

Volume 21, Issue 2
December 2023

ISSN 1731-8297, e-ISSN 6969-9696
<http://czasopisma.uni.opole.pl/index.php/osap>

ORIGINAL ARTICLE
received 2023-10-09
accepted 2023-11-30



On the possibilities of recruiting minors as confidential personal sources of information

O możliwościach pozyskiwania małoletnich do współpracy jako poufnych osobowych źródeł informacji

PIOTR HERBOWSKI

Akademia Kujawsko-Pomorska w Bydgoszczy
ORCID: 0000-0002-7736-3614, piotr.herbowski@wp.pl

Citation: Herbowski, Piotr. 2023. O możliwościach pozyskiwania małoletnich do współpracy jako poufnych osobowych źródeł informacji. *Opolskie Studia Administracyjno-Prawne* 21(2): 103–117. DOI: 10.25167/osap.5269.

Abstract: The Polish legislator has not regulated in any way the possibility of police cooperation with minors as confidential personal sources of information. Therefore, for many years there have been opinions about the lack of legal obstacles to such cooperation. However, it is forgotten that it may entail numerous risks for minors and the decision of the legislator is rather a result of lack of awareness of the difficult choices that may face, for example, police officers working on criminal groups. It is necessary to give a broader presentation of our own perspective on this issue, based both on practical experience, as well as resulting from an in-depth analysis of constitutional, national acts and international agreements. All of those allow to formulate a number of postulates that will make it easier for police services to act within the limits of the law.

Keywords: confidential personal sources of information, informants, police, minors, commitment to cooperation

Abstrakt: Polski ustawodawca nie uregulował w żaden sposób możliwości współpracy Policji z małoletnimi jako poufnymi osobowymi źródłami informacji. W związku z tym od wielu lat pojawiają się opinie o braku przeszkód prawnych do takiej współpracy. Zapomina się jednak, że może się ona wiązać z licznymi zagrożeniami dla małoletnich, a decyzja ustawodawcy wynika raczej z braku świadomości trudnych wyborów, przed jakimi mogą sta-

nać np. policjanci rozpracowujący grupy przestępcze. Konieczne jest szersze przedstawienie własnego spojrzenia na tę kwestię, zarówno opartego na praktycznych doświadczeniach, jak i wynikającego z pogłębionej analizy przepisów konstytucyjnych, ustawowych i umów międzynarodowych. Wszystko to pozwala na sformułowanie szeregu postulatów, które ułatwią służbom policyjnym działanie w granicach prawa.

Słowa kluczowe: poufne osobowe źródła informacji, informatorzy, policja, małoletni, zobowiązanie do współpracy

1. Preliminary issues

The possibility of recruiting minors as confidential personal sources of information (hereinafter: CPSI) has been a source of disputes for many years (Herbowski 2018: 163–166), not only among police officers, but also theorists involved in operational and investigative activities. As Boleslaw Sprengel has aptly pointed out, these are due to the lack of a formalised prohibition on the recruitment of minors and the failure of the literature to recognise the legal complications associated with accepting a commitment to cooperate from them and remunerating them (Sprengel 2018: 155).

In the academic sphere, there are views according to which there are no obstacles in Polish law to the use of CPSI who are minors, although it is pointed out that this should be subject to certain conditions (Horosiewicz 2021a: 31; Horosiewicz 2021b: 140). Also, the regulations regarding this area, in force in the United Kingdom or the United States, do not provide an answer regarding the potential principles of such cooperation (Netczuk 2006: 159–160; Horosiewicz 2021b: 133–136).

It is imperative, therefore, to present a wider view of the issue, both theoretical and practical, resulting, *inter alia*, from the management of a unit dealing with minors in one of Poland's largest cities. A qualitative analysis of the scientific literature is insufficient if the need to take into account the provisions contained in the Constitution of the Republic of Poland of 2 April 1997 (hereinafter: Constitution of the RP), which are vital for this issue.

On the other hand, the analysis of the currently applicable operational instructions, especially those from the times of the People's Republic of Poland, does not contribute much to considerations about the cooperation of minors with the Police. Provisions of such a low rank, contrary to the opinions often formulated in police circles, cannot change generally applicable statutory and constitutional provisions, which police officers are also obliged to comply with. As the operational practice before 1989 shows, in the case of operational instructions, we often had to deal with their non-compliance with the legal order in

force in the People's Republic of Poland, e.g. the Code of Criminal Procedure or the Criminal Code. The best example of this can be acquiring CPSI on the basis of incriminating materials, giving consent to their participation in crimes, and then excluding them from criminal cases (Otlowski 1982: 111–118). Thus, it is difficult to draw any patterns of behaviour from them today.

I have made the issue of potential cooperation of minors with law enforcement the subject of my analysis in this article, and in accordance with Art. 10 of the Civil Code Act of 23 April 1964, Dz. 1964, No. 16, item 93 as amended. (hereinafter: CC), I assume that these are people who are under 18 years of age. The publication also includes a term that is not identical to the term “minor” used above, i.e. “juvenile”, and in accordance with Art. 10 of the Act of 6 June 1997 Penal Code, Dz.U. 1997, No. 88, item 553, as amended, these are persons who committed prohibited acts before the age of 17. This is due to the fact that when referring to the views of other authors, police statistics or Internet sources, the terminology used there and the term “juvenile” cannot be omitted. Nevertheless, I am of the opinion that the term “minor” precisely delineates the area of these considerations.

2. Juvenile delinquency

Minors participate in or aspire to partake in criminal groups formed by adults (Rau 2002: 368–370). However, creating a picture of a reality in which there is a need for constant infiltration of such groups by underage informants is a mistake. There is a lack of reliable information about groups that consist exclusively of minors and pose a real threat to public safety. Therefore, the threat of underage crime cannot be demonised. After all, Poland is not Sweden, where the number of robberies perpetrated by minors has more than doubled since 2015 (Robbery assaults...). They are also part of the perpetrators and victims of the dynamically increasing number of homicides with firearms, which are the result of organized crime groups' scores (Zyśk 2022). The detection rate of these homicides is also worryingly low, at only 25%, and according to Jerzy Sarnecki this is due to both a lack of evidence and an unwillingness to cooperate with the police (Szwajcjer 2022). In such a situation, the Swedish government's proposals to introduce the offence of promoting juvenile delinquency in the Criminal Code (Terror in the State...) may prove to be far from sufficient. The Prime Minister's idea to use the military to fight organised crime groups, which he believes is supposed to be a sign of helplessness and populism, should also be regarded as: “Swedish legislation is not adapted to gang wars and child soldiers” (Gang War...). In turn, according to J. Sarnecki, preventive actions are a task for the next 25 years (Swiss 2022).

In Poland, according to the information of the National Police Headquarters for the years 2020 (Information 2020) and 2021 (Information 2021), the share of criminal acts committed by minors, which exhaust the elements of crimes, in their total number is decreasing and amounts to just over 2%. This is important because it was still 10.8% in 2010 (Information 2013), so we are dealing with an obvious downward trend. This is also confirmed by the statistics of the Ministry of Justice (Judicial Statistics 2017: 20) and in the literature (Bernasiewicz, Noszczyk-Bernasiewicz 2020: 17–20). Despite a number of acts of a particularly violent nature, most of them are definitely less socially harmful and have a very low level of camouflage. They are committed in school environments where the anonymity of the perpetrators is low. The problem faced by Polish law enforcement agencies is rather the need to convince victims to testify. Information about perpetrators is also obtained from teachers and legal guardians.

3. Cooperation with the Police

Situations also arise where the Polish police could obtain valuable information from minors operating in criminal groups – and such a prospect can be tempting. An analysis of the legal provisions alone is then not a sufficient step. It should be preceded by an attempt to find answers to several relevant questions:

- To what extent do minors form their ideas about such cooperation on the basis of films and crime series?
- What is the level of awareness of the risk resulting from cooperation with the police among minors?
- Are the risks for the minor associated with cooperation not higher than the potential benefits for the Police?
- What is the risk of police officers being misinformed by minors providing them with information?

The issues of psychological resilience, maturity and level of demoralisation of minors functioning in organised criminal groups or on their periphery, who are willing or declare their willingness to provide information to the Police, cannot be marginalised in any way. One might get the impression that this has been omitted in the discussion to date relating to this subject.

4. Age

Some authors highlight the need for a statutory lower age limit for minors with whom the Police could cooperate as CPSI. Yet, they justify their posi-

tions in quite a different manner. According to Robert Netczuk, the current regulations give grounds to conclude that such permanent cooperation is not possible, and the lack of precise statutory solutions will lead to tolerating such legally dubious activities. In doing so, however, he postulates that the establishment of cooperation with minors should be possible once they have reached the age of 15 (Netczuk 2010: 13). Krzysztof Horosiewicz, on the other hand, proposes that a minor informant should be at least 16 years old, and only in the case of certain offences and under certain conditions could he or she be younger (Horosiewicz 2021b: 138). A fundamental doubt arises, however, about the justification of such a proposal, since, according to its author: “[...] the lack of legal regulations regarding the use of minor informants by the Polish Police does not result from the prohibitions contained in generally applicable laws. Doubts in this regard should not be about whether to use the help of minors as informants, but how to regulate the use of their help to make it more ethically acceptable” (Horosiewicz 2021b: 137). The above position does not deserve acceptance, because it cannot be reconciled with the content of Art. 7 of the Constitution of the Republic of Poland, according to which: “Public authorities act on the basis of and within the limits of the law”. This provision contains the principle of legalism, also referred to as the rule of law. According to it, the law constitutes a competence to act and is the source of the orders and prohibitions that determine its legal framework. The very competence to act cannot be presumed. If state authorities take action without a legal basis, outside the limits of the law or in violation of these limits, they are always illegal (Florczak-Wątor 2021a, LEX). Considering the provisions of constitutional rank, one cannot agree with the position that in the generally applicable provisions of law there are no prohibitions on cooperation with minors. An in-depth analysis of this issue requires taking into account the entire complexity of possible cooperation of minors with the Police, and above all significant differences in the nature and conditions of cooperation between individual categories of CPSI. At the same time, it may be very doubtful whether the legislator even notices this problem, if for many years it has been avoiding precise regulation of the rules of cooperation between police services and adult persons providing them with assistance (Taracha 2006: 230–239; Szumiło-Kulczycka 2012: 304; Horosiewicz 2015: 189–190). It is therefore necessary to express substantial opposition to the proposals to allow permanent cooperation of the Police with minors who are 15 or 16 years old, as they are not based on an in-depth analysis of the risks that may occur during such cooperation. The proposed solutions also fail to take into account the numerous restrictions arising from a number of laws, the Constitution of the Republic of Poland and the Convention on the Rights of the Child. Nonetheless, it should be stressed that the aforementioned provi-

sions do not provide grounds for claiming that we are dealing with a total ban on obtaining information from minors.

5. Commitment of the minor to cooperate

In the case of CPSI undertaking cooperation with the Police, the consent itself may be both oral and written. This is regulated by the provisions of the operational instructions. The possible undertaking of cooperation and the acceptance of such a commitment by the minor raises the question of his/her possible rights and obligations. According to some authors, such bilateralism resembles a civil law relationship. Among the duties, the necessity to perform the ordered tasks, to provide truthful information and to keep the fact of cooperation secret is mentioned (Netczuk 2006: 71). Among the rights, on the other hand, the possibility to obtain remuneration and possible compensation is indicated. It should be noted that the idea has even arisen that this is a special type of contract (Horosiewicz 2015: 112). It must be rejected for a number of reasons (Herbowski 2018: 158–159). One of them is that it would be essentially a unilateral declaration of assumption of obligations by the minor, which he or she should not be entitled to do. It is worth mentioning that the author of this concept has departed from his earlier views in his subsequent publications. He now argues that the obligation to cooperate itself has only a psychological meaning and is only an element of influencing CPSI and provides an additional motivation to respect the obligations entered into and to fulfil the objectives of cooperation (Horosiewicz 2021b: 130). Such a position deserves acceptance, but only in relation to adult CPSI. Due to numerous doubts, the relationship between the officer and the minor could only be described as a *quasi*-understanding that does not bind either party (Herbowski 2018: 160).

In order to analyse in depth the potential legal consequences of a minor's cooperation with the police, one cannot overlook the provisions of the Civil Code that refer to legal capacity. As indicated in Art. 15 of the Civil Code, minors who have reached the age of 13 have limited legal capacity. Thus, they do not have the competence to perform certain legal actions, they need the consent of their legal representative to perform certain legal actions, and in certain cases indicated by the law – also the consent of the court. At the same time, they have full competence to perform, for example, legal actions pursuant to Art. 20–22 of the Civil Code (Lutkiewicz-Rucińska 2022, LEX).

Art. 17 of the C.C.C. refers to a legal action by which a person limited in legal capacity incurs an obligation. In such a case, the consent of the legal representative is required. It is not required in the case of so-called agreement of minor importance (Art. 20 of the Civil Code), the disposal of one's earn-

ings (Art. 21 of the Civil Code) or the performance of legal acts in relation to property objects given to such a person for free use (Art. 22 of the Civil Code) (Pilich 2021a, LEX). Despite the fact that undertaking to cooperate with the Police is not the same as the concept of obligation in civil law (Horosiewicz 2021b: 130), there is no doubt that the auxiliary use of the regulations contained in the Civil Code is by all means legitimate and expedient. Of course, it is impossible to find in the comments to the CC any considerations devoted to the minor's commitment to cooperation. However, this does not mean that we are dealing with the so-called agreement of minor importance (Art. 20 of the CC), i.e. an agreement commonly concluded for trivial day-to-day matters. After all, no gross disadvantage clause is provided for such agreements (Pilich 2021b, LEX). These regulations leave no doubt that the minor's assumption of an obligation to cooperate with the Police on a permanent basis goes far beyond the scope of a so-called "agreement of minor importance" and s/he should not be entitled to do so. This also ought to be the position of the Police, who, in accordance with the constitutional principle of legalism, cannot presume their competence to act (Florczak-Wątor 2021b, LEX) even if no provisions of the law, including the Police Act, which is very vague in this regard, explicitly prohibit them. In the face of this, it is reasonable to argue that minors cannot undertake permanent cooperation with the Police and even the possible consent of the legal representatives cannot change this. This is due to the fact that it is only after the age of 18 that we can say that the accepted commitment to cooperate is conscious and voluntary.

The possible remuneration of minors in return for the information they provide must not be forgotten either. Obtaining remuneration in most situations requires the signing of a receipt (Herbowski, Bukowski 2016: 155–166). Likewise, as in the case of taking on a cooperation obligation, the minor should not be allowed to do so. Doubts also surround the potential use of such funds from the Police operational fund. The prospect of such money being used to purchase drugs or alcohol must be strongly objected to. This would undoubtedly increase the risk of demoralisation of underage informants. Also unacceptable are views equating the remuneration that a minor may receive as a result of cooperation with the Police with earnings resulting from an employment relationship and any benefits related to the provision of services, e.g. as part of seasonal, casual work, from participation in competitions, sports competitions or from dues for collected herbs, berries, mushrooms (Horosiewicz 2021a: 27).

The consequences related to the potential cooperation of a minor with the Police may also be loss of life, damage to health or property. The current statutory provisions relating to the avenue of redress are vague and the prospects of the minor or his or her family obtaining compensation are quite vague. This

does not mean that it is impossible. It would, however, be necessary to refer to the provisions of the Constitution and, more specifically, to Art. 77 thereof, which grants the right to compensation for unlawful action of a public authority. It is necessary at the same time to demonstrate a causal link between this unlawful action and the damage caused (Florczak-Wątor 2021b, LEX).

6. Risks related to cooperation

The cooperation of minors with the police does not only represent potential benefits, but also numerous risks that officers should not be indifferent to. In the first place, the potential lack of psychological resilience of the minor to the stress resulting from cooperation should be underlined. This, after all, involves obtaining and communicating information on the actions taken by persons or environments in which the minor functions or has some contact with. Another risk is the lack of ability to assess the situation in which the minor may find him/herself as a result of such cooperation. It is doubtful that the minor has been adequately prepared for this by the police officer with whom he or she is working. Among the numerous dangers, it is also necessary to indicate an overestimation of one's own skills, a greater tendency to take risks than in adults or an inappropriate reaction in cases of emerging threats to health or even life.

When assessing the permissibility of tolerating the aforementioned dangers when working with minors, it should be pointed out that the obligation of state authorities to protect minors from such dangers may also be rooted in international agreements, especially when they contain a broad catalogue of children's rights and institutional solutions ensuring their protection (Przyborowska-Klimczak 2019: 214). The most prominent of these is undoubtedly the Convention on the Rights of the Child. The necessity to take it into account when analysing the risks associated with the cooperation of minors with the Police results from Art. 9 of the Constitution of the Republic of Poland, which prescribes the observance of international law by the Republic. The content of this article is concretised in Art. 89 of the Polish Constitution, which provides for the ratification of international agreements (Tuleja 2021, LEX). Art. 32 (1) of that Convention states that: "States-Parties recognise the right of the child to be protected from economic exploitation, from work which may be dangerous or which may interfere with the child's education or be harmful to the child's health or physical, mental, spiritual, moral or social development". The implementation of these obligations at the constitutional level is Art. 65 (3) of the Constitution of the Republic of Poland. When interpreting these solutions, one must always take into account the constitutional principle of the good of the

child and require that work is not dangerous or harmful to the child (Banaszak, Żukowski 2015: 251–252). There is no doubt that the constant cooperation of the minor with the Police carries such risks.

7. Obstacles

Minors are sometimes members of organised criminal groups (Wieczorek 2005: 151–161). In many cases, however, they are very demoralised (Rau 2002: 368–369). This is due to the fact that belonging to such groups, they have to comply with the rules in force in them, they are easily influenced and willing to imitate new negative patterns. In contrast to the motivations that guide adult members of such groups when cooperating with the Police (Herbowski 2018: 148–150), in the case of minors, a key role may be played in particular by those preventing their enlistment (Horosiewicz 2012: 218). Therefore, the probability of minors undertaking such cooperation should be assessed as low. At the same time, one should not lose sight of another significant danger, namely possible deliberate misinformation of the Police (Łabuz, Kosmaty, Kudła 2021: 212). It seems, then, that working on the statutory conditions for permanent cooperation with minors, in view of the potentially marginal number of enlistments, is currently a waste of time.

When considering the possibility of introducing such changes into Polish legislation, other obstacles must also be taken into consideration. Among these, the views of the legal community are certainly of considerable importance. For many years now, their very strong resistance to a precise statutory regulation of the principles of cooperation between police services and persons providing them with assistance has been perceptible. It is difficult to imagine that, with regard to such a contentious issue as cooperation with minors, this position would be overcome. Particularly if we modelled ourselves on American solutions, dominated by the principle of procedural opportunism (Horosiewicz 2021b: 133–136). Such an attitude of legal circles in the past also resulted in the fact that the issue of cooperation with minors did not become the subject of broader discussion during the work on the draft Act on operational and investigative activities (Netczuk 2010: 13).

One should also not forget our legislator who, after 40 years in force, repealed the Act of 26 October 1982 on juvenile proceedings, Dz.U. 1982, No. 35, item 228 as amended, and its place was taken by the Act of 9 June 2022 on the Support and Rehabilitation of Minors, Dz.U. 2022, item 1700 as amended. Its preamble leaves no doubt as to the prospects for limiting parental authority and the direction of acceptable changes.

8. Role of parents and family court

The literature indicates that one of the conditions for the minor's permanent cooperation with the Police should be the consent of the family court, which would have to take into account his/her age and maturity, social interest and ensure that the consent is informed and voluntary before making a decision (Horosiewicz 2021b: 138). The need to obtain a psychologist's opinion on the lack of negative effects on the psyche of a minor is also raised (Netczuk 2010: 13–14). Setting aside the very issue of a psychologist's admission to classified information, it is doubtful that anyone would choose to give an opinion on the possibility of such cooperation in terms of the absence of negative consequences for the minor. Police psychologists, against whom the argument of their lack of objectivity would certainly be raised, should also be excluded a priori from giving an opinion.

It is a separate issue to obtain consent for such cooperation from the minor's legal guardians (Netczuk 2010: 13–14). The question of what such a procedure would look like in practice cannot be answered in the literature on the subject. The issue is much more intricate than it may initially appear. On the one hand, it is an indisputable fact that some minors with access to information of value to the police live in pathological environments. The parents of some of them may be persons with criminal records with an unwillingness to cooperate with law enforcement. Under the current state of the law, it is not possible to disregard them when it comes to a potential decision regarding their children's consent to cooperate. If they have full parental rights, this would only be possible after far-reaching amendments to the provisions of the Act of 25 February 1964, Family and Guardianship Code, Dz.U. 1964, No. 9, item 59 as amended (hereinafter: FGC). Considering the obstacles indicated earlier, among other things the resistance of the legal community, the likelihood of such changes is negligible. On the other hand, one has to see another threat concerning the guardians' consent to the minor's cooperation with the Police. After all, some of them could give it, tempted by the potential remuneration for their child for the information provided, and then use the funds obtained for various kinds of illegal stimulants.

Obtaining the family court's consent for the minor to cooperate also implies the need to apply the procedure related to the court's admission to classified information. As far as the competence of common court judges to assess operational materials is concerned, the conclusions of the research conducted by Dobrosława Szumiło-Kulczycka, from which it is clear that: "Courts seem helpless when confronted with the operational material submitted to them, on the basis of which they are supposed to decide whether or not to order operational control. Judges do not have the tools to assess it on its merits and,

above all, the tools to verify it effectively. As a result, the courts, so to speak, automatically recognise as true and convincing the materials submitted by the entity applying for the application of operational control and issue a decision to grant the application” (Szumiło-Kulczycka 2015: 38). If, therefore, district court judges, within whose competence it is to consent to the application of operational control, are helpless in assessing the operational material submitted to them, it is all the more impossible to require adequate substantive preparation from district court judges ruling in the family and minors’ divisions.

The above considerations give rise to the conclusion that requests for obtaining consent for the permanent cooperation of minors from their legal guardians or family courts are, for a variety of reasons, not feasible.

9. Position of the Constitutional Court

The potential objection of the judges to the request of the Police to consent to permanent cooperation with the minor would fully comply with the indications contained in the judgment of the Constitutional Tribunal of 11 October 2011, according to which: “[...] the order to protect the welfare of the child constitutes the basic, superior principle of the Polish family law system, to which all regulations in the sphere of relations between parents and children are subordinated. The notion of “rights of the child” in the provisions of the Constitution should be understood as an injunction to ensure the protection of the interests of a minor who, in practice, can assert it himself to a very limited extent (cf. judgement of the Constitutional Tribunal of 28 April 2003, ref. K 18/02, OTK ZU No. 4/A, item 32). Parents must therefore have the right to represent their child before third parties in order to be able to effectively exercise custody of the child. In this respect, they have a subjective right of an inherent and natural nature, which does not originate from the state, although it is exercised under state and social control. Parenthood is also upheld by the Constitution (Art. 18). However, if the parents improperly exercise their rights and obligations towards the child, contrary to their best interests, they may be deprived of parental authority”.

Therefore, the issue of parents’ consent to the minor’s permanent cooperation with the Police can also be looked at from a different angle. Would its expression not be contrary to the good of the minor and could become a reason for interference by the family court and limiting or playing with their parental authority? According to Art. 95 § 3 KRiO (FGC) – parental authority should be exercised as the child’s welfare and the public interest require. In such a situation, it is impossible to assume that the social interest in the form of information provided by the minor to the Police and the benefits resulting from this

could prevail over the welfare of the child. In the commentaries to the FGC, for obvious reasons, one cannot find considerations devoted to this issue, but depending on the degree of threat to the child's welfare, the solutions specified in Art. 109 of the FGC and, in extreme situations, even deprivation of parental authority regulated in Art. 111 of the FGC could come into play.

10. Conclusions

Our legislator did not regulate the issue of cooperation with minors as CPSI, leaving the police – consciously or unconsciously – a certain discretion. The analysis of constitutional and statutory provisions and international agreements leads to the conclusion of the impossibility of permanent cooperation with this category of persons, as well as their remuneration in the form of money. Nevertheless, the possibility of incidental, occasional transmission of information, i.e. in the capacity of an informer, must be allowed. The presence or intermediation of parents or legal guardians is, however, necessary. Their omission is not an appropriate action.

It is disagreeable with the views formulated in the literature that the permanent cooperation of the Police with minors should be modelled on the regulations in force in Anglo-Saxon countries (Netczuk 2010: 13), as to certain types of offences and after the court authorises these activities, once the minors have reached the age of 16, and in certain situations even younger (Horosiewicz 2021b: 137–138).

Police officers, when seeking to undertake permanent cooperation with minors, cannot follow the principle, which used to derive from the so-called Wilczek Act (the Act of 23 December 1988 on economic activity) and now from Art. 8 of the Entrepreneurs' Law, that everything that is not prohibited by law is permitted. According to Art. 7 of the Constitution of the Republic of Poland, the Police can only act on the basis and within the limits of the law. It should also always be borne in mind that there is a number of risks for minors associated the cooperation, which cannot be ignored. The benefits that the Police may derive from it must not take precedence over the welfare of minors.

List of abbreviations

- Constitution of the RP – Constitution of the Republic of Poland of 2 April 1997, Dz.U. 1997, No. 78, item 483 as amended
 CC – Act of 23 April 1964 Civil Code (Dz.U. 1964, No. 16, item 93 as amended)
 FGC – Act of 25 February 1964 Family and Guardianship Code, Dz.U. 1964, No. 9, item 59, as amended
 CPSI – confidential personal sources of information

References

Legal acts

- Constitution of the Republic of Poland of 2 April 1997, Dz.U. 1997, No. 78, item 483 as amended
- Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989., Dz.U. 1991, No. 120, item 526, as amended
- Act of 25 February 1964, Family and Guardianship Code, Dz. U. of 1964, No. 9, item 59 as amended
- Act of 23 April 1964 Civil Code (Dz.U. 1964 No. 16, item 93 as amended)
- Act of 26 October 1982 on Juvenile Proceedings, Dz.U. 1982, No. 35, item 228, as amended, repealed
- Act of 23 December 1988 on Economic Activity (Dz.U. 1988 No. 41, item 324 as amended, repealed)
- Act of 06 June 1997 Penal Code, Dz.U. 1997, No. 88, item 553, as amended
- Act of 06 March 2018 Entrepreneurs' Law, (Dz.U 2018, item 646, item as amended)
- Act of 09 June 2022 on the Support and Rehabilitation of Minors Dz.U. 2022, item 1700 as amended

Judicial decisions

- Judgement of the Constitutional Tribunal of 11 October 2011, case ref. No. K 16/10, Dz.U. 2011, No 240, item 1436.

Secondary sources

- Banaszak, Bogusław and Łukasz Żukowski. 2015. Prawo dziecka do ochrony przed przemocą, okrucieństwem, wyzyskiem i demoralizacją – rozwiązania polskie na tle standardów Konwencji Praw Dziecka. In: *Konwencja o Prawach Dziecka. Wybór zagadnień (artykuły i komentarze)*, (ed.) Stanisław Leszek Stadniczeńko, 237-253. Warszawa: Biuro Rzecznika Praw Dziecka.
- Bernasiewicz, Maciej and Monika Noszczyk-Bernasiewicz. 2020. Przystępczość nieletnich w USA i w Polsce na podstawie wybranych statystyk kryminalnych. *Archiwum Kryminologii* 42(2):207-238.
- Florczak-Wątor, Monika. 2021a. Komentarz do art. 7. In: *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, (ed.) Piotr Tuleja, wyd. II, LEX/el. Warszawa: Wolters Kluwer. Wydanie elektroniczne LEX. Last access 19.12.2022.
- Florczak-Wątor, Monika. 2021b. Komentarz do art. 77. In: *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, (ed.) Piotr Tuleja, wyd. II, LEX/el. Warszawa: Wolters Kluwer. Wydanie elektroniczne LEX. Last access 19.12.2022.
- Herbowski, Piotr. 2018. *Poufne osobowe źródła informacji. Aspekty kryminalistyczne i prawnowodowe*. Warszawa: Difin.

- Herbowski, Piotr and Jacek Bukowski. 2016. Falszerstwa dokumentów operacyjnych a badania pismoznawcze. *Nowa Kodyfikacja Prawa Karnego* 39: 155-166.
- Horosiewicz, Krzysztof. 2012. Przedsięwzięcia werbunkowe. *Przegląd Policyjny* 4(108): 210-220.
- Horosiewicz, Krzysztof. 2015. *Współpraca policjantów z osobowymi źródłami informacji*. Warszawa: Wolters Kluwer.
- Horosiewicz, Krzysztof. 2021a. Nietelni jako poufne osobowe źródła informacji polskiej Policji Cz. 1. *Przegląd Policyjny* 1(141): 19-31.
- Horosiewicz, Krzysztof. 2021b. Nietelni jako poufne osobowe źródła informacji polskiej Policji Cz. 2. *Przegląd Policyjny* 2(142): 126-140.
- Lutkiewicz-Rucińska, Anita. 2022. Komentarz do art. 15. In: Małgorzata Balwicka-Szczyrba, Anna Sylwestrzak. *Kodeks cywilny. Komentarz*. Warszawa: Wolters Kluwer. Wydanie elektroniczne LEX. Last access 20.12.2022.
- Łabuz, Paweł, Piotr Kosmaty, and Jacek Kudła. 2021. Wykrywanie tajnych agentów policyjnych w zorganizowanych grupach przestępczych. In: *Działania kontrwykrywcze zorganizowanych grup przestępczych i organizacji terrorystycznych*, (ed.) Piotr Chlebowicz, Paweł Łabuz, Tomasz Safjański, 195-222. Warszawa: C.H. Beck.
- Netczuk, Robert. 2006. *Tajny współpracownik policji na tle prawnoporównawczym*. Katowice: Wydawnictwo Uniwersytetu Śląskiego.
- Netczuk, Robert. 2010. Tajny współpracownik i tajny agent w projektach ustaw o czynnościach operacyjno-rozpoznawczych. Uwagi de lege ferenda. *Wojskowy Przegląd Prawniczy* 3: 11-30.
- Otłowski, Kazimierz. 1982. *Nadawanie charakteru procesowego materiałom operacyjnym*. Warszawa: Departament Szkolenia i Doskonalenia Zawodowego MSW.
- Pilich, Mateusz. 2021a. Komentarz do art. 17. In: *Komentarz. Tom I: Część ogólna, cz. 1 (art. 1-55(4))*, (ed.) Jacek Gudowski. Warszawa: Wolters Kluwer. Wydanie elektroniczne LEX. Last access 20.12.2022.
- Pilich, Mateusz. 2021b. Komentarz do art. 20. In: *Komentarz. Tom I. Część ogólna, cz. 1 (art. 1-55(4))*, (ed.) Jacek Gudowski. Warszawa: Wolters Kluwer. Wydanie elektroniczne LEX. Last access 20.12.2022.
- Przyborowska-Klimczak, Anna. 2019. Ochrona praw dziecka w publicznym prawie międzynarodowym. *Teka Komisji Prawniczej PAN Oddział w Lublinie* 12(1): 211-235.
- Rau, Zbigniew. 2002 *Przestępczość zorganizowana w Polsce i jej zwalczanie*. Kraków: Zakamycze.
- Sprengel, Bolesław. 2018. *Praca operacyjna Policji*. Toruń: Wydawnictwo Naukowe Uniwersytetu Mikołaja Kopernika.
- Statystyka Sądowa. Sprawy Nietelnych. Prawomocne orzeczenia w latach 2010-2016*. 2017. Warszawa: Wydział Statystycznej Informacji Zarządczej, Departament Strategii i Funduszy Europejskich, Ministerstwo Sprawiedliwości.
- Szumiło-Kulczycka, Dobrosława. 2012. *Czynności operacyjno-rozpoznawcze i ich relacje do procesu karnego*. Warszawa: LexisNexis.
- Szumiło-Kulczycka, Dobrosława. 2015. Korzystanie w postępowaniu karnym przez sądy pierwszej instancji z informacji zebranych operacyjnie. *Prawo w Działaniu* 23: 7-103.
- Taracha, Adam. 2006. *Czynności operacyjno-rozpoznawcze. Aspekty kryminalistyczne i prawnowodowe*. Lublin: Wydawnictwo Uniwersytetu Marii Curie-Skłodowskiej.

- Tuleja, Piotr. 2021. Komentarz do art. 9. In: *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, (ed.) Piotr Tuleja, wyd. II. Warszawa: Wolters Kluwer. Wydanie elektroniczne LEX. Last access 19.12.2022.
- Wieczorek, Leszek. 2005. *Przestępczość i demoralizacja nieletnich w Polsce w okresie transformacji ustrojowej*. Katowice: Wydawnictwo Naukowe Śląsk.

Internet sources

- Informacja dotycząca stanu zagrożenia przestępczością nieletnich w Polsce w I półroczu 2013 roku. Biuro Prewencji i Ruchu Drogowego KGP Wydział Prewencji, <https://policja.pl/pol/kgp/biuro-prewencji/wydzial-prewencji/problematyka-nieletnich/90639,Problematyka-nieletnichmaloletnich.html>. Last access 29.11.2022.
- Informacja dotycząca stanu zagrożenia przestępczością nieletnich w Polsce w 2020 roku. Biuro Prewencji KGP Wydział Prewencji, <https://policja.pl/pol/kgp/biuro-prewencji/wydzial-prewencji/problematyka-nieletnich/90639,Problematyka-nieletnichmaloletnich.html>. Last access 29.11.2022.
- Informacja dotycząca stanu zagrożenia przestępczością nieletnich w Polsce w 2021 roku. Biuro Prewencji KGP Wydział Prewencji, <https://policja.pl/pol/kgp/biuro-prewencji/wydzial-prewencji/problematyka-nieletnich/90639,Problematyka-nieletnichmaloletnich.html>. Last access 29.11.2022.
- Napady rabunkowe nieletnich. Kim są sprawcy i dlaczego jest ich więcej? <https://www.tvp.info/57466711/szwecja-raport-duzy-wzrost-liczby-napadow-rabunkowych-dokonanych-przez-nieletnich>. Last access 12.12.2022.
- Szwajcer, Diana. 2022. Cała prawda o przestępczości w Szwecji. Prof. Sarnecki: nie boję się wyjść na ulicę, <https://wiadomosci.onet.pl/swiat/cala-prawda-o-przestepczosci-w-szwecji-nie-boje-sie-wyjsc-na-ulice/0grs1z9>. Last access 12.12.2022.
- Terror w państwie Europy Zachodniej. Już 60. Ofiara śmiertelna, <https://www.tvp.info/64931729/szwecja-pograzona-walkami-gangow-juz-kilkudziesieciu-zabitych>. Last access 6.12.2022.
- Wojna gangów w Szwecji, giną kolejne osoby. Rząd zdecydował o zaangażowaniu wojska, <https://tvn24.pl/swiat/szwecja-wojna-gangow-gina-kolejne-osoby-rzad-zdecydowal-o-zaangazowaniu-wojska-7366229>. Last access 29.09.2023.
- Zyśk, Daniel. 2022. Szwecję zalała fala brutalnej przestępczości. Jest 60 ofiara strzelanin. Szef policji: w 2023 roku niewiele się zmieni, <https://www.pap.pl/aktualnosci/news%2C1499010%2Cszwecje-zalala-fala-brutalnej-przestepczosci-jest-60-ofiara-strzelanin>. Last access 12.12.2022.

