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## **Presence of official dogs in uniformed services in the context of increasing national security**

### Abstract

All in all, the role of dogs in uniformed services is invaluable, as demonstrated, for instance, by the range of methods that can be used in each service. Moreover, their presence has a direct or indirect impact on increasing the security of the state (internal and external) – *quod erat demonstrandum*.

In the present study, many references have been made to different normative acts (of various ranks), illustrating the use of dogs in the Police, the Prison Service, the Border Guard, and the Customs Service.

It should also be stressed that a comprehensive study of the subject of official dogs, in the opinion of the author of the study, constitutes a *terra incognita*, as currently there is no study addressing the issue of the presence of official dogs in all uniformed services in a synthetic way (extensive historical-legal analysis).

Therefore, this work should be treated as a unique introduction (prelude) to further, significantly expanded, and detailed research in such a material area.

**Key words:** Poland, official dogs, law, national security, uniformed services

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## Introduction

Dogs have been said to be man's best friends. Basing on the present study, the author aims to prove that dogs are also best friends of a safe country, serving the common good. What is behind such an enigmatic expression? It means that a dog is often not only a fully-fledged family member, but is also used in the uniformed services responsible for the safety of the Republic of Poland. At the same time, one should explicitly emphasise the fact that the word "used" is inappropriate, as the dog is on duty, namely it is an "officer" being merely controlled (led) by a so-called handler.

The aim of the present study, according to its title, is to analyse the presence of dogs in uniformed services in the context of improving national security (both internal and external) while presenting historical and legal aspects (including a basic *de lege lata* analysis) of the possibilities of their use by selected uniformed services (the Police, the Prison Service, the Border Guard, as well as the Customs Service).

The following study is a part of the current research concerning state security since the presence of dogs in individual uniformed services represents such a character. The study constitutes a synthesis of available, although still insufficient subject literature and normative acts<sup>1</sup>.

The study includes a descriptive and historical-legal method. Its legal status is as at 16 October 2020.

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<sup>1</sup> Krawczyk (2020).

## The historical aspect of the presence of dogs in individual uniformed services

When referring *in concreto* to the aspect of the presence of dogs in uniformed services, one should mention the history or historical conditions of their use (*ab ovo*). As A. Banaszak-Kulka points out, the presence of animals in uniformed services dates back to ancient times.<sup>2</sup> Many hundreds of years had passed before dogs became permanent residents of the service. Such a situation resulted from the fact that people needed time to fully discover and then apply their abilities in practice.

Analysing the source literature, one may conclude that throughout history, relatively specific bonds have developed between man and dog. Moreover, according to the above-mentioned author, “(...) dog has accompanied man for centuries everywhere on earth where they are present”.<sup>3</sup> In turn, A. Sayer claims that “domestication of a dog was as important for human development as using fire or the first stone tools”.<sup>4</sup> As one can notice, the mentioned process *ab initio* is a significant step in the evolution of man.

It should also be emphasised that the dog *in genere* is superior to man in terms of sensory efficiency, hence the dog was an indispensable part of the safety of the first settlements. It is worth pointing out that the dog, along with the development of *homo sapiens*, gradually demonstrated its qualities in many respects. This includes assistance during animal hunting. Dogs also served as protection for farm animals. Over time, as B. Wilcox and Ch. Walkowicz emphasise,

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<sup>2</sup> Banaszak-Kulka (2004): 127.

<sup>3</sup> Ibidem.

<sup>4</sup> Sayer (1991): 7.

once a shepherd society appeared, shepherd dogs also specialised. When hunters needed help, hunting dogs appeared in a similar pattern, whereas in times of war, war dogs appeared.<sup>5</sup> According to J.J. Kuźniewicz, dogs in many countries of the world, and above all in Mongolia, also served a sanitary function, in other words, they cleaned battlefields, by eating the bodies of fallen soldiers.<sup>6</sup>

We should also not forget the fact that dogs have been and still are used by the military. As A. Banaszak-Kulka states, “the history of using dogs for warfare dates back to the beginnings of human civilisation”.<sup>7</sup>

Official dogs were also appreciated in Poland. As A. Banaszak-Kulka points out, the first documented attempt to use a police dog was made in 1913 in Kraków, when a dog, in fact, brought from Ostrava (Dobermann), was used to track down a murderer.<sup>8</sup>

Then, the first police dog training centre was established in 1945 in Janikowo (near Poznań), known as the School for Service Dog Guides and Dog Training. It should be emphasised that in the following year this unit was reorganized and transferred to Słupsk, while its name was changed to the School for Service Dog Guides and Dog Training at the Civic Militia Training Centre.<sup>9</sup> Interestingly, as J.J. Kuźniewicz points out, in 1950 the School was merged with the Department of Dog Training of the Public Security Corps in Sułkowice.<sup>10</sup> It should also be pointed out that in 1995, after many restructuring

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<sup>5</sup> Wilcox, Walkowicz (1997): 18.

<sup>6</sup> Kuźniewicz (2016): 34.

<sup>7</sup> Banaszak-Kulka (2004): 138.

<sup>8</sup> Ibidem: 135.

<sup>9</sup> Kuźniewicz (2016): 122.

<sup>10</sup> Ibidem.

steps, the Department of Police Cynology of the Training Centre in Legionowo (based in the above mentioned Sułkowice) started operating.

It is also worth stressing that dogs have been and still are in the Prison Service. Interestingly, already in the 1950s, courses for dogs were organised at the Central Training Centre of Prison Service in Kalisz (Szczypiorna). Initially, they were trained to serve only as guards and to escort prisoners. As it turned out later, the demand for dogs trained in such a way gradually increased. Therefore, the management of the Prison Service decided to establish a Centre at the Prison in Czarna (Pomorskie Region).<sup>11</sup> This one, in turn, was transformed in the 1990s into the Department of Dog Guides and Dog Training. Since the establishment of the Centre, approximately five thousand dogs have been trained there. It should be noted here that during one course fifteen dogs are trained to find drugs and thirty to defend (*Ibidem*). Such training is held twice a year, in spring and in autumn. The centre in Czarna cooperates with the Department of Police Cynology in Sułkowice and the Border Guard in Lubań. Also, along with the Military Gendarmerie, the Prison Service controls military units, whereas, together with the Central Investigation Bureau, it carried out joint actions requiring the presence of trained dogs.

Dogs have also been (and still are) used in other uniformed services, such as the Border Guard. According to A.A. Kuźniewicz “the tradition of using official dogs in the Border Guard dates back to the interwar period”,<sup>12</sup> because already on 4 April 1928 the Border Protection Corps (i.e. the equivalent of today’s

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<sup>11</sup> Szlęzak-Kawa (2019): 22–23.

<sup>12</sup> Kuźniewicz (2016): 50.

Border Guard) was established on the territory of Poland. In turn, according to Order No. 20 of the Minister of Treasury of 18 April 1928, eight officers were sent to a training course of official dogs held at the Police Dog Training Centre in Poznań. Furthermore, the first fully independent Border Guard Dog Training Centre was established in Góra Kalwaria, where the Central Border Guard School was then located.<sup>13</sup> However, due to organisational reasons, on 25 January 1933, the Department was transferred to Rawa Ruska, operating until 19 September 1939, although warfare forced the completion of work on improving the handlers and the dogs intended to protect the state borders. Fortunately, after the end of the Second World War, the Border Protection Troops were established on 13 September 1945 (amendment to the nomenclature of the institution).<sup>14</sup> Moreover, the first Dog Training Centre of the abovementioned troops was established on 6 May 1946. Interestingly, a year later, it was renamed the Dog Training and Breeding Centre of the Border Guard Troops, where dogs were bred and, of course, trained.<sup>15</sup>

The next, and also the last, service considered in the present study is the Customs Service, or more precisely the Customs and Tax Service, as it consists of officers within the National Revenue Administration, established as a result of the merger of tax administration, fiscal control and the Customs Service (Służba Celno-Skarbową).

Such a service has had and trained dogs for many years. Furthermore, the first dogs were trained by police trainers in the abovementioned Centre of Service Cynology in Sułkowice. Then, since the mid-1990s, as M. Łoziński

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<sup>13</sup> Ibidem.

<sup>14</sup> Ibidem: 51.

<sup>15</sup> Ibidem: 51–52.

emphasises, the training of handlers and dogs for this service was carried out by employees working initially in the Main Customs Office and subsequently in the Customs Chamber in Warsaw.<sup>16</sup>

### **The *de lege lata* analysis on the possibilities of using dogs in selected uniformed services**

While analysing the formal and legal basis (*de lege lata*) for the use of dogs in the Police, one should start with the basic normative act for the functioning of the abovementioned service, namely the Police Act of 6 April 1990.<sup>17</sup>

Under Article 15d(3) of the Act on body search, a service dog may be used to check the contents of the clothes and shoes of the searched person and the objects on their body without revealing the surface of the body covered with clothing (for example, to collect weapons or dangerous objects). Also, a dog may be used to check the contents of hand luggage and other items carried by the searched person.

In turn, under Article 15e(2) of the Act on Checking the Contents of Luggage or Checking Cargo in Ports and Stations as well as the Means of Land, Air, and Water Transport, an official dog may be used to detect prohibited materials and devices, in particular weapons, explosives, drugs, psychotropic substances, and their precursors. Furthermore, under Article 15g(1) of the Police Act, a service dog may be used for the so-called preventive inspection, consisting of checking a person, the contents of their clothing, and objects on their body or carried by them.

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<sup>16</sup> Łoziński (2016): 3–4.

<sup>17</sup> Journal of Laws of 2020, items 360, 956; hereafter the Police Act.

Referring to other formal legal bases for the use of dogs by the police, three further legal bases should be indicated, namely

1. Ordinance No. 296 of the General Chief of Police of 20 March 2008 on methods and forms of performing tasks with the use of official dogs, detailed rules of their training and feeding standards (Journal of Laws of the General Police Headquarters of 2019, item 11):<sup>18</sup>
2. Guidelines No. 3/2013 of the General Chief of Police of 30 July 2013 on technical, functional, and usable standards applicable in police facilities;
3. Regulation of the Minister of the Environment of 20 January 2004 on the minimum conditions for keeping a particular species of animals used for entertainment, performance, film, sports, and special purposes.<sup>19</sup>

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<sup>18</sup> See Notice of the General Chief of Police of 4 January 2019 on the announcement of the consolidated text of the Ordinance of the General Chief of Police on the methods and forms of performing tasks with the use of official dogs, detailed rules of their training, and feeding standards. Amendments to the above Ordinance: 1) Ordinance No. 1370 of the General Chief of Police of 30 December 2008 amending the Ordinance on methods and forms of performing tasks with the use of official dogs, detailed rules of their training and feeding standards (Official Journal of the General Police Headquarters of 2009, item 2); 2) Ordinance No. 74 of the General Chief of Police of 31 December 2014 amending the Ordinance on methods and forms of performing tasks with the use of official dogs, detailed rules of their training and feeding standards (Official Journal of the General Police Headquarters of 2015, item 3); 3) Ordinance No. 2 of the General Chief of Police of 16 February 2015 amending the Ordinance on methods and forms of performing tasks with the use of official dogs, detailed rules of their training and feeding standards (Official Journal of the General Police Headquarters, item 11).

<sup>19</sup> Journal of Laws of 2004 No. 16, item 166.

Subsequently, very numerous acts constituting the formal and legal basis for the presence and use of dogs in the police include orders, guidelines, and decisions of the General Chief of Police.<sup>20</sup>

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<sup>20</sup> See: Ordinance No. 768 of the General Chief of Police of 14 August 2007 on forms and methods of performing tasks by police officers performing patrol service and coordination of activities of a preventive nature (Official Journal of the General Police Headquarters of 2007, No. 15, item 119); decision No. 847 of the General Chief of Police of 30 November 2007 on the programme of a specialist course for official dog handlers to search for drug scents (Official Journal of the General Police Headquarters of 2007 No. 22, item 167); decision No. 881 of the General Chief of Police of 5 December 2007 on the programme of a specialist course for patrol and tracking dog handlers (Official Journal of the General Police Headquarters of 2007, No. 23, item 194); decision No. 874 of the General Chief of Police on the programme of a specialist course for dog handlers for osmological examination (Official Journal of the General Police Headquarters, item 187, and of 2014, item 1); decision No. 925 of the General Chief of Police of 17 December 2007 on the programme of a specialist course for dog handlers to search for explosive scents (Official Journal of the General Police Headquarters of 2008, No. 1, item 12); decision No. 270 of the General Chief of Police of 4 September 2012 on the programme of a specialist course for service dog handlers to search for the scent of human corpses (Official Journal of the General Police Headquarters of 2012, item 47); decision No. 112 of the General Chief of Police of 13 March 2015 on the programme of a specialist course for service dog handlers to water rescue and search for the scent of human corpses (Official Journal of the General Police Headquarters of 2015, item 19); decision No. 291 of the General Chief of Police of 18 September 2015 on the list of the curriculum of specialist courses which constitute training programmes for members of the civil service corps (Official Journal of the General Police Headquarters of 2015, item 70); decision No. 330 of the General Chief of Police of 16 October 2015 on the curriculum of specialist courses for patrol and tracking dog handlers to act without muzzles (Official Journal of the General Police Headquarters of 2015, item 83); guidelines No. 3 of the General Chief of Police of 30 August 2017 on the performance of certain investigative activities by police officers (Official Journal of the General Police Headquarters of 2017, item 59); decision No. 95 of the General Chief of Police of 17 March 2018 on

In turn, official dogs are used in the Prison Service pursuant to the Prison Service Act of 9 April 2010 on (Journal of Laws of 2020, item 848; hereafter the Prison Service Act). According to Article 18(1)(3) of the Act when performing official duties officers have the right to use special dogs trained in searching for drugs and psychotropic substances or explosives – to carry out a body search of persons staying in the premises of a penitentiary unit, control their clothing and check the contents of their luggage or other objects the carry with them, to check vehicles entering and leaving, as well as the loads of those vehicles. Interestingly, Article 155(4)(4)(g) of the Prison Service Act also provides for additional uniform standards for official dogs and their handlers. In turn, under Article 208(1)(1) of the Act, an officer providing care for an official dog receives additional remuneration. Under Article 208a(1) of the Act, the amount of such additional remuneration is up to PLN 153, proportionally to the number of days of care provided for a dog in a month. If a handler provides care for a larger number of dogs – the indicated additional remuneration is increased proportionally (Art. 208a(2)(1) of the Prison Service Act).

The working and living conditions of animals working in prisons and detention centres are regulated, among others, by Order No. 38/2012 of the Director General of the Prison Service dated 14 May 2012 on the detailed manner of using dogs to perform the tasks of the Prison Service. Additionally,

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the curriculum of a specialist course for police officers applying for dog handlers to combat operations without muzzles and performing helper activities (Official Journal of the General Police Headquarters of 2018, item 49); decision No. 96 of the General Chief of Police of 17 March 2018 on the curriculum of a specialist course for dog handlers to combat operations without muzzles (Official Journal of the General Police Headquarters of 2018, item 50).

the order does not refer to the provisions of the Ordinance of the Minister of the Environment of 20 January 2004 on the minimum conditions for keeping particular species of animals used for entertainment, performance, film, sports, and special purposes. In certain prisons and detention centres, additional in-house documents are introduced.

The Border Guard is another service for which a legal basis for the use of service dogs will be discussed. Under Article 11(1)(10) of the Border Guard Act of 12 October 1990,<sup>21</sup> an officer on duty has the right to stay and move on the land without obtaining the consent of its owners or users and pass through farmland during a direct pursuit, also accompanied by an official dog if there is no possibility to use roads. In turn, Article 11(7) of the Act states that the minister in charge of internal affairs shall define, by way of an ordinance, a detailed procedure for carrying out checks using technical means and an official dog. This refers to the Ordinance of the Minister of the Interior and Administration of 2 July 2019 on border control.<sup>22</sup> Under Article 2(1) of the said ordinance, officers use technical devices and official dogs during border control. In turn, pursuant to Article 2(3) the use of official dogs in the course of a border control serves to exclude the possession of substances, means, materials, and other objects prohibited for transit across the state border. It is further specified in Article 3 that a border control of persons, objects, and means of transport if technical equipment or official dogs are used, shall be carried out in a way that does not endanger the life or health of persons or damage the objects and means of transport.

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<sup>21</sup> Journal of Laws of 2020, item 305; hereafter the Border Guard Act.

<sup>22</sup> Journal of Laws of 2019, item 1336.

Living conditions and the duty of official animals are specified in the following acts:

- Regulation No. 2 of the Commander in Chief of the Polish Border Guard of 26 February 2010 on the performance of service in the field of care of official animals of the Border Guard,
- Ordinance No. 28 of the Commander in Chief of the Polish Border Guard of 27 March 2012 on the detailed rules for the training of animal handlers used to perform the tasks of the Border Guard, the training of such animals, as well as animal feeding standards,
- Ordinance No. 95 of the Commander in Chief of the Polish Border Guard of 31 October 2014 on defining the principles of management of the property under the management of the Border Guard.

Referring, in turn, to the powers of customs and fiscal control officers, it is worth pointing out that under Article 64(1)(6) of the National Revenue Administration Act of 16 November 2016<sup>23</sup> they are authorised to use official dogs to search premises, including flats, other premises, places and items. Official dogs, under Article 64(2)(1) of the Customs Service Act shall also be used to search goods, products, and means of transport. In turn, Article 89(1)(3) and (4) of the Act provides for a delegation of legislative powers to issue a regulation concerning the conditions for the use of technical equipment and official dogs during checks, the manner of carrying out body searches, as well as the manner and conditions of carrying out searches of travellers' luggage, and the conditions

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<sup>23</sup> Journal of Laws of 2020, items 505, 568, 695; hereafter the Customs Service Act.

and manner of recruiting candidates for official dog handlers and the conditions for the breeding, acquisition, training, use, feeding, care and maintenance of official dogs as well as the care and maintenance of those dogs after their withdrawal from service.

This refers to the Ordinance of the Minister of Finance and Development of 22 February 2017 on the conditions for the use of technical equipment and official dogs during inspections and on the method of carrying out body and luggage searches.<sup>24</sup> According to Article 4 of the said Ordinance, official dogs may be used if their operation could accelerate or simplify control activities and reduce the discomfort for the controlled person. Also, as provided in Article 5, control activities using official dogs are carried out in a manner that does not cause damage or threaten the life or health of persons (Article 5(1)). Moreover, while performing control activities, official dogs should be kept on a leash and muzzled (Article 5(2)); however, it is allowed to remove the muzzle and the leash (Article 5(3)) if it is necessary for the proper performance of control activities and does not violate the conditions for performing control activities. It should be stressed that under Article 6() the condition for the use of an assistance dog requires a training course completed by the person performing the control activities, concluded with a certificate of completion of the training course for a handler. Article 6(2) indicates that an official dog may be used for control purposes within the scope resulting from the certificate of completion of the training for a dog's handler.

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<sup>24</sup> Journal of Laws of 2017, item 381.

## How official dogs are used in selected uniform services

In turn, when referring to how dogs are used in the Police, one should once again refer to the content of Ordinance No. 296 of the General Chief of Police of 20 March 2008 on the methods and forms of performing tasks with the use of official dogs, detailed rules of their training and feeding standards. According to Article 18 of the Ordinance, dogs are used particularly (and thus it is an open catalogue) to:

- patrol;
- track;
- fight;
- investigate the area, premises or parcels and luggage to find people or objects, searching for tracks left by people, searching for scents of explosives, searching for scents of drugs, searching for scents of human corpses;
- osmological examination;
- traps and blockade operations;
- rescue drowning persons;
- take action in cases specified in the provisions for direct coercive measures and firearms.

Additionally, it should be emphasised that, according to the provisions of Article 16(1) of the Civil Code, officers of such service are entitled to use and implement means of direct coercion, including official dogs under the procedure and principles set forth in the Act of 24 May 2013 on the means of direct coercion and firearms.<sup>25</sup>

The use of dogs in the Prison Service is regulated by Order No. 38/2012 of the Director General of the Prison Service, referred to in the earlier part of the study, as the subject

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<sup>25</sup> Journal of Laws of 2019, item 2418.

matter of this internal act was already defined in its introduction. In its Article 1 the Order specifies, among other things, the possibilities of using dogs in this service. Under Article 2(2) of the commented act, a dog is used to protect penitentiary units, in particular for:

- protection of officers and staff of the Prison Service;
- reinforcement of convoys;
- pursuit;
- control of persons, their belongings and luggage, vehicles with their cargo, and premises;
- searching for and indicating concealment of drugs and psychotropic substances;
- searching for and pointing out explosives;
- tracking.

It should be pointed out that when searching rooms, vehicles, or luggage a dog may move around loose or on a leash.<sup>26</sup> When patrolling the premises of a penitentiary unit during daytime the handler leads the official dog in a muzzle and on a leash. However, at night, the dog may move around without a leash, at a distance allowing the handler for its observation and enabling the dog to follow the instructions of the handler (Article 2(3) of the Order). Furthermore, when checking persons using a special dog trained to search for these agents, the dog is kept on a leash and remains properly separated from the searched person (Article 2(4) of the Order). In addition, it should be emphasised that according to Article 2(5) of the Order, a dog must not endanger the safety of third parties and shall be provided with conditions that do not endanger its health.

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<sup>26</sup> Article 2(3) of the Order; incorrectly designated as section 2 – see the above Order.

It is worth noting that special dogs trained primarily to search for drugs and restricted substances are German Shepherds, Belgian Sheepdogs, and Fox Terriers. Patrol dogs are usually German Shepherds, Belgian Sheepdogs, or Rottweilers.

On the other hand, issues concerning the use of dogs in the Border Guard were regulated in Order No. KG-BP-Z-77/13 of the Commander in Chief of the Polish Border Guard of 25 October 2013 regulating the way of performing border services and carrying out border activities. Furthermore, the said document contains classified information and is not subject to disclosure.

Nevertheless, in the context of the use of dogs in the Border Guard, under Article 11(1) of the Act, an officer on duty has the right to stay and move on the land without obtaining the consent of their owners or users and pass through farmland during a direct pursuit, also with an official dog, if there is no possibility to use the roads. In turn, under Article 2(1) of the Regulation of the Minister of the Interior and Administration on border control, officers use technical devices and official dogs during border controls. It should also be stressed that under Article 2(3) of the Ordinance, it seems that the use of official dogs in the course of border controls serves to exclude the possession of restricted substances, means, materials, and other objects prohibited for movement across the state border. Interestingly, Article 3 of the Ordinance states that border controls of persons, objects, and means of transport, if technical equipment or official dogs are used, shall be carried out in a way that does not endanger the life or health of persons or damage the objects and means of transport. Therefore, one should point out that according to Article 11aa of the Border Guard Act official dogs are additionally used

during personal inspection. It consists of checking the contents of the inspected person's clothing and footwear or items on their body, without revealing the covered body surface, and the contents of the inspected person's clothing and footwear or items on their body, with the aim and to the extent necessary to collect weapons or prohibited items. It is also worth pointing out that under Article 11ab of the Border Guard Act, dogs are used in the procedure for examining the contents of luggage or checking cargo to detect prohibited items, explosives, drugs, or psychotropic substances and their precursors. Interestingly, under Article 11ad of the Border Guard Act dogs may be used to carry out so-called preventive inspection.

In the Customs Service, official dogs are used to carry out checks in various places, including border crossings, airports, seaports, and post offices. Additionally – referring to the first chapter of the present study, providing the legal basis for the use of dogs – such dogs are used to control means of transport, premises, and courier services. Moreover, official dogs participate in various public information activities, including meetings, shows, picnics, and lessons (in schools and kindergartens).

It is also worth pointing out that *conditio sine qua non* in the context of entering a particular service is that the animal should meet many strict psychophysical requirements. This issue, however, will not be developed, as it is not the subject of this study.

However, as one may notice, the scope of tasks for official (and special) dogs is extensive. Although we hear little about them, they do a great deal of good work for the safety of the Republic of Poland, because the dogs make the work of officers in our country more effective.

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