



## **ACCEPTABLE MEANS OF COERCION USED BY THE SECURITY STAFF TO ENSURE THE SAFETY**

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### **AKCEPTOVATEĽNÉ SPÔSOBY NÁTĽAKU POUŽÍVANÉ BEZPEČNOSTNÝMI PRACOVNÍKMI NA ZAISTENIE BEZPEČNOSTI**

#### **Abstract**

*This article outlines the possibilities for the legal use of force when necessary by the security staff.*

#### **Keywords:**

Company for Protection of Persons and Property, the legal basis, safety, coercive measures

#### **Introduction**

The employee of Company for Protection of Persons and Property repeatedly is placed in a situation when one has to use coercive measures. Coercion, like the other actions of employees FOOM, is subject to applicable law.

#### **Tasks of FOOM**

The most important task of the Companies the Protection of Persons and Property (FOOM) is activity intended to ensure maximum protection, therefore the individual with the former license of physical security employee must be able to use coercive measures in case of danger to property being a subject to protection, to counter an attack on a security guard, violent, unjust attack on the escorted values or people protecting them. According to the general suggestion defense or protection should be applied proportional to the state of emergency and conducted in such manner violate the good of others as little as possible. Security employee acted in terms of coercive measures use on the basis of the Law of 22 August 1997 on the protection of persons and property to 31 December 2013. (Dz. U. of 2005. No. 145, item. 1221) and was obliged to call the person to behave in accordance with the law and to notice of the possible use of coercive measures (*Council of Ministers of 30 June 1998. on detailed conditions and methods of coercive measures used by the security staff § 1, § 2*). Coercive measures could be also used - if it was necessary - in order to subdue an opponent or achieve the intended purpose (Ibid, § 2.1-2).

The Council of Ministers in regulation dated 30 June 1998. described in detail the conditions and methods of coercive measures use by employees of security companies.

#### **Allowed coercive measures:**

- Physical strength - is used to repel the attack on protected persons or property, assault on a security guard, restrain a person in connection with forcing to perform a command or during capture. When using physical force of delivering blows is prohibited, unless the security employee acts in self-defense or to repel the attack on life, health or property protected (ibid, § 3.1-2).
- Handcuffs - can be applied to persons in order to prevent an escape or to prevent an active assault or active resistance. Handcuffs do not apply to persons whose appearance indicates less than 17 years, except minors aged over 16, suspected of committing crimes against life and health. A restrained person in respect of whom there are no particular precautions cuffs are put with hands held in front. Handcuffs can be put at the hands held at the back of a person with a strong physique suspected of having committed crimes against life and health. They should be established so as not to obstruct blood flow. (Ibid, § 4.1-6).
- Defensive baton - can be used in the event of warding off an attack on a security guard or overcoming active resistance, repel the attack on the protected person, the prevention of theft or vandalism. The use of multifunctional defensive batons is not allowed against persons using passive resistance. It is forbidden to inflict blows and thrusts with multifunctional defensive baton on the head, neck, abdomen and non-musclled and particularly sensitive parts of the body, as well - to use locks on those parts of the body, installing lever and blows with defensive batons handle. The above should not be used against persons for who were already handcuffed. It is acceptable to hit and thrust with baton in all parts of the body to repel a direct attempt on the life or health of the security employee or another person (Ibid, § 1-4).



- Security dog - as a means of direct coercion may be used in the event of warding off an attack on a security guard or a protected person. Security dog should be muzzled. This does not apply to cases when a security dog is used against criminals having firearms or dangerous tools in order to counter an attack (Ibid, § 6.1-2).
- Tasers, gas guns and hand gas blasters - can be used in the event: warding off an attack on a security guard or protected person, overcoming active resistance, the direct pursuit of a person suspected of committing a crime against entrusted property, prevention of theft or vandalism (Ibid, § 7.1-2).

According to Wojciech Kotowski, tasers can be used in factories using, producing or storing nuclear materials, with sources and radioactive or toxic waste, explosives, power plants, heating plants, TV stations, radio, airports and seaports, railway and bus stations, in operating rooms in banks, post offices and telecommunications room and public administration offices, museums and archives (W. Kotowski, pp. 291-292).

The legislature in regulation also described the procedure to be followed in case of deterioration of the health of a person against whom a direct coercion was used. In such a case security employee is obliged to give that person immediate first aid. However, in the event of death or suspected demise of security employee is obliged to immediately call a doctor (*Regulation by The Council of Ministers dated 30 June 1998. on detailed conditions and coercive measures used by the security staff*, § 8.1-4).

One of the areas of the tasks performed by employees of security companies, is the identification and to legitimize persons residing within the boundaries of protected buildings and areas. This task as well as how to fill it are described in detail in the regulation by the Council of Ministers dated 18 November 1998. *on the detailed security personnel actions taken against persons within the boundaries of protected buildings and areas*.

A security guard has the obligation to establish the right of people to stay in areas or in buildings protected, their identity documents to establish identity, to call people to leave the area or facility in case of lack of permission to reside in a protected area or the disorder declaration. If one meets refusal, is entitled to capture a person clearly posing a direct threat to human life or health, as well as the protected property, in order to immediately handing these individuals to the Police (§ 1. *Regulation by The Council of Ministers dated 18 November 1998. on the detailed security personnel actions taken against persons within the boundaries of protected buildings and areas*).

In fulfilling this task, the security employee has the power to verify that the person entering or staying at the facility has a pass issued by the managers of the area or facility, comparing the document presented to a specific pattern, check the document presented in terms of compliance of personal data contained therein with the person's identity and the document's validity. A security guard may also make the determination on the basis of an oral or written authorization of the manager of that facility or area. Security employee - at the request of the person, against whom certain actions were undertaken - is obliged to give one's name and show identity card or other identification document, confirming possessed power to take action in such a way it was taken against that person, had the opportunity to read and a note of the data contained in this document. It is also required to provide a legal basis on the reasons for taken actions (Ibid, § 2 - § 3).

The identity of the bearer shall be determined on the basis of an identity card or other documents provided with picture and full address (Ibid, § 4.1). In the event of identifying documents of persons in the vehicle, where it is warranted by considerations of safety, security worker has the right to request to leave the vehicle by such persons. Security guard prepares specific memo containing the personal data of the identified person, indicate the type of document and its number and series, as well as the time, place and cause of identification documents (ibid, § 5.1,2 - § 6).

In case of lack of permission to reside in a protected area security guard is tasked to call for an immediate departure from an area or facility by that person. In such circumstances, security staff urges persons without permission to stay in the area, informing them of the reason for issuing this command. Before specific action security employee is obliged to use the phrase *security service*, and to give one's full name. In the event of non-command, a security guard calls the police and makes a memo about the circumstances of this call (Ibid, § 7). When restraining person clearly posing a direct threat to human life or health, as well as the protected property, a security guard is required to use the phrase *security service*, call such person to behave in accordance with the law and to withdraw from carrying out activities posing a threat to life or health human, resources and protected property, to prevent the dismissal of a person from a designated place, informing such person about the reasons for the used restraint and inform of the obligation to comply with issued orders, show an ID in order to establish one's identity, immediately notify police (Ibid, § 8.1). In contrast, the procedure for the use of means of coercion during the procedure, as recalled by the legislature, must be in line with the Regulation by Council of Ministers dated 30 June 1998. (Ibid, § 8.2.)

A security guard is obliged to give medical aid, and to provide adequate memo (Ibid, § 9, § 10.1-2).

The above quotation of legislation served to signal the complexity tasks and competences of commercial security services, which the legislator on the one hand allowed the use of coercive measures, on the other - burdened with enormous responsibility for any failure to comply with procedures. In this context, it is worth to look at the "relevance" of FOOM employees (Company for Protection of Persons and Property by naming of the author), in cooperation with the armed forces during crisis. FOOM in accordance with the law can perform tasks as such checking identity documents of people in the area covered by the onset of the crisis, and to apply direct coercion against those who do not adapt conduct to the requirements of an emergency situation. The involvement of FOOM employees may allocate potential of armed forces personnel to carry out tasks executed by the soldier.

In efforts for the units of the Polish Armed Forces advantage should be taken of using security staff - convyents rights to use direct coercion, including the use of firearms under Article 37 referring to. art. 36 point 3 (in regards of attacker capture without civic duty) and other privileges and rights under Article 37 referring to. art. 38. section 2 points 1-3, 5 and 6. It is sufficient to add to the bill convoy operations, duties and rights exercised while support of the armed forces in emergency situations.



## Possibilities

Primary possibility in relation to companies for protection of persons and property in resolving the crisis is associated with their involvement and participation in co-operation with the armed forces or other public services as a civilian component in combating the crisis.

The constitutional role of the armed forces is to ensure not only the territorial integrity of the state, but also to ensure the safety of citizens in situations of different threats.

Among the opportunities that the armed forces could use in a crisis situation, it is essential to note personnel potential of FOOM employees with former appropriate licenses and permissions.

In addition to the personnel potential, partially highly qualified, FOOM may cooperate with the armed forces or other government agencies during a crisis, on the basis of existing legislation that are not implemented in normal situations. Among the existing possibilities author drew attention to the clear and precise regulation of the Minister of Internal Affairs and Administration of 18 December 1998. on the detailed rules of cooperation of specialist armed protection formations from the police, fire brigade, civil defense and municipal guards units (Cf. . Dz.U.98.161.1108.).

This regulation specifically defined the principles of cooperation, in particular by: the exchange of information about threats to the safety of persons and property and disturbing public peace and order; cooperation in order to maintain public peace and order during meetings, artistic events, entertainment and sport, but to the extent specified in separate regulations; cooperation with securing crime scenes within protected areas, facilities or equipment; mutual consultations improving methods of cooperation.

This cooperation according to the provisions of the regulation is to take protective and security measures in the event of fire, natural disaster or other local emergency within protected areas, facilities or equipment. This concerns in particular: the exchange of information on arising dangers; entry into the areas and protected facilities of rescue units; cooperation in carrying out safe evacuation of people and property; secure places after a fire, natural disaster or other local hazards, including rescued life.

It should be noted that the Minister of Internal Affairs and Administration issued the regulation, in which procedure for conducting oversight activities by the Chief of Police over activities of specialized armed protective formations was defined (Cf. Dz.U.98.116.752).

With effect from 1 January 2014, powers in the application of force and weapons were limited by developing common to all the uniformed services including the security in the Act of 24 May 2013 published in the Official Gazette 2013.628. Also with effect from 1 January 2014 another Act was introduced on 5 June 2013. on the protection of persons and property (Dz.U.2013.829) announcing consolidated form (Dz.U.2005.145.1221).

On the 1st January 2014 the first and second degree license of qualified security guard was changed into physical security employee by combining of far separated existing license to act as a security guard holding basic education (first degree) with the privileges of employee having a high school education (second degree), who could develop a security plan, organize and manage teams of physical protection employees. According to the amendment employee who has been included on the list of certified physical security worker having already completed junior high school can carry out previous activities assigned to two different powers of first and second degree of former security guard license.

In addition, the new law has introduced two methods of use of force and weapons.

And so in the case of coercive activities, they were divided into use, which is direct action and utilization - intimidation. In the case of firearms, use means to fire a shot in the direction of the person using penetrating ammunition while the utilization of firearms is taking a shot in the vicinity not posing any threat and fire a shot towards the animal posing a threat to the life or health of the shooter or a person who is under the protection of a qualified physical security agent. These are some of the most important changes in addition to the other specific ones.

## Summary

Analysis of opportunities and potential of FOOM in Poland showed ratio of one commercial security employee to one thousand residents. It can be assumed that this one specialist can already observe and interpret the hazard, if is already trained. One may interpret differently the fact of eg. leaving bags at the train station or airport if being supervision employee, security employee, or employee in the intervention group, but they all (regardless of the degree of training) will always to analyze this fact better than the average citizen. The quicker conclusions drawing from events and professional way to communicate the information to the monitoring center of security company about a possible suspicion of counter-terrorism activities, the faster the reaction of specialized state services.

A seemingly normal behavior may be strange and threatening. For example, a bag left unattended or behavior of the person playing with a remote control of a garage door in a place where there are no garages, will not have the impact on the imagination for average hectic citizen. In contrast, educated agent will associate these facts and can deduce potential hazard. Going further - if we will train the agent to respond to all phenomena, one will be kind of informant-specialist available 24 hours / day. If we combine the operation of specialized state services and the commercial security protection, the extensive system of monitoring will be formed, i.e. anti-crisis prevention. An *active reserve army fighting for safety* will be formed.



The author has analyzed the most important tasks of FOOM as activities aimed to provide maximum protection, which is why the FOOM employee has the necessary capacity to use of coercive measures. As indicated by analysis of the Regulation of 30 June 1998. issued by the Council of Ministers and the Law of 5 June 2013 on protection of persons and property (Dz.U.2013.829) FOOM employee can be very useful in actions to support state services.

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