

Formal and Legal Requirements for State Intervention in Extraordinary Situations, Crisis Management and States of Emergency in Poland

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Abstract. *The reasons for introducing states of emergency, implementing crisis management or taking remedial actions once an extraordinary situation has been identified are specific threats, especially to life and limb, property, natural environment, state security, public order and civil rights. Poland's international obligations to give an appropriate military or economic response or to support the security of other countries can also be a prerequisite. The type, form, time and place of intervention by public authorities are dependent on the conditions accompanying the threats disrupting the standard functioning of the state and the degree of their harmfulness. The paper aims to present the complexity of classification challenges that emerge before adequate formal and legal decisions are made, as well as the principles of their implementation, while also recommending appropriate modifications. By using critical, institutional-legal and comparative analysis, the study assesses the adequacy of potential interventions with reference to existing legislative standards, as well as situational and environmental conditions. The conducted research relates to Poland's peacetime security conditions.*

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Introduction

Security is achieved mainly by defensive or protective actions taken against a given subject or with respect to an object under care; this includes protection against its loss, destruction (defence domain) or unacceptable changes in its functioning or structure (protection domain). Security — understood holistically as prudent care for the human fate, aimed at ensuring the undisturbed existence and optimal development of humanity — requires permanent research based on a specific methodology that uses characteristic conceptual apparatus. The main purpose is to recognise the causes, course and effects of events and phenomena determining the state/level of security.

From a forward-looking perspective, we will also analyse the processes accompanying our development, taking into account its dynamics, tendencies and the impact of ongoing changes on ensuring security. The terminology used both in science and practice should be universally accepted and equally understood. This is facilitated by accurate/convincing, professional definitions and characteristics

of the pertinent safety factors. Recognised definitions enable standardisation in the identification of events, individual behaviour and environmental phenomena, especially those that play a destructive role. On the other hand, a thorough identification of factors makes it possible to use adequate ways to prevent them, logically predict their potential effects and effectively counteract negative situations. Revealing threats promptly and assessing them properly, as well as skilful organisational adjustment¹ increases the effectiveness of the aforementioned 'care' as well.

For a state, the task of ensuring its security is entrusted to institutions competent to counteract them, taking into account the existing and forecast threats. Depending on the type, scale (area, time, harmfulness) and intensity (severity, dynamics) of threats, as well as the expected effects, the state authorities order the appropriate services equipped with effective implementation measures to ensure that such threats be either neutralised or avoided, or that their consequences be minimised.

In peacetime, this usually involves the components of the state's protective potential², but as threats become increasingly harmful and difficult to counteract, we reach for resources intended for use in defence operations. The state is also obliged to create appropriate logistic conditions for the implementation of remedial measures. On the other hand, the legal nature of the proceedings requires that they should be based on internal formal and legal grounds with respect to the applicable international regulations.

The undertaken preventive actions, counteracting the harmful factors and restoring the conditions existing before the damage had occurred, should gain universal acceptance aimed at optimising the response time and the efforts incurred (manpower and resources used), as well as increasing the effectiveness of implemented interventions. This is especially the case if we count on social and institutional support in the national and international dimensions. Actions ensuring the security of the state must be credibly justified and carried out adequately to the existing threats. Their credibility is based on the already existing trust or credibility and verifiability of arguments presented by decision-makers. Adequacy of actions concerning threats involves the proportionality of the manpower and means used and their appropriate duration, form and scope. It is worth remembering that countermeasures are directly related to economic costs, social disadvantages and functional limitations.

The paper aims to present the complexity of classification challenges emerging before formal and legal decisions are taken, as well as the principles of the implementation of such decisions, while also recommending appropriate modifications. By using critical, institutional-legal and comparative analysis, the study assesses the adequacy of potential interventions with reference to existing legislative norms as well as situational and environmental conditions. The conducted research relates

¹ For more information on organisational adjustment, see: Gadomska-Lila K, *Dopasowanie organizacyjne. Aspekt strategii, kultury organizacyjnej i zarządzania zasobami ludzkimi*. Warsaw, 2013, pp. 15–35.

² In Poland, the protection potential of the state is provided by: the judicature, the prosecutor's office, services, including special services, guards and inspectorates specialised in the protection of public security and order, rescue and civil protection services, crisis management entities, border services and other institutions whose direct or indirect task is to protect public security. See: Koziej S *et al.* (Ed.), *White Book on National Security of the Republic of Poland*. Warsaw, 2013, p. 52.

to Poland's peacetime security conditions provided by the measures of emergency or crisis management or activities undertaken in the framework of an emergency. A comparison of the conceptual scope of these measures, their identifying features and premises of their implementation, as well as a description of the interdependencies between them, will make it possible to achieve the assumed purpose of these considerations.

State of Emergency

the national legislation provides for three forms of a state of emergency, *i.e.*: martial law, state of emergency and state of emergency due to a natural disaster.³ States of emergency may be introduced in situations where there exist particular threats to state security and ordinary constitutional measures are insufficient. This requires a statutory procedure, as part of which a state of emergency is introduced by means of regulation, subject to additional publicity. States of emergency imply changes in the actions of public authorities and the restriction of human and civil rights and liberties. The actions taken as a result of a state of emergency must correspond to the degree of threat justifying its introduction, taking into account the proportional dimension (temporal, spatial, material) of the countermeasures applied. The following may not be amended during states of emergency: Constitution; electoral laws for the Sejm, Senate and local government bodies; the law on the election of the President; laws on states of emergency. In the course of their duration and within 90 days after their termination, the term of office of the Sejm may not be shortened, nor may elections be held to the bodies mentioned — the terms of office are extended accordingly. A nationwide referendum may not be held either.⁴

Martial law may be introduced by the President, at the request of the Council of Ministers, in a part of or the entirety of Poland's territory, for such a time as is necessary for the reasons for its imposition to cease. For further considerations, it is necessary to indicate the statutory basis for the introduction of this measure (*i.e.* situations in which it can be introduced), which includes:

- an external threat to the state — intentional actions that harm the independence, territorial integrity, vital economic interest of Poland or are aimed at preventing or seriously interfering with the normal functioning of the state, carried out by external subjects/entities;
- an armed attack on the territory of the Republic of Poland;
- an international agreement resulting in the obligation of the state to jointly defend itself against aggression.⁵

³ See: Constitution of the Republic of Poland of 2 April 1997; Dz.U., 16 July 1997, Vol. 78, item 483 as amended, Chapter XI.

⁴ For *more* information on the general principles of states of emergency, see: Prokop K, Stany nadzwyczajne w Konstytucji Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997. *Temida* 2, Białystok, 2005, pp. 17–39.

⁵ See: Ustawa z dnia 29 sierpnia 2002 o stanie wojennym oraz o kompetencjach Naczelnego Dowódcy Sił Zbrojnych i zasadach jego podległości konstytucyjnym organom Rzeczypospolitej Polskiej. Dz.U., 2017, item 1932.

A state of emergency may be introduced by the President at the request of the Council of Ministers, in part or whole of the territory of Poland, for a definite period not exceeding 90 days, though a one-time extension of this period by no more than 60 days is also possible with the consent of the Sejm. In this case, the circumstances justifying its introduction are threats to the constitutional system of the state, security of citizens or constitutional order, including ones caused by acts of terror and acts of aggression in cyberspace, which cannot be solved by applying ordinary constitutional provisions.⁶

A state of emergency due to a natural disaster may be introduced by the Council of Ministers, either on its own initiative or at the request of a voivode, in a part of or the entirety of Poland's territory, depending on the scope of such a state of emergency; while its normal duration may not exceed 30 days, it may be extended with the consent of the Sejm. A state of emergency due to a natural disaster may be imposed to mitigate and eliminate the impact of natural disasters or technical failures which bear the hallmarks of a natural disaster.⁷ According to the law, a natural disaster is a natural catastrophe or technical breakdown the consequences of which endanger the life and limb of a large number of people, significant quantities of property or major portions of the environment. In such a case, aid and protection can be effectively undertaken only with the use of extraordinary measures, cooperation of various bodies and institutions, as well as specialised services, all acting in unison.

The descriptions of circumstances, conditions and procedures for the introduction of individual states of emergency provided for in the law contain vague phrases regarding the extent of destruction or the possibility of resisting it, leaving the final judgment at the discretion of the decision-making organs of the state. 'Important interest,' 'serious disruption,' 'special threat,' 'normal functioning of the state,' 'large number,' 'great size,' 'significant areas,' or 'extraordinary measures' are vague phrases, but difficult to substitute or replace when resolving issues characterised by thematic diversity, as well as different scales, and variable intensity.

The legislator opted for similar vagueness when describing the individual secrecy clauses applying to protected information in the event of unauthorised disclosure (top secret — extremely serious damage, secret — serious damage, confidential — damage, proprietary — harmful influence ...).⁸ It can certainly be assumed that states of emergency are introduced in situations of the most serious threats to state security in peacetime conditions. They give the authorities the broadest decision-making powers, and their provisions may interfere to the furthest extent with human and civil rights and freedoms.

Regardless of the internal effects of the state's response to threats, their impact on the functioning of the European Union should also be noted. Indeed, significant restrictions may affect human and civil rights and freedoms, the crossing of state borders, and the activities of EU-related enterprises operating in such segments as transport, ICT and production. At the same time, the State of Emergency Act

⁶ See: Ustawa z dnia 21 czerwca 2002 o stanie wyjątkowym. Dz.U., 2017, item 1928.

⁷ See: Ustawa z dnia 18 kwietnia 2002 o stanie klęski żywiołowej. Dz.U., 2017, item 1897.

⁸ See: Ustawa z dnia 5 sierpnia 2010 o ochronie informacji niejawnych, Article 5, Dz.U., 2019, Item 742.

(Article 7) and Martial Law Act (Article 6) oblige the minister responsible for foreign affairs to notify the Secretaries-General of the United Nations and of the Council of Europe about the introduction and cancellation of the above states of emergency. The State of Emergency Act includes procedures enabling the use of firearms by police and military special response teams, which is inconsistent with the provisions of the Measures of Direct Coercion and Firearms Act of 24 May 2013, which prohibits their use or application by special response teams in Article 46(1).⁹

Crisis Management

Crisis management in Poland is initiated by a crisis situation (a statutory term defined twice in the Crisis Management Act).¹⁰ In 2009, the Constitutional Tribunal considered an application submitted by a group of MPs, which called for a review of the compatibility of the definitions of 'crisis situation' and 'critical infrastructure' contained in the Crisis Management Act with the provisions of the Polish Constitution. Article 3(1) of this Act (according to its wording at the time) stated that a crisis situation should be deemed a situation '[...] resulting from a threat and consequently leading to the breakdown or significant breach of social ties with simultaneous serious disturbances in the functioning of public institutions, but to such an extent that the means necessary to ensure or restore security do not justify the introduction of any of the states of emergency mentioned in Article 228 of the Constitution of the Republic of Poland'.

After considering the reasons contained in the MPs' application and the position of the Marshal of the Sejm and the General Prosecutor, the Constitutional Tribunal declared that the statutory definition contained provisions that breached the principles of correct legislation. This mainly applied to the imprecise concepts used in the definition, leading to ambiguity and lack of clarity in the terms used. The following terms used in the definition were questioned: 'threats' — since they were not characterised, and 'social ties' — since their scientific explanations were not uniform. Furthermore, the terms 'breakdown' or 'significant breach' of social ties resulting in 'serious disturbances in the functioning of public institutions' were found to be indescribable, which created an excessively wide interpretation margin.¹¹

Consequently, the Tribunal concluded that Article 3(1) of the Crisis Management Act was inconsistent with Article 2 of the Constitution of the Republic of Poland and shall lose its binding force once 12 months have elapsed from the judgement announcement date. It should be noted that the draft of the Crisis Management Act submitted by the Council of Ministers contained a definition different from that adopted in the final Act.

The original definition defined a crisis situation as 'a state of increasing destabilisation, uncertainty and social tension, particularly one threatening the territorial

⁹ Ustawa z dnia 24 maja 2013 o środkach przymusu bezpośredniego i broni palnej, Dz.U., 2019, item 2418.

¹⁰ See: Ustawa z dnia 26 kwietnia 2007 o zarządzaniu kryzysowym, Dz.U., 2007, Article 2, Vol. 89, item 590.

¹¹ Wyrok Trybunału Konstytucyjnego z 21.04.2009; Ref. No. K50/07, Dz.U., 2009, Vol. 65, item 553.

integrity, life and limb, property, cultural heritage, environment or critical infrastructure, including one caused by acts of terror, which is characterised by the possibility of losing control of events or escalation of the threat'.¹² This definition did not cover the problem in a complex way, disregarding the public administration's functioning while carrying out crisis management on the whole territory of Poland.

As a result of the parliamentary initiative and the judgment of the Constitutional Tribunal, in 2009, the Crisis Management Act was amended to include a new, currently binding definition of a crisis situation. A crisis situation was defined as a situation that negatively impacts the level of security of people, property of considerable size or the environment, significantly restricting the activities of the relevant public administration bodies due to insufficient manpower and resources.¹³

The three definitions of a crisis situation indicate the causal force of the threat — both in the emergence of a crisis situation (first definition) as well as in the negative impact and lowering of the level of security of legally protected values (second and third definition). However, these threats were not classified by type; only the scale of their impact was indicated — either serious or significant. Both the original statutory definition and its amended version contain the premise of harmfulness to the functioning of public administration institutions. They also point to the availability of countermeasures. In the case of the original definition, such countermeasures cannot include those used/applied in restoring security after the introduction of states of emergency, and in the current definition, a state of emergency applies when the standard countermeasures are considered insufficient. With such identification criteria, the main role — concerning the introduction, time and scope of crisis management in a given area of the country as a consequence of a crisis — is played by public administration bodies (government and local government bodies) based on their own, highly subjective assessments. According to Waldemar Kitler, the statutory definition of crisis management and a crisis situation enables virtually any semantic interpretation of these concepts, neglecting the principle of acting in line with the intent of the legal act and the meaning of words.¹⁴ The measure of crisis management will be applied only when there are no circumstances justifying the introduction of martial law, state of emergency or state of emergency due to a natural disaster. It constitutes another, lower (in relation to states of emergency) category of state response to the occurring danger. A crisis situation may require the introduction of one of the states of emergency if ineffective crisis management measures are used or when the danger that had caused it persists or intensifies, or if disadvantageous circumstances occur.

The European Union and North Atlantic Treaty Organization (NATO) institutions must be informed about the actions taken as part of the crisis management framework, especially those concerning the functioning of communication systems and data communication networks, as well as critical infrastructure (Crisis Management Act, Articles 6c and 11a).

¹² Uzasadnienie do wyroku Trybunału Konstytucyjnego z 21.04.2009, p. 10.

¹³ Ustawa z dnia 17 lipca 2009 o zmianie ustawy o zarządzaniu kryzysowym, Article 1(2), Dz.U., 2009, Vol. 131, item 1076.

¹⁴ Kitler W, Organizacja bezpieczeństwa narodowego Rzeczypospolitej Polskiej. Aspekty ustrojowe, prawno-administracyjne i systemowe. Adam Marszałek Publishing House, Toruń, 2018, p. 7.

Emergency situation

An emergency situation is a term that does not have a legal definition in the interdisciplinary dimension. In principle, statutory definitions of its meaning are provided for the needs of specific normative acts regulating the functioning of particular industries, sectors or areas of official interest and responsibility. When referring to an emergency situation, security publications use such expressions as 'extraordinary threat', 'crisis situation', 'emergency event' and 'critical incident'.

The conceptual scope of an emergency situation is explained in a relatively universal way in the Voivode and Government Administration in the Voivodeship Act¹⁵, which assumes that it occurs when there exists a threat to life and limb, property, the environment, state security and public order and the protection of civil rights, or other extraordinary threats. This includes threats related to natural disasters and crisis situations.¹⁶

Therefore, the presented essence of an emergency situation also includes but is not limited to the circumstances required while using the measures of the state of emergency and crisis management to ensure national security. However, it does not determine the scale of the potential impact that emergency-causing events may bring (there are no such terms as 'large', 'great', 'significant'), which makes it possible to give such an emergency situation the widest context of application in relation to the dangers faced by a given voivodeship. The relationship between armed conflict (the concept with the widest meaning) and war and armed attack is similar. The characteristics of an emergency situation include determining the types of threats and the ways of counteracting them by subordinating the decision-making and coordination process to a voivode, in relation to all government and local government administrative bodies operating in the voivodeship. This approach is, however, limited to the area of a given voivodeship and does not cover Polish marine areas, nor does it apply to situations caused, for example, by 'security incidents'¹⁷ or environmental threats. It also does not apply to Polish airspace, where incidents caused by 'unlawful interference'¹⁸ or requiring the use of procedures applying to 'RENEGADE' aircraft may occur¹⁹. An emergency situation in the public finance environment is defined in a specific and orchestrated manner. According to the Trading in Financial Instruments Act, an emergency situation occurs where there are disadvantageous developments that may seriously threaten the proper functioning and integrity of financial markets or the stability of a part or the entirety

¹⁵ Ustawa z dnia 23 stycznia 2009 o wojewodzie i administracji rządowej w województwie, Dz.U., 2019, item 1464.

¹⁶ See: Ustawa o wojewodzie i administracji rządowej w województwie, Article 22(2) and Article 25(1a).

¹⁷ See: Ustawa z dnia 4 września 2008 o ochronie żeglugi i portów morskich, Article 3, Dz.U., 2019, item 692 as amended.

¹⁸ See: Ustawa z dnia 3 lipca 2002 — prawo lotnicze, Article 2(20), Dz.U., 2020, item 1970 as amended.

¹⁹ See: Rozporządzenie Rady Ministrów z dnia 2 listopada 2011 w sprawie określenia organu dowodzenia obroną powietrzną oraz trybu postępowania przy stosowaniu środków obrony powietrznej w stosunku do obcych statków powietrznych niestosujących się do wezwań państwowego organu zarządzania ruchem lotniczym, Dz.U., 2015, item 83.

of the European Union's financial system, or there occur disadvantageous changes in the market and the stability of the financial system of a Member State.²⁰ The emergence of such threats requires that the relevant institutions and agencies take actions precisely described in the Act.

In her publication entitled *Ochrona praw dziecka w sytuacjach nadzwyczajnych* (*Protection of children's rights in emergency situations*), Małgorzata Andrzejczak-Świątek enumerates the threats to the 'child's well-being' and 'the best interest of the child' caused by emergency situations. Among them, she particularly points to armed conflicts, states of emergency, discrimination, dysfunctional families and refugee disadvantages, as well as care, health and educational problems.²¹

In the field of project management, the term 'emergency situation' may be used in the case of threats of an unacceptable exceeding of objective, value, benefit, material and time scopes planned for the project, as well as the incurred costs and risk level. The tolerable variance scale for these indicators, as per the established standards, does not require the transfer of management to a higher organisational decision-making level.²²

Scientific publications contain terms the meaning of which is close to that of 'emergency situation', which will help develop the author's definition of this concept. An 'emergency event' is a difficult-to-predict and spatially-limited situation that causes a breach in the stability of the system or ongoing events and activities, threatening life and limb, as well as material and cultural goods, and the environment. It causes changes both in the quality of the system's elements and in the relations between them. Such changes can have a degrading character, and as such, are undesirable. Moreover, they are included in crisis phenomena.²³ An 'emergency situation' is a special type of difficult situation in which it is necessary to modify an activity structure that would have previously made it possible to achieve the desired goal with no modifications.²⁴ The legislator also used these terms to define the tasks of the National Firefighting and Rescue System, without specifying the scopes of their meanings.²⁵

The author of the paper proposes his own definition of a peacetime emergency, which is as follows: 'A situation negatively affecting the functioning of the state that threatens the safety of people, the environment or the public interest and requires

²⁰ See: Ustawa z dnia 29 lipca 2005 o obrocie instrumentami finansowymi, Article 110i, Dz.U., 2020, item 89 as amended.

²¹ Andrzejczak-Świątek M, *Ochrona praw dziecka w sytuacjach nadzwyczajnych*. Biuro Rzecznika Praw Dziecka. Warsaw, 2016.

²² Murray A, *Projects In Controlled Environments 2*, Office of Government Commerce. London, 2009, pp. 107–108.

²³ Zamiar Z, 'Ryzyko, kryzys i sytuacja kryzysowa w bezpieczeństwie', [in:] Ścibiorek Z (Ed.), *Podsystem niemilitarny w przygotowaniach obronnych Rzeczypospolitej Polskiej*. Adam Marszałek Publishing House, Toruń, 2017, p. 52.

²⁴ Gwardyński R, Kaczmarczyk B, *Zachowanie służb porządkowych w sytuacjach kryzysowych*, [in:] Wiśniewski B et al. (Ed.), *Bezpieczeństwo uczestników zgromadzeń religijnych*. Wydanie drugie uzupełnione. Szkoła Główna Służby Pożarniczej, Warsaw, 2017, p. 254.

²⁵ See: Ustawa z dnia 24 sierpnia 1991 o ochronie przeciwpożarowej, Article 14(1a) (extraordinary event) and Article 14(3) (situation of extraordinary threats), Dz.U., 2019, item 1372 as amended.

that above-standard actions be taken to secure, protect and restore the accepted level of social relations and an appropriate technical-functional and legally-protected environment'. This definition can be applied both in a broad and narrow sense. The broader understanding of an emergency situation allows the term to also cover circumstances related to crisis management and states of emergency due to actions aimed at restoring the normal (harmonious, free from disruption) functioning of the state. It can also be used in a narrower sense, like a pre-crisis situation, similarly to how we can position challenges in relation to threats, which is justified by the degree of harmfulness of the events causing it.

Though an emergency situation may be characterised differently in various environments, the triggering factors always negatively affect those environments in a similar way, for example by:

- destabilising the functioning at different stages of activity;
- disturbing the fluidity, harmony, balance of processes;
- creating deficits in living and mineral sources;
- weakening the technical efficiency of devices;
- decreasing the quality of protected and produced goods;
- increasing the costs of implemented ventures;
- reducing the effectiveness of activities;
- weakening of cooperation ties;
- undermining the confidence of stakeholders.

We rarely expect an emergency situation. It surprises us, perplexes us, and only then does it become a problem. In other circumstances, when we anticipate it and are prepared for it, it may alarm us with its scale, course or effects, which necessitate non-standard, more intensified actions. Therefore, 'prudent care for human fate' should be based on reliable knowledge that is a function of best practices and accurate scientific research.

Conclusions

it can be assumed that the enhanced forms of state activity in the pursuit of peacetime security are activated when profiled threats emerge. The negative effects of such threats can be nationwide, local or sectoral. A security threat is a set of conditions and factors that put at risk the vital interests of an individual, society and the state.²⁶ Counteracting them effectively requires the involvement of additional manpower and means — either one's own or provided by specialised security system entities or subjects. Support in this regard is provided through the introduction of a state of emergency, remedial action in a crisis situation, as well as taking action to eliminate the emergency situation, which usually involves the restriction of civil and public rights and freedoms.

Security researchers use different criteria to classify threats, which is useful in systematising factors that determine the state and level of security. Stanisław Koziej distinguished the following groups of threats: potential and real; subjective and

²⁶ Pietraś M, Zagrożenia bezpieczeństwa międzynarodowego, [in:] Pietraś M (Ed.), Międzynarodowe stosunki polityczne. UMCS, Lublin, 2006, p. 292.

objective; external and internal; military and non-military; crisis and war; intentional and accidental.²⁷ It seems that it is vital to distinguish permanent and incidental threats (frequency criteria) as well as typical and special, extraordinary threats (character criteria). The occurrence of an emergency situation is dominated by incidental and extraordinary threats. Permanent threats, also called everyday threats, are characterised by the high frequency of their occurrence and rather limited effects. They are predictable and do not cause excessive fear. The appropriate, specialised internal services of the given organisational unit (institution, company) or local field services (e.g. municipality, district) operating in the public space (e.g. police, fire department, medical rescue) are engaged to deal with them.²⁸ Incidental and extraordinary threats have a dominant impact on the occurrence of emergency or crisis situations and justify the introduction of states of emergency. Due to their type, scale and location, they can also be called exceptional, qualified threats, for which the governing body will have to choose a course of action based on their security impact.

The form of the state's response — and at a lower level, the governing body's — is determined by the threats, as well as the conditions of implementation of the actions taken (the incapacity of the decision-makers and executors, objective impediments). The qualification of events, circumstances and tendencies that undermine the protection of values we deem important is aimed at effectively safeguarding legally protected goods or immediately restoring the normal state of affairs. Identification and classification of premises and reasons justifying the introduction of states of emergency or crisis management in the wake of a crisis situation or counteracting an emergency situation should proceed in accordance with the occurring damage.

Summarising the results of the present analysis of the provisions on the legal use of instruments ensuring state security in peacetime (not during war or in a state of war) by authorised bodies, the following assessments and recommendations can be made:

- actions aimed at ensuring state security must avoid securitisation and must build social awareness based on objective premises and obtain the broadest possible internal and international acceptance;
- the introduction of a state of emergency on the Polish territory implies changes in the functioning of our country, as well as its environment in the social, economic, political and military dimensions, which forces the public administration bodies to maintain communication with relevant foreign partners;
- the care about the quality of legislation depends on the creativity of legislators and the professional guidance of the bodies applying it;
- the simultaneous validity of the several acts concerning the use of Police, Military Police (Army), Border Guard and Penitentiary Service units is justified by the diversity of situations and environments; however, it is necessary

²⁷ Koziej S, *Między piekłem a rajem. Szare bezpieczeństwo na progu XXI wieku*. Adam Marszałek Publishing House, Toruń, 2006, p. 11.

²⁸ Wolanin J, *Zarys teorii bezpieczeństwa obywateli. Ochrona ludności na czas pokoju*. Fundacja Edukacja i Technika Ratownictwa. Warsaw, 2005, pp. 51–54.

- to maintain consistency in terms of content and interpretation of the provisions included in these acts;
- the lack of detail in the laws reviewed may result in a failure to recognise the gravity of a dangerous situation. Therefore, due diligence must be exercised when choosing to apply countermeasures. This is facilitated by prudent appointments of people responsible for state security (taking into account their qualifications, experience, forecasting skills and the ability to interpret the law in line with the legislator's intent).

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Streszczenie. *Przyczyną wprowadzenia stanów nadzwyczajnych, zastosowania zarządzania kryzysowego czy też podjęcia działań zaradczych po zakwalifikowaniu zdarzeń do grupy sytuacji nadzwyczajnych są szczególne zagrożenia — zwłaszcza dla życia, zdrowia lub mienia oraz środowiska naturalnego, bezpieczeństwa państwa i utrzymania porządku publicznego, a także praw obywatelskich. Przesłankami będą również międzynarodowe zobowiązania Polski do stosownej reakcji o charakterze militarnym lub gospodarczym, wspierającej bezpieczeństwo innych państw. Rodzaj, forma, czas i miejsce interwencji władzy publicznej wynikają z uwarunkowań towarzyszących zagrożeniom zakłócającym normalne funkcjonowanie państwa oraz ze stopnia ich szkodliwości. Celem opracowania jest przedstawienie złożoności wyzwań klasyfikacyjnych poprzedzających podjęcie adekwatnych formalnoprawnych decyzji oraz zasad dotyczących ich realizacji z jednoczesnym zarekomendowaniem odpowiednich modyfikacji. Przy wykorzystaniu analizy krytycznej, instytucjonalno-prawnej i porównawczej dokonana zostanie ocena adekwatności potencjalnych interwencji na tle obowiązujących unormowań legislacyjnych oraz występujących sytuacyjnych i środowiskowych uwarunkowań. Przeprowadzone badania dotyczą bezpieczeństwa naszego państwa w pokojowych warunkach jego funkcjonowania.*

Zusammenfassung. Die Gründe für die Verhängung von Notständen, die Anwendung von Krisenmanagement oder das Ergreifen von Gegenmaßnahmen nach Ereignissen, die als Notfälle eingestuft wurden, sind spezifische Bedrohungen — insbesondere für Leben, Gesundheit oder Eigentum und die Umwelt, die Sicherheit des Staates und die Aufrechterhaltung der öffentlichen Ordnung sowie die Rechte der Bürger. Der Grund dafür sind auch die internationalen Verpflichtungen Polens, angemessen zu reagieren, sei es militärisch oder wirtschaftlich, um die Sicherheit anderer Staaten zu unterstützen. Art, Form, Zeitpunkt und Ort des Eingreifens der Behörden richten sich nach den Umständen der Bedrohung, die das normale Funktionieren des Staates stört, und nach dem Grad ihrer Schädlichkeit. Ziel der Studie ist es, die Komplexität der Einstufungsprobleme im Vorfeld angemessener formaler und rechtlicher Entscheidungen sowie die Regeln für ihre Umsetzung darzustellen und gleichzeitig geeignete Änderungen zu empfehlen. Mittels einer kritischen, institutionell-rechtlichen und vergleichenden Analyse wird die Angemessenheit möglicher Interventionen vor dem Hintergrund der bestehenden Rechtsnormen und der bestehenden Situations- und Umweltbedingungen bewertet. Die durchgeführten Untersuchungen befassen sich mit der Sicherheit unseres Landes unter friedlichen Bedingungen seines Funktionierens.

Резюме. Основанием для введения чрезвычайного положения, применения мер по управлению чрезвычайными ситуациями или принятия мер противодействия после того, как происшествия были классифицированы как чрезвычайные, являются определенные угрозы — особенно для жизни, здоровья или имущества и окружающей среды, государственной безопасности и обеспечения общественного порядка, а также защиты прав граждан. Кроме того, предпосылками будут являться международные обязательства Польши по надлежащему реагированию, военного или экономического характера, в целях обеспечения безопасности других государств. Вид, форма, время и место вмешательства государственных органов будут обусловлены условиями, связанными с угрозами, нарушающими обычную деятельность государства и уровень опасности. Цель данной статьи — представить сложность вопросов по классификации, предшествующих соответствующим формально-юридическим решениям, и принципы, касающиеся их реализации, а также рекомендовать соответствующие изменения. Используя критический, институционально-правовой и сравнительный анализ, дается оценка соответствия потенциальных вмешательств на фоне существующих законодательных положений а также ситуационных и местных условий. Проводимые исследования касаются безопасности нашей страны в мирных условиях ее функционирования.