

Law enforcement, security services and agencies in Poland. Their accountability and transparency

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1. COVERAGE

1.1

Please enumerate this country's national police and other internal security forces, security services and intelligence agencies – that is to say all security-sector bodies except the military (regular and reserve) – and describe briefly the role and function of each. Please give the correct official designation of each of the forces, services and agencies – in the approved English-language and/or local-language form – and assign each a reference letter (A, B, C, ...) for later use. (This is simply a device to avoid needless repetition of full titles or destinations).

- A. Police
- B. Internal Security Agency (until 28 June 2002 – Office of State Protection)
- C. Foreign Intelligence Agency (until 28 June 2002 – Office of State Protection)
- D. Frontier Guard
- E. Office of the Security of Government

A. Police

The statutory duties of the Police, which is an uniformed and armed formation, are to serve society and to protect people, and also to maintain public safety and order (Article 1.1 of the Law of 6 April 1990 on the Police[1]). The Polish police is placed within the State government administration as a separate formation subordinated to Minister of Internal Affairs and Administration (Minister Spraw Wewnętrznych i Administracji, hereinafter: MSWiA), a member of the Cabinet. It is headed by Chief Commander of the Police, subordinated to Minister of Internal Affairs and Administration, who is appointed and recalled by Prime Minister on motion of Minister of Internal Affairs and Administration. The Commander is the superior of all functionaries of the police (Article 5.1-5.3 of the above-mentioned Police Law). Regional and local agencies of the police, like e.g. State forest administration or fire-brigades, are agencies of special government administration as opposed to general administration.

Under provisions of Article 14 sections 4 and 5 of the Law of 6 April 1990 on the Police, the Police may – to the extent that is necessary for performance of its statutory functions – avail itself of information obtained by the Internal Security Agency [Agencja Bezpieczeństwa Wewnętrznego, hereinafter: ABW] and Frontier Guard [Straż Graniczna, hereinafter: SG] in the course of its operation and investigation activities. Corresponding provisions contained in Laws on ABW and SG authorize those two institutions to exchange information with each other and with the Police. At present, the process of obtaining and exchanging information between individual agencies is coordinated by the National Criminal Information Center [Krajowe Centrum Informacji Kryminalnej (KCİK)], established under the Law of 6 July 2001 on the gathering, processing and providing criminal information[2].

The tasks, duties and rights of the Police include:

Within its duties with the aim to identify, prevent and detect offenses and transgressions, the Police performs the following actions (**Article 14.**):

1. operational and identification; investigation and inquiry; administrative and orderly.
2. The Police also performs actions ordered by the court, public prosecutor's office, State administrative agencies and local government agencies to the extent to which this duty is specified in separate statutes.
3. In the course of performance of their duties, policemen are obliged to respect human dignity and to observe and protect human rights.
4. To the extent indispensable to perform its statutory duties, the Police may use information on individuals obtained by Office of State Protection and Frontier Guards in the course of operational and identification actions.

5. Prime Minister shall specify the extent, conditions and procedure of handing over to the Police the information on individuals obtained by Office of State Protection and Frontier Guards in the course of operational and identification actions.

Performing above mentioned actions policemen have the right to (**Article 15**):

- 1) check identity papers of individuals to establish their identity;
- 2) detain individuals according to the procedure and in cases specified in provisions of the Code of Criminal Procedure and other statutes;
- 3) detain persons deprived of liberty who have been temporarily released from remand prison or penal institution under a permission issued by a competent agency but failed to return on a fixed date;
- 4) detain persons who pose obvious direct threat to the life or health of individuals, and also to property;
- 5) search persons and premises according to the procedure and in cases specified in provisions of the Code of Criminal Procedure and other statutes;
- 6) search persons and inspect the contents of passenger luggage and of freight and cargo in seaports, at railway stations and air terminals, and inside means of land, air, and water transport, if there is justified suspicion that an act prohibited by law has been committed;
- 7) demand necessary assistance from State institutions, agencies of State administration and local government, and economic units pursuing activity in the area of public utility; the above institutions, agencies and units are obliged, within the scope of their activity, to render such assistance under valid provisions of the law;
- 8) approach for necessary assistance other economic units and social organizations, and also in urgent cases to approach any citizen for emergency assistance under valid provisions of the law.

A person may be detained only if other measures prove useless or ineffective.

A detained person mentioned in 1.4. above may be presented for identification, photographed or have his fingerprints taken only if his identity cannot be established in another manner.

Actions of the Police should be performed in a manner reducing to the necessary minimum the interference with personal rights of the detainee.

In the event that instructions given by agencies or functionaries of the Police under legal provisions are not followed, policemen may use the following means of direct coercion (**Article 16**):

- 1) physical, technical and chemical means to neutralize or escort persons and to stop vehicles;
- 2) service clubs;
- 3) means of neutralization with water;
- 4) service dogs;
- 5) non-penetration bullets fired from firearms.

Policemen may only use such means of direct coercion as are suited to the needs resulting from the situation and indispensable to achieve a person's obedience to orders given.

If the means of direct coercion referred to in Article 16 prove insufficient or cannot be used in the circumstances of a given incident, a policeman has the right to use firearms in the following situations exclusively (**Article 17**):

- 1) with the object to force back a direct and lawless assault against his own or another person's life, health or freedom, and to prevent actions directly tending towards such assault;
- 2) against a person who fails to obey summons to immediately drop firearms or another dangerous instrument the use of which might threaten the life, health or freedom of the policeman or another person;
- 3) against a person who lawlessly attempts to forcibly to take away firearms from the policeman or another person authorized to carry firearms;

4) with the object to force back a dangerous and direct violent assault against objects and appliances of importance for security or defenses of State, seats of supreme agencies of State authority, supreme and central agencies of State administration or administration of justice, objects of economy or national culture, against diplomatic representations and consular offices of foreign States or international organizations, and also against objects guarded by armed protective formations established under separate provisions;

5) with the object to force back an assault against property if that assault also poses a direct threat to human life, health or freedom;

6) in direct pursuit of a person with respect to whom the use of firearms was permissible in cases referred to in points 1-3 and 5 above, or of a person who can be reasonably suspected of having committed murder, terrorist assault, kidnapping to extort ransom or specific conduct, robbery, theft with the use of violence, intentional heavy bodily injury, rape, arson, or intentional causing of public danger to life or health in another manner;

7) with the object to apprehend a person referred to in point 6 above, if that person has taken cover in a place difficult of access and from accompanying circumstances it follows that he may use firearms or another dangerous instrument the use of which might pose a threat to life or health;

8) to force back a violent, direct and lawless assault against a convoy protecting persons, documents containing State secret, money or other valuables;

9) with the object to apprehend or defeat the escape of a person arrested, detained on remand, or serving the penalty of deprivation of liberty, if:

a) escape of the person deprived of liberty poses threat to human life or health,

b) there is justified suspicion that the person deprived of liberty might use firearms, explosives, or a dangerous instrument, or

c) the person has been deprived of liberty due to a justified suspicion or ascertainment of his commission of offenses referred to in point 6 above.

In the course of operations of serried squads or sub-units of the Police, firearms can be used solely by order of their commanding officers.

Firearms should be used so as to cause the possibly smallest harm to the person against whom firearms have been used; the use of firearms may not aim at killing that person or at jeopardizing the life or health of others.

Council of Ministers shall specify by way of an ordinance the detailed conditions and procedure in cases of using firearms, and also the principles of using firearms by units of the Police.

In the event of danger to public safety or dangerous disturbance of public order, especially through causing (**Article 18**):

1) public threat to the life, health or freedom of citizens,

2) direct threat to considerable value of property, or

3) direct threat to objects or appliances referred to in Article 17 point 4,

Prime Minister may, upon motion of Minister of Internal Affairs and with the object to secure public safety or to restore public order, ordain the use of armed squads or sub-units of the Police.

In cases of great urgency the decision referred to in section 1 above is taken by Minister of Internal Affairs who immediately notifies the Prime Minister.

In cases referred to in section 1 above, if the use of armed squads and sub-units of the Police proves ineffective, the Police may be assisted, under a decision of President of Republic of Poland issued upon motion of the Prime Minister, by squads and sub-units of Armed Forces of Republic of Poland.

In the event of a natural calamity or extreme threat to the environment, if forces of the Police prove insufficient to perform their duties of protection of public safety and order, Prime Minister may, upon motion of Minister of Internal Affairs and Administration adjusted with Minister of National Defense, ordain the use of soldiers of Military Police to assist the Police (**Article 18a**).

When performing operational and identification actions within a scope not regulated by provisions of the Code of Criminal Procedure, undertaken by the Police to prevent or detect intentional offenses prosecuted by the public prosecutor (**Article 19**):

- 1) against life,
- 2) of heavy bodily injury or grave disturbance of health,
- 3) of deprivation of a person of his liberty with the object to extort ransom or conduct; against public safety; of illegal manufacture and possession of or trade in firearms, ammunition, explosives, narcotic or psychotropic drugs, and nuclear or radioactive materials, economic offenses resulting in considerable damage to property, offenses against property of considerable value, or fiscal offenses consisting in considerable curtailment of tax or other dues to the Treasury; of unlawful acceptance or handing over of great amount of material profit in connection with performance of a public function or a function involving special responsibility; of forgery of money and securities and of uttering counterfeited money and securities; offenses prosecuted under international contracts and agreements,

The district court, upon a motion of a chief district commissioner of Police or the Chief Commissioner of Police and with prior approval of the prosecutor, may order, for a specified period of time, surveillance of mail as well as the use of technical means enabling secret obtaining of information and fixing of material evidence. Minister of Internal Affairs shall inform Public Prosecutor General on a current basis about actions undertaken and results thereof.

A chief district commissioner of Police or the Chief Commissioner of Police shall inform a prosecutor about effects of cover operations after their completing and on any his demand. Those Actions may only be undertaken if other measures prove ineffective or if it is highly probable that they would prove ineffective or useless for the purpose of detection of an offense, apprehension of its perpetrator, and disclosure and securing of evidence.

Materials obtained in the course of those actions which do not confirm the perpetration of an offense are subject to officially recorded destruction by a committee in 2 months of completing of those actions. It does not appliance to cases when those actions were undertaken on w motion of a person concerned.

In cases of intentional offenses (**Article 19a**):

- 1) against life, of heavy bodily injury or grave disturbance of health, and of deprivation of a person of his liberty with the object to extort ransom or conduct; against public safety referred and in cases of preparation of offenses referred to in those provisions,
 - 2) of illegal manufacture and possession of or trade in firearms, ammunition, explosives, narcotic or psychotropic drugs, and nuclear or radioactive materials; economic offenses resulting in considerable damage to property, offenses against property of considerable value, or fiscal offenses consisting in considerable curtailment of tax or other dues to the Treasury; of unlawful acceptance or handing over of great amount of material profit in connection with performance of a public function or a function involving special responsibility; of forgery of money and securities and of uttering counterfeited money and securities,
- the operational and identification actions aimed at verifying previously obtained reliable information about an offense and at detecting perpetrators and obtaining evidence may consist in a secret purchase or interception of things deriving from the offense which are subject to forfeiture, or of objects whose manufacture, possession, transporting and trafficking are prohibited, and also in acceptance or handing over of material profit.

In the course of actions surveillance of mail and technical means may be used according to principles laid down in Article 19.

The actions referred to in this section above may not consist in supervision of activities showing the features of acts prohibited by law. Moreover, with respect to acts involving acceptance or handing over of material profit, such actions may not consist in inciting to hand over or accept such profit.

In the course of performance of operational and identification actions undertaken with the object to document offenses referred to in Article 19, or with the object to establish the identity of persons involved in such offenses or to intercept things deriving from them, Minister of Internal Affairs may order, before institution of criminal proceedings, secret surveillance of transport and storage of and trade in things deriving from an offense, provided this poses no threat to the life or health of individuals (**Article 19b**).

Public Prosecutor General should be notified without delay of an order issued under section 1 above, and also of the course and results of actions undertaken. Public Prosecutor General may order abandonment of such actions.

According to the order referred to in section 1 of Article 19b, State agencies and institutions are obliged to permit further transport of mail containing intact things deriving from an offense or after their removal or replacement wholly or in part.

Subject to limitations that follow from Article 19, the Police may obtain, gather, verify and process information, including secret and confidential information (**Article 20**).

The Police may collect, gather and use for detection and identification purposes fingerprints, photographs and other data of persons suspected of intentional offenses prosecuted by public prosecutor, and also of persons whose identity cannot be established or those trying to conceal their identity.

Chief Commander of the Police shall specify the procedure of keeping collections of identification data referred to in this Article.

In connection with performance of duties the Police secures protection of the forms and methods of performing duties, of information, and also of its own objects and data identifying policemen (**Article 20a**).

In the course of operational and identification actions policemen may use documents preventing the disclosure of data identifying the policeman and of the means he uses when performing service duties.

Information on detailed forms, principles and organization of operational and identification actions, and also on actions currently performed and the means and methods of their performance may only be given if there is a justified suspicion that an offense prosecuted by public prosecutor has been committed in connection with performance of such actions (**Article 20b**).

Information about a person obtained in the course of operational and identification actions and according to the procedure referred to in Article 14.4 may only be given on demand of the court or public prosecutor, and may only be used to the aim of penal prosecution (**Article 21**).

The ban introduced by section 1 above does not apply if the duty to provide such information to a specific agency has been imposed statutorily or follows from international contracts and agreements, and also in cases where concealment of such information would result in a threat to the life or health of others.

Performing its duties, the Police may receive assistance from persons other than policemen. It is prohibited to disclose the data of a person assisting the Police within operational and identification actions (**Article 22**).

The data be disclosed on public prosecutor's demand, also in the event of a justified suspicion that such person has committed an offenses prosecuted by public prosecutor in connection with performance of operational and identification actions.

For assistance referred to section 1 above, persons other than policemen may receive remuneration paid from operational fund. If in the course of reception by the Police of assistance from a person referred to in section 1 above, and in connection with that assistance, such person loses his life or suffers detriment to his health or damage to his property, indemnity shall be due according to the principles and procedure specified in an ordinance of Minister of Internal Affairs.

B. Internal Security Agency

On 24 May 2002, following the Senate's amendments, the Sejm adopted the Law on the Internal Security Agency^[3]. The Law liquidated the former Office of State Protection, which had been in charge of counterintelligence, prosecution of serious offenses against the economy and of organized and international crime, and civilian intelligence. As a replacement, the Law established two institutions: the Internal Security Agency and the Foreign Intelligence Agency. The President signed the Law on 10 June; it entered into force on the day of its publication, that is on 28 June 2002.

The Government coalition voted for adoption of the Law. In the opinion of the coalition MPs the new provisions offer greater possibilities of supervising the work and expenses of security services. Those against the Law – Platforma Obywatelska [Citizen Platform], Prawo i Sprawiedliwość [Law and Justice], Liga Polskich Rodzin [League of Polish Families] and Samoobrona [Self-defense] believe that the new Law will make the services political and weaken parliamentary oversight of their functioning.

According to Chairman of the Sejm Committee for Security Services Zbigniew Wassermann (Prawo i Sprawiedliwość), the Law in its final wording fails to take into account the major postulates made by the opposition.

Wassermann said that the reform had been launched at a wrong moment, in the situation of terrorist threat. In its present shape, he added, the reform destabilizes the security services and makes them political. "These will be party and not state services", Wassermann said. He also stressed the danger that previously removed functionaries of the former communist services might now rejoin the newly-created force.

On 28 June – the date when the new Law entered into force – active politicians of the ruling party, Sojusz Lewicy Demokratycznej (SLD, Democratic Left Alliance) were appointed heads of the newly-established agencies. One of them, Head of ABW, was actively involved in the communist party machine in the 1980s as functionary of the Central Committee of Polish United Workers Party, in charge of close cooperation and political supervision over the communist Security Service (he was a head of Unit of Studies and Analyses of the Central Committee).

The Law establishes the Government Information Community (Article 41), headed by the Head of the Foreign Intelligence Agency. Its task would be to compile uniform secret information for the country's highest officials. In our view, this provision is unconstitutional as it subordinates members of the Cabinet, appointed under the Constitution, to the Head of AW. Besides, the Ministers can hardly be expected to follow orders issued by that official.

ABW has been put in charge of counterintelligence, fight against the most serious offenses "aimed against the economic foundations of state", and investigation of cases of corruption among public functionaries. The Law obliges ABW to cooperate with AW and Military Counterintelligence and Intelligence (Wojskowe Służby Informacyjne, WSI). The extent of their respective competencies will be defined by Prime Minister by way of an ordinance).

The tasks of ABW include:

- 1) investigation, prevention and fighting of threats to internal security of state and its constitutional order, including in particular its sovereignty and international position, independence and inviolability of its territory, as well as defenses;
- 2) investigation, prevention and detection of the following offenses:
 - a) espionage, terrorism, breach of state secret and other offenses against security of state,
 - b) offenses against the economic foundations of state,
 - c) corruption of public officials referred to in Article 1 and 2 of the Law of 21 August 1997 on restrictions on economic activity of holders of public functions^[4],
 - d) offenses affecting the production of and trade in commodities, technologies and services of strategic importance for security of state,
 - e) illicit manufacture and possession of as well as trade, on the international scale, in firearms, munitions and explosives, mass extermination weapons as well as narcotic drugs and psychotropic substances; the Agency's tasks also include prosecution of the perpetrators of such offenses;

3) performance, within its specific competencies, of tasks typical of state protection services and of the function of a national security service in the area of protection of classified information in international relations;

4) obtaining, analysis, processing and provision to competent agencies of information of potential importance for protection of internal security and the constitutional order of state;

5) performance of other activities specified in separate laws and international treaties (Article 5 of the Law on ABW and AW).

Outside the territory of Republic of Poland, ABW may only act in connection with its domestic activity exclusively in the course of its performance of tasks specified in section 1 point 2 of the provision quoted above.

C. Foreign Intelligence Agency

The Foreign Intelligence Agency (AW) is in charge of foreign intelligence and gathers information mainly outside the territory of Poland. It is to take over several dozen officers of the Military Intelligence (WSI) who have so far dealt with political and strategic intelligence.

Military intelligence remains the domain of WSI, which is subordinated to the Minister of National Defense.

The tasks of AW include:

1) obtaining, analysis, processing and provision to competent agencies of information of potential importance for the security and international position of Republic of Poland and also for its economic and defense potential;

2) investigation of and counteracting external threats aimed against the security, defenses, independence and inviolability of territory of Republic of Poland;

3) protection of foreign missions of Republic of Poland and of the staff of such missions against activity of foreign security services and other activities potentially detrimental to the interests of Republic of Poland;

4) cryptographic protection of communication with Polish diplomatic and consular missions and of messages sent by diplomatic couriers;

5) investigation of international terrorism, extremism and international organized crime;

6) investigation of international trade in firearms, munitions and explosives, narcotic drugs and psychotropic substances, as well as commodities, technologies and services of strategic importance for security of state; and also investigation of international trade in mass extermination weapons and of threats resulting from dissemination of such weapons and of the means of their transportation;

7) investigation and analysis of threats emerging in areas of international tension, conflict and crisis that affect the security of state, as well as undertaking actions to eliminate such threats;

8) electronic intelligence;

9) other activities specified in separate laws and international treaties (Article 6 section 1 of the Law on ABW and AW).

To the exception of some operational actions, the tasks listed above are performed outside the territory of Republic of Poland.

D. Frontier Guard

The Frontier Guard (Straż Graniczna, SG) was established to investigate, prevent and detect offenses specified in the Law on protection of state frontiers. It performs operational-investigative as well as administrative-orderly functions and conducts preparatory proceedings. SG operates under the Law of 12 October 1990 on Frontier Guard^[5].

The tasks of SG include:

1) protection of the state frontiers;

2) organization and performance of the frontier traffic inspection;

3) issuing permits to cross the state frontier, including visas;

4) investigation, prevention and detection of offenses and transgressions as well as prosecution of their perpetrators, within Frontier Guard's competencies, including in particular:

- a) offenses and transgressions related to legality of the crossing of state frontiers, to the proper marking of those frontiers, and to credibility of documents entitling the bearer to cross the state frontier,
- b) some fiscal offenses and fiscal transgressions,
- c) offenses and transgressions related to the crossing of state frontiers or to the transporting across such frontiers of commodities and objects specified in provisions on the marking of products with excise marks, on firearms and munitions, on protection of cultural goods, on the national archival resources, on counteracting drug addiction, and on registration of the population and identity cards,
- d) offenses and transgressions specified in the Law of 25 June 1997 on foreigners[6];
- 5) ensuring safety of international transport as well as public order in the area of the frontier crossing points, and also, within Frontier Guard competencies, in the frontier zone;
- 6) putting up and maintaining ground frontier marks as well as drawing up, updating and storing land-surveying and cartographic documentation of frontiers;
- 7) protection of inviolability of marks and appliances for protection of state frontiers;
- 8) gathering and processing of information in the area of protection of state frontiers and frontier traffic, as well as provision of such information to competent state agencies;
- 9) supervisions of exploitation of Polish sea space and of provision by vessels of provisions governing that space;
- 10) protection of state frontiers in the air space of Republic of Poland by means of monitoring of aircraft and flying objects crossing the frontiers at low altitudes, as well as informing competent units of the Air Forces and Air Defense about such crossings;
- 11) prevention of transport across the state frontier, without a permit required under separate provisions, of waste, noxious chemical substances and nuclear or radioactive materials, and also prevention of pollution of frontier waters;
- 12) prevention of transport across the state frontier, without a permit required under separate provisions, of narcotic drugs and psychotropic substances, and also of firearms, munitions and explosives.

E. Office of Government Protection

The Office of Government Protection (Biuro Ochrony Rządu, hereinafter: BOR) is composed of soldiers from troops subordinated to the Minister of Internal Affairs and Administration. The Office has retained its name from before 1989. The tasks of this particular formation have been defined in Article 2 of the Law of 16 March 2001 on the Office of Government Protection[7]; they include protection of the following persons and objects:

- 1) President of Republic of Poland; Speaker of the Sejm; Speaker of the Senate; Prime Minister; Deputy Prime Minister; Minister of Internal Affairs; and Minister of Foreign Affairs;
- 2) other persons who have to be protected on account of the interest of state;
- 3) former Presidents of Republic of Poland;
- 4) delegations of foreign countries during their visit to the territory of Republic of Poland;
- 5) Polish diplomatic missions, consular offices and representations at international organizations outside the territory of Republic of Poland;
- 6) objects and appliances of special importance; BOR also ensures their proper functioning;
- 7) objects of the Sejm and Senate; BOR carries out their pyrotechnical and radiological monitoring;
- 8) objects used by the President of Republic of Poland, Prime Minister, Minister of Internal Affairs and Minister of Foreign Affairs.

1.2.

Have there been any changes to this institutional structure and the past decade or so: new forces, services or agencies established or old ones disbanded? Have there been any significant alternations to 'size and function': new responsibilities assumed, old ones relinquished or redefined?

All the discussed institutions were re-established after the fall of Communism in June 1989, and acquired a new form in June 1990. The structure was only changed radically in June 2002, when UOP was liquidated and replaced with two new agencies (see point 1.1 above).

The Office of Government Protection acquired a separate statutory regulation[8]. The Police underwent several changes: in 1995, district and provincial headquarters were closely bound with the local government; local police was liquidated then, and the police was made a uniform. That time the Police was empowered with the right to enlarged cover operations described here on 1.1. Since 27 July 2001 any interception of communication needs prior authorization of a district judge. In March 2002, the Central Investigative Office was established, which has the staff of 1,300 functionaries; it is a separate structure within the Chief Headquarters of the Police for prosecution of economic and organized crime.

1.3.

Which body co-ordinates the different forces, services and agencies?

All of the services are formally subordinated to the Prime Minister, who appoints the Heads of those formations. There is no single agency coordinating the activities of all those services. Services A, D and E are subordinated to the Minister of Internal Affairs; B and C report directly to the Prime Minister. The activities of B and C are coordinated by the Security Services Council attached to the Council of Ministers (Article 11 of the Law on ABW and AW) and by a separate parliamentary committee – the Security Services Committee of the Sejm of Republic of Poland (Article 12 section 3 of the Law on ABW and AW).

1.4.

What are the constitutional provisions and/or legislation and/or framework of regulations that authorise the existence of these various organizations and define their several roles and responsibilities? Use the reference letters (A, B, C, ...), assigned under 1.1 above, as appropriate.

A. The Constitution of Republic of Poland contains a general provision which makes the Council of Ministers responsible for external and internal security of state (Article 146 section 4 points 7 and 8).

Activity of the Police is regulated by the Law of 6 April 1990 on the Police[9]. The definition of the force contained in that law calls the Police "... a uniformed and armed formation serving society and designed to protect the people's safety and to maintain public safety and order".

The basic statutory competencies of the Police have been summarized in point 1.1 above.

Within a scope defined by the law, the Police also performs actions ordered by a court, prosecutor, state administration or local government agencies.

In the course of their service actions, policemen are obliged to respect human dignity and to observe and protect human rights.

B. The statutory competencies of ABW have been summarized in point 1.1 above.

C. The agency's competencies have been summarized in point 1.1 above.

D. Frontier Guard is a "... homogenous uniformed and armed formation" established to protect state frontiers on land and sea and to carry out inspection of the frontier traffic. It operates under the Law of 12 October 1990 on the Frontier Guard[10].

The competencies of SG have been summarized in point 1.1 above.

To investigate, prevent and detect offenses and transgressions, the Frontier Guard functionaries guard state frontiers; perform actions at such frontiers as well as operational-investigative and administrative-orderly activities; conduct preparatory proceedings under the Code of Criminal Procedure; and also perform other actions ordered by courts, prosecutor's offices, and by other competent state agencies.

When performing their service duties, SG functionaries are authorized:

- 1) to carry out checks at frontier crossing points;
- 2) to search persons and luggage contents, check cargo at ports and railway stations and on the means of air, road, railway and water transport, with the aim to exclude the possibility of perpetration of offenses and transgressions, especially those against inviolability of state frontiers or against safety of international transport;
- 3) to issue visas and other permits to cross the state frontier under separate provisions;
- 4) to check identity papers and otherwise to establish the identity of persons;

- 5) to arrest persons according to the procedure and in cases specified in provisions of the Code of Criminal Procedure and of other laws, and also to bring such persons to the competent agency of the Frontier Guard;
 - 6) to search persons, objects, rooms and means of transport according to the procedure and in cases specified in provisions of the Code of Criminal Procedure and of other laws;
 - 7) to monitor and record, using the technical means of picture and sound recording, incidents taking place on roads and at other public places;
 - 8) to stop vehicles and to perform other traffic control actions according to the procedure and in cases specified in the Law of 20 June 1997: Traffic Regulations^[11],
 - 9) to stop noxious nuclear and radioactive materials, chemical and biological substances as well as waste and to return such materials from the state frontier to the sender;
 - 10) to stay on and move across grounds without their owner's or user's consent, and to cross plough-land during immediate pursuit, also with a service dog, if not roads are available that could be taken instead;
 - 11) to demand necessary assistance from state institutions, government administration, local government agencies and economic units active in the field of public services; the above institutions, agencies and units are required, within their specific competencies, to provide such assistance to the extent defined by valid legal provisions;
 - 12) to approach other economic units and non-governmental organizations for necessary assistance, and also to approach any individual in cases of emergency for immediate assistance to the extent defined by valid legal provisions;
- When performing the actions referred to in points 4-7 above, SG functionaries have the rights and duties of policemen.

E. The Government Protection Office (BOR) is a "... homogenous, uniformed and armed formation, [...] which protects persons, objects and fittings". It operates under the Law of 16 March 2001 on the Government Protection Office^[12]. The competencies of BOR have been summarized in point 1.1 above.

2. ACCOUNTABILITY

To the executive

2.1.

*Please specify to which executive organs of the state the various organizations are formally accountable (answerable) for **what they do** and **what they spend** policy and operational accountability, financial accountability) – Head of State (presidency), Head of Government (Prime Minister), Council of Ministers (cabinet), designated Government Department, inter-Departmental or special Commission – and which of these is empowered to provide executive direction. Use the reference letters (A, B, C, ...), assigned under 1.1 above, as appropriate.*

A. The head of the Police is the Chief Commander of the Police, appointed by Prime Minister on motion of Minister of Internal Affairs and Administration. The Minister of Internal Affairs and Administration is responsible for police actions (this includes also financial responsibility). It should be added that as far as the grant of subsidies from the budget is concerned (the Police being a so-called budget unit), the institution that has a say on the actual amount of the budget is the Minister of Finance.

The carrying out of the budget adopted by the Sejm is also reviewed by the Sejm and the Supreme Board of Audit. Within the Sejm, the effects of Police work are reviewed by the Committee for Administration and Internal Affairs.

In the area of prosecution of offenses, the police are commissioned to perform investigative actions by the prosecutor, who also supervises police investigation of transgressions (petty offenses). The prosecutor has the sole power to make final decisions (indictment, discontinuance).

Established in March 2002 at the Chief Commander of the Police was an Advisory Committee, composed mainly of Professors of law (7), Professors of sociology (2) and psychology (2), as well as human rights activists (2). The Committee is to give opinions on police strategies and drafts of major legal acts, and also to submit to Police headquarters

suggestions and drafts developed by the scientific circles. The Committee has so far met twice. Most of its members are independent of the Police. A similar Committee operated in the years 1997-1999.

B. The Head of ABW reports directly to the Prime Minister.

In the area of investigation, ABW receives orders from the prosecutor, to whom the functionaries are accountable as to the merits of their actions.

Counterintelligence operations outside the agency's own routine actions ordered by the Head of ABW are commissioned by the Prime Minister, who in turn receives "commissions" from heads of other departments and institutions (such as e.g. the National Bank of Poland). Also the President of Republic of Poland and, through him, the National Security Office (Biuro Bezpieczeństwa Narodowego, BBN) may commission the Head of ABW.

Attached to the Council of Ministers there is the Security Services Council (already mentioned in point 1.3 above) which acts as provider of opinion and advice on matters of programming, supervisions and coordination of activities of B and C, of Military Intelligence (WSI) and the Police, and of the Frontier Guard and Military Police, undertaken with the aim to protect security of state.

The Council's competencies include formulation of appraisals and expression of opinions on the following matters:

- 1) appointment and dismissal of the Head of ABW, Head of AW, and Head of WSI;
- 2) directions and plans of activity of security services;
- 3) detailed draft budgets of security services, before their examination by the Council of Ministers;
- 4) draft normative acts and other Government documents pertaining to the activity of security services;
- 5) performance by the security services of specially commissioned tasks according to the directions and plans of activity of such services;
- 6) annual reports on the activity of individual security services, submitted by their respective Heads;
- 7) coordination of activity of ABW, AW and WSI, and also coordination of activity of those security services with that of the Police, Frontier Guard, Military Police, Government Protection Office, Customs Inspection, customs agencies, fiscal offices and chambers, financial inspection and information agencies, as well as intelligence agencies of the Armed Forces of Republic of Poland; also, cooperation of all those agencies in the area of protection of security of state;
- 8) cooperation with the security services of state, local and other such institutions;
- 9) cooperation of the security services with competent agencies and services of foreign countries;
- 10) organization of exchange between government administration agencies of information vital to the security and international position of Republic of Poland;
- 11) protection of classified information concerning:
 - a) nationwide threats to protection of classified information constituting state secret,
 - b) procedures in the situation of nationwide threat resulting from disclosure of classified information constituting state secret, and appraisal of the effects of disclosure of such information,
 - c) draft normative acts and other government documents concerning protection of classified information,
 - d) other matters commissioned by the Council of Ministers or Prime Minister and submitted by Ministers in the course of their performance of functions related to protection of classified information.

The Council is composed of the Prime Minister, a Secretary of the Council, Minister of Internal Affairs and Administration, Minister of Foreign Affairs, Minister of National Defense, Minister of Finance, Head of the presidential National Security Office (BBN), Heads of ABW, AW and WSI, as well as Chairman of the Sejm Committee for Security Services. The President of Republic of Poland may delegate a representative to meetings of the Council.

C. The Head of AW reports directly to the Prime Minister. Within their competencies referred to in point 1.1 above, AW functionaries perform operational-investigative as well as analytical-intelligence actions. They do not have the “police” powers (e.g. to arrest a person).

D. SG is headed by the Chief Commander of Frontier Guard, appointed and dismissed by the Prime Minister on motion of the Minister of Internal Affairs and Administration. The Chief Commander of SG reports directly to the Minister of Internal Affairs and Administration, who is also responsible for the budget of SG. In other respects, SG is supervised by the same agencies as the Police.

E. The Head of BOR is subordinated to the Minister of Internal Affairs and Administration, who is also responsible for the budget of BOR. In other respects, BOR is supervised by the same agencies as the Police to the exception of the prosecutor’s office as BOR does not carry out investigation.

2.2.

Have there been any significant changes to these arrangements in the past decade or so?

No significant changes took place over the last decade (to the exception of dissolution of B in May/June 2002 – see point 1.2).

Before 1995, there was no parliamentary oversight of the security services. In April 1995, the Sejm Committee for Security Services was established under an amended resolution of the Sejm of Republic of Poland of 30 July 1992. The Committee focuses on giving opinion on general legal and normative acts pertaining to the security services, and also on directions of the services’ work. Its competencies also include appraisal of security services’ cooperation with other services that perform functions in the area of security of state, and examination of complaints against their activity. Besides, the Committee examines annual reports submitted by the Heads of security services, and gives opinion on candidates for the offices of such Heads and their deputies. Opinion is also given on the draft budget in its part concerning the security services, as well as the report on its execution. The Committee has nine members; it is chaired by an opposition deputy.

2.3.

Which constitutional or other provisions underpin these arrangements?

See 1.4.

2.4.

How do you assess the extent to which these formal arrangements work in practice?

In practice, parliamentary oversight is the weakest one of all. Within the Sejm Committee for Administration and Internal Affairs, both the opposition and especially the coalition deputies act as a lobby with respect to A, D and E. They believe that the three agencies deserve extended powers, including the use of firearms, in the interest of crime control. Most deputies lack professional competencies to perform effective parliamentary oversight; the Committee’s experts are former police officers or scholars institutionally dependent on the police.

Weaker still is parliamentary oversight of ABW and AW (against the background of the former experiences of UOP oversight). The ruling parties treat all oversight as an assault against a particularly sensitive fragment of their dominion. So far, all motions for investigation of various scandals, submitted by opposition deputies among the Committee’s composition (who always constitute a minority; today there are 3 such deputies on the Committee compared to 9 coalition deputies), have been outvoted by the majority.

Highly effective, instead, is inspection by the Supreme Board of Audit, which concerns not only budget expenditure but also its expediency and effectiveness. The problem is that most reports provided by the Board’s inspectors are secret (as e.g. a report on effectiveness or rather lack of effectiveness of interception of communication).

The legality of work of those services is reviewed by the Commissioner for Civil Rights Protection (Rzecznik Praw Obywatelskich, RPO), whose office has a separate department

for oversight of functionaries. It is, however, staffed mostly with retired functionaries, who form a lobby for (especially retired) policemen.

Non-statutory oversight of the discussed services is provided by human rights NGOs and the media. The NGOs, such as Helsinki Foundation for Human Rights, received from several hundred complaints on the Police a year. They conduct inquiries on their own, in next to all cases into alleged breaches of the law by A and D. They demand explanations from various structures, inform the prosecutor's office about offenses, assist the victims at court, draw up applications to the European Court of Human Rights, inform the media, and publish reports from monitoring of violations (as e.g. a report of 2001 on cases of police arrest^[13]).

Separate and important oversight factors similar to the watchdog NGOs are the media, including in particular serious national dailies and weeklies, fully independent of the government and local connections with the authorities. Their private inquiries into cases of abuse of power and corruption provide important oversight of all the discussed services (A-E).

2.5/2.6

What are the modalities of accountability to the executive?

Can the forces, services and agencies evade their obligations in this respect?

There are none.

To elected representatives

2.7.

Regarding accountability vis-à-vis the legislature, please indicate (a) whether the various forces, services and agencies are directly accountable to elected representatives – through a designated committee – or are they answerable only indirectly, through the legislature's general oversight of the executive and (b) what are the legislature's formal powers in this connection. Use the reference letters (A, B, C, ...), assigned under 1.1 above, as appropriate.

Under Article 95 section 2 of the 1997 Constitution of Republic of Poland, the Sejm reviews the activity of the Council of Ministers within a scope defined by provisions of the Constitution and of laws. Further, Article 87 section 1 of the Sejm Regulations of 30 July 1992 provides that "... in cases related to enforcement and application of laws and resolutions of the Sejm, review shall be performed by competent committees"^[14].

The deputies perform this review by means of interpellations and parliamentary questions, inspections commissioned by individual parliamentary Committees and carried out by the Supreme Board of Audit, or directly within the Committees.

2.8.

Have there been any significant changes to these arrangements in the past decade or so?

The Committee for Security Services was established in 1995.

2.9.

What constitutional or other provisions underpin these arrangements and what institutional and procedural controls exist?

See: 2.7.

2.10.

How do you assess the extent to which these formal arrangements work in practice?

The agency that is most interested in gaining credibility, and also one that is most often described by the media is the Police, which results in the biggest number of complaints against activities of that particular agency. The remaining formations are much more "hermetic" for the media, and materials from their inspections are reserved.

2.11.

Can the forces, services and agencies evade their obligations in this respect?

Yes they can, but not directly. Indirectly it can be done by arranging another case or affair with the present forces as the victim of too low a budget or too narrow competencies to fight organized crime.

To other institutions

2.12.

Do any of the following institutions have specific powers in relation to police forces, other internal security forces, security services and intelligence agencies in your country?

- Human right commissioners
- The courts
- Internal boards (internal accountability)
- Municipal authorities

Use the reference letters (A, B, C, ...), assigned under 1.1 above, as appropriate.

Applies to A-E

The Commissioner for Civil Rights Protection (Ombudsman, Rzecznik Praw Obywatelskich) examines complaints against the conduct of policemen and functionaries of ABW, AW, SG and BOR, as well as complaints submitted by the functionaries (e.g. by a policeman as an employee). The Ombudsman's Office has a department for cases of functionaries.

If they commit an offense, policemen fall under the jurisdiction of criminal courts. From the policeman's service relationship as envisaged in provisions of labor law it follows that disputes under that law should be brought not before labor courts but before the Supreme Administrative Court.

A policeman is liable to disciplinary responsibility for breaches of service discipline and in other cases specified in the Law on the Police. Agencies competent in such cases are provincial commanders as well as the Chief Commander of the Police. A policeman who has been punished may appeal against the decision on punishment to the Supreme Administrative Court.

The Law on the Police also established courts of honor. They are competent in cases of inobservance by policemen of the rules of professional ethics, particularly of the honor, dignity and good name of the service. They are not competent, instead, if disciplinary proceedings have been institute against the policeman concerned, or if his act constitutes an offense or transgression.

To courts of law

The Constitutions reads as follows:

Article 77.1. Everyone shall have the right to compensation for any harm done to him by any action of an organ of public authority contrary to law.

2. Statutes shall not bar the recourse by any person to the courts in pursuit of claims alleging infringement of freedoms or rights.

Article 41. 5. Anyone who has been unlawfully deprived of liberty shall have a right to compensation.

The problem with judicial power in relation to forces, especially B and C is that courts have no access to classified document because agencies deny to pas it to courts. In practice in such a case the Main Administrative Court and courts of general jurisdiction decides take decision in favor of plaintive.

To internal boards

All services have internal bureaus responsible for violation of laws and internal regulation of their agents.

To municipal authorities

In the latter half of the nineties, the provision of Article 6d was introduced into the Law on the Police. It provides that the commanding officer of a police station is appointed by the district (municipal) commander of the Police in consultation with the competent head of commune (mayor or president of a big city) or heads of districts (this does not apply to commanding officers of specialized police stations). At the same time, commanding officers of the Police submit annual reports from their activity, as well as information about the state of public order and safety, to competent heads of provinces, districts or communes (mayors of presidents of

big cities), and also to district and commune councils. In the situation of threat to public safety or a dangerous breach of public order, the reports and information is submitted to the above agencies without delay whenever requested.

Finally, chairman of the commune or district board may demand that the competent commanding officer of the Police restore a state consistent with the legal order or undertake actions to prevent breaches of the law and to remove threats to public safety and order.

The municipal authorities have no powers with respect to B-E.

2.13

Have there been any significant changes to these arrangements in the past decade or so?

See: 2.14 (municipal authorities)

2.14

Which constitutional or other provisions underpin these arrangements?

See 2.12.

2.15/2.16

How do you assess the extent to which these formal arrangements work in practice?

Can the forces, services and agencies evade their obligations in this respect?

See 2.12. It has to be added that a victim of illicit use of force by the police inside a police car on the premises of a police station finds it extremely hard to prove his/her facts. The practice is that persons wishing to complain that if they decide to report the offense, they will be charged with active assault against a policeman, which is what actually happens if the person concerned refuses to accept the warning. Practically all cases in which the prosecutor decides to indict a policeman are those where the victim of abuse of power has obtained assistance from an NGO. The chances for obtaining a conviction are only bigger in cases of extreme abuses of power, where the victim actually dies; yet even in such cases, as a result of pressure exercised by the police lobby and forgery or destruction of the evidence, the penalties imposed by the courts are relatively lenient (in most cases, 5 years imprisonment at most for manslaughter). On the other hand, in cases where a policeman is killed, the police supported by their Minister and by a considerable proportion of the public demand the penalty of at least 25 years imprisonment increased so as to prevent the convicted person from ever getting released on license).

Practically all local authorities are lobbies, eager to organized funds to provide additional support to local police forces. There are hardly any cases where councilors would exercise genuine oversight over the legality of police actions.

To the media and society-at-large

2.17.

Do the print and broadcast media, and individual citizens, have right of access to state information about these bodies? Has this been secured in the constitution (or elsewhere), and can it be juridically enforced? Use the reference letters (A, B, C, ...), assigned under 1.1 above, as appropriate.

The right to information is guaranteed in Article 51 of the Constitution of Republic of Poland. It provides, among other things, that every person has the right of access to official documents and data collections. The right may only be limited by a law. The law in question is the Law of 6 September 2001 on access to information^[15]. It imposes on the Minister of Internal Affairs and Administration to duty to create an Internet Public Information Newsletter (the venture is now at the stage of organization).

Each citizen may obtain information about the discussed services (A-D) from e.g. their WWW sites (BOR does not have a site, and information about its structure and functioning is scarce).

2.18.

Are there procedures whereby irregularities can be revealed by serving personnel; and are 'whistle-blowers' guaranteed anonymity?

The possibility of rectifying incorrect data is provided under the Law of 29 August 1997 on protection of personal data[16]. The problem is that “police” data collections are not subject to review by the General Inspector for Personal Data Protection. In practice, this results in a situation where false data possessed by the police cannot possibly be corrected. Informers are guaranteed anonymity; the methods of operational activity of security services constitute state secret.

2.19.

If questions are raised in the media do the authorities acknowledge the right of journalists to protect their sources (i.e. it is not suing a journalist to release his/her source)?

Article 180 para 3 of the Code of Criminal Procedure provides that release of a journalist from the duty to keep professional secret may not pertain data permitting identification of the author of a press material, letter to the editor, or another material of this kind, if such persons have previously reserved their personal data. This provision does not apply to the most serious crimes (murder included).

2.20.

If an individual citizen believes he/she has been improperly treated, is there an official (Ombudsman) empowered to receive and investigate complaints and correct abuses?

Yes in the case of the Commissioner for Civil Rights Protection. The Ombudsman enjoy very high social trust in rankings of non-political institutions compiled both by the government-controlled Center for Opinion Surveys and by private institutions such as the Sopot Social Surveys Laboratory.

2.21.

What is your personal opinion on the level and quality of media coverage of the activities of police forces, other internal security forces, security services and intelligence agencies?

See 2.4 *in fine*.

Beside serious daily papers, there are several dailies and weeklies that “thrive” on crime and scandals covered in the style typical of scandal-mongers (*Superexpress, NIE*). This may well result from a specific “cooperation” between journalists and the police, or even from information obtained from the functionaries of individual services (which suspicion pertains to *NIE* weekly in particular).

2.22.

Do you know of any poll data on public attitudes to police forces, other internal security forces, security services and intelligence agencies with particular reference to accountability?

Two or three times a year, beside regular rankings of the most trusted among the major state institutions, the Police, UOP/ABW and AW included), the government-controlled Center for Opinion Surveys publishes the findings of surveys concerning the use of firearms and means of constraint by the police in particular, and less frequently also by the former UOP. Interviewed within the surveys are national representative samples of the population. The findings are available on the Center’s WWW site.

We have not heard of any survey concerning SG and BOR.

To codes and conventions

2.23.

To which international codes and conventions does your country subscribe?

- United Nations (e.g. 1979 UN Resolution: Code of Conduct for law-enforcing officers)
- Council of Europe (e.g. 1979 Council of Europe Declaration on the Police)
- OSCE (e.g. 1994 Code of Conduct on Politico-Military Aspects of Security)
- Europol (e.g. 1995 Europol Convention)
- Interpol (e.g. 1999 Interpol Seoul Declaration)
- European Convention on Human Rights
- Requirements of the European Union

- Any other organization?

Are all such international obligations respected (to the best of your knowledge)?

Of the listed acts of hard international law, Poland joined the European Convention on Human Rights in 1991 (the Convention gained binding force in 1993). Poland is member of the UN, OSCE and the Council of Europe, and is therefore bound by the relevant acts of soft international law (the UN Code of Conduct for law-enforcing officers 1979; Council of Europe Declaration on Police 1979; Code of Conduct on Politico-Military Aspects of Security 1994). The Polish presence in international police organizations goes back to 1923, when the Interpol was established. However, for political reasons, the Polish eventually government broke off all relations with this organization. The first steps aimed at the resumption of the membership of the Polish Police Service in Interpol were made in 1989, with Poland rejoining the organization in 1990 at the General Meeting of Interpol in Ottawa. The Polish National Interpol Office, transformed in 1998 in connection with structural changes in the National Headquarters of the Polish Police into the Office for International Police Cooperation, meets all the Interpol standards with respect to fast exchange of information. The Office is equipped with electronic mail facilities enabling it to send and receive information from/to all 117 member states of Interpol and from its General Secretariat, and also to send images of fingerprint charts and photographs of individuals. The Office has access to the computerized database at the Interpol's Secretariat (ASF), listing all vehicles stolen in almost all European member states. Since 1997, a representative of the Polish Interpol has represented Europe in the governing body of Interpol's Executive Committee, the top decision-making body of the organization.

On 3 July 2002 the President of Poland signed a Law on ratification of a accession Poland to the Europol.

According to our knowledge, Poland observes its international obligations that follow from the above acts. What leaves much to be desired is the practice of relatively frequent violation by the police of Article 3 of the European Convention on Human Rights, which deals with humiliating treatment or punishment. As a general practice, prosecutors tend to discontinue such cases.

2.24.

Does (international) co-operation between police forces, other internal security forces, security services and intelligence agencies affect the domestic accountability of your nation's forces?

- SECI Center (only applicable to Bulgaria)

- Interpol

- Europol

- Any other form of co-operation?

(For example, is it possible that extra-territorial operations escape scrutiny?)

What may serve as an example of such cooperation are inspections carried out by the European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Poland joined the relevant Convention of the Council of Europe in 1995. Since then, the Committee carried out two periodic inspections – in 1996 and 2000.

Another example of the work of non-governmental organizations is preparation of the document *Służby specjalne w demokracji konstytucyjnej. Zasady kontroli i odpowiedzialności* [Security Services in a Constitutional Democracy. The Principles of Oversight and Accountability] (1997), written as a result of the program „Security Services in a Constitutional Democracy”, implemented by Helsinki Foundation for Human Rights, Warsaw, and the Center for National Security Studies, New York. The *Principles...* gained acceptance of the International Helsinki Federation for Human Rights, International Commission of Jurists, Amnesty International and Article 19. The document also appeared as a special publication of the Polish Government^[17].

3. TRANSPARENCY

Domestic transparency: dimensions

3.1.

Please specify about which of the enumerated 'forces, services and agencies' (cf. 1.1) the authorities are obliged to make information available to elected representatives. Use the reference letters (A, B, C, ...), assigned under 1.1 above, as appropriate.

See 2.1.

3.2.

What constitutional or other provisions impose this obligation (and are there constitutional or legislative provisions which state explicitly that for some bodies there is no such obligation)?

This follows from individual laws regulating specific services and agencies mentioned in point 1.1 above, and also from the Constitution of Republic of Poland (Article 146 provides that the Council of Ministers ensures external and internal security).

3.3.

Is information made available about the organization of the different forces, services and agencies? Please indicate whether relevant information is made public or subject to privileged access by selected persons (e.g. members of a specialist committee of the legislature or even a sub-committee or group of carefully chosen individuals).

Available to the public is also information about the organizational structure of the Police and SG. The remaining services do not publish data on their structure. Such data are available to the privileged: thus, naturally, to members of Security Services Board and of Sejm committees.

3.4.

Is information made available about the personnel strength of the different forces, services and agencies; and, if so, is there any breakdown of personnel by category (field officers, headquarters staff, clerical and other support personnel)? Again, kindly state whether the public/privileged distinction applies (cf. 3.3).

This information is available to the public only in the case of the Police. The number of posts to be taken by policemen is defined annually in the Budget Law. Detailed data are only available to the privileged (see: 3.3).

3.5.

Is information made available about budgets; and if so does the material (a) contain detail covering what money is spent on (inputs) and what funds are used for (outputs) or (b) provide only an abbreviated statement of money requested? Once more, please say whether the public/privileged distinction applies.

Information about the budget of individual services and agencies can be obtained from general categories of the Budget Law (without a detailed specification that is available e.g. to members of competent Sejm committees, such as the Budget and the Finances Committees).

3.6.

Is information made available about the nature of operations conducted? Is the material specific or expressed only in the most general terms? Is it in the public domain or subject to privileged access?

Not even the general categories of this type of information are available to the public: the only recipients are the privileged.

Domestic transparency: publications

3.7.

For which, if any, of the forces, services and agencies under review are regular policy statements issued?

There is no regular policy statement.

3.8.

For which, if any, are regular reports of activities published?

No reports on activity are published on a regular basis.

3.9.

For which, if any, are statistics available in the public domain?

The most extensive statistics is made available by the Police, followed by SG. The remaining services (B, C and E) do not publish their statistics.

3.10 -3.11.

Are there any regular publications that do not fall into any of the foregoing categories (3.7-3.9) of which we should be aware?

Could you list all official publications relating to these bodies, of whatever sort, that appeared in 2001 (or in a typical year, if 2001 was in some way unusual)?

There are no such publications.

International transparency

3.12.

Do any of the international codes or conventions to which your country subscribes (cf. 2.23) impose 'transparency' obligations?

- United Nations (e.g. 1979 UN Resolution: Code of Conduct for law-enforcing officers)
- Council of Europe (e.g. 1979 Council of Europe Declaration on the Police)
- OSCE (e.g. 1994 Code of Conduct on Politico-Military Aspects of Security)
- Europol (e.g. 1995 Europol Convention)
- Interpol (e.g. 1999 Interpol Seoul Declaration)
- European Convention on Human Rights
- Requirements of the European Union
- Any other organization?

See 2.23.

3.13.

Do the authorities comply with any such obligations: and, if not, why not?

Yes, but services other than A and E do not have codes of professional ethics (collections of rules) to be followed by functionaries.

3.14.

Does (international) co-operation between police forces, other internal security forces, security services and intelligence agencies affect domestic transparency regarding these bodies in terms of any of the 'dimensions' mentioned in the preceding sub-section?

- SECI Center (only applicable to Bulgaria)
- Interpol
- Europol
- Any other form of co-operation?

(For example, can information which would be released if relating to domestic activity be withheld if international (extra-territorial) operations are involved?)

Yes, but only within the Interpol.

4. Recent changes 2001/2 and general appeal

4.1.

Have the events of 11 September 2001 led to (declared) changes to 'normal practice' so far as the transparency and accountability of police forces, security and intelligence services are concerned?

4.2.

Have there been, to your knowledge – or in your opinion – undeclared changes: and, if so, of what sort?

4.3.

If you think that these Questions have not covered some important aspect of the transparency and accountability of police forces, security and intelligence services, could you give details?

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[1] Uniform text: Journal of Laws of 2000 No. 101, item 1092 with subsequent changes.

[2] Journal of Laws N. 154, item 1800.

[3] Law of 24 May 2002 on the Agency of Internal Security and Intelligence Agency (Journal of Laws No. 74, item 676).

[4] Journal of Laws No. 88, item 554 with subsequent changes.

[5] Uniform text: Journal of Laws No. 78, item 462.

[6] Journal of Laws No. 114, item 739 with subsequent changes.

[7] Journal of Laws No. 106, item 1149.

[8] Formerly, BOR was regulated by the Law of 22 December 1999 on temporary subordination of some military units (Journal of Laws of 2000 No. 2, item 6 with subsequent changes).

[9] Journal of Laws No. 30, item 179 with subsequent changes.

[10] Journal of Laws of 1991 No. 87, item 396 with subsequent changes.

[11] Journal of Laws No. 98, item 602, with subsequent changes.

[12] Dz.U. nr 106, poz. 1149.

[13] S. Cybulski: *Policjanci i ich klienci. Prawo w działaniu. Raport z monitoringu* [Policemen and Their Clients. The Law in Operation. Monitoring Report]. Warsaw: Helsinki Foundation for Human Rights 2001.

[14] Resolution of the Sejm of Republic of Poland of 30 July 1992: Regulations of the Sejm of Republic of Poland. (Uniform text: Monitor Polski of 1998 No. 44, item 618 with subsequent changes)

[15] Journal of Laws No. 112, item 1198 with subsequent changes.

[16] Journal of Laws No. 133, item 883 with subsequent changes.

[17] *Służby specjalne RP. Prawne aspekty cywilnego nadzoru* [Security services of Republic of Poland. Legal aspects of civil oversight]. G. Mosur et al. [eds.]. Warsaw: Office of the Prime Minister, Office of the Security Services Board 1997.