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New Terrorist Offences in Polish Criminal Law

Nowe przestępstwa terrorystyczne w polskim prawie karnym

THE DEVELOPMENT OF POLISH ANTI-TERRORIST
CRIMINAL LAW REGULATION

For a long time, Polish criminal law did not formally distinguish terrorist offences of any kind. Terrorist acts, should any happen, would have had to be treated as “ordinary” offences and qualified on the basis of these provisions which best described the *actus reus* of the offender. This also meant that some types of terrorist activity, especially connected with preparing some kinds of attacks, did not constitute offences.¹

This situation had to change when Poland became a member of the European Community in 2004. One of the legal requirements connected with the accession to the EC was to implement the regulation of the framework decision of 13 June 2002 on combating terrorism (2002/475/JHA),² which obliged the member states to introduce the concept of “terrorist offences” into their legal systems. As a result, the Polish lawmaker added § 20 to Art. 115 of the Criminal Code

¹ About the legal possibilities of reacting to terrorist activity in the past, before the concept of offences of a terrorist character was introduced into Polish criminal law and about the perceived need to introduce some changes, see: K. Indeck, *Prawo karne wobec terroryzmu i aktu terrorystycznego*, Łódź 1998; R. Aleksandrowicz, *Pojęcie czynu o charakterze terrorystycznym „de lege lata” i „de lege ferenda” (wybrane zagadnienia)*, „Problemy praworządności” 1988, nr 10, p. 24; M. Filar, *Terroryzm – problemy definicyjne oraz regulacje prawne w polskim prawie karnym w świetle prawa międzynarodowego i porównawczego*, [in:] V. Kwiatkowska-Darul (red.), *Terroryzm. Materiały z sesji naukowej*, Toruń 2002, pp. 27–36.

² Official Journal L 164, 22.06.2002.

and the new provision contained the definition of “an offence of a terrorist character”.³ According to that regulation, any offence can become an offence of a terrorist character if the following requirements are met: the offence is punished with imprisonment and the maximum length of that punishment is no less than 5 years (this excludes the less serious misdemeanors from the category of possible offences of a terrorist character) and the offence is committed with one of three aims: to seriously intimidate many persons, compel a public authority body of the Republic of Poland or of another state or an international organisation to perform or to abstain from performing certain acts, to cause serious destabilisation in the political system or economy of the Republic of Poland, another state or an international organisation. A threat to commit such an offence also constitutes an offence of a terrorist character.⁴

At the same time, the Polish lawmaker added the perpetrator of an offence of a terrorist character to the category of offenders who, at the stage of imposing punishment, are to be treated as multiple recidivists (Art. 65 of the Criminal Code) and changed the construction of Art. 258 which penalises the participation in a criminal association by adding two aggravated types of offences to that provision. Participation in an organised group or an association having the aim of committing an offence of a terrorist character was placed alongside the participation in an armed criminal structure and was to be punished with imprisonment from 6 months to 8 years (participation in an “ordinary” criminal organised group or association is punished with imprisonment from 3 months to 5 years), and establishing or directing such a criminal structure became a new felony, punished with imprisonment from 3 to 15 years (establishing or directing an “ordinary” or armed criminal structure is punished with imprisonment from 1 to 10 years).

These changes soon turned out to be insufficient as the international requirements referring to combating terrorism were also changing at that time. The next modification was the introduction of the offence of financing of terrorism in Art. 165a of the Criminal Code in 2009,⁵ yet that regulation was criticised from the very beginning because it required the presence of a specific intent of the offender (he had to offer various assets with the aim of financing an offence of

³ This change was introduced by the statute of 16 April 2004 on the modification of the statute – Criminal Code and some other statutes (Journal of Laws No. 93, position 889).

⁴ Some doubts may be expressed about the exact fulfillment of the framework decision’s requirements by this legislative move, more on this, see: A. Michalska-Warias, *Fighting terrorism in Polish Criminal Law*, „Białostockie Studia Prawnicze” 2011, nr 10, pp. 157–169.

⁵ The change was introduced by the statute of 25 June 2009 on the change of the statute on counteracting the introduction of assets stemming from illegal or uncovered sources into the financial system and on counteracting the financing of terrorism and on the modification of some other statutes (Journal of Laws No. 166, position 131).

a terrorist character), which was quite difficult to prove.⁶ The lawmaker at this stage also introduced Art. 255a which in its original shape described the offence of presenting in public or spreading of content which could facilitate the commission of an offence of a terrorist character, with the intention that such an offence should be committed. This change was introduced in 2011.⁷

RECENT CHANGES IN THE CRIMINAL CODE

This legal status was also modified recently and some of the changes seem to be quite fundamental. In 2016, the lawmaker introduced two more offences connected with typical terrorist activity: the so-called “terrorist training” and crossing the border of Poland with the aim of committing a terrorist offence abroad, and in 2017, the offence of financing of terrorism was modified so extensively that the range of forbidden activities is now much broader. The changes were again justified mainly by international requirements, since Poland, fortunately, has not experienced so far the manifestations of terrorism that are becoming common in Western Europe, yet the tendency to approximate the criminal law systems is quite visible in the case of terrorist offences.⁸

Terrorist training – Art. 255a § 2 of the Criminal Code

The changes introduced in 2016 were the result of the statute of 16 May 2016 on anti-terrorist activities.⁹ The lawmaker marked the text of Art. 255a in its original shape as § 1 and added a new offence in § 2 which forbids participation in a training which might facilitate the commission of an offence of a terrorist character with the aim of committing such an offence. The new offence of “terrorist training” is punished with imprisonment from 3 months to 5 years. The need to criminalise such a behaviour can be justified in the light of the regulations of the already mentioned framework decision on combating terrorism after its modification by the Council framework decision 2008/919/JHA of 28 November 2008 amending Framework Decision 2002/475/

⁶ See: K. Wiak, *Kryminalizacja finansowania terroryzmu w polskim prawie karnym*, „Palestra” 2010, nr 7–8, pp. 64–65; E. Guzik-Makaruk, W. Filipkowski, *Kryminalizacja finansowania terroryzmu na tle prawnoporównawczym*, „Studia prawnoustrojowe” 2009, no. 10, p. 62.

⁷ The new offence was introduced by the statute of 29 July 2011 on the modification of the statute – Criminal Code, the statute – Code on Criminal Proceedings and the statute on the responsibility of legal bodies for acts forbidden under the threat of punishment (Journal of Laws No. 191, position 1135).

⁸ About the influence of globalisation on the Polish criminal law, including the anti-terrorist solutions, see the monograph: C. Nowak, *Wpływ procesów globalizacyjnych na polskie prawo karne*, Warszawa 2014, especially pp. 316–327.

⁹ Journal of Laws of 2016, position 904.

JHA on combating terrorism¹⁰ which in Art. 3 contains the requirement to introduce into the systems of member states the offence of training for terrorism. The need to criminalise participation in terrorist training was also connected with the requirements of the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism,¹¹ which was accepted in Riga on 22 October 2015. Art. 3 § 1 of that legal document contains the definition of “receiving training for terrorism”, which means to receive instruction, including obtaining knowledge or practical skills, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of carrying out or contributing to the commission of a terrorist offence. According to Art. 3 § 2, each Party shall adopt such measures as may be necessary to establish “receiving training for terrorism”, as defined in § 1, when committed unlawfully and intentionally, as a criminal offence under its domestic law.

While it seems quite justifiable to criminalise this type of activity in response to the appearance of such criminal behaviours, the way the new type of offence is described may cause some interpretation difficulties. One of the questions that one should first pose refers to the meaning of the term “participates” and the range of persons who can be treated as offenders. The main problem here is whether the person who is training others for terrorist activity is fulfilling the statutory features of that offence. If the answer is negative, it would mean that such a person could only be held responsible e.g. for abetting the commission of offences of a terrorist character, but this would be only possible in those cases when the training would refer to a specific offence. The above mentioned protocol requires the criminalisation of only receiving training for terrorism, yet it can be argued that the solution accepted by the Polish lawmaker is much broader since the provision of Art. 255a § 2 refers to “participation” and not only “receiving” terrorist training (which is also visible in the lack of indications referring to the exact content of the training). And, therefore, it seems possible to assume that also the person supplying terrorist training may be found guilty of participating in such a training.¹² The supplier of knowledge useful for committing terrorist acts can be responsible for the discussed offence only when he was training another person or persons with the aim that they should commit offences of a terrorist character. The *mens rea* of the offence from Art. 255a § 2 is restricted only to the direct intention characterised by the aim the perpetrator wants to achieve which excludes the responsibility of persons who do not have that aim

¹⁰ Official Journal L 330/21, 09.12.2008.

¹¹ Council of Europe Treaty Series – No. 217.

¹² This interpretation is not, however, obvious and it seems that the possible doubts about it can be only dismissed by some established court practice (though, hopefully, the problem might remain only theoretical for a long time). Another interpretation, restricting the perpetrators to persons receiving terrorist training seems to be proposed by A. Herzog, [in:] R.A. Stefański (red.), *Kodeks karny. Komentarz*, wyd. 3, Warszawa 2017.

in mind. This solution, while preventing too broad application of the provision, also means that proving the *mens rea* of the offender may be quite difficult in many cases. The very idea of an offence of a terrorist character from Art. 115 § 20 of the Criminal Code is connected with the special aim of the offender, so, to prove that somebody participated in terrorist training, it will be necessary to prove that the person participated in the training with the aim of committing an offence which would be committed to achieve one of the three aims described by Art. 115 § 20 (e.g. somebody was participating in a training devoted to the construction of explosive devices with the aim to commit a bomb attack and, thus, to seriously intimidate many persons). That means that participating in a training which is to make possible the killing of a specific person, if the offender wants to achieve just that and does not intend to seriously intimidate many persons or achieve any other aim mentioned in Art. 115 § 20 of the Criminal Code will not fulfill the statutory features of the misdemeanor from Art. 255a § 2 of the Criminal Code (and since preparation for murder is not forbidden in the Polish criminal law, as long as the training does not involve breaking some explicit other regulations, it will not be a crime at all).¹³

It should also be stressed that the training in which the offender participates does not have to be an illegal one. It is only important to state that the knowledge obtained during the training could make possible the commission of an offence of a terrorist character (therefore, the participation in a legal shooting training, as long as the intention of the offender can be proved, will fulfill the statutory features of the discussed offence).¹⁴

It is interesting to notice that though the described offence is strictly connected with the notion of terrorism, yet, it cannot be formally treated as an offence of a terrorist character in the meaning of Art. 115 § 20 since it is committed with the direct intention of committing such an offence, yet the direct aim of the very participation in a terrorist training is not the same as the aims mentioned in the definition of an offence of a terrorist character, since one cannot assume that e.g. the aim of the participation in a terrorist training is to thus seriously intimidate many people. The same refers in fact to the other offences which contain the reference to an offence of a terrorist character.¹⁵

¹³ The possible difficulties with proving the *mens rea* of an offence of a terrorist character or of an offence which refers to the commission of such offences has already been emphasised in literature (see e.g.: A. Michalska-Warias, [in:] T. Bojarski (red.), *Kodeks karny. Komentarz*, Warszawa 2016, pp. 323–325).

¹⁴ A different opinion is presented by A. Lach, who states that the provision of Art. 255a § 2 refers only to training explicitly dedicated to acquiring terrorist abilities (see: A. Lach, [in:] V. Konarska-Wrzošek (red.), *Kodeks karny. Komentarz*, Warszawa 2016, p. 1110).

¹⁵ This has already been stressed in the literature, see: A. Michalska-Warias, [in:] M. Królikowski, R. Zawłocki, *Kodeks karny. Część szczególna. Komentarz*, t. II, Warszawa 2013, p. 327.

Crossing the border with the aim of committing a terrorist offence – Art. 259a and 259b of the Criminal Code

Another totally new offence recently added to the Polish criminal law system is the offence described in Art. 259a of the Criminal Code. According to that provision, whoever crosses the border of the Republic of Poland with the aim of committing on the territory of another state an offence of a terrorist character or the offence described by Art. 255a or 258 § 2 or 4 shall be punished with imprisonment from 3 months to 5 years.

The adoption of this solution is again connected with the requirements of the above mentioned Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism. Art. 4 § 1 of that legal act defines “travelling abroad for the purpose of terrorism” as travelling to a State, which is not that of the traveller’s nationality or residence, for the purpose of the commission of, contribution to or participation in a terrorist offence, or the providing or receiving of training for terrorism. According to Art. 4 § 2, each Party shall adopt such measures as may be necessary to establish “travelling abroad for the purpose of terrorism”, as defined in § 1, from its territory or by its nationals, when committed unlawfully and intentionally, as a criminal offence under its domestic law. In doing so, each Party may establish conditions required by and in line with its constitutional principles.

The regulation adopted by the Polish lawmaker is in accordance with the requirements of the Protocol, yet, some doubts may be expressed about the accepted shape of that offence. First, it should be stressed that as a rule it is not a crime to cross the border of Poland with the aim of committing an offence of a terrorist character on its territory (unless it can be treated as preparatory activities for that offence and unless the preparation for that offence is forbidden). This solution seems to be difficult to explain from the criminal policy point of view. The regulation is clearly a response to the phenomenon known to some Western European countries whose citizens travel abroad to participate in terrorist activities e.g. of the so-called Islamic State of Iraq and Syria. Yet, it seems quite doubtful that the lawmaker has decided to expressly criminalise the crossing of the Polish border in order to commit a serious crime abroad and at the same time no special regulation refers to the crossing of the same border in order to commit such an offence on the territory of Poland. It is also quite characteristic that the solution accepted in Art. 259a is a good example of criminalising a behaviour which is quite remote from the commission of the final criminal act,¹⁶ which may lead to some doubts about the rationality of the criminalisation – in fact the very

¹⁶ This aspect of the offence is stressed by Krzysztof Wiak (see: K. Wiak, [in:] A. Grześkowiak, K. Wiak (red.), *Kodeks karny. Komentarz*, Warszawa 2017, p. 1185).

act of crossing the border is in its essence a neutral one and becomes an offence only when it is done with a certain intention, and this seems to be quite contrary to the classic approach of the criminal law, which was concentrated on punishing acts which in their essence were blameworthy. Such a construction also means that there may be great difficulties with proving the *mens rea* of the offender. In fact, it will be relatively easy in those cases in which he/she will have committed the intended offence but then punishing him/her for that offence would generally be sufficient (one could even consider the crossing of the border as the so-called “earlier act to be co-punished with the main offence” and which is not shown in the legal qualification).

Some doubts may appear in connection with the description of the aim of the offender. According to Art. 259a of the Criminal Code, the offender should have the aim of committing abroad an offence of a terrorist character or the offence described by Art. 255a (i.e. the spreading of information which may facilitate the commission of an offence of a terrorist character – § 1, and the terrorist training – § 2) or Art. 258 § 2 or 4. The last case leads to some doubts because Art. 258 § 2 criminalises the participation in an organised criminal group or association which are either armed or intend to commit an offence of a terrorist character, and § 4 criminalises the establishing or directing those organised criminal structures which intend to commit an offence of a terrorist character. This means that while it is an offence to cross the Polish border with the aim of participating in an armed criminal organisation abroad (since this is clearly indicated by the reference to Art. 258 § 2), the same act undertaken with the intention of establishing or directing abroad such a structure does not constitute an offence – since that kind of behaviour is criminalised in Art. 258 § 3 of the Criminal Code, which is not indicated in Art. 259a. Again, the rationality of that solution seems to be very doubtful.

The offender described in Art. 259a may have the punishment significantly reduced if he/she meets the requirements described in Art. 259b. The lawmaker’s intention was to thus weaken the criminal solidarity of offenders in those cases when more persons are engaged in the criminal behaviour.¹⁷ The requirements are the following ones: the offender has to resign, out of his/her free will, from the commission of the offence of a terrorist character or the other offences indicated in Art. 259a abroad and either disclose to the prosecution body all the important circumstances of the committed act or prevent the commission of an intended offence (Art. 259b point 1). If somebody was an abettor, then the requirements are different – such a person has to resign out of his free will from abetting and to disclose to the prosecution body all the important circumstances of the committed

¹⁷ See the motives of the modification of the Criminal Code (Sejm of the VIII term of office, Print no. 516).

act, especially information about the persons who committed the offences described in Art. 259a (Art. 259b point 2).

These conditions are expressed in such a way that again some serious interpretation problems may arise. One of them is the problem of resigning from abetting the commission of the offence from Art. 259a which seems possible only as long as the main offender has not crossed the border. If he has done it, the abetting is completed and no resigning from that type of activity is possible. This seems to be contrary to the requirement of disclosing information about the committed act (which should refer to the offence of crossing the border of Poland with the aims indicated in Art. 259a) – if the act is committed then also the abetting is committed and the first requirement cannot be met. The same refers to the disclosing of the persons who committed the offences indicated in Art. 259a – if these offences are already committed abroad, then also the crossing of the border must have already taken place, so again resignation from abetting seems hardly possible at this stage. This would mean that the provision could in fact apply to a person who resigned from abetting the crossing of the border for terrorist aims and at the same time had knowledge about some other offenders guilty of the offences mentioned in Art. 259a or of the offenders he was to help who managed to cross the border without his help and then committed the indicated offences abroad. The chances of such a case happening in practice seem, however, rather minimal.

It is also difficult to interpret the “rewards” the offender may obtain for his cooperation with the prosecution body. According to the provision of art. 259b, if the above requirements are met, the court has to, on the prosecutor’s motion, apply the extraordinary mitigation of punishment, and it may even conditionally suspend the imposed punishment. This regulation introduces a totally new solution about the extraordinary mitigation of punishment, which is totally dependent on the prosecutor’s decision. If the prosecutor files the motion, the court has to apply it. Other cases of obligatory mitigation of punishment are based only on the fulfillment of statutory requirements (e.g. in Art. 60 § 3 or in Art. 252 § 5 of the Criminal Code) and the one case when the possibility of applying extraordinary mitigation of punishment is connected with the prosecutor’s motion, described in Art. 60 § 4 of the Criminal Code, is not obligatory – the court does not have to act according to that motion and may not apply the extraordinary mitigation of punishment. The new solution may lead to some problems connected e.g. with controlling the basis for the prosecutor’s motion. There seems to be no mechanism of checking if the prosecutor properly interpreted the fulfillment of the requirements enumerated in Art. 259b.

The extraordinary mitigation of punishment in the case of the offence from Art. 259a (which is punished with imprisonment from 3 months to 5 years) means that the court should impose the fine or the restriction of liberty (whose essence is the duty to work for public benefit). This makes it difficult to interpret the

possibility of applying the suspension of punishment to thus mitigated punishment, since the execution of these punishments cannot be suspended, and it is difficult to assume that such a basis was created by Art. 259b, since no rules of how this should function and on what conditions can be found in the Criminal Code.

The financing of terrorism – the modified Art. 165a of the Criminal Code

The third “new” offence to be described in this paper is not really new, since the offence of financing of terrorism was, as has already been mentioned, introduced into the Polish criminal law system in 2009, yet, the shape of the offence has been changed so much recently, that it is to some extent new. In its original shape the offence had just one form and the forbidden act was committed when the offender was gathering, handing over or offering different assets in order to finance an offence of a terrorist character. The punishment for this was imprisonment from 2 to 12 years.

Art. 165a was first modified in 2015 by the statute of 9 October 2015 on the modification of the statute – Criminal Code and some other statutes.¹⁸ The *mens rea* of the offence was then changed (and thus broadened). After the change the offender no longer had to act “in order to” (which required the proving of a very specific intent) but it became enough if he had the intention (i.e. he wanted to, or assuming that it could happen was accepting such a possibility) of financing offence of a terrorist character or the intention of making the assets available to an organised group or association whose aim was to commit such an offence or to a member of such a group or association.¹⁹

The last and most extensive modification of the offence from Art. 165a of the Criminal Code was introduced by the statute of 23 March 2017 on the modification of the statute – Criminal Code and some other statutes.²⁰ The lawmaker this time criminalised four separate offences connected with the financing of terrorism. The *actus reus* of the offence described in Art. 165a § 1 is similar to that of the former Art. 165a – the offender is collecting, delivering or offering different assets in the form of means of payment, financial instruments, securities, foreign currency, property rights or other movable or immovable property. The *mens rea* is fulfilled when these acts are accompanied by the intention to finance an offence

¹⁸ Journal of Laws of 2015, position 1855.

¹⁹ More on the offence of financing of terrorism in its original shape and after the modification from 2015, see e.g.: P. Petasz, [in:] M. Królikowski, R. Zawłocki (red.), *Kodeks karny. Część szczególna. Komentarz*, t. I, Warszawa 2013, pp. 340–345; D. Gruszecka, [in:] J. Giezek (red.), *Kodeks karny. Część szczególna. Komentarz*, Warszawa 2014, pp. 294–310; T. Oczkowski, [in:] V. Konarska-Wrzošek (red.), *Kodeks karny. Komentarz*, Warszawa 2016, p. 802; R.A. Stefański, [in:] R.A. Stefański (red.), *Kodeks karny. Komentarz*, wyd. 3, Warszawa 2017.

²⁰ Journal of Laws of 2017, position 768.

of a terrorist character or an offence indicated in Art. 120, 121, 136, 166, 167, 171, 252, 255a or 259a of the Criminal Code.

The same penalty, i.e. from 2 to 12 years of imprisonment, is to be imposed on the offender who makes the assets indicated in § 1 available to an organised group or association whose purpose is to commit one of the offences mentioned in that provision or to a person who participates in such a group or association or to a person who intends to commit such an offence.

It has also become a forbidden act to cover, without statutory obligation, the costs connected with caring for the needs or fulfilling financial obligations of the group, association or person indicated in § 2. This offence is punished with imprisonment from 1 month to 3 years. The last newly criminalised act is described in Art. 165a § 4 – according to that provision the same punishment as for the misdemeanor from § 3 is to be imposed on the offender who commits the acts described in § 1 and 2 unintentionally.

As can be inferred from the analysis of the first two offences, Art. 165a § 1 and 2 no longer criminalise only the financing of terrorism. After the modification it is also prohibited to finance a number of other offences, some of which are connected with the notion of terrorism, such as: using a weapon of mass destruction, forbidden by the international law (Art. 120), producing, collecting, buying, selling, storing, transporting or sending weapons of mass destruction or conducting research with the aim of producing or using such weapons (Art. 121), violent attack on some foreign states' officials or insulting such persons on the territory of Poland (Art. 136), overtaking the control of a ship or aircraft by violent means or deceit (Art. 166), placing of dangerous substances aboard a ship or aircraft (Art. 167), production and other manipulations with explosives and other dangerous substances (Art. 171), hostage taking (Art. 252), presenting in public or spreading of content which could facilitate the commission of an offence of a terrorist character and participation in terrorist training (Art. 255a), crossing the border of Poland with the aim of committing an offence of terrorist character abroad (Art. 259a).

One of the most interesting modifications is the criminalisation of covering, without statutory obligation, the costs connected with caring for the needs or fulfilling financial obligations of the group, association or person who financially support the offences indicated in Art. 165a § 1 of the Criminal Code. The clear aim of this regulation is to deprive such groups and persons of all kinds of undue support and to send the message to the society that the provision of such support constitutes a crime (e.g. providing an apartment for free to a group financially supporting terrorism).

The appearance of unintentional types of the offences described in Art. 165a § 1 and 2 is also a totally new solution. So far, all the offences connected with terrorism were intentional (often even the proving of the existence of a special aim

was required). Now, it is possible to prosecute persons for negligence resulting in financing terrorist or other criminal activity. This will, of course, be possible only when the person did foresee the possibility of committing the offence (but assumed it would not happen) or should have foreseen it. It seems that to some extent the provision of Art. 165a § 4 can be used to prosecute persons who in fact knew what kind of activity they were financing, yet there is not enough evidence to accuse them of intentionally doing it. Since proving unintentional acts is easier, such persons might be held responsible for that, while so far they would have had to be declared innocent.

CLOSING REMARKS

Terrorist offences of different types appeared in the Polish legal system mainly due to international obligations of the Republic of Poland. Since the threat of terrorism is constantly growing, especially in Western Europe, there are new solutions adopted in Polish criminal law broadening the range of forbidden activities, even though these provisions have not been so far tested in practice. Some of the new solutions seem to fit quite well into the system, while others – as they describe situations not really present in Poland – may be more difficult to understand from the criminal policy point of view. Nonetheless, Polish law seems to be up to date with most of the contemporary manifestations of terrorism, though it should be hoped that the provisions referring to terrorism will not have to be used in the foreseeable future.

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SUMMARY

The author describes the evolution of anti-terrorist substantial criminal law regulations in Poland. It is stressed that the new offences were introduced more because of an international legal pressure to do so than because of the existence of a real need for such regulations, since Poland has not so far directly experienced terrorism. The author especially focuses on the changes to the Criminal Code introduced since 2016, discussing the new offence of participating in a terrorist training (Art. 255a § 2 of the Criminal Code), the offence of crossing the border of Poland with the intention to commit a terrorist act abroad (Art. 259a of the Criminal Code), and the recently much changed shape of the offence of financing of terrorism (Art. 165a of the Criminal Code), which can now be committed even unintentionally.

Keywords: terrorist offences; offence of a terrorist character; terrorist training; financing of terrorism

STRESZCZENIE

W artykule została opisana ewolucja antyterrorystycznych rozwiązań polskiego prawa karnego. Podkreślono, że nowe typy czynów zabronionych były wprowadzane bardziej pod wpływem prawnej presji międzynarodowej niż z powodu istnienia praktycznej potrzeby takich rozwiązań, ponieważ Polska nie doświadczyła dotąd bezpośrednio terroryzmu. W opracowaniu szczególnie dużo uwagi poświęcono zmianom w Kodeksie karnym wprowadzonym od 2016 r., poza tym zostało omówione nowe przestępstwo udziału w szkoleniu terrorystycznym (art. 255a § 2 k.k.), przestępstwo przekroczenia granicy RP w celu popełnienia za granicą przestępstwa o charakterze terrorystycznym (art. 259a k.k.) oraz znacznie ostatnio zmieniony kształt przestępstwa finansowania terroryzmu (art. 165a k.k.), które obecnie może być popełnione nawet nieumyślnie.

Słowa kluczowe: przestępstwa terrorystyczne; przestępstwo o charakterze terrorystycznym; szkolenie terrorystyczne; finansowanie terroryzmu