minister issued the relevant Orders on four occasions. The first of these was *Order No. 98 of the Prime Minister of 21 July 2016 on the use of soldiers of the Military Police to provide assistance to the Police*, under which, in connection with World Youth Day, which was organised between 24 July and 1 August 2016, soldiers of the Military Police provided assistance to the Police in protecting public security and order. Another was *Order No. 51 of the Prime Minister of 29 June 2017 on the use of soldiers of the Military Police to provide assistance to the Police*. It was in force from 2 to 12 July 2017, and the need for military support arose from the UNESCO conference being organised in Kraków at the time. Soldiers of the Military Police, on the basis of *Order No. 211 of the Prime Minister of 20 November 2018 on the use of soldiers of the Military Police to provide assistance to the Police*, also assisted branches and subdivisions of the Police during the 2018 Climate Summit (from 30 November to 16 December 2018) and - pursuant to *Order No. 143 of the Prime Minister of 28 August 2019 on the use of soldiers of the Military Police to provide assistance to the Police* - also during the solemn celebrations of the 80th anniversary of the outbreak of World War II in 2019 (1 and 2 September 2019).

The Act on the Police also provides for the possibility of providing support to this formation by the forces of the Border Guard. This is provided for in Article 18b of the Act in question. A relevant order in this matter is issued by the minister in charge of internal affairs. However, this measure, although used in the past, was not applied during the analysed events.

In addition to the Act on the Police, analogous provisions enabling the deployment of forces of other formations are found in the pragmatic acts of the State Protection Service and the Border Guard. In the **Act of 8 December 2017 on the State Protection Service**, Article 38 contains a provision on the support mechanism in the event of a threat to the implementation of the protective tasks of this service in relation to heads of state, heads of government or their deputies, presidents of parliaments or ministers of foreign affairs, being part of foreign delegations residing

on the territory of the Republic of Poland, or in relation to other persons to whom the protection of the State Protection Service has been granted by the minister in charge of internal affairs due to the good of the state. If for the performance of the aforementioned tasks the forces of this formation are or may turn out to be insufficient, the Prime Minister, on the motion of the minister in charge of internal affairs agreed with the minister of national defence, may order the use of soldiers of the Military Police, in turn the minister in charge of internal affairs may order the use of officers of the Police or the Border Guard.

So far, the assistance of the Military Police to the State Protection Service (SOP) has proved necessary only twice - from 2 to 6 December 2018 in connection with the then ongoing Climate Summit<sup>31</sup> and from 30 August to 2 September 2019 during the preparations for and celebrations of the 80th anniversary of the outbreak of World War II in 2019<sup>32</sup>. In contrast, the use of Border Guard officers to assist the SOP occurred much more frequently and was always linked to important events taking place in Poland with the participation of high-ranking delegations. In 2018, the Minister of Internal Affairs and Administration ordered such support from 21 May to 10 December 2018<sup>33</sup>. This was linked to the events organised in 2018. This included not only the Climate Summit, but also the earlier meeting of the Presidents within the framework of the Bucharest Nine (B9) and the celebration of the 550th anniversary of the Polish Sejm. The Border Guard also provided support to the SOP during the Ministerial Conference on Peacebuilding and Security in the Middle East organised in Warsaw in 2019<sup>34</sup> and the celebrations of the 80th anniversary of the outbreak of World War II taking place in the same year<sup>35</sup>. In the latter case, the Minister of the Interior and Administration also ordered the support of the SOP with police forces. The Border Guard provided assistance to SOP officers

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<sup>31</sup> Order No. 220 of the Prime Minister of 29 November 2018 on the use of soldiers of the Military Police to provide assistance to the State Protection Service.

<sup>32</sup> Order No. 142 of the Prime Minister of 28 August 2019 on the use of soldiers of the Military Police to provide assistance to the State Protection Service.

<sup>33</sup> Order No. 20 of the Minister of Internal Affairs and Administration of 21 May 2018 on the use of Border Guard officers to provide assistance to the State Protection Service.

<sup>34</sup> Order No. 4 of the Minister of Internal Affairs and Administration of 7 February 2019 on the use of Border Guard officers to provide assistance to the State Protection Service.

<sup>35</sup> Order No. 17 of the Minister of Internal Affairs and Administration of 23 August 2019 on the use of Police and Border Guard officers to provide assistance to the State Protection Service.



on two more occasions - in 2019 in connection with the Western Balkans Summit organised in Poznań and in 2020 during the commemoration of the 75th anniversary of the liberation of the German Nazi concentration and extermination camp Auschwitz-Birkenau.

Although the **Act of 12 October 1990 on the Border Guard** also provides for the possibility of using military support mechanisms analogous to the Act on the Police, they have not yet been applied during special events or events organised in Poland. It is worth noting, however, that Articles 11b and 11d of the Act on the Border Guard provide for the possibility of using the Armed Forces of the Republic of Poland and soldiers of the Military Police to assist this formation, respectively, and the mechanisms established in this respect have been.

In addition to pragmatic laws, equally important in terms of ensuring the security of the events described are the provisions of the Act on anti-terrorist activities. Due to the division of responsibility indicated in Article 3 of this Act<sup>36</sup>, the solutions adopted therein primarily expose the role of the Head of the Internal Security Agency and the minister responsible for internal affairs, as well as the Police subordinate to him, responsible for directing anti-terrorist actions, including counter-terrorist actions. However, as the subject of the analysis of this article is the legal measures adopted for special events and developments in the context of the Act on anti-terrorist activities, it is necessary to draw attention primarily to those solutions which relate to this.

The legal instrument implemented by the Act on anti-terrorist activities are the orders of the Prime Minister on the introduction of alert levels issued pursuant to Article 16(1) of the Act in question<sup>37</sup>. Alert levels, including CRP alert levels, were repeatedly introduced in connection with the organisation of important events in Poland. Their introduction was preventive in nature and was directly related to the possibility of the occurrence of an event of a terrorist nature or the existence of an increased and foreseeable threat of the occurrence of such an event.

<sup>36</sup> Pursuant to Article 3 of the Act on anti-terrorist activities, the Head of the Internal Security Agency is responsible for the prevention of terrorist incidents, while the Minister responsible for internal affairs is responsible for preparing to take control of terrorist incidents through planned undertakings, responding in the event of the occurrence of such incidents and reconstituting resources for responding to such incidents.

<sup>37</sup> A detailed analysis of this topic is undertaken in the article M. Cichomski, I. Idzikowska-Słęzak, *Stopnie alarmowe – praktyczny i prawny...*, pp. 31–70.



During the NATO Summit, the first ALFA alert level was in force in the Warsaw area from 7 to 10 July 2016, the first ALFA alert level from 20 July to 1 August 2016 and the second CRP (BRAVO-CRP) alert level from 20 July to 1 August 2016, which was related to the World Youth Day organised at that time. The first ALFA alert level was also introduced by the Prime Minister for the duration of the Climate Summit. It was in force from 26 November to 15 December 2018 and applied to the Silesian Voivodeship and the city of Kraków. On the other hand, during the Ministerial Conference on Peacebuilding and Security in the Middle East, alert levels were ordered analogous to those during World Youth Day, i.e. the first ALFA alert level and the second CRP (BRAVO-CRP) alert level. These were only in force in the area of the capital city of Warsaw from 11 to 15 February 2019. Alert levels were also introduced during the celebrations of the 80th anniversary of the outbreak of World War II in 2019 and during the 2021 Internet Governance Forum organised in Katowice. In the former case, a first ALFA alert level and a first CRP alert level (ALFA-CRP) were established nationwide from 28 August to 3 September 2019, and a first CRP alert level (ALFA-CRP) was in place for the so-called digital summit, from 5 to 10 December 2021<sup>38</sup>.

It is also worth mentioning that during the Eleventh Session of the World Urban Forum (Katowice, 2022), due to the geopolitical situation, the previously introduced alert levels were in force throughout the country: the second BRAVO alert level and the third CRP alert level (CHARLIE-CRP)<sup>39</sup>. There was therefore no need to issue additional orders in this regard solely for the occasion of the conference being held.

Another legal act, the solutions of which were applicable in the context of the security measures taken, is the **Act of 12 October 1990 on the Protection of the State Border**. Pursuant to the wording of Article 17a of this Act, the minister in charge of internal affairs, by means of an ordinance, may temporarily reinstate border control of persons crossing a state border that is an internal border within the meaning of *Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on an EU Code on the rules governing the movement of persons across borders (Schengen Borders Code)*. This provision has been applied several times since its establishment, including for special events and activities organised in Poland. Temporary

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<sup>38</sup> <https://www.gov.pl/web/mswia/dotyhczas-wprowadzane-stopnie-alarmowe-i-stopnie-alarmowe-crp-na-terytorium-rp> [accessed: 1 X 2022].

<sup>39</sup> Ibid.

control at all sections of the internal border and at air and sea border crossing points was introduced in connection with the NATO Summit organised in Warsaw in 2016 and the World Youth Day held in Kraków a few days later. Border control at the EU's internal borders was in force from 4 July to 2 August 2016<sup>40</sup>. A similar solution was adopted for the Climate Summit (22 November - 16 December 2018<sup>41</sup>) and the Ministerial Conference on Peacebuilding and Security in the Middle East (10-16 February 2019). In the case of the Climate Summit, the rationale for introducing such a legal measure was to ensure public order and security for the event, the persistently high terrorist threat in Europe, and possible attempts by anti-globalisation groups to disrupt the proceedings<sup>42</sup>. With regard to the so-called Middle East Conference, the temporary reintroduction of border control took place in accordance with the special procedure set out in Article 28 of the Schengen Borders Code, which is implemented in situations requiring immediate action. As the Explanatory Memorandum to the Regulation states: *The temporary reintroduction of border control (...) shall take place (...) in view of information of a classified nature in the possession of the relevant services concerning a possible real and serious threat to public policy or internal security*<sup>43</sup>.

Another solution, which, in order to increase the level of security, has often been applied during organised events and activities, is to impose a temporary ban on carrying weapons and moving them in an unloaded state. In this case, the legal basis is the **Act of 21 May 1999 on arms and ammunition**. Pursuant to Article 33 (1) of this Act, if the interests of state security or public order so require, the minister responsible for internal affairs may introduce, by regulation, a temporary ban on carrying weapons or moving them in an unloaded state.

<sup>40</sup> Ordinance of the Minister of Interior and Administration of 1 June 2016 on the reintroduction of temporary border control of persons crossing the state border constituting an internal border.

<sup>41</sup> Ordinance of the Minister of the Interior and Administration of 18 October 2018 on the temporary reintroduction of border control of persons crossing the state border constituting an internal border.

<sup>42</sup> Explanatory Memorandum to the Draft Regulation of the Minister of Interior and Administration on the temporary reintroduction of border control of persons crossing the state border constituting an internal border, <https://legislacja.rcl.gov.pl/projekt/12315506> [accessed: 1 X 2022].

<sup>43</sup> Explanatory Memorandum to the Draft Regulation of the Minister of Interior and Administration on the temporary reintroduction of border control of persons crossing the state border constituting an internal border, <https://legislacja.rcl.gov.pl/projekt/12320762/katalog/12567618#12567618> [accessed: 1 X 2022].

The ban on carrying weapons was a measure that was introduced during almost all the analysed operations<sup>44</sup>. It was, however, each time limited in time and territory. As a rule, it was valid for several days during the event, as well as immediately before and after its conclusion, exclusively in the area (usually a province or a city) directly related to the event in question.

In the context of the legal measures taken, one should also mention the **Act of 8 August 1996 on the Council of Ministers**, which in Article 5(6) empowers the Prime Minister to delegate, *ex officio* or on application, a matter falling within the competence of more than one minister or head of a central office to be handled by a minister indicated by him/her. Since the events analysed required the involvement of numerous entities and services, often of an above-standard dimension, the designation of a leading entity seems to be of no small importance here, if only to improve the flow of information or the decision-making process itself. Given the indisputable role of the Police in this respect, resulting, moreover, from the tasks ascribed to it by law, the application of the above-mentioned prerogative of the Prime Minister to this formation seems justified from the perspective of providing the necessary ordering mechanism.

Referring to the aforementioned provision of the Act on the Council of Ministers, in connection with Article 3(2) of the Act on anti-terrorist activities, the Prime Minister, when planning the security of an important event, may issue an order to other authorities and their subordinate services to perform their tasks taking into account the leading role - each time indicated by the minister in charge of internal affairs - of the commander of the police operation. The role of the commander sanctioned by such an order streamlines the decision-making process and responds to

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<sup>44</sup> The ban on carrying weapons was in force during the NATO Summit in Warsaw and World Youth Day (*Ordinance of the Minister of the Interior and Administration of 20 May 2016 on the introduction of a temporary ban on carrying weapons and moving them in an unloaded state*), the UNESCO Conference in Kraków and the Summit of the Three Seas Initiative (*Ordinance of the Minister of the Interior and Administration of 28 June 2017 on the introduction of a temporary ban on carrying weapons and moving them in an unloaded state*), the Climate Summit in Katowice (*Ordinance of the Minister of Interior and Administration of 11 October 2018 on the introduction of a temporary ban on carrying weapons and moving them in an unloaded state*), the Ministerial Conference on Peacebuilding and Security in the Middle East in Warsaw (*Ordinance of the Minister of Interior and Administration of 5 February 2019 on the introduction of a temporary ban on carrying weapons and moving them in an unloaded state*) and during the commemoration of the 80th anniversary of the outbreak of World War II in Warsaw (*Ordinance of the Minister of Interior and Administration of 20 August 2019 on the introduction of a temporary ban on carrying weapons and moving them in an unloaded state*).

the challenges faced each time by services and other entities responsible for ensuring security and public order.

The above mechanism was used in connection with securing World Youth Day, the UNESCO Conference, the Climate Summit, the Ministerial Conference on Peacebuilding and Security in the Middle East and the commemoration of the 80th anniversary of the outbreak of the Second World War, among others.

#### Legal remedies specified in specific legislation (episodic laws)

The second subject of the compilation of norms related to the security of special conferences, events and ceremonies is episodic legislation (special laws). Although these types of solutions were not introduced in relation to all analysed events, they are of rudimentary importance both from the perspective of the actual basis for supra-standard activities related to ensuring security of events, and from a purely analytical perspective in terms of formulating possible *de lege ferenda* postulates, described further on in the article. The basic assumptions of the special laws on security are indicated below.

- *Act of 16 March 2016 on special solutions related to the organisation of the 2016 Summit of the North Atlantic Treaty Organisation in the Republic of Poland in Warsaw*, known as the NATO special law.

The NATO special law was developed because of the need to strengthen the security of the participants in the NATO Summit and to maintain proper security conditions afterwards<sup>45</sup>. This was the first law of its kind to be implemented in the period under review and at the same time the narrowest in scope compared to subsequent laws of this type.

In the explanatory memorandum to the NATO special law, the legislator acknowledged that due to the involvement of the Republic of Poland in international relations, while at the same time its geographical location and accessibility, Poland may be a convenient place to prepare and undertake actions - including terrorist actions - directed also against citizens and institutions of other countries<sup>46</sup>.

In view of the increase in the terrorist threat within the European Union, in order to strengthen security during the NATO Summit and immediately

<sup>45</sup> Explanatory Memorandum to the *Government draft Act on special solutions related to the organisation of the North Atlantic Treaty Organisation Summit in the Republic of Poland in Warsaw in 2016*, Draft No. 314, p. 1; <https://www.sejm.gov.pl/Sejm8.nsf/druk.xsp?nr=314> [accessed: 1 X 2022].

<sup>46</sup> Ibid.

after its conclusion, several special solutions of an episodic nature were provided for in the NATO special law. One of them was the creation of a legal basis for the recording by the Government Protection Bureau, with the use of technical means, of images and sound, of events within the framework of the implementation of activities specified in the competence act, i.e. in the then Article 16 and Article 17 of the *Act of 16 March 2001 on the Government Protection Bureau*. Recorded images or sound that did not contain evidence of the commission of a crime or an offence were subject to destruction no later than after 30 days from the date of their recording.

Another solution was the introduction of a temporary ban on participation in spontaneous assemblies referred to in Article 3(2) of the *Act of 24 July 2015 - Law on Assemblies*, i.e. assemblies that take place in connection with an emergency event that occurred and was impossible to predict in advance, related to the public sphere. The ban covered the area of the capital city of Warsaw and was in force from 7 to 10 July 2016, i.e. for the duration of the NATO Summit, and one day before and one day after its conclusion.

At the same time, due to the above-standard commitment of officers and soldiers, the NATO special law introduced a legal basis enabling the extension of the service time of officers of the following formations: Police, the Internal Security Agency, the State Fire Service, the Border Guard, the Government Protection Bureau, as well as professional soldiers, with simultaneous granting them the possibility to pay a lump-sum cash equivalent for serving in excess of the statutorily defined standard time of such service.

On the basis of the general provisions of the time (competence laws), the officers' extended duty hours were compensated by giving them paid time off. Raising the level of security for the duration of the NATO Summit required the services to intensify their activities and thus extend the service hours of their officers. The granting of time off to officers could have resulted in some formations facing staffing inefficiencies after the conference due to the massive withdrawal by officers and soldiers of their due entitlement. The proposal to pay a lump sum cash equivalent contained in the NATO special law was intended to prevent this by reducing the pressure to implement it<sup>47</sup>.

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<sup>47</sup> Ibid., p. 2.

Provisions giving a legal basis for the extension of service time and the payment of cash equivalents to officers and soldiers in this respect also appeared in various versions in later special laws of this kind.<sup>48</sup>

- *Act of 18 March 2016 on special solutions related to the organisation of the visit of His Holiness Pope Francis to the Republic of Poland and World Youth Day - Kraków 2016*, referred to as the WYD special law.

Expecting a very large group of participants in World Youth Day from all over the world, the legislator deemed it necessary to supplement the current legal order with legal solutions that will strengthen the safety of participants in this event, including medical care, ensuring public order and additional support for entities carrying out tasks related to the organisation of the event<sup>49</sup>. The above was reflected in Article 1 of the WYD special law. It defined the scope of the Act and indicated, first of all, the tasks of the public administration bodies that were directly related to the organisation of the Pope's visit and the World Youth Day. These related primarily to ensuring public safety and order and medical security. Subsequently, the WYD special law defined the principles of covering the costs of these additional tasks, as well as the principles of cooperation between all entities involved in the preparation of World Youth Day, including the public administration bodies and the organiser of the event.

<sup>48</sup> Similar provisions were included in the *Act of 18 March 2016 on special solutions connected with the organisation of the visit of His Holiness Pope Francis to the Republic of Poland and World Youth Day - Kraków 2016* (WYD Act) and the *Act of 10 January 2018 on special solutions connected with the organisation in the Republic of Poland of the session of the Conference of the Parties to the United Nations Framework Convention on Climate Change* (COP24 Act). In the *Act of 24 June 2021 on special solutions related to the organisation of the 11th session of the World Urban Forum in Katowice in 2022* (WUF11 special law), these provisions already had a slightly different wording, as the legal context had changed at that time through amendments to the competence acts of the individual services. In a nutshell, it can be said that, on the basis of the general provisions, in the event of an extension of service time, officers gained the right to paid time off in the same amount or, at the end of the pay period, to monetary compensation in a statutorily determined amount. This type of solution was not only provided for professional soldiers. The WUF11 special law provided a legal basis for the payment to soldiers of the Military Police of appropriate monetary equivalents for performing service in excess of the statutory time, while with regard to the services of the Ministry of Internal Affairs, competence regulations were in force.

<sup>49</sup> Explanatory Memorandum to the *Government draft Act on special solutions connected with the organisation of the visit of His Holiness Pope Francis to the Republic of Poland and World Youth Day - Kraków 2016*, Print No. 332, p. 1, <https://www.sejm.gov.pl/Sejm8.nsf/druk.xsp?nr=332> [accessed: 1 X 2022].

The WYD special law was therefore far more comprehensive than its predecessor. It also contained more precise regulations, including those relating directly to the provision of security and public order. The provisions in this respect were contained in a separate chapter and provided for special solutions, which, as indicated in the justification of this act, resulted from the fact that in the case of events of a religious nature, even if they were as numerous and organisationally complex as World Youth Day, the provisions of the Act on the security of mass events did not apply.

As a result, Article 4 of the WYD special law required the voivode to draw up (in agreement with the organiser of World Youth Day, which was the Archdiocese of Kraków) a plan for ensuring security and public order during the event. The plan included, among other things, a graphic plan of the venue (area), drawn up separately for each of the venues (areas) where the various events were to take place, together with their description. The description included, among other things, the marking of access and dispersal routes for participants, evacuation routes and access routes for emergency vehicles and the Police, the marking of medical assistance points, fire water points and information points, as well as the points of deployment of the security services. In addition, the plan included instructions on how to proceed in the event of a fire or other local emergency, as well as information on the number of places for people participating in each event, the anticipated threats to public safety and order, the number, organisation, marking and equipment of the order service and the information service.

The voivode submitted the drawn up plan within the statutory deadline to the Commander-in-Chief of the Police, the Commander-in-Chief of the State Fire Service, the Head of the Internal Security Agency and the Head of the Government Protection Bureau. The legislator acknowledged that the organisation of World Youth Day would involve not only the services of the city of Kraków or the Małopolska Voivodeship, but also services from other parts of Poland, which meant it was necessary to ensure the proper flow of information both between the services and the units of each of these formations. In such a situation, the coordination of these activities could only be ensured at the level of central authorities, while taking into account the leading role of the Police.

The WYD special law granted specific powers to the Police, in this case to collect, obtain, collect, verify, process and use information, including personal data, also obtained or processed by other authorities and services, without the knowledge and consent of the data subjects. However, this



power was severely limited both in terms of time and subject matter, as in principle it could be exercised against persons posing a threat to public safety and order and only for the purpose of ensuring public safety and order during World Youth Day, as well as for the purpose of preventing the commission of offences and offences related to the event and for the detection and prosecution of their perpetrators.

The provisions of the WYD special law also provided for the possibility for the Police to check persons registered as volunteers due to the possibility of these persons posing a threat to security and public order during the event in question. These checks could only be carried out at the request of the organiser of World Youth Day and with the proviso that checks for the posing of a terrorist threat by these persons were carried out directly by the Internal Security Agency at the request of the Police. The legislator took into account, in this respect, the powers that this service already had, if only on the basis of the Act on anti-terrorist activities, which in Article 3(1) indicates the Head of the Internal Security Agency as the body responsible for the prevention of terrorist incidents.

The WYD special law also recognised the need to strengthen the powers of the Railway Guard by granting it the right to record incidents with the use of technical means of image and sound, as well as the right to inspect the contents of luggage in railway areas, trains and other railway vehicles. These powers - like the above-mentioned police powers - were time-limited and, in principle, could only be exercised in the event of the commission or reasonable suspicion of an offence or misdemeanour and on analogous terms to those exercised by the police. Powers of this type were not subsequently regulated by subsequent special laws. They were introduced by the WYD special law due to the specificity of this particular event.

The analysed law also provided for the possibility of the Ministry of National Defence to provide support in the field of logistics, transport, communications or medical and sanitary security<sup>50</sup>. This support could be provided at the request of the World Youth Day organiser and after consultation with the territorially relevant voivode.

An issue regulated in the WYD special law that is also worth mentioning is the organisation of medical security. Although it does not strictly refer to the provision of public safety and order, it is undoubtedly strongly related to it and is of vital importance, especially in the event of a threat, including

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<sup>50</sup> Ibid., p. 14.



the threat of a terrorist event. The legislator, recognising the importance of this topic, has devoted an entire chapter to it. It has defined in great detail the activities concerning the organisation of medical security, assigning responsibility for their implementation in the first instance to the Małopolska voivode. It is worth mentioning that the main duties of the voivode included: creating a plan of medical security, ensuring coordination of the activities of individual entities providing medical security by, among other things, setting up a headquarters, increasing the readiness of medical entities to provide medical services, and organising additional structures in the places of the celebrations. This security covered all participants in the event, including those with VIP status. Although the organisation of World Youth Day took place before the SARS-CoV-2 pandemic, additional sanitary-epidemiological protection was also introduced, including the reduction to 2 hours of reporting a suspicion or diagnosis of infection, infectious disease, death due to infection or infectious disease, as well as in the case of a positive test result for biological pathogens in a person living in the area covered by the protection. A simplified procedure for making these notifications has also been introduced. Failure to comply with the obligations to report such cases within the indicated timeframe constituted an offence punishable by a fine.

The provisions of the WYD special law relating to the organization of medical security also became the starting point for regulating this issue in subsequent special laws<sup>51</sup>. However, they were no longer as comprehensively structured, as they were limited to indicating only the competence of the voivode with territorial jurisdiction over the location of the main event in this regard.

- *Act of 10 January 2018 on special solutions related to the organisation in the Republic of Poland of the session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, referred to as the COP24 special law.*

Another special law was the Act on Special Solutions Concerning the Organisation in the Republic of Poland of the Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, which entered into force in February 2018. As indicated in the explanatory memorandum to it, this was to be a normative act that would create conditions enabling the proper organisation of the Climate Summit and proper conditions for Poland to perform the functions

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<sup>51</sup> That is, in the COP24 special law and in the WUF11 special law.

of the Presidency of the Conference of the Parties to the United Nations Framework Convention on Climate Change, the Presidency of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and the Presidency of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement in 2018 and 2019, referred to in short as the Presidency of the Conference of the Parties<sup>52</sup>.

During previous editions of the Climate Summit organised in Poland (COP14 in Poznań in 2008 and COP19 in Warsaw in 2013), the legislator did not choose to introduce special provisions in the form of a special law. The Climate Summit taking place in Poland for the third time in 2018 had - for the first time - a special legal basis. For the solutions introduced by the COP24 special law, the path was paved by the experience gained in 2016 during the NATO Summit and the World Youth Day. Hence, the law adopted for the Climate Summit to be held at the end of 2018 was largely modelled on those specs that had been in force two years earlier, primarily the World Youth Day special law.

It was impossible to reproduce them faithfully, if only for the reason that the Climate Summit was not organised solely by the Polish government, but in agreement with the Secretariat of the United Nations Framework Convention on Climate Change, which was responsible, among other things, for security in the extraterritorial zone, i.e. the conference venue itself. At the same time, the international organiser could not be the addressee of norms arising from acts of national law, which are undoubtedly all kinds of special laws. The division of duties and responsibilities, also in the area of security, between the Polish government as host and the international partner as organiser was regulated by the international agreement (*Host Country Agreement*) already mentioned. In turn, the Polish legislator, when adopting legal solutions for the Climate Summit, had to ensure that they remained consistent with these international obligations. As a result, a number of new provisions appeared in the 2018 special law, which directly resulted from the organisation of the event jointly with an international entity.

The COP24 special law repeated some of the solutions adopted in previous documents of this kind. One solution was to impose an obligation on the voivode, in this case the Silesian voivode, to draw up a security plan.

<sup>52</sup> Explanatory Memorandum to the *Government draft Act on special solutions connected with the organization in the Republic of Poland of a session of the Conference of the Parties to the United Nations Framework Convention on Climate Change in the Republic of Poland*, Print No. 2120, <https://www.sejm.gov.pl/Sejm8.nsf/druk.xsp?nr=2120> [accessed: 1 X 2022].

The COP24 special law was also modelled on the WYD special law in granting the Police specific powers to collect, obtain, collect, check, process and use information, including personal data, also collected or processed by other authorities and services, without the consent and knowledge of the persons concerned, as well as to carry out checks on persons cooperating in the organisation of the conference.

The next and at the same time the last element, which is a repetition of the solutions adopted so far in the special laws, is the introduction of a temporary ban on spontaneous assemblies. It was already introduced by the NATO special law and, analogous to the solutions already analysed, was assessed by the legislator as extremely important from the point of view of ensuring security and, above all, public order.

However, the COP24 special law introduced several completely new regulations, which resulted from the adopted formula of the conference and, in fact, from the division of tasks between its organisers. Unlike previous special laws, additional provisions appeared in it, specifying the tasks of each of the government administration bodies, including the minister in charge of internal affairs. According to them, the minister in charge of internal affairs first coordinated the activities of all services involved in ensuring security and public order during the Climate Summit. Moreover, in justified cases, he could dispose of appropriate forces and resources to support the UN services responsible for security in the extraterritorial zone. He was also responsible for smooth cooperation with both the international partner and the local government authorities, in this case the Mayor of the City of Katowice, on security matters.

One may wonder whether the introduction of this provision was necessary and therefore ask whether, in its absence, the minister responsible for internal affairs would still be able to fulfil the tasks of the leading authority in ensuring public security and order. It seems that it would, as indicated, for example, by the experience of analogous events, the organisation of which was not regulated by the special law. The provision defining the tasks of the minister in charge of internal affairs in the wording of the COP24 special law slightly increased their competences, leaving them responsible for coordinating the activities not only of the services subordinate to them and supervised by them, but also of other entities involved in securing the conference, including special services and uniformed formations subordinate to individual governmental and self-governmental bodies. At the same time, the provision clarified who (which

ministry) bears the responsibility and plays the leading role in dealing with the international partner in the area of ensuring security and public order.

In the context of the regulations that were introduced by the COP24 special law, it is also worth noting the provision defining the principles of cooperation in the extraterritorial zone. As a matter of principle, this was a topic that was primarily subject to detailed regulations contained in an international agreement (*Host Country Agreement*). In the COP24 special law itself, it was also mentioned that the activities of the Polish services, more specifically the Police and the Internal Security Agency, were permissible (they were included in the international agreement itself), but only in agreement with the UN services. In this way, the legislator indicated that while the Polish services, and in particular the Police, are in principle responsible for the protection of people and the maintenance of security and public order on the territory of the Republic of Poland, in the case of events such as the Climate Summit the responsibility in the extraterritorial zone is limited and to a large extent results from the agreements concluded with the international partner in this regard.

- *Act of 24 June 2021 on special solutions related to the organisation of the 11th session of the World Urban Forum in Katowice in 2022*, referred to as the WUF11 special law.

In principle, the WUF11 special law did not introduce any new solutions in the area of security and practically adopted solutions already implemented previously and applied primarily on the basis of the COP24 special law. As in the case of the Climate Summit, the organiser of WUF11 was a United Nations agency, i.e. the United Nations Human Settlements Programme, and the conference venue was covered by an extraterritorial zone for which UN services were responsible. Recognising, therefore, that the specific solutions adopted in 2018 had fulfilled their preventive purpose, the legislator repeated them with only minor modifications.

As a result, a provision was introduced in the WUF11 special law requiring the voivode to develop, in consultation with the services, a plan to ensure public security and order. The possibility for the Police and the Internal Security Agency to take action in the extraterritorial zone, as well as the possibility to organise assemblies by temporarily banning spontaneous assemblies, was also regulated in an identical manner.

The tasks of the minister responsible for internal affairs and the powers of the Police have been slightly modified in the WUF11 special law. In the former case, the most important difference consisted in emphasising

the more monitoring, rather than coordinating, role of the minister in charge of internal affairs with regard to the activities of the services, which undoubtedly seems to be closer to the actual function performed by this body under other laws. By contrast, the catalogue of its tasks did not mention its cooperation with the mayor of the city in the area of security and public order, which should also be perceived as a task that, in the case of this type of event, the minister can *de facto* perform on the basis of general provisions, without having to include it in episodic provisions.

In the context of the powers of the Police to collect, obtain, collect, check, process and use information, including personal data, concerning persons participating in or cooperating with the organisation of the conference, the WUF11 special law only hinted at such powers with regard to the processing of such data, so the provision was much less developed in its construction. This was primarily due to the emergence of a new legal context, as in 2019, i.e. already after the end of the Climate Summit, Poland - as well as other EU Member States - was obliged to implement into national law the new solutions adopted in this regard in the EU law<sup>53</sup>. Poland fulfilled this obligation with the *Act of 14 December 2018 on the protection of personal data processed in connection with preventing and combating crime*, which - by amending the Act on the Police - permanently introduced new powers for the Police in this area. These provisions are reflected in the very explanatory memorandum to the WUF special law, which indicates that the provision authorising police officers to process personal data does not constitute a competence standard to exclude the application of the provisions of the Act on the protection of personal data processed in connection with the prevention and combating of crime. As a result, it was no longer necessary to introduce episodic provisions in the circumstances of the preparations for WUF11 as extensively as was previously applied.

#### **Summary of the analysis of legal measures used at conferences, events, celebrations and other events**

The table summarises the events in question in the context of the legal and legislative initiatives taken regarding their safety.

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<sup>53</sup> This refers to *Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection and prosecution of criminal offences and the execution of criminal penalties, on the free movement of such data and repealing Council Framework Decision 2008/977/JHA*.

**Table.** Summary of legal measures used in securing individual events.

Event	Legal measures								
	Use of Armed Forces to assist the Police	Use of Military Police to assist the Police	Use of Military Police to assist the SOP	Use of Border Guard/Police to assist the SOP	Introduction of an alert level	Introduction of temporary border control	Ban on carrying of weapons	Recognition of the leading role of the Police Operations Commander	Implementation of a special law
NATO summit	X				X	X	X		X
World Youth Day	X	X			X	X	X	X	X
UNESCO conference		X					X	X	
Three Seas Initiative							X		
Climate summit (COP24)	X	X	X	X	X	X	X	X	X
Conference on security in the Middle East				X	X	X	X	X	
80th anniversary of World War II		X	X	X	X	X	X	X	
Internet Governance Forum (IGF 2021)					X		X	X	
World Urban Forum (WUF11)					X*				X

Source: Own elaboration.

\* At the time of the WUF11 World Urban Forum, the BRAVO second alert level and the CHARLIE-CRP third alert level were in place. However, the levels were put in place prior to the start of the Forum, on unrelated grounds

Having analysed the table, it can be seen that all the events listed - regardless of the legal solutions adopted - are linked by the presence of a cross-border element, albeit to varying levels and with varying degrees of internationalisation. The other factors to be taken into account here already seem to be more diverse. These are in particular:

- the geopolitical situation of the country and region at the time of the event,
- format of the event (closed - for a close circle of invitees, semi-open - for registered persons, open to the public),
- the rank of participants (number of persons or delegations protected),
- the theme of the event (unifying nature of the participants, controversial and stirring up emotions difficult to control),
- the location of the main events and their multiplicity (punctual - focusing on a single site, area-wide),
- media coverage (level of public interest at home and abroad),
- the duration of the event.

### **From episodic laws to *de lege ferenda* postulates - 'special events'**

In the current state of the law, in the case of organisation in Poland of conferences, events, ceremonies or other events that are important due to their scale or importance, especially those of an international character, all activities undertaken to provide security for these events are carried out by services or institutions on the basis of general provisions (pragmatic laws), unless specific solutions have been introduced in the form of episodic laws. As a result, some issues, such as the determination of responsibility for the development of a plan for ensuring security and public order for an event (including the resulting evacuation plan) and for the provision of medical security, require separate agreements and arrangements regarding the obligations of each of the institutions and services involved. In some cases, it also becomes a problem to verify personal data of the personnel preparing or servicing the event or the participants themselves, which is of fundamental importance from the perspective of security, including anti-terrorist security. For in Polish legislation there are no regulations specifying in detail the principles of conduct and the subjective and

personal scope of responsibility for the preparation and security of such events, events or ceremonies in a manner analogous to the organisation of mass events, which in relation to the need to ensure an appropriate level of security against the occurrence of an event of a terrorist nature may constitute a legislative omission. For there is no doubt that in the context of the current level of terrorist threat in Europe and worldwide, so-called soft targets are becoming increasingly popular among terrorists, and the effectiveness of an attack is measured both in the number of its victims and in media publicity. As the literature points out: *mass events attended by hundreds of thousands of people provide a convenient pretext for carrying out a spectacular terrorist attack. Terrorism is a peculiar message, a process of communication and social influence, and therefore a media phenomenon, intended by design to attract public attention*<sup>54</sup>.

Events, events or celebrations, especially those of an international nature, receive a great deal of media attention due to their scale or the prominence of the participants, and their disruption, without even looking at the potential number of victims, would be extremely effective propaganda for terrorist organisations. Therefore, when planning such events, it is essential to adopt specific preventive solutions to temporarily increase the level of security and public order. In the case of international events whose right to organise is granted well in advance (as was the case with World Youth Day, the NATO Summit, the Climate Summit or the World Urban Forum), it is possible to prepare and introduce such solutions in the form of a special law. However, due to the time-consuming legislative process, the implementation of such a legal instrument is not possible in a situation where the decision to organise an international event is taken only a short time in advance or where the preparation schedule undergoes significant changes at subsequent planning stages. The repetitive nature of the episodic laws introduced implies the question of whether it would not make more sense to introduce permanently included solutions that would be triggered for the event in question. Especially since, as the experience of the preparation of specific legislation shows, the sources of legislative initiatives in this area were financial, tendering or organisational matters, while security issues were complementary to them (there have been no special laws so far exclusively covering security provision). If the legislator did not decide to introduce solutions at the financial or organisational

<sup>54</sup> J. Struniawski, *Planowanie operacji policyjnych...*, p. 483.



level for a given project, no legislative initiative was taken at all. *Episodic regulations are distinguished from other regulations by a clearly indicated specific goal, which is to achieve a state of affairs treated by the legislator as unique (...). In this type of regulation, what comes to the fore, therefore, is not the creation of permanent organisational structures or the establishment of repetitive behaviour, but some specific goal, which - in the opinion of the legislator - cannot be achieved by means of regulations already in force<sup>55</sup>.* Episodic rules are thus laid down for a precisely defined period of time, introducing a derogation from existing rules. They may also be established if there are no other, less onerous, means of achieving a well-defined objective.

In the context of the described specific statutory solutions included in special acts, their scope covering the sphere of security, and also taking into account their recurrence, it is difficult to treat successive regulations adopted for specific events as meeting the criterion of achieving (...) *a state of affairs treated by the legislator as unique<sup>56</sup>*, which is the essence of episodic solutions. This repetitiveness of episodic solutions indicates the possibility of creating permanent solutions functioning in relation to events, events or celebrations which meet the statutory criteria and are not, at the same time, mass events. Although experience shows that it would be rather impossible to completely abandon episodic legislation - if only due to the financial solutions adopted depending on the status of the event or the specifics of the organiser's position, i.e. in the overall organisational context of the event - in the area of security solutions, above all in the context of potential terrorist threats, such legislation would serve its purpose.

On the basis of the assumptions indicated, proposals have been formulated, the essence of which is to abandon the adoption of episodic legislation in favour of the introduction of statutory provisions that would enable - depending on the assessment of the risk of the occurrence of threats to the security of events, parties or celebrations taking place, and in particular threats of a terrorist nature - the introduction of additional, non-standard instruments ensuring security and public order. They would also make it possible to clearly define the responsibilities and rules of interaction of entities and services by defining their tasks in this respect.

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<sup>55</sup> S. Wronkowska, M. Zieliński, *Komentarz do zasad techniki prawodawczej* (Eng. Commentary on the principles of legislative technique), Warszawa 2021, p. 76.

<sup>56</sup> Ibid.

The proposed directions of change presuppose the introduction into Polish legislation of a legal institution called, for the purposes of this study, a 'special event' - together with the definition of the conditions that must be met for its application<sup>57</sup>. Based on the peculiarities of past events and events to which episodic legislation has been introduced, it can be assumed that **special event status could be granted to specific events of a cultural, sporting, religious or political nature, especially those with an international dimension, organised or co-organised by central state bodies. These events, due to the prominence of the participants, scale or nature, require separate measures to ensure an adequate level of security and public order, including in the context of terrorist threats.**

In discussing the proposed rationale for the introduction of special event status, it is important to clarify the very subject matter of the proposed legal institution, which is: 'a special event of a cultural, sporting religious or political nature, especially of an international character'. The proposed construction is based on the statutory premises for the use of the Armed Forces of the Republic of Poland to assist the Police, contained in Article 18(1)(4) of the Act on the Police:

In the event of a threat to public safety or a disturbance of public order, in particular by bringing (...) a threat of an offence of a terrorist nature that may result in a danger to the life or health of **participants in cultural, sports or religious events**, including gatherings or mass events - if the use of divisions or subdivisions of the Police proves or may prove insufficient, divisions and subdivisions of the Armed Forces of the Republic of Poland may be used to assist the divisions and subdivisions of the Police.

To the events very broadly defined as 'events of a cultural, sporting or religious nature', 'events of a political nature' were added to include such events as the NATO Summit, the Ministerial Conference on Peacebuilding and Security in the Middle East or the Climate Summit in Katowice under the term 'special event'.

The second conceptual element requiring comment is the proposed subject limitation of a special event, i.e. the requirement that it be **organised or co-organised by central state bodies**. On the one hand, only

<sup>57</sup> This proposal for systemic changes in terms of legislative details was developed jointly with Ms Aneta Suda (see footnote 3).

official state events would be covered by this status; on the other hand, this would help safeguard against its abuse, e.g. the inclusion of commercial events. On the other hand, the premise of 'co-organising' stems from the fact that the actual organisers of some events were international organisations (United Nations agencies), while Poland was the host country and the venue itself was of a quasi-extraterritorial nature (e.g. the Climate Summit, the World Urban Forum or the Internet Governance Forum 2021, held in Katowice).

The next suggested grounds are of a clarifying nature and indicate the subsidiary nature of the proposed legal institution - events, **due to the rank of the participants, the scale or the nature, require specific measures to ensure an adequate level of security and public order, in particular in the context of terrorist threats.** Thus, the 'prominence of the participants, scale or nature of the event' is intended to render ordinary statutory measures insufficient to ensure an adequate level of security and public order, especially in the context of terrorist threats. Broad in scope and flexible from a functional perspective, the rationale of 'the rank of the participants, scale or nature of the event' corresponds to the different nature of events as described above ('events of a cultural, sporting religious or political nature').

The construction described implies arbitrariness in the attribution of special event status, but, as it appears, this is unavoidable both from the perspective of the varied nature of each event and the requirement for flexibility in the application of the construction, and the very nature of security determinations, the effectiveness of which requires an unambiguous identification of the authority responsible for making it.

In the current state of the law, pursuant to Article 3(2) of the Act on anti-terrorist activities, (...) *the minister responsible for internal affairs is responsible for preparing to take control of terrorist events through planned undertakings, responding in the event of the occurrence of such events and reconstituting the resources intended for responding to such events.* Therefore - taking into account his constitutional responsibility for the governmental department of internal affairs - it is reasonable for him to be the one to decide on the status of a special event.

From a systemic perspective, however, the discretion should be limited. In the case of events organised by the Chancellery of the President of the Republic of Poland, the Chancellery of the Sejm, the Chancellery of the Senate, the Chancellery of the Prime Minister or the Minister

of National Defence, the granting of special event status to an event or event could only take place at the request of the organiser. An alternative body that could be equipped with the competence to grant this status could be the Prime Minister (in this case, the decision to grant the status would obviously not require a request from the Chancellery of the Prime Minister). The proposal to limit the discretion of the body equipped with the authority to grant the status of a special event for events whose organiser would be the Chancellery of the President of the Republic of Poland, the Chancellery of the Sejm, the Chancellery of the Senate, the Chancellery of the Prime Minister or the Minister of National Defence, results from the legal and constitutional position of the President of the Republic of Poland, the Sejm and the Senate. In this case, this power is linked to the constitutional principle of the tripartite division of power<sup>58</sup>, in the case of the Prime Minister - to the constitutional supremacy over ministers, while in the case of the Minister of National Defence - to his or her disposal of his or her own resources enabling the securing of undertakings and their very nature, resulting, inter alia, from allied commitments, as was the case with the organisation of the aforementioned NATO Summit held in Warsaw in 2016.

From a procedural perspective, the final decision of the competent authority could be preceded by the obligation to obtain opinions, in particular of the Head of the Internal Security Agency as the authority responsible for the prevention of terrorist incidents (Article 3(1) of the Act on anti-terrorist activities) and of the Commander-in-Chief of the Police as the central authority of government administration competent in matters of protection of human security and maintenance of public security and order (Article 5(1) of the Act on the Police).

Further proposals for standardisation as a consequence of granting the status of a special event, which are directly based on solutions taken from the special acts, concern the unambiguous determination of the scope of responsibility and principles of cooperation of entities in the process of planning and preparing such an event, including the preparation of a safety and public order plan and providing medical security. The proposal is to identify the organiser of the event (Polish co-organiser) as the leading entity, supported by the voivode competent for the location of the event. It should be the organiser's responsibility to

<sup>58</sup> Article 10 of the *Constitution of the Republic of Poland of 2 April 1997*.

provide the appropriate infrastructure and resources, including financial resources, necessary to guarantee an adequate level of security.

The activities in this respect should be carried out in close cooperation with the voivode responsible for the location of the event. The voivode - as a representative of the Council of Ministers in a voivodeship and at the same time the head of a joint administration in a voivodeship - is competent to direct, coordinate and control the activities of this administration, and thus ensures the effectiveness of its actions and is responsible for the results achieved. It therefore seems reasonable that it should be the voivode who is responsible for the preparation of the plan for ensuring security and public order during events or ceremonies that have been granted the status of a special event. It should be noted that the organisation of such events also requires increased and effective cooperation with many other local entities that do not belong to the governmental unitary administration. The voivode, on the other hand, while supervising the activities of local government units and their associations and cooperating with them in important matters, is competent to ensure an effective flow of information also in this respect. This solution has been adopted in previous speculations and from a legal and organisational perspective seems optimal.

One of the most common problems that comes to light when organising and securing such events is the provision of medical cover. The problem here is not only the adequate financing of medical services or the designation of appropriate medical facilities in case of an event, but also the coordination of the whole process. However, there are no permanent legal solutions here apart from the responsibility - narrowly defined - assigned to the State Protection Service with regard to persons statutorily defined as protected who would take part in such an event. Pursuant to Article 5a of the *Act of 31 July 1981 on the Remuneration of Persons Holding Executive State Positions*, the President of the Republic of Poland, the Marshal of the Sejm, the Marshal of the Senate, the Prime Minister, the spouses of these persons and their dependent family members are entitled to health care benefits in the event of sudden illness or injury, accident, poisoning or the need for immediate hospital treatment. In addition, the President of the Republic of Poland, the Prime Minister and the family members accompanying them, as well as the Marshal of the Sejm and the Marshal of the Senate, are also entitled to health care benefits in the above-mentioned scope during official domestic and foreign trips and official foreign visits. The persons indicated in Article 5a of this

Act also include members of diplomatic and consular staff accredited in the Republic of Poland and their families, with the proviso that they are entitled to health care services included in the agreements on the provision of medical services that have been signed with their countries. Therefore, when creating target solutions, it seems optimal to indicate that the body responsible for the organisation of the special event or the national body cooperating in the organisation of the event is responsible for the medical protection of the event, if the main organiser is an international entity, for example the United Nations.

Therefore, it is proposed to introduce provisions according to which the voivode competent for the location of the special event will provide medical assistance to the participants, unless otherwise provided by separate regulations. As indicated by the existing special laws, medical security provided by the voivode should include the provision of healthcare services to the participants of the special event and its accompanying events by indicating entities performing medical activity that are ready to provide an increased number of healthcare services, including services provided against payment, organising medical assistance points, providing qualified medical personnel to provide first aid to persons in a state of emergency and organising transport of such persons to hospital. It would also be the duty of the voivode to appoint a medical coordinator and define his/her duties in order to ensure the most efficient provision of medical assistance. In practice, it is important to make it legally possible to provide security for the event on the basis of a contract concluded by the voivode with entities performing medical activities. Assigning this kind of responsibility to the voivode requires each time to guarantee not only adequate financial resources, but also flexibility in their disbursement. The voivode should also have the possibility to obtain funding from voluntary contributions, bequests and benefits in kind or from the budget of the European Union or from non-refundable foreign sources, depending on the specifics of the event, primarily in the context of international events.

Previous special laws often imposed an obligation on organisers or voivodes to prepare a security plan for the entire event. Given the potential risks associated with the described events, it seems that a similar obligation should also be introduced for the organiser of a special event. The organiser should be responsible for the preparation of a plan to ensure security and public order during the special event, the preparation of which, in agreement with the Police, the State Fire Service, the Border Guard,

the Internal Security Agency and the State Protection Service, could be commissioned by the voivode with jurisdiction over the place of the special event.

As was included in the previous special laws, the operation's security plan should include:

- a graphic plan of the facility or area where or on which the events to be held as part of the special event are to be located, together with their description, including the designation of access roads and routes for persons participating in the event, evacuation routes and access roads for vehicles of the emergency services, the Police and other services responsible for ensuring safety during the event, and in the case of the establishment of the extraterritorial zone - also the precise designation of this zone;
- the instruction to be followed in the event of fire or any other emergency occurring at the place and time of particular events taking place within the framework of the special event; the instruction should meet the requirements specified in the provisions issued pursuant to Art. 6(5) of the Act on the security of mass events;
- the instruction on how to act in emergency situations other than those mentioned above;
- detailed division of tasks of services and other entities involved in ensuring public safety and order;
- the methods of monitoring threats and warning and alarming about threats;
- the manner of providing medical and social security.

This plan should be submitted by the organiser to the minister in charge of internal affairs and for information to the Commander-in-Chief of the Police, the Commander-in-Chief of the State Fire Service, the Commander-in-Chief of the Border Guard, the head of the Internal Security Agency and the commander of the State Protection Service, as well as, within the scope of jurisdiction, to the manager of the roads located in the area covered by this plan, while observing the provisions on the protection of classified information.

Bearing in mind the necessity to provide an appropriate mechanism for ordering and streamlining the decision-making process at the level of central administration bodies, the proposed solutions provide for the determination of the competences of the minister in charge of internal affairs in the scope of coordinating and monitoring the state of preparations



in terms of ensuring security and public order in connection with the organisation of an event having a special status. It should be noted that this solution, taken from some of the existing specs, which imposes coordination and monitoring tasks on the minister in charge of internal affairs, combines with the above proposed introduction of the competences of this minister in the field of granting the status of a special event and constitutes him as the most important body at the strategic level in the implementation of this task.

It also seems reasonable, in order to increase the level of security, to introduce a statutory ban on participation in spontaneous assemblies referred to in Article 3(2) of the Act - Law on Assemblies, for the duration of the special event. This solution has already been introduced within the framework of special acts - as indicated in the justification to the *Government draft act on special solutions related to the organisation of the session of the Conference of the Parties to the United Nations Framework Convention on Climate Change in the Republic of Poland* (pp. 14-15):

It must be emphasised that this prohibition only applies to spontaneous assemblies, i.e. those organised without prior notice. Thus, the draft does not exclude the possibility to organise assemblies with prior notice and under the conditions set out in Article 7 et seq. of the Act of 24 July 2015 - Law on Assemblies, as the regulations of this law allow to define such conditions for organising an assembly that will not endanger public safety and order. Thus, it should be emphasised that the draft does not introduce a restriction on the organisation of public assemblies with prior notice and under the conditions set out in Articles 7 and following of the Act of 24 July 2015 - Law on Assemblies.

The indicated norm cannot be *lex imperfecta*, therefore it is necessary to secure its enforcement with an appropriate sanction. Adjudication in this type of case would take place under the provisions of the misdemeanour procedure, with the sanction of the misdemeanour being defined as a custodial sentence or a fine.

In view of the need to ensure the safety of the participants of the event and public order during the event, it is also important to grant the Police temporary, special powers regarding the processing of data on persons posing a threat to safety and public order, including those obtained and processed by other authorities and services, also as a result of the performance of operational and exploratory activities,



as well as those obtained and processed by law enforcement authorities of other countries. In order to ensure security and public order during the special event, as well as to prevent the commission of crimes and offences and to detect and prosecute their perpetrators, it is also important to grant the Police temporary, special powers regarding the processing of data on persons registered as participants in the special event or cooperating in its organisation - also without the knowledge and consent of the persons concerned. The necessity to provide guarantee mechanisms for such solutions requires the introduction of maximum time limits for the processing of such data, e.g. up to 90 days from the date of the end of the special event, with the exception of information relevant to ongoing proceedings. Such a solution was introduced, inter alia, in the Act on special solutions related to the organisation in the Republic of Poland of the 11th session of the World Urban Forum in Katowice in 2022, and omitted in the *Act of 2 December 2021 on support for the preparation of the 3rd European Games in 2023*, which later became one of the amendment demands on the part of the organiser.

The release of data held by the Police to the authorities should be subject to a purpose-related premise, such as ensuring security and public order during a special event, as well as preventing the commission of crimes and offences and the detection and prosecution of their perpetrators. The right to obtain data should be subjectively limited and should be exercised on the basis of the principles resulting from the Act on the protection of personal data processed in connection with preventing and combating crime, from the *Act of 5 August 2010 on the protection of classified information* and from the Act on the Police, as well as from international agreements to which the Republic of Poland is a party. In the case of obtaining information, including personal data, from another body, service or institution, the Police could share it with other bodies, services and institutions after obtaining the consent of the body, service or institution from which it obtained the information.

The problem remains the guarantee of the possibility for the Police, at the request of an authorised representative of the organiser, to check a person for the possibility of that person posing a threat to security and public order during the event, whereby a check of a person for the possibility of that person posing a terrorist threat should be carried out - at the request of the Police - by the Internal Security Agency.

## Summary

The compilation of typical legal instruments used in the case of securing conferences, events, ceremonies and other internationally significant events organised in Poland allowed for a positive verification of the research hypothesis assuming the possibility of introducing on a permanent basis, at the level of national legislation, security solutions adopted so far in the form of episodic legislation. This verification then made it possible to formulate *de lege ferenda* conclusions.

The essence of the proposed solutions lies not in the presentation of completely new and unfamiliar instruments to the Polish legal order, but, on the contrary, in the introduction on a permanent basis of selected solutions that have so far been of a temporary nature. Examples include the proposed tasks assigned to the voivode with regard to the preparation of plans for securing the event, as well as statutory restrictions on spontaneous assemblies, additional powers of the Police with regard to data processing in connection with the event or the coordinating role of the minister responsible for internal affairs, which have already been introduced several times as an episodic solution.

The proposed solutions could be applied to events, events or ceremonies of a special nature, primarily of an international nature, organised or co-organised by central state bodies. The prominence of the participants, the scale or the nature of such events requires exceptional measures needed to ensure an adequate level of security and public order, including, in particular, in the context of terrorist threats.

Proposed solutions could be found in the Act on anti-terrorist activities in the form of a separate systematisation unit (chapter). An alternative solution could be the creation of a separate law, but the relatively narrow scope of the regulation and the direct link, from a targeting perspective, with anti-terrorist security seem to favour the first of these solutions.

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