

Leszek Elak¹ Paweł Zając²

State Security and Hybrid Warfare. An Interdisciplinary Approach

Keywords: cyber warfare, security, asymmetric conflict, political system, constitution

Słowa kluczowe: wojna cybernetyczna, bezpieczeństwo, konflikt asymetryczny, ustrój, konstytucja

Abstract

The article concerns the issues of state security both in legal terms and from the perspective of security science. In the first part, it presents a proposal for understanding the concept of state security based on the Polish Constitution. The article is also a contribution to the discussion on the correctness of terminology relating to the analyzed issue. The second part concerns the analysis of a new military phenomenon which is a hybrid war. The purpose of the considerations is to show its impact on state security.

Streszczenie

Bezpieczeństwo państwa a wojna hybrydowa. Ujęcie interdyscyplinarne

Artykuł dotyczy problematyki bezpieczeństwa państwa zarówno w ujęciu prawnym, jak i z perspektywy nauk o bezpieczeństwie. W pierwszej części przedstawia propozycję rozumienia pojęcia bezpieczeństwa państwa na gruncie Konstytucji RP. Artykuł stanowi

¹ ORCID ID: 0000-0002-5255-9768, Assoc. Prof., Department of Tactics of Land Forces and Territorial Defense, Faculty of Military Studies, War Studies University in Warsaw. E-mail: l.elak@akademia.mil.pl.

² ORCID ID: 0000-0002-2188-5720, PhD, Department of Theory and History of Law, Law Institute, War Studies University in Warsaw. E-mail: p.zajac@akademia.mil.pl.

również przyczynek do podjęcia dyskusji w zakresie poprawności terminologicznej odnoszącej się do analizowanego zagadnienia. Druga część dotyczy analizy nowego zjawiska militarneho jaki jest wojna hybrydowa. Celem rozważań jest ukazanie jej wpływu na bezpieczeństwo państwa.

✱

Nowadays, it is noticeable in science a tendency to the multiplication of terms and creation of new definitions, which may lead in practice to blurring the meaning of basic rules and principles by the implementation of interpretative 'chaos'. Insofar as the use of specified categorization of individual terms becomes legitimate and necessary to understand their essence, the artificial construction of new 'formations' or the lack of logical consequence in terms used by researchers seem to be aimless, or sometimes even hitting the core of conducted researches³. An example may be the term 'state security', which in recent times 'is declined by all cases and genders'.

The paper intends to achieve two purposes. The first purpose is ordering within the legal framework the meaning of the term 'state security', which was implemented in the Constitution of the Republic of Poland⁴ by the legislator's intention, and because of that, it became the constitutional value. The second assumption is to indicate, from the viewpoint of security sciences, a contemporary threat that is hybrid warfare, and to define the influence of this phenomenon on state security.

The article was developed using both the dogmatic-legal and analytical methods. Because of the taken subject matter, it seems legitimate to approach it in an interdisciplinary manner, which can contribute to a better understanding of the analyzed issue.

³ P. Zając, *Definicja bezpieczeństwa społecznego okiem prawnika – krytyczna próba usystematyzowania pojęć*, "Roczniki Nauk Prawnych" 2019, vol. XXIX, No. 4, pp. 129–140.

⁴ The Constitution of the Republic of Poland of 2 April 1997 (Dz.U. No. 78, item 483 as amended).

I. State Security within the Legal Approach...

The essence of safety science is the comprehensive scientific research concerning widely understood security (of the state, national, public), as well as an array of other categories or grounds of security that because of their nature in a significant way may (or even should) be of interest to official authorities. Through the analysis of determinants of security studied from the interdisciplinary perspective, this science provides many comprehensive answers and solutions that indicate measures serving the protection of fundamental values, as well as vested interests of individuals, of society, and finally of the state. However, this science constitutes quite a challenge for a lawyer. It is caused by two overlapping factors. The first one is a false understanding of interdisciplinarity of conducted researches. An appropriate approach assumes that the research should be conducted by a team of experts representing different scientific disciplines. Such an approach guarantees the maintenance of appropriate methodology for each discipline, as well as leads to the unification of concepts and terms that they may implement. However, interdisciplinarity is sometimes understood as the presentation of a given issue from different points of view by the same scientist or a team of scientists who specialize in one discipline. This leads to conceptual 'chaos', as well as to incomprehension of mechanisms and rights governing the particular scientific disciplines, which constitutes the second factor. In legal sciences, it is attached great importance to the precision of terms, what results from generally accepted principles and standards. Therefore, it seems to be so crucial (in the Authors' opinion) to systematize the nomenclature 'state security', because when familiarising with the achievements of particular scientific disciplines one may notice a tendency to substitute this expression with terms 'national security', 'public security', or 'internal security', which differ semantically one from another⁵.

⁵ W. Kilter also points to it: "In lawmaking, the theory of problem, as well as the common knowledge, a lot of inaccuracies emerge in application both the term of security and its specific types (national, international, social, cultural, ecological, military, economic etc.). It often leads to serious confusions, which end with conflicts of competence during preparation of bills or regulations, documents of doctrinal character, as well as in the sphere of implementation...". W. Kilter, *Bezpieczeństwo Narodowe RP. Podstawowe kryteria. Uwarunkowania. System*, Warsaw 2011, p. 30.

The term ‘state security’ was used by the constitution-maker in Art. 31 sec. 1; 45 sec. 2; 53 sec. 5; 126 sec. 2 and 130 of Constitution of Poland. Due to such a measure, it became a constitutional value and was a part of broadly understood welfare, due to which the development of individuals, society, and state occurs. Recognition of the state security as a value may result in acknowledgment that along with other values, such as the dignity of a human person, it underlies the whole legal (constitutional) system of RP and it may affect the process of interpretation of specific behaviors contained in legal norms⁶.

The legislator did not develop one legal definition of ‘state security’. However, it does not mean that this term was suspended in a vacuum. It is because both judicature and juridical doctrine come to aid in giving a broadly understood legal interpretation, as well as they try to give this utterance the contents. Achievements of security sciences also become helpful in the interpretation.

Security, beside a traditional approach as freedom from threats⁷, is understood both as a state and a process leading ‘to ensure the opportunity to survive, development and freedom of execution of own interests in specific conditions by using favorable circumstances (opportunities), taking up challenges, reducing risk and counteracting (prevention and defying) all kinds of threats for a subject and its interests’⁸. Hence, The Constitutional Tribunal

⁶ R. Kropiwnicki, *Wokół wartości i zasad konstytucyjnych*, [in:] *Dookoła Wojtek... Księga pamiątkowa poświęcona Doktorowi Arturowi Wojciechowi Preisnerowi*, eds. R. Balicki, M. Jabłoński, Wrocław 2018, p. 104; J. Marszałek-Kawa, D. Plecka (eds.), *Dictionary of Political Knowledge*, Toruń 2019. Here, it is worth to quote an excerpt from a judgement of the Constitutional Tribunal, according to which: ‘The Constitution in the totality of its provisions gives expression to a certain objective value system, for realization of which the process of interpretation and application of particular constitutional provisions should serve. To emphasize this system of values, the provisions about the rights and freedoms of the individual, located primarily in Chapter II of the Constitution, play a central role. In turn, among these provisions, the principle of inherent and inalienable dignity of a person takes a central place’, Judgment of the Constitutional Tribunal of 23 March 1999, K 2/98, OTK 1999, No. 3, item 38; Judgment of the Constitutional Tribunal, K 7/01; Judgment of the Constitutional Tribunal of 30 October 2006, P 10/06.

⁷ R. Zięba, *Pojęcie i istota bezpieczeństwa państwa w stosunkach międzynarodowych*, “Sprawy Międzynarodowe” 1989, No. 10, p. 49; idem, *O tożsamości nauk o bezpieczeństwie*, “Zeszyty Naukowe AON” 2012, No. 1(86), p. 7; R. Rosicki, *O pojęciu i istocie bezpieczeństwa*, “Przegląd Politologiczny” 2010, No. 3, p. 23.

⁸ S. Koziej, *Między piekłem a rajem: szare bezpieczeństwo na progu XXI w.*, Toruń 2006, p. 7; idem, *Bezpieczeństwo: istota, podstawowe kategorie i historyczna ewolucja*, “Bezpieczeństwo narodowe” 2011, No. 18, p. 20.

adjudicated that both ‘freedom from threats to the existence of a democratic state’, as well as ‘necessity of protection both from external and internal threats’⁹ lie behind the term ‘state security’. The Tribunal also emphasizes that ‘protection of state security is a special value, so in juxtaposition with it, the rights of individuals, even the fundamental rights, may be – to the necessary extent – limited. Admissibility of limitations dictated for such sake is commonly accepted in democratic states (compare the TK judgment of 16 February 1999 in the Case SK 11/98, OTK of 1999, part I, item 5’¹⁰.

One can conclude that state security cannot be considered without reference to specified threats¹¹, which are composed both of internal and external threats. They must relate to the integrity of the state, by which are understood factors influencing its functioning and development¹². It means that not all threats will be considered in a category of the state security, but only such ones that ‘will touch the basis of the state’s existence, the integrity of its territory, the fate of its inhabitants or the core of the government system’¹³. So, in practice, one should make a gradation of threats, answering the question of whether the given condition will indeed influence the undisturbed functioning of the state and whether the damage, resulting from that influence, will be significant¹⁴. If the answers to these questions will be negative, one should conclude (after L. Garlicki) that these threats will refer to the public order¹⁵. Within this process, it will be helpful to refer to

⁹ Judgment of the Constitutional Tribunal of 21 June 2005, P 25/02.

¹⁰ Judgment of the Constitutional Tribunal of 3 July 2001, K 3/01.

¹¹ Art. 31, [in:] *Konstytucja RP. Tom I. Komentarz do art. 1–86*, eds. M. Safjan, L. Bosek, Warsaw 2016.

¹² M. Pawelczyk, *Publicznoprawne obowiązki przedsiębiorstw energetycznych jako instrument zapewnienia bezpieczeństwa energetycznego w Polsce*, Toruń 2013, pp. 29–34.

¹³ L. Garlicki, K. Wojtyczek, art. 31, [in:] *Konstytucja Rzeczypospolitej Polskiej. Komentarz*. vol. II, eds. M. Zubik, L. Garlicki, Warsaw 2016.

¹⁴ Here, it is worth to indicate the act on protection of secret data (Dz.U. 2010, No. 182, item 1228, as amended.), which when implementing the classification of secret information implements such terms to the conduct of legal transactions: ‘exceptionally serious damage to the Republic of Poland’, ‘serious damage to the Republic of Poland’, ‘damage’, or ‘adverse impact’. Invoking a specific premise can be helpful in gradation of threats. More on this subject: P. Zajac, *Classified Information and its Protection in Polish Armed Forces. General Assumptions*, “Teza Komisji Prawniczej/Polska Akademia Nauk. Oddział w Lublinie” 2017, vol. X, pp. 289–298.

¹⁵ L. Garlicki, K. Wojtyczek, art. 31...

the Art. 1 of the Convention of Montevideo of 1933 on rights and duties of states¹⁶, defining legal criteria of a state, such as a permanent population, a defined territory, government, and capacity to enter into relations with the other states. This will allow for the categorization of the threats to one of the constitutive elements of the state. The threat should also apply to the tasks that lie on the state relative to its citizens. J.J. Rousseau reduces them to functions, ‘that will bring the whole common force to bear on defending and protecting each associate’s person and goods, doing this in such a way that each of them, while uniting himself with all, still obeys only himself and remains as free as before’¹⁷.

The described approach causes that the state security should be ‘considered within a very broad subjective approach or a generic one. So, there exist a lot of specific types of state security, such as state’s political security, state’s military security, state’s economical security (including e.g. raw material and food security), state’s social security¹⁸, state’s ideological security, state’s ecological security’¹⁹.

¹⁶ *Convention on Rights and Duties of States adopted by the Seventh International Conference of American States. Signed at Monte-video, December 26th, 1933*, “League of Nations, Treaty Series. Treaties and international Engagements registered with the Secretariat of the League of Nations” 1933, vol. CLXV, No. 3802, pp. 19–32.

¹⁷ J.J. Rousseau, *Umowa społeczna*, Poznań 1920, p. 20.

¹⁸ J. Marszałek-Kawa, D. Plecka, *Social Security as a Factor Contributing to the Evolution of the Political System in Poland after Parliamentary Elections of 2015*, “Środkowoeuropejskie Studia Polityczna” 2017, No. 4, pp. 79–94.

¹⁹ *Konstytucja RP. Tom I. Komentarz do art. 1–86...* It is worth to point out that a debatable issue in the matter of state security remains the inclusion to it the security of individuals composing a given state. Today, one may notice tendencies to expanding of importance of the state security on “the individual, as the subject which is primarily and the most heavily exposed to a wide array of both external internal threats, including denying their rights and freedoms by the state organs paradoxically striving to maximise this security”. J. Jaraczewski, *Bezpieczeństwo państwa jako wartość chroniona w konstytucji RP*, [in:] *Konstytucja Rzeczypospolitej Polskiej w pierwszych dekadach XXI wieku wobec wyzwań politycznych, gospodarczych, technologicznych i społecznych*, ed. S. Biernat, Warsaw 2013, p. 76. It results from the fact that the state and its citizens are indeed united and they cannot exist in isolation. W.J. Wołpiuk, *Bezpieczeństwo państwa i pojęcia pokrewne. Aspekty konstytucyjnoprawne*, [in:] *Krytyka prawa. Niezależne studia nad prawem. vol. II: Bezpieczeństwo*, ed. W. Sokolewicz, Warsaw 2010, pp. 185–187.

II. ... or Perhaps the Public Security?

When analyzing judicial decisions and doctrine views one can notice the terminological discrepancy, consisting in the implementation of the term “public security” which is identified with the state security²⁰. Here, one should think whether such a measure has its justification in constitutional provisions and whether this term constitutes a legal category, and – if yes – what one should understand by it. The legislator in the Constitution, making a certain category of the security detail, uses terms: security of the citizens (Art. 5; Art. 230 sec. 1), state security (Art. 31 sec. 1, Art. 45 sec. 2, Art. 53 sec. 5, Art. 126 sec. 2, Art. 130) ecological security (Art. 74 sec. 1), internal and external security of the state (Art. 135, 146 sec. 4 point 7 and 8). An adjective ‘public’ whereas was used in the case of terms like an institution (preamble), authority (Art. 7, 15 sec. 1, Art. 16 sec. 2, Art. 25 sec. 2, Art. 30, Art. 32, Art. 51 sec. 2, Art. 53 sec. 7, Art. 61 sec. 1 and 2, Art. 63, Art. 65 sec. 5, Art. 68 sec. 2–5, Art. 69, Art. 70 sec. 3 and 4, Art. 71 sec. 1 and 2, Art. 72 sec. 1–3, Art. 74 sec. 1,2 and 4, Art. 75 sec. 1, Art. 76, Art. 77 sec. 1, Art. 80, Art. 123 sec. 1, Art. 163, Art. 228 sec. 3, Art. 238 sec. 1–3, Art. 239 sec. 3), duties (Art. 15 sec. 2, Art. 16 sec. 2, Art. 163, Art. 166 sec. 1,2)²¹, profession in which the public repose confidence (Art. 17 sec. 1), interest (Art. 17 sec. 1, Art. 22, Art. 59 sec. 3, Art. 63, Art. 213 sec. 1), purposes (Art. 21 sec. 2, Art. 216 sec.1), life (Art. 25 sec. 2), order (Art. 31 sec. 3, Art. 45 sec. 2, Art. 53 sec. 5, Art. 61 sec. 3, Art. 146 sec. 4 point 7, Art. 230 sec. 1), morals (Art. 31 sec. 3), officials (Art. 44), law (Art. 60, Art. 62 sec. 2), functions (Art. 61 sec. 1, Art. 103 sec. 3, Art. 132), administration (Art. 63, Art. 79 sec. 1, Art. 184), works (Art. 65 sec. 5), funds (Art. 68 sec. 2;), schools (Art. 70 sec. 2 and 3), duties (Art. 84)²², indictable offense (Art. 99 sec. 3), duties (Art.

²⁰ Judgment of the Constitutional Tribunal of 30.09.2008, K 44/07; Judgment of provincial administrative court in Wrocław from 25.02.2016, sig. II SA/Wr 866/15, LEX No. 2034424; P. Tuleja, Art. 31, [in:] *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, eds. P. Czarny, M. Florczak-Wątor, B. Naleziński, P. Radziejewicz, P. Tuleja, Warsaw 2019; A. Zieliński, *Bezpieczeństwo publiczne jako podstawowy obowiązek państwa ze szczególny uwzględnieniem roli policji w tym obszarze działań*, “Security, Economy & Law” 2017, No. 16, p. 90; J. Gierszewski, *Bezpieczeństwo społeczne. Studium z zakresu teorii bezpieczeństwa narodowego*, Warsaw 2013, p. 51.

²¹ The Polish word “zadania” means tasks.

²² The Polish version uses the word “świadczenie” which means benefit.

150), funds (Art. 167 sec. 1 and 4)²³, activities (Art. 178 sec. 3, Art. 195 sec. 3, Art. 205 sec. 3, Art. 209 sec. 3, Art. 214 sec. 2, Art. 227 sec. 4), debt (Art. 216 sec. 5, Art. 221), imposts (Art. 217), finances (chapter X), national (Art. 135). Therefore, a question arises why the term ‘public security’ is used in jurisprudence and doctrine concerning constitutional provisions (Art. 31 sec. 3). To answer one should make the legal interpretation of a regulation, according to which ‘Any limitation upon the exercise of constitutional freedoms and rights may be imposed only by the statute, and only when necessary in a democratic state for the protection of its security or public order, or to protect the natural environment, health or public morals, or the freedoms and rights of other persons. Such limitations shall not violate the essence of freedoms and rights’. It seems that in this case ‘public safety’ comes from the wording ‘security or public order’, however, from the standpoint of jurisprudence and legal logic, such an approach is subject to a logical error. In the case of the analyzed regulation, one should use the linguistic border of interpretation consisting in a possibility of ‘putting a result of the conducted interpretive reasoning in the set of semantic alternatives of the text submitted to interpretation’²⁴. When applying this method to exegesis, one should use the whole text of the studied regulation. It allows noticing that security within the discussed context does not relate to the public order, and thereby it cannot be connected with the adjective ‘public’. An appropriate understanding of the term ‘security’ results from the connection of it with the wording ‘in a democratic state’, which connotes that the legislator’s intention was referring to the value of state security, but not to the public security. This argumentation is also strengthened by the use of the functor of inseparable alternative ‘or’ by the constitution-maker. So why can we find ‘public security’ both in the interpretation and doctrine? The answer may be the judicial activism, referring to international regulations, or views of scientists of other scientific disciplines, in this case, scientists representing security sciences, in which this term entered the canon of nomenclature²⁵.

²³ The Polish version uses the word “dochody” which means income.

²⁴ K.J. Kaleta, A. Kotowski, *Podstawy prawoznawstwa*, Warsaw 2016, p. 240.

²⁵ For more on the subject of judicial activism see: P. Kuczma, *O aktywizmie sędziowskim*, “Zeszyty Naukowe Uczelni Jana Wyżykowskiego. Studia z Nauk Społecznych” 2016, No. 9, pp. 187–197.

The public security, notwithstanding it did not constitute the constitutional value²⁶, belongs to the legal category, what results from using this wording by the legislator in other normative acts, the example of what may be the Police Act²⁷. There was not developed a consistent definition of this term in the doctrine of legal sciences and security sciences. However, it is recognized that there is behind it ‘such an actual state inside the state, which enables – without jeopardizing from any source – normal functioning of the state organization and realization of its interests, preservation of life, health and property of individual persons living within this organization, as well as exercising – by these individuals – the rights and freedoms guaranteed by the constitution and other rules of law’²⁸. It is also raised that it is a dynamic definition, capacitive, and therefore it is general and when we want to understand it appropriately one should clarify it and make the definitional approach its particular spheres²⁹. Referring to these deliberations to the term of state security, one may affirm that public security constitutes its section and does not cover all categories included in the definition of the state.

A similar issue concerns the wording ‘national security’, which is used interchangeably with ‘state security’, although the opinions also appear that it is

²⁶ See a different opinion: J. Filaber, *Pojęcie bezpieczeństwa publicznego w prawie administracyjnym (wybrane uwagi)*, [in:] *Studia Erasmiana Wratislaviensia. Acta Studentium. Prace prawnicze, administratywistyczne i historyczne*, eds. M. Sadowski, P. Szymaniec, Wrocław, 2009, p. 247; Compare: A. Pakuła, *Interes publiczny i użyteczność publiczna jako kryteria zadań samorządu terytorialnego*, [in:] *Administracja i prawo administracyjne u progu trzeciego tysiąclecia. Materiały konferencji naukowej Katedr Prawa i Postępowania Administracyjnego*, ed. T. Bąkowski, Łódź, 2000, pp. 347–357.

²⁷ Act of 6 April 1990 r. on Police (Dz.U. No. 30, item 179 as amended). However, in most normative acts the legislator uses the expression ‘state security’. Act of 21 November 1967 on the Universal Duty to Defend the Republic of Poland (Dz.U. No. 44, item 220 as amended); Act of 23 August 2020 on Organizing of the Tasks on Behalf of the State Defense Realized by the Entrepreneurs (Dz.U. No. 122, item 1320 as amended); Act of 29 January 2004 r. – Public Procurement Law (Dz.U. 2017, items 1579 and 2018); Act of 5 July 2018 – on the National Cybersecurity System (Dz.U. item 1560 as amended).

²⁸ J. Zaborowski, *Prawne środki zapewnienia bezpieczeństwa i porządku publicznego*, Warszawa 1977, p. 11; W. Kilter, *Bezpieczeństwo Narodowe RP...*, p. 56.

²⁹ W. Fehler, *Bezpieczeństwo publiczne jako składnik wewnętrznego bezpieczeństwa państwa*, “Bezpieczeństwo. Teoria i Praktyka” 2010, No. 1–2, p. 32.

a distinct term³⁰. W. Kilter presents such an attitude, who when making a comprehensive analysis of this term affirmed that 'national security is the most important value, a national need and a priority goal of activity both of the state, individual and social groups, and simultaneously a process covering different measures guaranteeing the perpetual, free from disturbances, existence and national (state) development, including the protection and defense of the state as a political institution, as well as protection both of individuals and the whole society, their welfare and the natural environment from threats that limit in a significant manner its functioning or strike welfare being subject to special protection'³¹. The Author also points out that the difference between the state security and the national one lies in this that in case of the state security it is all about maintaining order within the state collectivity, while in case of the national security about successful being and development, as well as protection of values close to the citizens³². However, the conducted analysis indicates that this matter also constitutes state security, because ensuring conditions appropriate for growth and development of the citizens belongs to its basic functions. An attempt at excluding this aspect from the core of the state seems to be wrong. Therefore, it would be worth adopting the uniform nomenclature – the state security, which would cover its different subsystems.

III. Hybrid Warfare as a Threat

At the time of general technologization and digitalization of social life, each of the states faces new challenges that are connected with specific threats directed not only at the security of individuals but also at the security of the states themselves. Regarding this, official authorities are obliged to take any action to protect and defend the state's integrity, as well as the life and health of their citizens. One can put these tasks in the wording 'ensuring the state security', which becomes the most important task of official authorities be-

³⁰ A. Rosłon, *Bezpieczeństwo państwa, narodu i obywatela w konstytucji RP – zarys problematyki*, [in:] *Istota i perspektywy bezpieczeństwa w drugiej dekadzie XXI wieku*, eds. K. Sówka, D. Jarnicki, Siedlce 2018, p. 124.

³¹ W. Kilter *Bezpieczeństwo Narodowe RP...*, p. 31.

³² *Ibidem*, p. 27.

cause of raising it to the rank of a constitutional value. It defines being (existence) of a given organized human society, without which any authority does not exist. A threat, which may strike the state security in a particular way, is the hybrid war, combining elements of a traditional war with new operational techniques used in cyberspace or outer space.

One can explain the term 'hybridity' concerning security issues as a combination of different ways of influence on an opponent, from 'soft' (like information warfare, activities in cyberspace, propaganda, psychological operations), to 'hard' (including conventional military actions)³³. J.J. McCuen defines hybridity as a combination of symmetric and asymmetric wars³⁴. In this context, one can also try to notice relationships between three sources of risk and unpredictable events i.e. irregular actions (partisan), classic conflicts, and asymmetric threats³⁵.

Hybrid warfare is a fusion of classic military activities, both regular and irregular ones. One can include to them partisan activities, sabotage, diversion, and acts of terrorism in combination with elements of information struggle (such as propaganda, disinformation) and cyber struggle, with simultaneous activity in the political, economical, and cultural spheres³⁶. M. Evans gave an accurate diagnosis in this respect and stated: 'we are confronted with a strange mixture of premodern and postmodern conflict – a world of asymmetric and ethno-political warfare – in which machetes and Microsoft merge, and apocalyptic millenarians wearing Reeboks and Raybans dream of acquiring weapons of mass destruction'³⁷.

³³ On the basis of the interview with S. Koziej: *Bezpieczeństwa Polski w kontekście walki informacyjnej, związanej z wydarzeniami na Ukrainie*, publicistic programme *Racja Stanu*, TVP Polonia, 23.02.2015, <http://www.bbn.gov.pl/pl/wydarzenia/wypowiedzi-szefa-biura/6463-,Szef-BBN-dla-TVP-Polonia-trzeba-wykorzystac-zainteresowanie-spoleczenstwa-sprawa.html?search=68766446> (20.09.2020).

³⁴ J.J. McCuen, *Hybrid Wars*, "Military Review" 2008, No. 2, p. 108.

³⁵ A. Gruszcak, *Hybrydowość współczesnych wojen – analiza krytyczna*, [in:] *Asymetria i hybrydowość – stare armie wobec nowych konfliktów*, eds. W. Sokała, B. Zapała, Warsaw 2011, p. 13.

³⁶ M. Orzechowski, *Wojna hybrydowa jako przejaw neoimperialnego ekspansjonizmu w strategii politycznej Federacji Rosyjskiej wobec Ukrainy*, "Teki Kom. Politol. Stos. Międzynar. – OL PAN" 2016, No.11/3, pp. 169–170.

³⁷ M. Evans, *From Kadesh to Kandahar. Military theory and the future of war*, "Naval War College Review" 2003, vol. 56, No. 3, p. 137.

According to W. Michalski's concept, the catalog of hybrid threats starts from the war in cyberspace, i.e. from an array of simultaneously taken activities, such as:

- the information struggle with using media and propaganda;
- information-psychologic activities;
- using historical policy to discredit the country in the international arena;
- *trolling*;
- using social networks to gather information on the subject of selected persons;
- a threat of direct strikes on the state's critical infrastructure;
- the Internet espionage (political, economic, military, and technological);
- infiltration of resources or copying (theft or replacing) of sensitive data;
- disrupting decision-making processes, including electoral ones (influence on its result – in case of execution of them);
- penetration of control systems of telecommunication, energetic, industrial and traffic infrastructure – preparation to the attack on the domestic critical infrastructure;
- an unexpected digital attack, mainly on the energy sector;
- the Internet industrial espionage in the field of access to military technologies;
- theft of logins/passwords of officials/officers with a virus/trojan introduced//to the system;
- hacking the databases and penetration of them in respect of access to the sensitive information;
- infiltration of integrated command systems and communication systems of armed forces, as well as of critical military infrastructure;
- creating the appearance of the smooth functioning of monitored systems;
- unexpected digital attack on systems of command, communication, transportation, as well as control systems of critical military infrastructure³⁸.

The aim of the mentioned activities is the modification of opinions and attitudes of the society of the state under aggression. However, one should remember that the influence on people's minds is a continuous and long-term

³⁸ L. Elak, *Bezpieczeństwo wschodniej granicy*, Warsaw 2019, p. 38.

process. For example, Poland is attacked with different intensities in different fields of information for many years. Russia's policy strikes the position of Poland in the international arena, resulting in changes of attitudes of western media, taking Russian propaganda interests into account. An example of such interim actions against Poland is a series of articles and reportage on the subject of Polish politicians.

Cyberwarfare is the next step of hybrid warfare, which also goes in a continuous and is inseparably connected with the previous ones i.e. with the struggle of minds and the propaganda war. Here, one can mention at least *trolling*, that is placing//negative comments under anti-Russian articles, as well as the whole, active in the Internet, media machine (Life News, Russia Today). In the context of activities in cyberspace, based on the assumptions of academic practice at the War Studies University (org. name: *Akademia Sztuki Wojennej*), there should be no doubt that this can affect the possibility of frontal impacts on the state's critical infrastructure (CI) and lead to its destruction or failure. It should be pointed out that it is a binder that combines the kinetic and non-kinetic stages of the hybrid war, the effects of which were visible during the conflict in the Middle East and Afghanistan³⁹.

IV. Influence of the Hybrid Warfare on the State Security

Actions taken within the frames of the hybrid war are directed toward specific strategic objectives, which mainly include disorganizing or destroying the enemy. These objectives are achieved through targeted activity, aimed at the foundations of functioning of the state e.g. paralysis of central and local government centers, as well as representatives of media and business, which is a kind of introduction to kinetic activities. Activity in this area involves placing people acting for the aggressor within the structures of central and local administration, or infiltration of the armed forces, secret services, the decision-making circles of MON and MSWiA, as well as strategic companies of the state treasury. Among the activities one can also expect to win favorable media representatives over, attempts to take control of them or even to create

³⁹ Sytuacja wyjściowa do ćwiczenia Twierdza 18: *Działania taktyczne brygady w czasie kryzysu i wojny* – L. Elak, M. Kuczyński, W. Michalski.

them, as well as exert influence on politicians or entire political groups (especially extreme ones) and fan communities.

The phenomenon of influencing individual politicians or entire political groups should be considered in a similar context. Extreme national and extreme left-wing parties are particularly susceptible to the influence, and their leaders may be invited to meetings under various pretexts. It is also possible to create political parties from scratch, sponsor them, and influence the political scene in Poland. Fan communities can also be (unknowingly or knowingly) used by the aggressor services to stir up social unrest.

The next stage of the hybrid war is the economic war. In this area, a high degree of threat from the aggressor can be seen in the desire to take over State Treasury companies, or in the destabilization of the financial system by weakening the currency or speculation on the stock exchange. Embargoes and prohibitive tariffs may also be of significance, introduced to weaken the position of Polish entrepreneurs and the use of criminal and mafia structures to reduce state budget revenues. Economic and media policy from the opponent's side may also lead to discrediting the state on the international currency markets. In the final result, the deepening of the economic dependence of the state and a reduction in its credibility on the financial markets may occur.

Next, the aggressor's actions may aim to limit the possibility of action by the armed forces and MSWiA services, that is overpowering the army protective services, preventing or disrupting the units' exit to alert regions, or disrupting a system supplying combat equipment and materials. Among activities similar in character, one should expect the elimination of key command personnel and military units, a high probability of sabotage at the weekend (or at night hours), as well as disturbances of the command and communication system of military units stationed in various garrisons and facilities.

At the ground of hybrid threats, a classical military operation, the most dangerous scenario of which is a repetition of the Crimean situation concerning one of the Baltic States, cannot be overlooked. It is worth being mindful that as the North Atlantic Treaty countries they will expect a fast reaction of NATO and the Polish Armed Forces as well. In case of lack of such a reaction, NATO's credibility may be undermined and, in the long term, it can influence its fall.

Further deliberations on the hybridity of actions directly address the concept of asymmetry, already known in the area of security. In the subject literature, the term asymmetry is understood as a 'different way of thinking, organizing and acting, resulting from social, civilizational and military factors, aiming at victory by maximizing one's strengths and exploiting the weaknesses of the opponent'⁴⁰.

Asymmetry comes down to determining disproportionality between participants of the conflict, by comparison, the combat potentials of the opposing sides, resulting from a comparison of forces and means of warfare used by them. However, as the experience of modern armed conflicts has shown, the apparent difference between the sides does not necessarily mean a strategic imbalance. The best example in this respect is the comparative analysis of ISIS and coalition states' combat capabilities. The disparity in favor of the coalition is crushing, but as a result of the complexity of activities in political and cultural areas in the Middle East and their direct impact on the area of military action, the coalition forces have not been able to put an end to the so-called Islamic State.

The experience of modern armed conflicts clearly shows that a necessary feature of modern wars is to skillfully combine military action with civilian administration not only in crisis and post-conflict situations but also during the conflict. In the phase of military intervention, the asymmetric advantage of the armed forces of a state or a coalition is sufficient to take control of a specific area and then create the conditions for the creation of local institutions of state authority. However, it turns out to be useless in the next phase of action, that is of stabilizing the post-conflict situation. Then the hybridity of actions may emerge, changing the relationship between the forces of the sides of the conflict and forcing a modification or even a complete change in strategic objectives and operational and tactical tasks, as well as ways and methods of achieving them. In this phase, all acts of terrorism are widely used and various forms of organized crime emerge. H. Münkler, when analyzing actions within this context, drew attention to the so-called pathologies accompanying modern wars, which are used by the sides of the conflict in various ways. One can give as examples

⁴⁰ M. Huzarski, J. Wolejszo (eds.), *Leksykon obronności. Polska i Europa*, Warsaw 2014, p. 173.

uncontrolled migration (from Africa and the Middle East to Europe) or human trafficking and sexual violence (e.g. the situation of Syrian women in refugee camps in Turkey). There may also be drug smuggling and trafficking, or the plundering of raw materials and cultural property, an excellent example of which is the trade-in of stolen cultural heritage by ISIS. The broad spectrum of threats therefore requires modern armed forces to combine combat capabilities with those of law enforcement agencies and law enforcement institutions, such as the police, border guards, customs service, etc. One should also be mindful that technological superiority, organizational excellence, or even psychological advantage are not decisive factors in winning the battle today.

V. Summary

In recent years, one can observe a significant and dynamic change in the security sciences, related, among others, to the widespread technologization and digitalization of social life and the specific threats resulting from this directed not only at the security of individuals but also (and perhaps above all) at the security of countries themselves. Special attention is given to the phenomenon of the so-called hybrid war i.e. a war that combines conventional and unconventional military actions, including operations in cyberspace, guerrilla warfare, sabotage, diversion, or even acts of terrorism, as well as non-violent actions related to the aggressor's activity in political, economic and cultural spheres. Actions taken within the frames of hybrid warfare are directed toward specific strategic objectives, which force countries to skillfully combine military action with civilian administration. In Poland, tasks related to ensuring state security elevated to the rank of a constitutional value, have become the most important task of public authorities. However, despite the importance of this task the legislator has still not developed a legal definition of 'state security', and filling in this wording with content is not facilitated by a kind of conceptual 'chaos'. When familiarizing with the achievements of individual scientific disciplines, one can observe a tendency to replace this term with the terms 'national security', 'public security' or 'internal security', which, as was highlighted in this article, differ in meaning. In the Authors' view, it is necessary to systematize the nomenclature in this area, as this will

ensure a proper understanding of mechanisms and laws governing the safety sciences. It is also important to note whether the provisions of the Constitution of the Republic of Poland are addressing the threats posed by the Hybrid War because they were constructed when the concept was relatively poorly known. The Art. 116, section 2, under which the Sejm may adopt a resolution on the state of war only in case of an armed attack on the territory of the Republic of Poland, may be relevant here. As the analysis of the hybrid war phenomenon has shown, it can take place on various fronts, including cyberspace. This would mean that a cyberattack on Poland, resulting in a breach of its internal stability, could not be a reason to declare war on the aggressor. The further part of the commented provision allows for the possibility of adopting a resolution on the state of war also in a situation in which an international agreement to which Poland is a party imposes an obligation to defend itself jointly against aggression. The North Atlantic Treaty should be regarded as such an agreement, which states in Art. 5: “The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in the exercise of the right of individual or collective self-defense recognized by the Art. 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area”. Both premises refer to the concept of armed aggression, which in international law is understood as “the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this Definition”⁴¹. On this basis, a discussion has arisen as to whether a cyberattack carried out by specialized foreign troops could be a premise for the launch of the Art. 5 of the North Atlantic Treaty, all the more so as cyberspace was declared one of NATO’s operational domains in 2016⁴². This possibility is indicated by the

⁴¹ Definition of Aggression, United Nations General Assembly Resolution 3314 (XXIX).

⁴² J. Kulesza, J. Kulesza, *Odpowiedzialność państw za podejmowane w cyberprzestrzeni działania zagrażające międzynarodowemu pokojowi i bezpieczeństwu*, “Studia Prawno-Ekonomiczne” 2011, vol. LXXXIII, No. 2, pp. 149–167.

so-called Tallinn Manual⁴³, which states that the understanding of such notions as “war” or “armed conflict” is nowadays being expanded. A cyberattack, which leads to the destabilization of the state, differs from the classical methods of warfare only in its form and not in its effects, and therefore may be a premise for an adequate response from the attacked state. Adopting such an interpretation, it should be acknowledged that the Constitution of the Republic of Poland secures the state against the threat of hybrid war. However, it seems that a safer and legally certain solution would be to modify the provisions of the Constitution to refer to the threats that are related to cyberspace, as it was done in the Emergency Act of June 21, 2002, introducing the possibility to declare a state of emergency in case of a threat in cyberspace.

Literature

- Czarny P., Florczak-Wątor M., Naleziński B., Radziejewicz P., Tuleja P., *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warsaw 2019.
- Elak L., *Bezpieczeństwo wschodniej granicy*, Warsaw 2019.
- Evans M., *From Kadesh to Kandahar. Military theory and the future of war*, “Naval War College Review” 2003, vol. 56, No. 3.
- Fehler W., *Bezpieczeństwo publiczne jako składnik wewnętrznego bezpieczeństwa państwa*, “Bezpieczeństwo. Teoria i Praktyka” 2010, No. 1–2.
- Filaber J., *Pojęcie bezpieczeństwa publicznego w prawie administracyjnym (wybrane uwagi)*, [in:] *Studia Erasmiانا Wratislaviensia. Acta Studentium. Prace prawnicze, administratywistyczne i historyczne*, eds. M. Sadowski, P. Szymaniec, Wrocław 2009.
- Gierszewski J., *Bezpieczeństwo społeczne. Studium z zakresu teorii bezpieczeństwa narodowego*, Warsaw 2013.
- Gruszczak A., *Hybrydowość współczesnych wojen – analiza krytyczna*, [in:] *Asymetria i hybrydowość – stare armie wobec nowych konfliktów*, eds. W. Sokała, B. Zapała, Warsaw 2011.
- Huzarski M., Wołęjszo J. (eds.), *Leksykon obronności. Polska i Europa*, Warsaw 2014.
- Jaraczewski J., *Bezpieczeństwo państwa jako wartość chroniona w konstytucji RP*, [in:] *Konstytucja Rzeczypospolitej Polskiej w pierwszych dekadach XXI wieku wobec wyzwań politycznych, gospodarczych, technologicznych i społecznych*, ed. S. Biernat, Warsaw 2013.
- Kaleta K.J., Kotowski A., *Podstawy prawoznawstwa*, Warsaw 2016.

⁴³ M.N. Schmitt (ed.), *Tallinn Manual on the International Law Applicable to Cyber Warfare*, New York 2013.

- Kitler W., *Bezpieczeństwo Narodowe RP. Podstawowe kryteria. Uwarunkowania. System*, Warsaw 2011.
- Konstytucja Rzeczypospolitej Polskiej. Komentarz*, vol. II, eds. M. Zubik, L. Garlicki, Warsaw 2016.
- Koziej S., *Bezpieczeństwo: istota, podstawowe kategorie i historyczna ewolucja*, "Bezpieczeństwo Narodowe" 2011, No. 18.
- Koziej S., *Między piekłem a rajem: szare bezpieczeństwo na progu XXI w.*, Toruń 2006.
- Kropiwnicki R., *Wokół wartości i zasad konstytucyjnych*, [in:] *Dookoła Wojtek... Księga pamiątkowa poświęcona Doktorowi Arturowi Wojciechowi Preisnerowi*, eds. R. Balicki, M. Jabłoński, Wrocław 2018.
- Kuczma P., *O aktywizmie sędziowskim*, "Zeszyty Naukowe Uczelni Jana Wyżykowskiego. Studia z Nauk Społecznych" 2016, No. 9.
- Kulesza J., Kulesza J., *Odpowiedzialność państw za podejmowane w cyberprzestrzeni działania zagrażające międzynarodowemu pokojowi i bezpieczeństwu*, "Studia Prawno-Ekonomiczne" 2011, vol. LXXXIII, No. 2.
- Marszałek-Kawa J., Plecka D. (eds.), *Dictionary of Political Knowledge*, Toruń 2019.
- Marszałek-Kawa J., Plecka D., *Social Security as a Factor Contributing to the Evolution of the Political System in Poland after Parliamentary Elections of 2015*, "Środkowoeuropejskie Studia Polityczna" 2017, No. 4, pp. 79–94.
- McCuen J.J., *Hybrid Wars*, "Military Review" 2008, No. 2.
- Orzechowski M., *Wojna hybrydowa jako przejaw neoimperialnego ekspansjonizmu w strategii politycznej Federacji Rosyjskiej wobec Ukrainy*, "Teki Kom. Politol. Stos. Międzynar. – OL PAN" 2016, No. 11/3.
- Pakuła A., *Interes publiczny i użyteczność publiczna jako kryteria zadań samorządu terytorialnego*, [in:] *Administracja i prawo administracyjne u progu trzeciego tysiąclecia. Materiały konferencji naukowej Katedr Prawa i Postępowania Administracyjnego*, ed. T. Bąkowski, Łódź 2000.
- Pawelczyk M., *Publicznoprawne obowiązki przedsiębiorstw energetycznych jako instrument zapewnienia bezpieczeństwa energetycznego w Polsce*, Toruń 2013.
- Rosicki R., *O pojęciu i istocie bezpieczeństwa*, "Przegląd Politologiczny" 2010, No. 3.
- Rosłon A., *Bezpieczeństwo państwa, narodu i obywatela w konstytucji RP – zarys problematyki*, [in:] *Istota i perspektywy bezpieczeństwa w drugiej dekadzie XXI wieku*, eds. K. Sówka, D. Jarnicki, Siedlce 2018.
- Rousseau J.-J., *Umowa społeczna*, Poznań 1920.
- Safjan M., Bosek L. (eds.), *Konstytucja RP. Tom I. Komentarz do art. 1–86*, Warsaw 2016.
- Schmitt M.N. (ed.), *Tallinn Manual on the International Law Applicable to Cyber Warfare*, New York 2013.

- Wołpiuk W., *Bezpieczeństwo państwa i pojęcia pokrewne. Aspekty konstytucyjnoprawne*, [in:] *Krytyka prawa. Niezależne studia nad prawem. vol. II: Bezpieczeństwo*, ed. W. Sokolewicz, Warsaw 2010.
- Zaborowski J., *Prawne środki zapewnienia bezpieczeństwa i porządku publicznego*, Warsaw 1977.
- Zajac P., *Classified Information and its Protection in Polish Armed Forces. General Assumptions*, "Teki Komisji Prawniczej/Polska Akademia Nauk. Oddział w Lublinie" 2017, vol. X.
- Zajac P., *Definicja bezpieczeństwa społecznego okiem prawnika – krytyczna próba usystematyzowania pojęć*, "Roczniki Nauk Prawnych" 2019, vol. XXIX, No. 4.
- Zieliński A., *Bezpieczeństwo publiczne jako podstawowy obowiązek państwa ze szczególny uwzględnieniem roli policji w tym obszarze działań*, "Security, Economy & Law" 2017, No. 16.
- Zięba R., *O tożsamości nauk o bezpieczeństwie*, "Zeszyty Naukowe AON" 2012, No. 1(86).
- Zięba R., *Pojęcie i istota bezpieczeństwa państwa w stosunkach międzynarodowych*, "Sprawy Międzynarodowe" 1989, No. 10.