

## **SAFETY OF A UNIT IS A CHALLENGE FOR "GOOD LAW"**

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***Abstract:** Providing safety to citizens is a significant challenge for governments of all countries in the world. A unit safety is a condition to free development and functioning of each human, it is also the right to protection and justice. The condition of the sense of safety of citizens is good law. Good law means adjusting regulations to changes in all aspects of social life. Adjusting legal regulations also demands prediction of changes that may happen in future. It is a big challenge for lawyers because the process of legal adjustment is a long lasting process and it demands consultation with a society. It is impossible to predict everything but everything must be done to provide the sense of justice for each citizen. Good law means a good country, a good country means unlimited development and functioning of each citizen, it is also safety of all society, it is world's safety.*

**Keywords**

*State and citizens' safety, unit protection, social justice, legal system, government.*

### **Influence of good law on unit safety**

Changes happening in the world demand undertaking activities adjusting current procedures and legal regulations in order to ensure proper conditions to functioning of each citizen. Safety of a unit depends on legal regulations that are properly prepared and adjusted to the conditions of a given country. Properly prepared legal regulations mean, first of all, properly considered legislative activities supported by wide analysis of the country needs and wide analysis of social needs. Here, there are significant problems within creating law including:

1. Insufficient procedures while creating law.
2. Performing lobbying unfavorable for a state aiming at implementing regulations enabling enrichment of selected entrepreneurs.
3. Bad evaluation of the needs of a state and citizens within legal regulations.
4. Neglecting in analyzing current legal regulations while undertaking decisions on their novelty or creation the new ones.
5. A significant number of mistakes that are often used by certain social groups or criminals.

Elimination of the above mentioned problems allows to create good law since the bad law means a weak country, therefore, lack of social stabilization, lack of country and unit development and rise of crime. The pointed out problems do not concern only the Polish legal system but also the legal systems of most countries in the world. The significance of those problems and their consequences will be presented below.

### **Inefficient procedures while creating law.**

Using the heritage of the Citizens' Legislation Forum that has been acting since January 2009 at the Program Against Corruption of the Stefan Batory Foundation, it is necessary to indicate that the process of creating the law in Poland has been the subject of the interest of

scientists, publicists and some public opinion for many years. The critics often concerns such phenomena as “over-production” of legal acts, instability of the legal system and its confusion as well as unclear and discrepant legal system as a whole.

In the report presented at the end of 2008 titled “Clearance of creating law process”, the Stefan Batory Foundation claimed that:

- the process of creating law, especially on the governmental level is not clear enough. It is under direct monitoring, namely participation of non-governmental organizations in a very limited range, more limited than on the parliament level;
- the process of consultations on that level is very unclear and imprecise. A non-governmental organization may be invited to the participation in consultations on the basis of the art. 12§5 of the Regulation of the Works of the Council of Ministers however, an obligatory procedure;
- according to OECD<sup>1</sup> and the European Union, in 2001 Poland implemented the procedure of the Evaluation of Regulations Results (ERR). Its obligatory part is presentation of the results of consultations performed with all key stakeholders. As our and other non-governmental organizations observe, there are problems with using the procedure. Ministries remain passive, expect that those interested would submit their comment themselves. Most ministries do not extend their fixed lists of partners;
- there is a very soon deadline, often few days, to send the comments to the acts within consultations;
- normally, ministries do not refer to the sent comments on the acts. Giving opinions on the bills is, for non-governmental organizations, the action of indication of their attitude with the sense that they may not influence the shape of the bill on that level. Usually, legislators do not provide any feedback; they tend to refer to all comments in total in one document, sometimes presented on the Press Bureau websites;
- there are activities of non-governmental organizations aiming at forcing the interested groups on legislators on the level of governmental works. Due to low clearance of that phase of the legislative process, we may find out *post factum* that there was such forcing. The signal that there was an informal lobbying during the works in ministries is a low activity of those groups of interest during the Sejm works.

The conclusions of the foundation presented above are incredibly significant from the point of view of the current procedures of creating the law. There may be a thesis aroused that the current procedures in the Polish legislative process do not allow the society to participate in creating the law.

**Performing lobbying unfavorable for the state aiming at implementing regulations allowing selected entrepreneurs to enrich themselves.**

Unfavorable lobbying is another very important problem occurring while amending and passing new regulations. The principles of revealing lobby activities in creating law processes, the principles of performing professional lobby activity, forms of professional control of lobby activity and the principles of registering of the entities performing professional lobby activity are described in the act on *lobby activity in the process of creating the law* on 7 July 2005<sup>2</sup>. According to the act, the lobby activity means any

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<sup>1</sup> Organization for Economic Co-operation and Development.

<sup>2</sup> Journal of Laws from 2005 No 169, pos. 1414 with later amendments

activity performed with the methods legally allowed aiming at influencing the public government bodies in the processes of creating law. The professional lobby activity means a lobby activity bringing profits for the third party aiming at considering their interest while creating law. Such activity may be performed by an entrepreneur or physical entity who is not an entrepreneur according to the civil agreement.

#### **Bad evaluation of the needs of a state and citizens within legal regulations.**

The typical example of decisions that do not concern the needs of citizens was prolonging common retirement age in Poland which started in 2013. The process of prolonging the retirement age is performed on the basis of the act on 11 May 2012 *on the amendment of the act on retirement and pensions from the Social Insurance Funds and some other acts*<sup>3</sup>. Passing the act caused and is still causing huge dissatisfaction of the society. The way of proceeding the project, consulting with the society and non-governmental organizations and omitting the public opinion are under the biggest critics. Moreover, the attitude of politicians and the most important persons in the state to the public opinion and the way of the public debate remains highly improper. Another example of omitting the public opinion is implementing compulsory school education for six year old children. The government, despite severe objection of thousands of parents does not take into consideration their opinion but forces to implement own idea. In the country there is still a debate and exchange of opinions and their results agree or disagree, according to political attitudes, the necessity of overwhelming six year olds the compulsory school education. The two examples presented above indicate the need and obligation of the government to hear the voices of the public opinion while working out new regulations implementing radical changes for society.

#### **Neglecting in implementing analysis of current legal regulations while deciding on their amending or creating new ones.**

One of the significant elements of a properly functioning state is a transparent legislative system. The process of creating the law in Poland is inadequate towards internal and external development challenges<sup>4</sup> and it does not favor building trustful proper public government<sup>5</sup>. As a proof of the above, there are new legal regulations that have been created separately to those already existing. Let us take into consideration the acts regulating functioning the services responsible for public order and national and international safety of the state. In my opinion, a part of the regulations of the acts concerning the principles, methods and forms of performing the same actions, e.g. collecting the data, should be identical for the services such as Police, Border Services, Central Anticorruption Bureau or Internal Safety Agency. The acts being the basis for the services performing those activities have different regulations resulting in various legal interpretations while reaching data from other administrators. Another example may be reasonable creation of new order services, e.g. Municipal Guards<sup>6</sup>. It is a present issue since a part of the public opinion is for liquidation of Municipal Guards. While analyzing the expenditures on creation of new services, it should be considered if the current ones need to be supplied with staff, equipment and funds in order to perform new tasks. Another

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<sup>3</sup> Journal of Laws from 2012 pos. 637.

<sup>4</sup> M. Boni, red.: Polska 2030. Wyzwania rozwojowe, Warszawa 2009, p. 299.

<sup>5</sup> The ministry of Regional Development. The Strategy for the Development of the State 2007-2015, Warsaw 2006, p. 60.

<sup>6</sup> Act from 29 August 1997 *on municipal guards* (Journal of Laws from 1997, No 123, with later amendments, pos. 779).

example is creation of the Road Transport Inspection<sup>7</sup> which shares most actions with the Police, especially those from the traffic department. Widening the range of the Police with new tasks, now in the Inspection duty, providing professional equipment, staff and financial support would allow to reach significant savings in the state budget. Moreover, it would allow to create unanimous system of using devices registering speed, commonly named *radars* and lead to the situation when one service is responsible for the whole system of speed measurement and collecting data.

### **The large number of errors that are often used by certain social groups and criminals.**

Numerous changes in current acts proves committed errors on the particular phases of creating assumptions, analysis of current state of affairs and the lack of the analysis of proceeded area. The disadvantages of creating law is, first of all, ineffectiveness of adopted solutions, namely often amending of acts<sup>8</sup>, too many legal regulations, instability of law, discrepancies, unclear legal system, low technical legislative level<sup>9</sup>. As a result, law, instead of serve to common good and shape bounds between people, is a source of tension, divisions and conflicts. More and more often, it is treated as the expression of the will of particular parliament majority which assumes may do anything including, with the help of law, create current historical truth and it is not limited by the existence of minority. A very dangerous result of implementing imprecise regulations is using them by certain groups to their own goals. They use their influences among those responsible for creating law in order to create *regulations for them* and then they collect illegal profits causing huge loss for the state budget. It is a very dangerous phenomenon since, besides the loss in the state, we are prone to the loss of trust in the international level and consequences from the economy partner states.

It should be however remembered that a state, which is a common good for its citizens, should be friendly, open, rational, transparent, predictable and devoid of arbitrariness, but it becomes more and more repressive and, because of its ideological political engagement and sometimes creating the climate of untrustfulness and suspicions, becomes strange to many citizens.

Summing up that part of the article, it should be claimed that good law means such law that guarantees a unit a skill to comprehending and using it within the state. Transparency of regulations is incredibly important for each human since it gives the sense of safety through its comprehension and, therefore, observing it. Good law means an unanimous interpretation by all to all. Good law is a challenge for those ruling and safety for those observing it.

### **Relation between unit safety and good law**

Safety is a state in which decisions made by a state enable the country and its citizens to function and develop properly. That state mean decisions made by a country within creating law. Safety was defined by the greatest authorities.

Professor Witold Pokruszynski claims that safety means a state and process of lasting, surviving and development of all forms of existence. Therefore, all the situations that are not in favor for those three elements may be treated as the threat of safety. The feature of

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<sup>7</sup> Act from September 2001 *on the road transport* (Journal of Laws from 2012, pos. 1265).

<sup>8</sup> W. Stańkiewicz: Stanowienie prawa w pierwszym okresie rządów PO-PSL, in: L. Kolarska-Bobińska, J. Kucharczyk: *Demokracja w Polsce 2007-2009*, p. 55 and next.

<sup>9</sup> The Chancellery of the Prime Minister. *Creating the law in Poland – evaluation and proposed directions for changes*. The report of the Legislative Council at the Chairman of the Council of Ministers. Warsaw, 2006, p. 6 and next.

safety is optimism and trustfulness they give us the belief that we may use our goods and happiness. Safety, indeed, depends on what happens around us, external and internal environment where potential threats may come from, it also depends on ourselves, our substantive preparation in that matter, our health and readiness to face such threats.

Professor Roman Kuźniar claims that safety is a primal, existential need of units, social groups and, finally, states. It is the matter not only surviving integrality or independence but also safety of development which provides protection and enrichment of the identity of units of a nation.

Janusz Swiniarski claims that safety is a state which provides a human conditions for self-development. Safety is a state in which units, social groups, organization of a country do not feel the threat of own existence and basic interests. Safety is a state in which there are formal, institutional and practical guarantees to protect all this significant for full self-development.

The above definitions regardless the attitude and interpretation are always aimed at units, each citizen who is a participant of a society. A society functions properly when it has clearly described and defined principles and procedures of functioning, called a legal system. It means inseparable co-existence of a unit and legal system, therefore one depends on the other.

A unit must observe adopted legal norms and legal norms must be adjusted to a unit's needs. It must be however remembered to enable a unit to participate in creating legal norms and listening to the voice of a society. Then we will have a properly functioning state.

### **Conclusions**

Providing safety to a unit demands creating good law that guarantees its proper development and functioning. A safe unit must be sure that the current legal system is not only substantially correct but it is also unanimous in interpretation, clear and comprehensible. Each citizen wants to influence the decisions made by a country within its functioning, particularly in the range which concerns him or her directly. Sometimes the adopted solutions by a government are not popular and cause some objections among a society but implementing them is significant from the point of view of the state safety. Nevertheless, it is very important to implement a proper dialogue with a society that enables to acquaint the society with higher issues and gives the basis to passing new regulations with no conflicts. Common mistakes made by governments is a arrogant attitude of politicians who cannot agree with any critics and put their own ideas over everything and everyone. They are often unable to explain the goals for which new legal solutions are implemented but it, unfortunately, results from the lack of proper education, experience, weak advisors and lack of common sense. That subject may be discussed within another article.

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