

The Principle of Transparency and the Social Perception of the Representatives of Pre-Trial Procedure Authorities

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Abstract. Social judgments regarding the assessment of the work of the representatives of the preparatory proceedings organs are often formulated prematurely. Actions taken in favor of properly conducted proceedings often require commitment, which is difficult to qualify in specific assessment categories. Advances in technology mean that committing offences is often simpler, resulting in the possibility of committing more and more new crimes (including, among others, cybercrime). Such realities oblige the representatives of the procedural authorities to take effective remedial actions to combat criminogenic behavior, which sometimes correlates with taking actions that are on the fringes of the law or ethics (among others, Art. 168 a and 168 b of KPK (the Code of Criminal Procedure)). The effectiveness of the preparatory proceedings carried out is therefore dependent on many factors, the derivative of which is the decision of the trial resolution, which, in the theoretical assumption, should meet not only the statutory objectives of the proceedings, but also be a testimony to achieve a social sense of justice. The stereotypical verification of the work of prosecutors and the Police officers makes it difficult to make a proper assessment of the actions taken by them, thus distorting the actual image of the bodies of proceedings. The subject and purpose of this study is to emphasize the social perception of the representatives of the organs of preparatory proceedings. The theoretical reflections were formulated on the basis of the developed conclusions from the analysis of the court files examined.

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Introduction

Stereotypes are an integral element of social perception. In the literature on the subject, the abovementioned “prejudices” are defined as “a factor the existence of which in our mind often goes unnoticed; it is a mental image that is created in the head of an individual.”¹ Adam Schaff suggests a different definition of the term: “[...] a stereotype is when our certain emotions, evaluations and attitudes (readiness to perform certain actions) are a reaction not so much to one’s own experience in a given area, but rather a word-designation that triggers in us those feelings, evaluations and attitudes. It is transmitted to us, one way or another, by the society

¹ Gruza E, *Psychologia sądowa dla prawników*. Warsaw: Oficyna a Wolters Kluwer business, 2009, p. 78.

(the environment, the family), regardless of our own experience in this respect, or sometimes even despite the lack of any experience."²

Main part

On the other hand, juridical sciences, although their content is for the most part precise, are nonetheless subject to the ambivalent laws of social psychology. Thus, it is rightly emphasised that "At every stage [...] of legal activities, the problems appear, that are the subject of social psychology. For example, the first impression a defendant or witness makes has a major impact on the Police officers or judges; also how the Police, defence lawyers, jurors and judges perceive the causes of a crime; prejudices and stereotypes affect these attributions as well."³ Thus, stereotypes are to some extent embedded in the execution of the principle of transparency (public character) of the criminal process. Assuming that, according to the abovementioned rule, "The public character of proceedings is a means of social control over the work of criminal authorities and an educational influence of the justice system on the society"⁴, then issues associated with the evaluation of the representatives of pre-trial procedure authorities are not obscure, either by the parties to proceedings (internal transparency) or to the outside observers (external transparency). A positive image of the representatives of pre-trial procedure authorities relates mainly to the diligent pursuit of the statutory goals of the procedure.

According to legal regulations, the goals of the pre-trial procedure are in particular the following (Art.297 (1) of the Polish Code of Criminal Procedure)⁵:

- 1) Determining whether a prohibited act was committed and if it constitutes a crime;
- 2) Detecting and, where required, arresting the perpetrator;
- 3) Gathering data in accordance with Art.213 and 214;
- 4) Clarifying the circumstances of the case, identifying the aggrieved parties and determining the extent of the harm done;
- 5) Collecting, securing and preserving, as far as necessary, evidence for the court.

On the other hand, recommendations *strictly* concerning the duties of the Police officers concern, among other things:

- 1) Protecting human life, health and property against illegal violation;
- 2) Protecting public safety and order, also in public places and in public transport, on roads and in waters open for public use;
- 3) Initiating and organising activities with the aim of preventing crimes, offences and criminal behaviour, and cooperating to this effect with national and local authorities and social organisations;

² Schaff A, *Stereotypy a działanie ludzkie*. Warsaw: Wydawnictwo Książka i Wiedza, 1981, p. 38.

³ Aronson E, Wilson T.D, Akert R.M, *Psychologia społeczna. Serce i umysł*. Poznań: Wydawnictwo Zysk i S-ka, 1997, p. 633.

⁴ Buchała K, Waltoś S, *Zasady prawa i procesu karnego*. Warsaw: Państwowe Wydawnictwo Naukowe, 1975, p. 299.

⁵ The Polish Act of 6 June 1997 — the Code of Criminal Procedure, Dz.U. of 1997, No. 89, item 555, as amended.

4) Detecting crimes and offences, and prosecuting criminals and offenders⁶;

The duties listed above are verified, usually in a restrictive way, by parties to proceedings. On the one hand, it is rightly noted that "The observers of pre-trial proceedings help, within certain reasonable limits, detect a criminal who has not yet been identified or caught, by engaging large groups of people in their detection."⁷ An approval of the principle of transparency is also contained in the assumption that "[...] the participation [...] of witnesses in a lawsuit is also an element of social control of the criminal authorities."⁸ However, a contrary argument to what was stated above claims that the social evaluation of the work of those who conduct the pre-trial procedure often causes numerous interpretative doubts. The reason for such premature judgments is usually the expression of dissatisfaction with the work of the representatives of pre-trial procedure authorities. Thus, it could be questioned to what extent the verity of such an impression is determined through the prism of personal harm or harm done to the aggrieved party, or to what extent it is a just social judgment. Mieczysław Szerer observes that "It is often claimed that among the factors that a judge should take into consideration when determining the punishment, is the factor called the social feeling of justice, namely the impression the sentence will make on large groups of people. I would never suggest that a judge should ignore this impression. On the other hand, neither would I support a directive that a judge should look for hints about a punishment in the apparent social feeling of justice."⁹ In view of the above deliberations, it can be concluded that the term "social feeling of justice" is connotatively imprecise, and the indicator of its real application is the role an observer/party to proceedings plays in given proceedings. There are many practical examples manifesting these discrepancies. The examination presented hereinbelow took place in the years 2015 and 2016 at the 2nd Criminal Division of the Regional Court in Olsztyn and the 2nd and 7th Criminal Divisions of the District Court in Olsztyn. The question posed in the examination of court cases was as follows: "What is the social perception of the representatives of pre-trial procedure authorities?". The following hypothesis was formulated: It is believed that the stereotypical perception of the work of prosecutors and the Police officers shapes wrong social attitudes towards them.

The first of the cases presented in this paper concerns a situation in which the defendant was accused of misappropriating 80 scaffolding weights (Art. 278 (1, 12) of the Polish Code of Criminal Procedure)¹⁰ In his letter dated 9 May 2011, following the termination of the procedure, the aggrieved party stated that: "When making my statement as the aggrieved party in the case concerning the theft of 80 hanging scaffolding weights, I told the Police patrol that the weights had been sold to a scrap recycler [...], which is confirmed by a relevant entry in the register. I obtained this information from an employee of the scrap recycler. On the examination of files, I found out that the procedure was conducted at a different scrap recycler.

⁶ For more information, see: the Police Act of 6 April 1990, Dz.U. of 1990, No. 30 item 179, as amended.

⁷ Buchała K, Waltoś S, *op. cit.*, p. 299.

⁸ Hołyst B, *Psychologiczne i społeczne determinanty zeznań świadków*. Warsaw: Państwowe Wydawnictwo Naukowe, 1989, p. 27.

⁹ Szerer M, *Kultura i Prawo*. Warsaw: Państwowy Instytut Wydawniczy, 1981, p. 103.

¹⁰ Judgment of the District Court in Olsztyn — file No. VII K160/12.

I believe that the procedure was conducted in an exceptionally disorderly fashion and I request that it be resumed.”

The response of the court to the accusations concerning negligence of the representatives of pre-trial authorities was quite explicit. In its decision, the court concluded that: “The complaint made by the aggrieved party does not deserve consideration. Evidence was evaluated in accordance with applicable provisions of the Polish Code of Criminal Procedure and the findings are not arbitrary, but are substantiated by the actions performed.”

The other case concerned interrogation which, according to the defendant, had been improperly conducted. The suspect was accused of stealing ATM cards (Art. 279 (1), 278 (5), 11 (2, 12) of the Polish Code of Criminal Procedure). The suspect was the caregiver of the aggrieved party. The aggrieved party claims that the suspect secretly gave her soporific drugs so as to have free access to her ATM cards. In the pre-trial procedure, the suspect claimed: “I had been forced into saying this. After eleven hours, I was exhausted and told the Police officer to write whatever he wanted.”¹¹

The reality of the case makes it doubtful whether the Police officers conducted the interrogation in the right way. According to statutory guidelines: “The interrogated person should be allowed first to speak freely insofar as relevant to the activity concerned and only then asked questions to supplement, explain or check what the person says.” (Art. 171 (1) of the Polish Code of Criminal Procedure).¹² Both diligence in the interrogation and the abovementioned course of the procedure require careful preparation.¹³ On the other hand, “if the procedure is improperly conducted [...], its results may be considered unreliable and excluded from evidence.”

When analysing the above cases, the real cause of people developing a negative evaluation of the findings of officers should be determined, and at the same time of an approval for the accusatory enquiries on the part of the court. On the one hand, it is quite predictable that a thorough evaluation on the part of the aggrieved party will be meticulous and restrictive. According to the law: “The aggrieved party is a natural or legal person whose legal property was directly violated or threatened by an offence.” (Art.49 (1) of the Polish Code of Criminal Procedure). Thus, it should be assumed that a person who suffered harm or damage in association with an offence will be particularly susceptible to any negligence in the pre-trial procedure, especially because at this stage they can fully exercise their statutory rights (Art.300 (2) of the Polish Code of Criminal Procedure). On the other hand, the court, when analysing the evidence gathered in a case, is obliged to support its decision with convincing foundations, so that the work of the officers conducting the pre-trial procedure was positively evaluated.

It should also be noted that, according to the Police statistics ¹⁴, a large number of cases usually causes time constraints, which makes it impossible to properly

¹¹ Judgment of the District Court in Olsztyn — file No. VII K 18/12.

¹² The Polish Act of 6 June 1997 — the Code of Criminal Procedure, Dz. U. of 1997, No. 89, item 555, as amended.

¹³ See: Gruza E, *Psychologia sądowa dla prawników*. Warsaw: Oficyna a Wolters Kluwer business, 2009, p. 116.

¹⁴ For more information, see: *Electronic source*: <http://statystyka.policja.pl/st/ogolne-sta-tystyki/47682,Postepowania-wszczete-przestepstwa-stwierdzone-i-wykrywalnosc-w-latach-1999-2015.html>, accessed: 21.07.2016.

verify them. This happens in particular in thematically difficult cases that meet the statutory conditions (Art.309 of the Polish Code of Criminal Procedure) that qualify the case for procedure in the form of an investigation. Thus, the literature on the subject claims that "It is hard to expect that the postulated shift in proportions will take place, according to which inquiry and investigation procedures should be performed by the prosecutor to a much larger extent. In practice, things go in the opposite direction. Despite changes in entities authorised to conduct investigations, as a result of which the Police are able to conduct only superficial investigations, the major burden of pre-trial procedure still rests on the Police."¹⁵ Even though this fact does not explain negligence in the pre-trial procedure, in practice, the grading of cases to be solved imposes a certain selectiveness and prioritisation of cases, often to the disadvantage of less absorbing ones.

Once such an attitude is discovered, the negative observations develop in social perception, which are then reflected in a negative image of the Police officers. And, since such conduct is generalised, regardless of the final results of the procedure, the stereotypical attitude towards representatives of pre-trial procedure authorities usually lasts for a long period of time. Thus, it is rightly claimed in the literature on the subject that "by relating notions to prejudices, we can conclude that if a member of a group happens to behave in the way we expect of them, then their behaviour confirms our stereotype. Thus, stereotypes become relatively immune to change; regardless of anything, the proof of their correctness remains external to them, meaning that the effect of the functioning of our convictions becomes that proof."¹⁶

The above convictions usually develop from the experiences of parties to criminal proceedings. Representatives of pre-trial procedure authorities visiting the site of an event play a double role: they are usually negatively evaluated by defendants, who perceive their actions as if they limit their own rights or freedoms (especially if admissible coercive measures are applied to them¹⁷), and on the other hand they are perceived as those who respect the rights of aggrieved parties.

The situations described above are illustrated by the following cases:

1. The characteristic odour of gas was coming from behind the door, so the Police were called to check whether the residents were in danger. The defendant refused to let the Police officers into the apartment, where the odour was coming from, and pointed an object that looked like a gun at them. Being ordered to throw the "gun" down by the officers, he did so, but threatened to kill them. The defendant is addicted to several substances. The statement of reason in the convicting verdict stated that: "The defendant admitted, both at trial and in the pre-trial procedure, that he had threatened the Police officers with a mock gun in order to make them leave. He also explained that the reason for gas oxidation was that he had wanted to heat

¹⁵ Nitkowski K, *Rola Policji w polskim postępowaniu karnym*. Poznań: Wydawnictwo Ars boni et aequi, 2011, p. 125, *quotation after*: Dudka K, *Rola Policji w postępowaniu przygotowawczym*, [in:] Kruszyński P (Ed.), *Postępowanie karne w XXI wieku*. Warsaw, 2002, p. 102.

¹⁶ Aronson E, Wilson T.D, Akert R.M, *op. cit.*, p. 553.

¹⁷ See: Articles 243–295 of the Act of 6 June 1997 — the Code of Criminal Procedure, Dz.U. 1997, No. 89, item 555, as amended and Art. 6 of the Police Act of 6 April 1990, Dz.U. 1990, No. 30, item 179, as amended.

up his food but had failed to light the fire, which he had not noticed, having been under the influence of alcohol.”¹⁸

2. The defendant was accused of using violence against his mother, an elderly and ailing woman (Art.1 207 (1) in association with Art. 226 (1) of the Polish Code of Criminal Procedure). In the pre-trial procedure, the defendant partly admitted being guilty of the act, but claimed that his behaviour had been an isolated incident and had been caused by taking a psychotropic drug and drinking alcohol on the day of the event. Nonetheless, according to witness testimony, he had abused his mother many times with vulgar words, and had also been aggressive towards the Police officer (he had kicked the officer, which was confirmed at trial). The statement of reason in the convicting verdict stated firmly that: “The court must firmly react, especially if the offence is addressed at the Police officer.”¹⁹
3. The defendant was accused of theft (Art. 278 (1) of the Polish Code of Criminal Procedure). The event was registered by a CCTV camera in a shop in Olsztyn. The statement of reason in the convicting verdict stated, among other things, that: “Particularly unsubstantiated is the defendant’s allegation that he was threatened by the Police officers during interrogation. [...] The defendant claimed only during the court procedure that the Police officers had allegedly influenced his explanations in an illegal way, but given the lack of conformity with other evidence, his statements seem highly doubtful.”²⁰

Considering the above, it should be noted that accused persons usually create a negative image of the officers conducting the pre-trial procedure, regardless of the fact that “a person who illegally infringes the rights of another person should be aware of possible negative consequences, including those affecting their living, professional and family situation.”²¹

Another aspect of the above deliberations is the actual execution of the principle of transparency of the criminal procedure (Art. 355 of the Polish Code of Criminal Procedure). Due to the complex nature of this principle, the social image of the officers conducting the pre-trial procedure is also affected by the activity of newspaper, radio or TV journalists (Art. 357 of the Polish Code of Criminal Procedure). Information delivered by the media does not always fully reflect the essence of the criminal procedure, instead creating an image of the representatives of criminal authorities that journalists desire to create, which does not always reflect the essence of the case concerned. Thus, it is rightly emphasised that “[...] what the TV shows is not an account of the entire process, but the most appetising bites. This does not serve the purpose of informing the public opinion, and moreover, by exposing catchy and gossipy, yet superficial details, it may conceal the deep truth and true sense of the process.”²²

To avoid such distortions, it is important to limit the information delivered to the public, especially at the stage of the pre-trial procedure, which, on the other hand,

¹⁸ Judgment of the District Court in Olsztyn — file No. VII K 174/12.

¹⁹ Judgment of the District Court in Olsztyn — file No. II K 184/12.

²⁰ Judgment of the District Court in Olsztyn — file No. II K 586/12.

²¹ Chaciński J, Eksmisja z lokalu mieszkalnego z powodu znęcania się nad rodziną, [in:] Czarnek P, Dobrowolski M (Eds), *Rodzina jako podmiot prawa. Zamość: Wydawca GREENart Jacek Kardasz*, 2012, p. 132.

²² Szerer M, *op. cit.*, p. 221.

does not contribute to a positive image of the officers conducting the pre-trial procedure. It is rightly postulated in the literature on the subject that “Obviously, at the stage of the pre-trial procedure, access to procedural activities and evidence already available, as well as concerning further search for evidence, should be limited. Obviously, at this stage, the knowledge of the criminal authorities may not be identical with the knowledge about the evidence and circumstances of the case available to other parties to the pre-trial procedure (especially to potential perpetrators), because, if that was the case, the pre-trial procedure would not yield the expected results.”²³

The discretion of officers conducting the pre-trial procedure, although understandable, is not always approved by the public, and in particular it is negatively evaluated by parties to proceedings. Disapproval is usually the effect of emotional engagement in an event, where the rationality of conduct is sometimes eliminated by emotional cognitive processes that may cause or support stereotypical attitudes to the representatives of the pre-trial procedure. Meanwhile, it is also emphasised that “It is enough to think for a second to realise that, despite the common mythologisation of the problem, motivations of human behaviour [...] not only are not always rational, but also they are often irrational, at least in the sense that at their origin exists a mixture of rational and irrational factors.”²⁴

The above analysis leads to the conclusion that the stereotypical perception of the representatives of criminal authorities is usually dynamic and is not always founded on rational stimuli to formulate certain judgments. Thus, it is emphasised that “the power of stereotypes that support prejudices is partly due to the fact that the dynamics of their formation and functioning in the brain is relatively neutral with respect to the overall mental processes, which means that all sorts of stereotypes are self-confirmed.”²⁵

It seems impossible to entirely separate stereotypical perception from reasonable perception. It is obvious that “Social roles are generally apprehended as the institutionalised normative models that function as if they were ready-made and given to an individual by the social system.”²⁶ Apparently, stereotypes are often influenced by parties to proceedings themselves — especially those who suffered domestic violence (Art. 207 of the Polish Code of Criminal Procedure). The helplessness of the Police officers in such cases is not in the least a manifestation of their carelessness in carrying out their duties, but rather the ineffectiveness of their actions caused by the passivity of the victims of the offence. It often happens that the fact of a family member suffering violence is hidden behind a feeling of shame and fear of future criminal actions by the offender. Thus, it usually “cannot

²³ Hofmański P (Ed.), *System Prawa Karnego Procesowego. Zasady procesu karnego III*, p. 1; Wiliński P (Ed.). Warsaw: Wydawnictwo LexisNexis, 2015, pp. 786–787.

²⁴ Schaff A, *Stereotypy a działanie ludzkie*. Warsaw: Wydawnictwo Książka i Wiedza, 1981, p. 137.

²⁵ Goleman D, *Inteligencja emocjonalna*, Jankowski, A. (trans.). Poznań: Wydawnictwo Media Rodzina, 2007, pp. 248–249, *quotation after*: Gaertner S, Davidio J, *Prejudice, Discrimination and Racism*. New York: Academic Press, 1987.

²⁶ Skąpska G, Czapska J, Kozłowska M, *Społeczne role prawników (sędziów, prokuratorów, adwokatów)*. Wrocław, Warsaw, Krakow, Gdańsk, Łódź: Zakład Narodowy imienia Ossolińskich Wydawnictwo Polskiej Akademii Nauk, 1989, p. 25.

be expected that a person who has remained for a long time under threat and has experienced violence would, upon the arrival of the Police, immediately take their side against the offender."²⁷

On the other hand, it should be noted that, contrary to the above observations, sometimes the attitude to the representatives of the pre-trial procedure authorities is positive. The positive evaluation of their work is emphasised among parties to proceedings (especially the family of the aggrieved party). Their work is also appreciated by the judges adjudicating in the case. A large amount of evidence that enables recognition of a coherent and reliable version of events guarantees the justness of the sentence and meets the statutory objectives of criminal procedure (Art. 2 (1) of the Polish Code of Criminal Procedure). There are many practical examples of such situations, which is proven, for example, by the statistics of convicting judgments.²⁸ Thus, the statements of reason in the abovementioned judgments contain similar descriptions, such as this one: "The case files also contain other materials and evidence collected in the course of the pre-trial procedure — site inspection reports, reports on the taking of biological samples, object inspection reports, reports on the taking of comparative samples, blood alcohol tests, community interviews, intervention reports — which confirm the factual circumstances determined and which the court recognised to be fully reliable."²⁹

Last but not least, there is one more aspect that should be noted, namely that the social perception of the Police officers is determined not only by the effectiveness of their work, but also by legal indications. It is assumed that, according to legal regulations, a Police officer candidate should meet the following requirements: the Police officer must be a Polish citizen of impeccable reputation who has not been sentenced by a final court judgment for a crime or fiscal offence, who exercises full public rights, has at least secondary education, and is physically and mentally able to serve in the armed forces subject to special discipline that they are willing to submit to, and who warrants the observance of the secrecy of information as is required of them according to legal regulations governing the protection of confidential information.³⁰

The warranty of certain attitudes and behaviour shapes the image of an officer as a person worthy of social trust. Overgeneralisation of the requirements posed by the legislator and the society with respect to the pre-trial officers means that

²⁷ Spurek S, *Ustawa o przeciwdziałaniu przemocy w rodzinie. Komentarz*. Warsaw, 2008, p. 15, *quotation after*: Dearing A, *The Austrian Model of Counteracting Domestic Violence*, unpublished material received from the author.

²⁸ Having excluded the problem of wrongful convictions — see the statistics. *Electronic source*: https://ms.gov.pl/Data/Files/_public/ppwr/aktualnosci/wyciag-z-informacji-o-realizacji-przez-wymiar-sprawiedliwosci-kppwr---dane-statystyczne.pdf, *accessed*: 21 July 2016.

²⁹ The case concerned the murder of a wife committed by her husband (Art.48 (1) of the Polish Code of Criminal Procedure). In the pre-trial procedure, the defendant admitted being guilty of the crime and explained that recently there had been quarrels between him and his wife. The usual cause of the quarrels was that his wife blamed him for not earning enough money. In court, the defendant admitted to being guilty and maintained what he had said during the pre-trial procedure. Judgment of the Regional Court in Olsztyn — file No. II K 233/13.

³⁰ See: the Police Act of 6 April 1990, Dz.U. of 1990, No. 30 item 179, as amended.

their social perception does not always reflect the work they actually perform. The complexity of the principle of transparency, although it has positive implications by enabling society to control the course of proceedings, often leads to a big amount of interpretative chaos.

Moreover, the personal perception, or lack of it, of the rules, by the respective representatives of pre-trial procedure authorities, with respect to professional ethics, should be taken into consideration,³¹ as well as the observance of fundamental principles in the conduct of procedural and criminal activities³², such as the rule of law or the principle of material truth (Art. 2 (2) of the Polish Code of Criminal Procedure) or of objectivity (Art. 4 of the Polish Code of Criminal Procedure).

Conclusion

Thus, when evaluating the work of pre-trial officers, the specific conditions of their work should be taken into consideration, as well as the important role of the activities undertaken by them, since "evidence collected and preserved in the course of the pre-trial procedure is used by the court to pre-examine the case prior to the main trial, as well as during the main trial or meeting, and may serve as the basis for issuing an order."³³ Premature and unfair judgments may have a negative impact on the course of proceedings. On the other hand, sometimes the negligence of officers results in a social evaluation that is substantiated, thus putting into doubt the diligence of the pre-trial procedure.

References

1. Aronson E, Wilson T.D, Akert R.M, *Psychologia społeczna. Serce i umysł*. Poznań: Wydawnictwo Zys i S-ka, 1997.
2. Buchała K, Waltoś S, *Zasady prawa i procesu karnego*. Warsaw: Państwowe Wydawnictwo Naukowe, 1975.
3. Chaciński J, *Eksmisja z lokalu mieszkalnego z powodu znęcania się nad rodziną*, [in:] Czarnek P, Dobrowolski M (Eds), *Rodzina jako podmiot prawa*,. Zamość: Wydawca GREENart Jacek Kardasz, 2012.
4. *Electronic source*: <http://statystyka.policja.pl/st/ogolne-statystyki/47682,Postepowania-wszczete-przestepstwa-stwierdzone-i-wykrywalnosc-w-latach-1999-2015.html>.

³¹ See: The Principles of the Police Officer's Professional Ethics — Annex to Regulation No. 805 of the Chief Commander of the Police of 31 March 2003 (Official Journal of the Police Headquarters. 2004 No. 1, item 3), issued pursuant to Art.7.1.1 of the the Police Act of 6 April 1990, Dz.U. 1990, No. 30, item 179, as amended.

³² See: Pikulski, S., *Podstawowe zagadnienia taktyki kryminalistycznej*, Wydawnictwo Temida 2, Białystok 1997, p. 63 and subsequent.

³³ Nitkowski, K., *Rola Policji w polskim postępowaniu karnym*. Poznań: Wydawnictwo Ars boni et aequi, 2011, p. 125, *quotation after*: see Dudka, K., *Rola Policji w postępowaniu przygotowawczym*, [in:] *Postępowanie karne w XXI wieku*, Kruszyński, P.(Ed.). Warsaw, 2002, p. 113.

5. Goleman D, Inteligencja emocjonalna. Jankowski A (trans.). Poznań: Wydawnictwo Media Rodzina, 2007.
6. Gruza E, Psychologia sądowa dla prawników. Warsaw: Oficyna a Wolters Kluwer business, 2009.
7. Hofmański P (Ed.), System Prawa Karnego Procesowego. T. III. Zasady procesu karnego. Wiliński P (Ed.). Warsaw: Wydawnictwo LexisNexis, 2015.
8. Hołyst B, Psychologiczne i społeczne determinanty zeznań świadków. Warsaw: Państwowe Wydawnictwo Naukowe, 1989.
9. Judgment of the District Court in Olsztyn — file No. II K 184/12.
10. Judgment of the District Court in Olsztyn — file No. II K 586/12.
11. Judgment of the District Court in Olsztyn — file No. VII K 174/12.
12. Judgment of the District Court in Olsztyn — file No. VII K 18/12.
13. Judgment of the District Court in Olsztyn — file No. VII K160/12.
14. Nitkowski K, Rola Policji w polskim postępowaniu karnym. Poznań: Wydawnictwo Ars boni et aequi, 2011.
15. Pikulski S, Podstawowe zagadnienia taktyki kryminalistycznej. Białystok: Wydawnictwo Temida 2, 1997.
16. Schaff A, Stereotypy a działanie ludzkie. Warsaw: Wydawnictwo Książka i Wiedza, 1981.
17. Skąpska G, Czapska J, Kozłowska M, Społeczne role prawników (sędziów, prokuratorów, adwokatów). Wrocław, Warsaw, Kraków, Gdańsk, Łódź: Zakład Narodowy imienia Ossolińskich Wydawnictwo Polskiej Akademii Nauk, 1989.
18. Spurek S, Ustawa o przeciwdziałaniu przemocy w rodzinie. Komentarz. Warsaw, 2008.
19. Szerer M, Kultura i Prawo. Warsaw: Państwowy Instytut Wydawniczy, 1981.
20. The Polish Act of 6 June 1997 — Code of Criminal Procedure, Dz.U. of 1997, No. 89, item 555, as amended.

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Streszczenie. Społeczne osądy dotyczące oceny pracy przedstawicieli organów postępowania przygotowawczego często są przedwczesnie formułowane. Działania podjęte na rzecz właściwie przeprowadzonego postępowania nieraz wymagają zaangażowania, które trudno zakwalifikować do określonych kategorii ocennych. Postęp technologii sprawia, że popełnianie czynów zabronionych staje się często prostsze, pochodną czego jest możliwość popełniania coraz to nowych przestępstw (w tym m. in. cyberprzestępczość). Takie realia obligują przedstawicieli organów procesowych do podjęcia skutecznych działań zaradczych na rzecz zwalczania kryminogennych zachowań, co nieraz koreluje z podjęciem działań będących na granicy prawa bądź etyki (m. in. art. 168 a i 168 b k.p.k.). Efektywność przeprowadzonych postępowań przygotowawczych zależy zatem od wielu czynników, pochodną których jest orzeczenie rozstrzygnięcia procesowego, które w teoretycznym założeniu powinno spełniać

nie tylko określone ustawowo cele postępowania, ale również powinno być świadectwem osiągnięcia społecznego poczucia sprawiedliwości. Stereotypowa weryfikacja pracy prokuratorów oraz funkcjonariuszy Policji utrudnia dokonanie właściwej oceny podjętych przez nich działań zniekształcając tym samym faktyczny wizerunek organów postępowania. Przedmiotem i celem niniejszego opracowania jest zaakcentowanie społecznego postrzegania przedstawicieli organów postępowania przygotowawczego. Teoretyczne refleksje sformułowano na podstawie opracowanych wniosków z analizy badanych akt sądowych.

Резюме. Общественное мнение по вопросу оценки работы органов досудебного производства нередко формируется заблаговременно. Меры, предпринимаемые для надлежащего проведения расследования часто требуют проявления активности, которую непросто отнести к конкретным категориям оценки. Технологический прогресс приводит к тому, что некоторые преступления совершать проще, в результате чего появляется возможность совершения все новых и новых преступлений (включая, в частности, киберпреступность). В этих условиях представители процессуальных органов обязаны принимать эффективные контрмеры в борьбе с преступностью, которые могут оказаться мерами на грани закона или этики (например, статьи 168а и 168b Уголовно-процессуального кодекса РФ). Таким образом, эффективность предварительного расследования определяется рядом особенностей, обуславливающих принятие решения о процессуальном заключении, которое, исходя из теоретических предпосылок, должно не только отвечать законной цели расследования, но и являться свидетельством формирования в обществе чувства справедливости. Стереотипная проверка работы прокуроров и сотрудников полиции затрудняет надлежащую оценку принимаемых ими мер, что искажает фактический образ процессуальных органов. Предметом и целью данного исследования является уделение особого внимания общественному мнению о представителях органов предварительного расследования. Теоретические рассуждения были разработаны на основе выводов, сделанных по результатам анализа исследованных судебных материалов.

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