



Ministry
of the Interior
and Administration

Department for International Affairs

DSM-WWDW-0879-8-1/2021/JD

Warsaw, 8th April 2021

Ms.

Amanda Klasing

Interim Co-Director

Women's Rights Division

Human Rights Watch

Dear Ms. Klasing,

In response to your letter of March 24, 2021 to Minister Mariusz Kamiński on the defense of women's rights in Poland, I am sending the following information on this matter. Since democratic transition of 1989 Poland is dedicated to promotion and protection of human rights and democratic values both at national level as well as at various international fora, including the UN, the Council of Europe, the Community of Democracies and the OSCE.

Poland adheres to all respective international law instruments that guarantee equality between women and men, prevent and protect women from being subject to violence and discrimination and finally grant all women possibility of effective remedy in case of violation of their human rights and secure effective execution of these rights. These instruments include among others European Convention of Human Rights, Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, relevant provisions of EU law, including i.a. aquis on equal treatment, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) as well as the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR).

In addition, I would like to kindly inform you that the Police, securing the social protests taking place throughout the country from October 22, 2020, carries out its statutory tasks, which include, inter alia, life protection and health of people and property against unlawful attacks violating these goods, protection of safety and public order, including ensuring peace in public places (...), as well as monitoring compliance with order and administrative regulations related to public activity or applicable in public places.

Regarding the use of chemical incapacitating agents by Police officers against the protesters, I would like to inform you that during the protests of people dissatisfied with the ruling issued by the Constitutional Tribunal on the so-called "Eugenic abortion", there were cases of disrupting security and public order. Police officers, while performing their official duties, in individual cases, as authorized under Art. 2 clause 1 point 9 of the Act of May 24, 2013 on measures of direct coercion and firearms, they used coercive measures against persons violating the legal order, e.g. in the form of chemical incapacitating agents.

The indicated measures were used by the officers in accordance with Art. 6 sec. 1 of the said Act, i.e. in a manner necessary to achieve the purposes of this use, proportionally to the degree of threat, selecting a measure with the least possible pain, on the basis of the right to apply direct coercion measures specified in Art. 11 of the cited act. The degree of intensity of the use of a direct coercive measure depended on the behavior of the people against whom it was used, and the policemen ceased using the direct coercive measure after achieving the purpose of its use.

The legislator indicated and allocated the means by which the Police safeguard public safety and order. Thus, the group of police powers also includes the use or use of direct coercive measures. With regard to other rights of the Police, this right is characterized by a certain uniqueness related to the consent of the legislator to interfere with human rights and freedoms, in particular the right to freedom and inviolability. Typically, this interference is associated with causing physical pain, immobilization of the limbs, or causing high stress or other mental discomfort to the person. Intervention by the Police against participants in assemblies in the event of suspected violation of criminal provisions results from the applicable provisions of law. Interventions by the Police against participants in assemblies in the event of suspected violations order should not be interpreted as an abuse. Regardless of the right to participate participation in the meeting, participation in it should not collide with legal norms or infringe the rights of other persons, in particular through conduct that includes the features of a crime or a misdemeanor.

It should be emphasized that, in accordance with the regulations in force in the Act of May 24, 2013 on measures of direct coercion and firearms, chemical incapacitating agents in the form of hand-held incapacitating substance throwers, knapsack throwers of incapacitating substances, tearing grenades and other devices designed to throw incapacitating agents are used or used to temporarily disrupt spatial orientation or incapacitation. These measures are not applied to persons in relation to whom direct coercive measures have been used in the form of handcuffs, put on the hands, put on the legs, bonded together, straitjacket, restraining belt, restraining net or items intended for to incapacitate people with electricity.

On the other hand, the use or use of direct coercive measures by a compact subunit takes place on the orders of the commander of this sub-unit. Immediately before the order to use direct coercive measures is issued by a compact sub-unit, its commander calls to act in accordance with the law, in particular, to abandon a weapon or other dangerous object or to refrain from using violence, and then warns about the possibility of using direct coercive measures in the event of non-compliance with this call. The cessation of the use of direct coercive measures by a compact sub-unit takes place at the command of the commander or immediately after achieving the intended goal.

It should be mentioned that if it is impossible to establish contact with the commander or in a situation that threatens the life or health of the entitled person or another person, a police officer belonging to a compact subunit may use direct coercion or use these measures on the terms specified in the Act of May 24, 2013 on measures of direct coercion and firearms.

In addition, it should be noted that during the protests, as part of the conducted police actions/operations, in order to ensure law and order and to ensure the safety of protesters and bystanders, sensitive places were blocked by police cars and cordons and tyraliers were set up, in accordance with the assumptions. from the police action plan and the current situation. Police officers, on the basis of applicable regulations, detained persons who committed prohibited acts. These actions were undertaken during the applicable restrictions introduced in connection with the epidemic.

With regard to directing criminal threats against protesters, I would like to kindly inform you that on the basis of the information available, no escalation of threats against the protesters was found. Out of the total number of 269 events that were classified as related to the protests as a result of the judgment of the Constitutional Tribunal, only one concerned making criminal threats (Article 190 § 1 of the Penal Code) against participants in protests. The threat in question was sent via e-mail and contained

forced to withdraw in support of the Women's Strike and abortion. The verification procedure in terms of committing a crime from the 190 Penal Code in the case in question is conducted by the Warsaw I District Police Headquarters.

In addition, an investigation was initiated at the Warsaw I District Police Headquarters on March 9, 2021 on sending e-mails to one of the activists of the Women's Strike, in the period from February 18, 2021 to March 4, 2021, containing threats of committing a crime to the detriment of the said woman and her relatives, in order to force the changes presented by her views about abortion. In her notification of the crime, the aggrieved party indicated that she was an activist in the Women's Strike and a member of the Strike Consultative Council and that the threats were related to her activities. Activities in the case in question, they are conducted with a view to committing a crime under Art. 191 § 1 of the Penal Code.

Referring to the issue of directing threats to carry out bomb attacks on participants of the protest, I would like to kindly inform you that from March 8, the following events were found in the capital city of Warsaw in which the perpetrators suggested planting explosives:

- On March 8, 2021, the Warsaw I District Police Headquarters received information via the emergency number about the planting of explosives in 11 different places where 11 different entities had their headquarters, including non-governmental organizations. Notices of a crime were received from authorized persons from these institutions, and the collected materials were sent to the Warszawa Śródmieście District Prosecutor's Office to initiate an investigation.

In connection with the above notification, the Central Police Investigation Bureau issued a credibility assessment of the e-mails in question, indicating them as "information of very low credibility, cascading in nature". In accordance with the procedure algorithm, in each case contact was made with the person responsible for the facility, the above credibility assessment was provided and in accordance with her statement, the evacuation of people from the facility was not carried out. Moreover, at the request of representatives of some entities, the objects were checked for pyrotechnics with the use of a guide with a tracking dog. The checks were negative.

With regard to the above information, the Warsaw I District Police Headquarters is conducting preparatory proceedings towards art. 224a of the Penal Code. The case materials have been sent to the District Prosecutor's Office for Warszawa Śródmieście with a request to initiate an investigation. To date, no decision in this regard is known.

- On March 12, 2021, information about the planting of an explosive device was received by e-mail at one of the facilities in Warsaw. In accordance with the procedure algorithm, a patrol was sent to the site, who made contact with the responsible person for the object and at her express request, the pyrotechnic reconnaissance and evacuation activities were abandoned. In the above scope, activities aimed at committing a crime under Art. 224a of the Penal Code. The files of the case in question were sent to the District Prosecutor's Office for Warszawa Śródmieście with a request to initiate an investigation. To date, no decision in this regard is known.

- On March 20, 2021, the e-mail on duty of the Warsaw V District Police Headquarters received information that one of the buildings in Warsaw had been mined. In relation with the above, a mining and pyrotechnic reconnaissance was carried out in the required scope. During the inspection of the building's apartments, the tenants did not report the need to check the interior for pyrotechnics and stated that they had not noticed any suspicious people, packages or items left behind that could indicate an explosive charge. In addition, the staircases were inspected, without revealing any suspicious things and objects that could pose a threat to the life and health of residents. The replaced building, after being checked, was handed over to the administrator and no evacuation was ordered.

A person associated with the organization of the Women's Strike was questioned as a witness. The proceedings were registered at the Warsaw Żoliborz Police Station. Collected materials on On March 25, 2021, they were submitted to the Warsaw Żoliborz District Prosecutor's Office for the purpose of considering the initiation of an investigation into committing a crime under Art. 224a of the Penal Code. To date, no decision in this regard is known.

- On March 24, 2021, the information was received by the District Police Headquarters in Warsaw VII on planting an explosive at the National Stadium in Warsaw. In the message sent, the perpetrators demanded that items containing the symbolism of the Women's Strike be withdrawn from the offer of one of the nearby companies. Due to the above, 8 people were evacuated before the arrival of the Police. The police officers prevented the facility and the adjacent area. They carried out a mining and pyrotechnic reconnaissance, as a result of which no dangerous goods were revealed. The materials of the case on March 26, 2021 were sent to the District Prosecutor's Office for Warszawa Praga Południe, to initiate an investigation. To date, the supervising prosecutor has not yet made a decision to initiate proceedings.

In conclusion I would add that, The Government of Poland policy is that women have a crucial role to play in our societies. Women have visibly and boldly stepped up to shape the future of their countries, societies and families and to guarantee that civil, political, economic, social and cultural rights are enjoyed by all, free from fear and violence. These rights equally belong to women themselves. In Poland everyone is a subject of all human rights, including the right of protection from violence and discrimination. Equality – including equality between women and men – before the law and general prohibition of discrimination on any basis are enshrined in the Constitution of the Republic of Poland, which makes these principles pivotal in Polish legal system. As a country which experienced the hardship of totalitarian regime, democratic Poland is committed to protection of the freedom of opinion and expression, the freedom of the media and the right to protest as crucial for the functioning of democratic societies and to ensure a lively public debate. Constitution of the Republic of Poland robustly safeguards the right to the freedom of assembly and association, the freedom of press and expression as well as the prohibition of censorship.

Sincerely,

Mariusz Boguszewski, PhD

Department Director

/signed electronically in the e-DOK system /