

Polish Journal of Political Science

Volume 5 Issue 3 (2019)



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Polish Journal of Political Science

Volume 5 Issue 3

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**Ministry of Science
and Higher Education**

Republic of Poland

eISSN 2391-3991

Original version: e-book

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Wyższa Szkoła Kryminologii i Penitencjarystyki w Warszawie

**Formal technical and security requirements
regarding lodgings for prisoners
in the context of responsibility for security**

Abstract

With a view to the importance of technical safeguards for lodgings used in the Prison Service the article draws attention to the common approach to security in the Prison Service, which should be modified in the context of specific requirements taking into account the threats typical of this professional environment. By indicating security as a fundamental value in constructing the rules for the functioning of the Prison Service, the Author analyzes legal requirements aimed at obligating officers in charge to provide appropriate conditions for both officers and inmates. Particular attention has been paid to technical safeguards as important security measures in penitentiary services.

Keywords: security, prison service, penitentiary services, technical security in the prison service

Introduction

The notion of security has been evolving for centuries and is understood as a process effecting changes which are a consequence of reforms not only of a political and economic character, but also global, international changes connected with different perceptions of the nature of hazards and the rank assigned to concern for non-military security. In this context, it is worth noting the definition of security put forward by an excellent researcher Daniel Frei, who in his work turned attention to:

- state of no security – occurs when we deal with a great real threat, and the perception of this threat is correct;
- state of obsession – occurs when a slight threat is perceived as a big one;
- state of false security – occurs when the threat is serious and is perceived as small;
- state of security – occurs when the external threat is small and its perception correct.¹

Daniel Frei did not raise a very important aspect, which has been added in his study by Waldemar Kitler, who is interested in the security needs of the people. He lists the needs of: *security and public order, protection of health, sanitary and epidemiological security, economic security and national security*.²

With a view to the subject of the discussion, taken into account should be the interpretation of security commonly

¹ Frei (1997): 17.

² URL = <https://pl.wikipedia.org/wiki/Bezpiecze%C5%84stwo>.

adopted in the Prison Service. For the majority of officers, regardless of their position, undoubtedly not only their own and their families' security is important, but also security of other officers and inmates. Officers raise many professional problems concerning technical safeguards, showing greater or lesser knowledge of the applicable legal acts that constitute a basis for key practical solutions in their everyday work. That is why it seems justified to consider the nature of security in the context of duties, threats, rights and other conditions connected with working in the Prison Service.

Security is a fundamental value in constructing laws for the Prisons Service

In the area of the functioning of the state administered by the Ministry of Justice, which covers the Prison Service, the problem of security is subject to special analysis and multifaceted reflections – considerations of this subject are very extensive and diverse. In legal regulations the Prison Service is defined as: *Uniformed and armed apolitical unit subordinated to the Minister of Justice, having its own organisational structure*,³ which is responsible for the correct functioning of the state, and in particular: in accordance with the principles laid down in the Executive Penal Code of 6 June 1997 (*Journal of Laws of 2019 items 676, 679, 1694, 2070*)⁴ performs duties with respect to carrying out temporary detention as well as custodial penalties and enforcement measures leading to confinement.⁵

³ Prison Service Act of 9 April 2010, Art. 1 in force as at 23 March 2020.

⁴ Executive Penal Code of 6 June 1997 in force as at 3 April 2020.

⁵ Ibidem, Art. 2.

There are many opinions that this unit has been associated with exemplification relating to the military or the police. Meanwhile, the nature of the Prison Service requires a separate interpretation – its specificity includes primarily reference to special types of places – ensuring order and security in penitentiary and detention institutions.

Security in the Prison Service embraces a certain system of values, is of a dynamic nature, which allows for making a conclusion that security is not only the chief requirement of the structure, but also the determinant of measures originating from the instinct of survival. Each of us owns a mechanism which in biology and psychology is called the instinct of survival, mechanism of self-defence, mechanism of living and developing in a certain cycle – also during penitentiary isolation. *Generalizing, the need of security should be treated as a biological feature, a mental condition, and first of all a complex process of a substantive nature, which constitutes a fundamental need, while its absence arouses anxiety and a sense of threat. Therefore, it is justified to state that security is an indispensable factor shaping the Prison Service.*⁶

It is emphasised in the literature on the subject that the subject of security should be *all entities having their own interests and aspiring to realise those interests – individuals, various social groups, nations, international communities, and finally humanity at large;*⁷ therefore, it is justified to take a multifaceted look at the problem of conditions connected with satisfaction of the needs of officers employed in the most important link of the public security subsystem,

⁶ Czupryński (2015): 11.

⁷ Gierszewski (2013): 56.

which is associated not only with the so frequently emphasized values such as existence, identity, independence, survival or certainty of development, etc., but also such as protection of human life, health, or simply peace. In the studies on the subject a lot of space is devoted to analysing the *Ordinance of the Minister of Justice of 17 October 2016 concerning methods of protecting organisational units of the Prison Service*, drawing attention to protective measures, including technical safeguards, providing penitentiary and detention institutions with comprehensive systems, which are to guarantee security. Also invoked is Art. 2.6 of the Prison Service Act of 9 April 2010 *on ensuring order and security in penitentiary and detention institutions*.⁸ Attention is focused on the way of functioning of inmates – in the context of specificity of their lives it is stressed how important it is to take care so that security does not belittle other values that are important for everyone, but also that those important values can by no means endanger security, cannot undermine its significance in such specific situations. However, rarely analysed in detail are internal guidelines which reveal the nature of decisions relating to such a specific social environment as a penitentiary institution in the context of guaranteeing technical safeguards not only for professional upgrading of the exercise of duties, but first of all for enhancing the sense of security of officers. It must not be ignored that the needs for modernising prison service facilities and penitentiary institutions with respect to employment of state of the art solutions, especially as regards technical safeguards, continue

⁸ Ordinance of the Minister of Justice of 17 December 2016 concerning methods of protecting organizational units of the Prison Service in force as at 23 March 2020.

to be enormous. Therefore, it seems important to comment on Guidelines No. 1/2019 of the Prison Service Director General dated 17 June 2019 concerning technical requirements and safeguards for lodgings of inmates of organizational units of the Prison Service, issued under Art. 11.1.9 of the Prison Service Act of 9 April 2010 (*Journal of Laws of 2018 items 1542, 1669, 2245 and 2399 and of 2019 item 125*)⁹ in order to standardize the measures undertaken by heads of organisational units of the Prison Service with respect to technical requirements and safeguards for lodgings of inmates and *Guidelines No. 2/2013 of the Prison Service Director General dated 4 June 2013 concerning technical requirements and safeguards in organisational units of the Prison Service*.¹⁰

Technical safeguards as major security measures in penitentiary services

Our discussion requires invoking the fact that the area of interest of the decision-makers who try to carry out tasks arising from the need to maintain security, discipline and order and ensure appropriate conditions guaranteeing security for both officers and inmates, should embrace fundamental legal regulations. Among them there is primarily the Constitution of the Republic of Poland, then statutes and ratifies international agreement, and subsequently Ordinances.¹¹ They underlie internal legal acts such as: rules and regulations,

⁹ Prison Service Act of 9 April 2010 in force as at 23 March 2020.

¹⁰ Guidelines No. 2/2019 of the Prison Service Director General dated 4 June 2013 concerning technical requirements and safeguards in organizational units of the Prison Service.

¹¹ Constitution of the Republic of Poland of 2 April 1997.

instruction and above-mentioned guidelines, the issuing of which is authorized by statutory provisions – in the analysed case the Prison Service Act. It is this Act which authorized Director General to create the above mentioned acts – Art. 11.2. reads: *Under the exercise of his duties Director General may issue orders, instructions or guidelines.*¹²

In the situation whereby the market of advanced integrated security systems offers ever better and more efficiently functioning specialized security systems it should be remembered that their effectiveness in a large measure depends not only on how well they are operated, but also the justification and logic of their adaptation to specific situations, the character and functions of securing penitentiary facilities. First, however, behind prison walls inmates have to be classified, which is done under Art. 82 §2 of the *Executive Penal Code*,¹³ in particular with a view to: *gender, age, previous custodial sentences, intentional or non-intentional nature of offence; time remaining to the end of the custodial sentence; mental and physical health condition, including addiction to alcohol or drugs; degree of demoralisation and threat to society, as well as the type of committed offence.*¹⁴ Moreover, also the contents of the sentence and its substantiation, personal information the convict provided by court, the convict's record, as well as psychological penitentiary recommendation should be taken into account.

An important aspect are types of penitentiary institutions, which are denoted with numbers:

¹² Prison Service Act of 9 April 2010, Art. 11 in force as at 23 March 2020.

¹³ Executive Penal Code of 6 June 1997, Art. 82 elaborated on the basis of: i.e. Journal of Laws of 2019 items 676, 679, 1694, 2070.

¹⁴ Ibidem, Art. 82.

- *closed prison - 1*
- *semi-open prison - 2*
- *open prison – 3.*¹⁵

For establishment of an appropriate security system it is important that the Executive Penal Code enumerates four categories of penitentiary institutions: for juvenile delinquents; for those who serve for the first time; for repeated offenders; and for those who serve sentence in military jails, which are subordinated to the Minister of Justice.¹⁶

In accordance with the Executive Penal Code, penitentiary institutions for juvenile delinquents are for offenders below 21 years of age. However, in justified case a convict may serve their sentence in a penitentiary institution for juvenile delinquents when they are older than 21 years.

It should be noted that an adult who has been convicted for the first time and is well-behaved may choose to stay in a penitentiary institution for juvenile delinquents, where he enjoys all the privileges of juvenile inmates.¹⁷

Penitentiary institutions for repeated offenders are meant for adults convicted for an intentional offence and sentenced to the penalty of imprisonment or substitute penalty of imprisonment, and those convicted of an intentional misdemeanour and sentenced to the penalty of detention or substitute penalty of detention, who have already served such penalties, or the penalty of detention in military jail for intentional offences or misdemeanours, unless there are special rehabilitation reasons which weigh in favour

¹⁵ Ordinance of the Minister of Justice of 21 December 2016 concerning organisational rules for serving a custodial sentence under Art. 249 §1 of the Executive Penal Code.

¹⁶ Executive Penal Code of 6 June 1997.

¹⁷ Penal Code of 6 June 1997, Art. 85.

of sending them to a penitentiary institution for first-time offenders.¹⁸

Detention in a military jail is meant exclusively for soldiers. It is wielded in accordance with the provisions on the custodial penalty, unless the provisions of the Military Section of the Executive Penal Code provide otherwise.¹⁹

For our analysis it is important that all those institutions may function in the following formulas:

- Closed institution,
- Semi-open institution,
- Open institution.

Individual institutions differ primarily as regards the level of technical safeguards which takes into account the principle of factual adjustment of sanctions to a concrete case in accordance with substantive treatment of offenders to whom avoidance of a mechanical approach to the manner of carrying out sentences should be guaranteed.

The above presented classification allows for adaptation of appropriate safeguards so as to ensure the highest possible level of security, so that inmates serve their sentences safely both for themselves and the environment. As experts in this area Tomasz Kalisz and Adam Kwieciński emphasise: *It is extremely difficult to identify threats to personal security of inmates. Let us stress that the nature of those threats is not homogeneous, while their intensity and scope of impact are very diverse. The phenomena and situations posing threat to personal security include: prison subculture, prisonization, intentional and unintentional actions*

¹⁸ Penal Code of 6 June 1997, Art. 86.

¹⁹ Executive Penal Code of 6 June 1997.

*or omissions of penitentiary administration, operations of criminal groups inside and outside penitentiary institutions, overpopulation of penitentiary institutions, standard of prison health care and many other factors, which could be actually identified with respect to specific cases.*²⁰

Regardless of individual cases, the same safeguards are employed in closed penitentiary institution and temporary detention centres – there is a greatest number of them in such facilities and they have the utmost level of security guarantee given the fact that their inmates include the most dangerous criminals. Of course, it should be always kept in mind that there are no such safeguards which could not be forced by man. That is why they should be modified from time to time so that they comply with the needs and current level of technical development. Such an obligation is provided for in the Executive Criminal Code, which requires administrations of penitentiary institutions to introduce measures guaranteeing personal security to inmates both when serving a sentence as well as during a temporary detention period. This is a very broad issue, which may be referred to various areas of life both inside and outside penitentiary institutions. However, special attentions should always be drawn to thorough observance of regulations which describe protective measures since the general rules thwart the majority of opportunities for overcoming them – statistics prove that prisons breaks were in most cases facilitated by a human factor rather than the number of safeguards. It has been also noted, at the same time, that the quality of safeguards (if they are defective) is also due to human error.²¹

²⁰ Kalisz, Kwieciński (2013): 58.

²¹ Guidelines No. 1/2019 of the Prison Service Director General dated 17 June 2019 concerning technical requirements and safeguards for lodgings of inmates of organizational units of the Prison Service.

The key recommendations in this respect are contained in basic internal regulations issued under Art. 11.1.9 of the Prison Service Act of 9 April 2010 (Journal of Laws of 2018 items 1542, 1669 and 2399, and of 2019 item 125), namely Guidelines No. 1/2019 of the Director General of the Prison Service of 17 June 2019 concerning technical and protective requirements for the lodgings of inmates in organizational units of the Prison Service. They describe the measures undertaken by heads of organisational units of the Prison Service with respect to technical requirements and safeguards for lodgings of inmates in organisational units of the Prison Service.²² Worthy of special notice are Chapters Two and Three. Chapter 2 describes in detail the types of rooms which have to or may be included in the living quarters, as well as lays down necessary technical parameters beginning with wall thickness to window and door frames, running of drain pipes, baths, sanitary units, central heating installations, water mains and plumbing installations, ventilation, electricity supply, lighting installations and sockets, three-phase installations, entry and call system installations, alarm system installations, officer control installations, electric lock control installations, installations for blocking building entrance security bars, radio broadcasting installations and TV antennas.

Chapter 3 describes in detail window, passage and building entrance bars – they constitute basic safeguards in penitentiaries. In all living quarters of closed institutions and temporary detention centres, windows should be barred in accordance with the description found in Guidelines No. 1/2019 of the Director General of 17 June 2019 *r. concerning technical and protective requirements for the lodgings*

²² Ibidem.

of inmates in organizational units of the Prison Service. Bars should be made of higher cutting strength grade 11G12 or B840 steel, of 16 mm rods with axial spacing of 14 cm and 7x45 mm lacings spaced at no more than 35 cm. It is very important that lacings are fastened in the wall at the depth of at least 20 cm. Rods should be finished with a flat bar as in lacings, to which rods are welded. Window bars should be fitted within the inside diameter of the secured opening, between the place of the window frame and the top surface of the structural layer of the wall. Should the technology of structural walls makes it impossible to place the bars as described above, it is allowable to fasten the bars on the outside surface of the wall, e.g. immediately beneath the insulation layer. The anchors with which the bards are fastened to the wall should be sunk in the structural layer of the wall not less than 20 cm with the traditional method of anchoring or not less than 15 cm when rods are anchored with the use of epoxy resins. If anchors are fastened in a straight line and their thickness is less than 20 cm, they should be fastened through the structural layer in a manner preventing their dismantling without the use of professional tools. Joints made with the use of threaded fittings or other detachable couplings should be welded. Even a non-professional can see how high is the degree of security in a situation of a potential prison break.

On the other hand, in semi-open institutions bars are made of ordinary reinforcement steel of 14 mm in diameter, axial spacing of 14 cm, 10x40 mm lacings, spaced at 25 cm. Depending on the existing conditions and situation of the lodging facilities, sturdy screens and (galvanised) steel meshes can be fitted on the outer side of windows. Screens must be made of law flammable materials. It should be noted than

in case of technical problems, in open type penitentiary institutions the principles of window barring may be waived.

Very important are also passage bars – placed at exists from living quarters, in passages from floor to floor, passages from other purpose rooms to living quarters. They should make it possible to watch the corridor of the ward – an exception could be wards for inmates who pose a serious social threat or a serious threat to the security of the institution, classified as requiring to be put in a designated ward or cell of a temporary detention or closed type penitentiary institutions under the conditions ensuring intensified protection of the public and security of the penitentiary institutions. Single or double leaf bar doors should be made of reinforcement steel rods of minimum 20 mm in diameter, spacing of 14 cm, 10x50 mm lacings, spaced at 80 cm. In semi-open institutions, passage bars should be made of reinforcement steel rods of 14 mm in diameter, spacing of 14 cm, 10x40 mm lacings, spaced at cm. The above described bar doors should be equipped with prison-type locks. It should be remembered, however, that in open-type penitentiary institutions passage bars are not obligatory.

It seems justified to analyse the contents of Chapter 4, which describes cells for serving disciplinary punishments.

The cell for serving a disciplinary punishment consisting in isolation should be arranged in living wards. It is described to be situated close to the ward guardroom or in the part of the living ward with limited inmate traffic. The basic security measures are safeguards of the entrance to the isolation cell by mounting doors of a specially sturdy structure envisaged for closed-type penitentiary institutions and an additional inner basket screen. It should be mounted alongside

the total height of the cell and its structure should be designed in accordance with the requirements envisaged for passage bars in closed-type penitentiary institutions. Locks in basket screens should be secured against being opened from the inside of the isolation cell and equipped with keyhole blockade when the outer door is closed. The window should be secured with window bars such as in closed-type penitentiary institutions and a screen or a dense wire mesh and an inner basket screen with rods and lacings like in the door basket screen.

The above described technical parameters constitute an absolute requisite arising from the need to guarantee security not only to prison officers but also to inmates who, depending on the specificity of their offences, are exposed to various manifestations of stigmatisation and aggression.

Conclusion

Progress and easy access to technical knowledge systematically create new conditions causing that officers of the Prison Service face occasional emergence of new threats and challenges arising from the need to approach the security of each and every human individual in the context of the most comprehensive and advanced conceptualisation of the nature of security as a fundamental value guaranteeing development of improvement of life of the society. That is why the process of isolation of inmates from the society the selection of an appropriate penitentiary institution which would ensure the correct course of serving the sentence takes into account the mounting of safeguards which will create appropriate conditions not only for inmates but also for officers. This duality of perception is necessary for proper

formulation of basic legal acts, so that inmates are isolated in properly secured penitentiary facilities, and for specifying appropriate conditions for the correct performance of duties in the Prison Service. This follows from the duty to construct the regulations issued by the Direct General which comply with the rules of modern and rational penitentiary policy, are meant to ensure security for citizens regardless of on what side of the bars they live.

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