

SECURITY MANAGEMENT IN POLAND DURING A CRISIS SITUATION – FORMAL AND PRACTICAL ASPECTS. INDICATIONS FOR UKRAINE*

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Abstract. This paper aims to analyse the processes related to security management in Poland in the case of a crisis. It is crucial to indicate the legal and organisational basis, including specific practical actions, particularly in the context of making general indications for Ukraine. Poland and Ukraine are neighbouring states with large areas and populations. However, their organisational systems, as well as internal and external conditions, are different. The paper focuses on the issue of crisis management at the level of public administration processes and tasks. The relevance of this issue is also based on the cross-border nature of opportunities and challenges in this respect.

Keywords: security management, crisis management, Poland, Ukraine

INTRODUCTION

The geopolitical changes initiated in 1989, especially in Central and Eastern Europe, have had a profound impact on security processes. This includes changes at the level of states, international organisations and other actors. In addition, significant challenges are related to space, both regional and global. The scope of these challenges is constantly growing. Essentially, security challenges are the result of social, political and economic changes, including the development of new technologies. The pace of the processes involved

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is incredibly fast. All this makes it difficult to conduct a systematic, long-term and effective policy in the field of security management.

This paper aims to outline several key conditions related to security management during various crises as exemplified by Poland. The legal basis and examples of practical state actions in the area covered by the analysis will be presented. The paper attempts to answer several research questions: 1) what is the legal and organisational basis of the security management system in Poland? 2) what is the specific nature of actions during a crisis situation in Poland? 3) what indications can be made for Ukraine in this respect?

The paper adopts a research method based on content analysis, comparative analysis and a case study. This will allow achieving the assumed research objective. Security management processes involve multiple areas and activities. Due to the specific nature of the methodology and the structure of the text, this paper is limited to a few basic issues. The analysis essentially focuses on the crisis management system.

1. CRISIS MANAGEMENT AS A RESEARCH PROBLEM

Crisis management is part of security management. It is one of the basic issues analysed in social science. Depending on the scientific discipline, slightly different aspects and entities covered by the crisis management system are emphasised. In most research studies, crisis management is defined as an organisation's process involving effective coping with negative, destructive events affecting its subjective and material resources. Some differences can be found in defining types of crises and coping strategies, including the role of leadership [Lerbinger 1997]. In security studies, the necessity to undertake effective actions on the level of public administration is emphasised above all. In the case of the analysis undertaken in this study, the focus is on the three main types of crises identified by Lerbinger: natural disaster, technological disaster and terrorist attack. A state's activity must focus on these threats in order to counteract or mitigate their effects.

The issue under consideration is evolving. Various studies illustrating the issue in the analytical and research context of the 21st century can be cited [Houben 2005; Giegerich 2008; Olsson 2009; Fagel and Hesterman 2016; Farazmand 2017; Lægreid and Rykkja 2019; Hilhorst, Boersma, and Raju 2020]. Without a doubt, their value lies in combining theory and practice, identifying specific problems, providing ways to solve them and perspectives on how to counteract crisis situations.

Scientific research in Poland conducted in the field of crisis management is very extensive and includes a multidimensional perspective. Researchers address issues concerning many areas that are part of the internal and external security system. These include problems related to the responsibilities of

local government [Kozuch and Sienkiewicz-Małyjurek 2016; Karpiuk 2019], critical infrastructure [Walkowiak and Szczurek 2021], countering terrorism [Jałoszyński 2017], cybersecurity [Chałubińska-Jentkiewicz, Radoniewicz, and Zieliński 2021] environmental challenges [Poskrobko and Poskrobko 2012; Adamczyk, Piwowar, and Dzikuć 2017], and the activities of the armed forces [Szulc 2019]. Yet, this list is not exhaustive, because many issues are cross-sectional and multi-faceted [Raczkowski, Kegö, and Żuber 2010; Dworzecki 2012; Marszałek, Sobolewski, and Majchrzak 2014; Cichocki and Grosse 2019; Kalinowski 2020; Gruszczak 2021; Gizicki and Pankevych 2021]. The experience of researchers concerning Ukraine is less extensive in this regard, although the issue of crisis management is present in the scientific discourse. In this respect, studies representing various scientific fields can be mentioned: economic, social, political, legal sciences, which analyse, among others, the content and priority directions of a state's anti-crisis policy [Simons, Kapitonenko, Lavrenyuk, et al. 2018; Franchuk and Sylkin 2021], the principles and models for implementing the crisis management system in local governments [Akimova, Khomiuk, Bezena, et al. 2020], the condition and system of critical infrastructure protection [Sukhodolia et al. 2017], the issues of the military conflict in Ukraine [Pankevych and Slovka 2020], state cybersecurity policy [Slipachuk, Toliupa, and Nakonechnyi 2019], and environmental security issues [Radchenko, Kovach, Radchenko, et al. 2017].

2. THE LEGAL AND ORGANISATIONAL BASIS OF SECURITY MANAGEMENT IN POLAND

The legal basis for Poland's crisis management system is contained in the Constitution of the Republic of Poland of 1997¹ (Constitution 1997). It is also complemented in this respect by the indications and solutions included in the National Security Strategy of the Republic of Poland of 2020² (National Security Strategy 2020).

The Constitution of the Republic of Poland mentions the principles of directing, supervising and organising security management in Poland several times. Article 5 indicates the state's subjective and objective assumptions and obligations. The state's key duties are related to safeguarding the independence and integrity of the territory and ensuring the freedoms, security and rights of persons and citizens. The Constitution indicates the competence principles concerning shaping security by legislative and executive institutions. Articles

¹ Constitution of the Republic of Poland of 2 April 1997, Journal of Laws No. 78, item 483 as amended.

² See www.bbn.gov.pl/ftp/dokumenty/National_Security_Strategy_of_the_Republic_of_Poland_2020.pdf [accessed: 13.04.2022].

116 and 117 define the powers of the Sejm concerning declaring a state of war, concluding peace and implementing obligations arising from joint defence under international agreements (e.g. Article 5 of the North Atlantic Treaty).

The President's powers in the area of security are contained in several articles. Article 126 unequivocally emphasises the responsibility of the head of state to oversee activities for the benefit of the state's sovereignty, security, and the inviolability and integrity of its territory. The President plays a particularly important role in the representation of the state in foreign affairs (Article 133). The President is also the supreme commander of the armed forces (Article 134). In this respect, the Constitution presents an extensive list of powers, which are further described in several acts. The decisions made by the President are supported by the National Security Council, appointed by him under Article 135. Article 136 indicates the powers regarding mobilising the state's defence forces in the event of a threat. The tasks of the Council of Ministers in the area of security are defined in Article 146. These include ensuring internal security and order, performing tasks as part of external security, general management of activities as part of international relations, and concluding international agreements including the area of defence.

Chapter XI (Articles 228–234) of the Constitution outlines the tasks concerning extraordinary measures (natural disaster, state of emergency and martial law). All major state institutions have responsibilities in this regard. The constitutional principles related to this area are complemented by four acts specifying the possibilities of security management in the event of undertaking extraordinary measures.

The Act of 18 April 2002 on Natural Disasters governs the way the state is organised in the situation of a natural disaster or technical failure. These are situations related to both the effects of nature and human errors.

By virtue of the Act of 21 June 2002 on the State of Emergency, activities are carried out primarily related to internal threats. Most often, they are defined by their ability to cause threats to public order and the legal and political system.

The Act of 29 August 2002 on Martial Law and the Competences of the Commander-in-Chief of the Army and the Rules of the Commander-in-Chief's Subordination to the Constitutional Authorities of the Republic of Poland refers to situations in which threats to the state are mainly external. These are situations defined by an armed attack, interference with territorial integrity or other action detrimental to Poland's independence and sovereignty. In the context of these threats, an obligation related to alliance commitments towards common defence, e.g. under the North Atlantic Treaty, can also be indicated, when a threat concerns an allied state.

Pursuant to the Act of 22 November 2002 on Compensation for Material Losses resulting from the Limitations of Liberties and Human Rights during

Extraordinary Measures, the Polish legislator has also provided for a situation in which entities involved in counteracting or mitigating the effects of extraordinary measures may claim reimbursement of actual losses related thereto.

The National Security Strategy of the Republic of Poland includes several references to crisis management. The document is an expression of concern for the security of the state and its citizens in a particularly complicated and uncertain world. The solutions adopted are to minimise risks, face challenges, and take advantage of contemporary and future opportunities. The vision of Poland's security is multidimensional, both in subjective (relations and cooperation) and objective terms (functioning of the system). In the security environment, uncertainty, unpredictability and disruption of the global order are emphasised. This is based on subjective (e.g. the neo-imperial policy of the Russian government, strategic rivalry of the big players: the USA, Russia, China) and objective reasons (e.g. hybridisation of wars and conflicts, technological development, socio-economic challenges). Poland's opportunities to strengthen its position are related, among others, to bilateral cooperation (especially with the USA), regional cooperation (e.g. NATO, EU and several initiatives in Central Europe) and global cooperation (e.g. UN). The document mentions a list of values and national interests. These are traditionally associated with the strength of the nation and the state, and the tasks undertaken. They can be summarised as the subjective continuity of Poland's existence and dynamic development. Crisis situations require multifaceted actions. In the first place, the strategy points to the role of information exchange and communication in crisis management. It is also of key importance in integrating Poland's security system, both at the state level and in the context of NATO. Strong support for the area of protecting our national heritage against all crises should be emphasised. This is extremely important in a time of civilisational challenges in Europe and increased migration problems.

3. THE SPECIFIC NATURE OF CRISIS MANAGEMENT IN POLAND BASED ON SELECTED EVENTS

The aforementioned legal basis is reflected in specific organisational activities. They are expressed by the system of managing and responding to emerging challenges.

Poland's security system, including crisis management, is quite clearly defined. The division made includes two areas: 1) the internal security system and 2) the external security system.

The internal security system aims to guarantee the civilian population a sufficient sense of security, as well as peaceful and effective development. The most important tasks at this level include ensuring society's conflict-free development, having the ability to respond effectively to a situation threatening

the normal and acceptable social order. Within the internal security system, two subsystems can be identified: 1) public security, which mainly aims to counteract crimes and threats related to the activities of Polish and foreign citizens; 2) general security, which primarily aims to counteract threats against the existence and positive development of man and society, including in particular natural and technological disasters.

The external security system aims to protect the independence and integrity of the territory of the Republic of Poland, including the state borders, and to protect the national heritage. The main tasks include ensuring the conflict-free development of the state in the international arena, and maintaining the ability to defend and effectively respond in a situation of a threat to the state's existence and survival. In the external security system, two subsystems can also be identified. These include: 1) security within the territory of the Republic of Poland, which is aimed mainly at counteracting direct threats to state security, related to acts of aggression by other states, such as armed attacks; 2) security outside the territory of the Republic of Poland, which is aimed primarily at supporting coalition activities (based for example on Article 5 of the North Atlantic Treaty), stabilisation and peace-keeping activities (e.g. participation in foreign missions).

Regardless of the type of system, the organisational structure is inter-ministerial. Several ministries, especially the Ministry of the Interior and Administration, the Ministry of Defence, the Ministry of Justice, and the Ministry of Climate and Environment influence the activities undertaken to ensure internal security. The key decision-making role is played by the Prime Minister, together with the Council of Ministers. Supporting institutions participate in the implementation of the tasks: central institutions, e.g. the Government Centre for Security, the Police, the Polish Border Guard, the National Civil Defence, as well as local government institutions, subordinate to province governors, province marshals, district governors, mayors and commune heads.

In Poland, the course of action concerning crisis management is related to the so-called general principles arising from legislative solutions. Six main general principles may be identified. The managerial and organisational activities of the public administration must take into account the resulting subjective and objective areas.

The principle of exceptionality indicates that the threats which are to form the basis for introducing extraordinary measures and the measures aimed at preventing or limiting their effects must be of a special, extraordinary nature. This refers to a situation in which it becomes impossible to act as provided for under ordinary constitutional measures. In addition, it should be pointed out that a decision to introduce an extraordinary measure is somewhat optional. Even in the situation of a justified basis for its introduction, state institutions are not obliged to introduce an extraordinary measure. As a consequence, the

second principle applies, that of purpose limitation. In a situation of introducing an extraordinary measure, all actions should be conducted in such a way as to return to the normal situation as soon as possible. The third principle is legality. It means that decisions related to an extraordinary measure, including its introduction, must be in accordance with the act and introduced through regulation. The fourth principle, proportionality, means that state authorities and institutions operating in the area of crisis management must make their actions commensurate with the risks. The fifth principle involves protecting the foundations of the legal order. This case is particularly about the prohibition of amending key legal acts (Constitution, elections acts, emergency measures acts). The sixth principle is the protection of political representation. It concerns a situation in which it is not possible to shorten the term of office of the Parliament, organise elections or hold referendums during and 90 days after the end of an extraordinary measure. These are certainly reasons that seriously influence decisions on possibly introducing a specific extraordinary measure.

In the 21st century, several events took place in Poland that triggered a serious crisis situation. They required undertaking immediate actions in the area of crisis management. Yet, the right decisions were not always made. Their effects, including political, were quite unambiguous. The actions mitigating the effects did not generally lead to introducing any of the extraordinary measures. This was the case with the floods in 2010 and the plane crash with President Lech Kaczyński on board at Smoleńsk. A total of 96 people died in that event, including the incumbent President of the Republic of Poland, the former President of the Republic of Poland in exile, commanders of all branches of the Polish armed forces, representatives of important state institutions and members of Parliament. At that time, the state was acting decisively in a crisis situation. This was aggravated by the flood disaster in the spring/summer of 2010. The failure to introduce an extraordinary measure was the result of the restrictions, including electoral restrictions, that were necessary at that time. In 2021, as a result of the border crisis with Belarus, Poland introduced a state of emergency on part of its territory, covering 183 municipalities in two provinces of eastern Poland bordering Belarus. This obviously brings about certain consequences. However, it is justified by the actions associated with maximising the protection of its territory and the EU's external border. Limiting a crisis related to potential socio-cultural consequences is also of great significance.

4. SELECTED IMPLICATIONS FOR UKRAINE

After the events of the Revolution of Dignity in 2014, the so-called multi-vector policy was abandoned in Ukraine. Its effect was not only geopolitical hesitation in terms of the direction of the state's further development, but also the actual division of Ukrainian society according to ideological, ethnic, linguistic or religious criteria, as well as the division due to the integrative direction of the state's development. Ukraine's state authorities faced the challenge not only of fighting a military invasion by the Russian Federation, but also of resolving a number of other geopolitical issues. Euro-Atlantic integration has become one of the basic policy priorities in the international arena. In view of the very painful experience related to the annexation of the territory of the Autonomous Republic of Crimea and the Russian-Ukrainian hybrid war which has continued to this day, it is essential to adopt effective mechanisms for managing security, including a crisis situation. Poland's experience may be a good platform for Ukraine to search for and adopt specific solutions.

In the legal area, amending the Act "On the National Security of Ukraine" is essential. The Ukrainian legislator should take a systemic and logical approach to drafting appropriate legal norms in the area of security. One example is part 2 of Article 3 of the aforementioned Act. It provides the three most important principles for state security policy-making. These include: 1) supremacy of law, accountability, legality, transparency and adherence to the principles of democratic-civilian control over the functioning of the security and defence sector and the use of force; 2) compliance with international law, Ukraine's participation in international peacekeeping and security activities, interstate systems and mechanisms of international collective security; and 3) developing the security and defence sector as a basic tool for implementing state policy. Among the principles mentioned, including the principle of the necessity of sustainable development of the security and defence sector is advised. The legal acts to be passed are to be based on strategic analysis, planning and forecasting. This may result in the creation of an effective state crisis management mechanism. This is precisely the area where the experience of crisis management in Poland could be applied to Ukrainian conditions. It would make it possible to avoid mistakes in lawmaking as well as in the area of the law's application.

For the effective organisation of the activities of state and local government entities, it would seem fundamental to move away from the long-standing Ukrainian practice of identifying the concept of decentralisation with state disintegration by the central authorities. All authorities in the state (legislative, executive, judicial and local government) are to become a single efficient state mechanism. The solutions provided for in the National Security Strategy of the Republic of Poland will be beneficial for Ukraine, as the principles necessary

for applying it in Ukraine are applied in crisis management in Poland. These are the principles of a systemic and institutional approach. The consequences of their application will be systematic integrity, coherence and usefulness of crisis management. The key task for the Verkhovna Rada of Ukraine is not only to incorporate the aforementioned principles into the relevant legal acts, but also to set a longer planning period for crisis management. As a rule, in Poland, the medium-term national security strategy is planned for a period of no less than 10 years. However, in Ukraine, the national security strategy is planned for a period longer than 5 years. The aforementioned short-term planning in Ukraine is a consequence of the said multi-vector policy. However, once Ukraine implements the Euro-Atlantic direction of development, such short-term planning no longer makes sense. The fruitful application of Poland's experience in crisis management will stabilise Ukraine's development and strengthen its national security.

CONCLUSIONS

The selected issues presented in this paper concerning the subject matter make it possible to draw some general conclusions. They result directly from the research objective and are a consequence of the answers to the questions posed in the introduction.

First, the legal basis of the crisis management system in Poland seems to be stable and sufficient. The solutions adopted cover both the constitutional and statutory levels. Detailed regulations have not been fully verified due to the relatively rare cases when an extraordinary measure was introduced. However, they seem to be sufficient for actions taken from time to time, justified by a crisis situation, for example, as a result of environmental events.

Second, the crisis experience in Poland generally covers sudden events. These result from local or regional natural crisis situations. There have been, so far, no major terrorist incidents or events in the country. The same is true of events in the field of technical failure. Apart from the tragic effects of the Smoleńsk disaster in 2010, no events requiring radical anti-crisis action have been recorded, although, of course, the effects of this event are still being felt in Poland at different levels. Certainly, the coordination of crisis management activities, including at the local level, needs to be made more effective.

Third, Poland's experience in the field of crisis management may be an inspiration for Ukraine because of its spatial proximity and the choices of solutions made at different levels. This is also facilitated by cross-border cooperation and the exchange of experience at the local government level. Poland and Ukraine's partnership is also expressed in the fact that proven models are being implemented and mistakes are avoided. It is therefore crucial, among other things, to define priorities and maintain the chosen strategic direction in

which crisis management plays an important role. This is particularly important in the light of the challenges and hybrid threats that Ukraine has experienced since the beginning of its independence in 1991.

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