

The Commander-in-Chief in National Security Command and Control System in the Republic of Poland

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The Commander-in-Chief of the Armed Forces in the Republic of Poland it is one of the main authority in a war. But, in Polish legal acts it is not completely clear when the Commander-in-Chief should be appointed or even the most important who should/can be appointed for this position? According to Polish law, Commander-in-Chief shall be appointed in certain situations - for the duration of the war¹ and (sometimes) in the martial law². In this paper the author will describe the role and functioning the Commander-in-Chief in Poland.

Also, it should be note, that nowadays in Poland decisions-makers prepare the National Security System. Its subsystem about command and control concerns to indication of role, place and functions of the most important bodies. But in legal rules still exist a lot of doubts of definitions and some problems with interpretation of certain situations. The main problem is that in Poland still does not exist one legal act where this system should be presented³. We have to realized that in Poland exists three kind of the “state defense preparedness”⁴, but it is not this same like extraordinary measures⁵. The state defense preparedness there are according to peace time, crisis time and war time. The extraordinary measures we can divided for martial law, a state of emergency or a state of natural disaster. So, which is the role of Commander-in-Chief in every of this state defense preparedness? It is necesry to find proper and clear legal solution.

¹ *The Polish Constitution Act of 1997*, art. 134: “1. The President of the Republic shall be the Supreme Commander of the Armed Forces of the Republic of Poland. (...) 4. President of the Republic, **for a period of war**, shall appoint the Commander-in-Chief of the Armed Forces on request of the Prime Minister. He may dismiss the Commander-in-Chief of the Armed Forces in accordance with the same procedure. The authority of the Commander-in-Chief of the Armed Forces, as well as the principle of his subordination to the constitutional organs of the Republic of Poland, shall be specified by statute”.

² *The Act of 29 August 2002 - Martial law and the competence of the Commander in Chief and his subordination to the constitutional authorities of the Polish Republic*, art. 10: “If at the time of martial law, there is the need for national defense, a defense that directs the Polish President in cooperation with the Council of Ministers. President of the Polish Republic during the martial law, in particular: - **may appoint, at the request of the Prime Minister, Commander-in-Chief**; - approve, at the request of the Commander-in-Chief, operating plans for the use of the Armed Forces; -recognizes, at the request of the Commander-in-Chief, certain areas of the Republic of Polish for immediate zone of military operations,,

³ Nowadays, just we have “regulation” about managing system, but its legal power it is not the same like an “act”. Regulation is binding, but still we need overriding act.

⁴ *The Regulation on the defense readiness of the state* (Journal of Laws of 2004, No. 219, item. 2218).

⁵ *The Polish Constitution Act of 1997*, art. 228: “In situations of particular danger, if ordinary constitutional measures are inadequate, any of the following appropriate extraordinary measures may be introduced: martial law, a state of emergency or a state of natural disaster”. But also exists legal acts for every kind of extraordinary measures.

On the other hand, several weeks ago we adopted some very important changes in the act on the duty to defend⁶. These changes are to be basis for new rules of functioning Commander-in-Chief and it is a result of the reform of the command and control. But, the problem is that the legislation was challenged in the Constitutional Court and the case are pending... So, maybe every single next act will not accordant with *The Polish Constitution Act*.

Unfortunately, the following questions are still actual⁷:

1. When the Commander-in-Chief should be appointed before the war or during the war?
2. Does Commander-in-Chief have to be appointed in every time in martial law?
3. Who should be Commander-in-Chief?
4. Does Commander-in-Chief can be appointed during normal functioning of state just in case of war without no external threat?
5. What about situation when the Prime Minister and the President of the Republic of Poland does not come to a *consensus* who should be Commander-in-Chief?

Key words: *Commander-in-Chief, President of the Republic of Poland, National Security System, Command and Control.*

⁶ *The Act of 21 November 1967 – Universal duty to defend the Republic of Poland* (with amendments) .

⁷ These questions were presented during ISMS Annual Conference 2014 and it will be described in conference publication - M. Kołodziejczak, *The Commander-in-Chief in legal system of the Republic of Poland*, [in:] W. Feichtinger, B. Hensellek (Eds.), *Militärwissenschaftliches Journal der Landesverteidigungsakademie*, Vienna 2015.