

AGORA International Journal of Juridical Sciences, <http://univagora.ro/jour/index.php/aijs>
ISSN 1843-570X, E-ISSN 2067-7677
No. 2 (2020), pp. 49 - 53

SOME THOUGHTS ON PERFORMING A LAW ENFORCEMENT PUBLIC TASK AS A PUBLIC SERVICE

S. MADAI

Sándor MADAI

Head of Department of Criminal law and Criminology, Associate Professor
Faculty of Law, University of Debrecen, Hungary.

Correspondence: Sándor Madai, Agora University, 8 Piața Tineretului St., Oradea, Romania
E-mail: madai.sandor@law.unideb.hu

ABSTRACT: *The present study aims to show how law enforcement activity emerges as a public service in European countries. The study does not cover a more profound presentation of each idea's practical implementation, as this requires a more comprehensive review. We can see, different countries organize law enforcement in their country from various professional and organizational aspects. It is also necessary to explain that the concept of policing, as a starting point, is interpreted differently, which determines the direction of their perception. The study presents some examples: we can also see examples of UK and continental European solutions.*

KEY WORDS: *law enforcement, public task, public service, police*

INTRODUCTION

The concept of security is gaining a more and more comprehensive interpretation. In a changing security environment, challenges, risks and threats now emerge at multiple levels - at the level of individuals, communities, states and regions, and the global level - and individuals, governmental and non-governmental organizations, and affect a wide range of transnational actors. Today, the joint management of the political, military, economic and financial, social, including human and minority rights, and environmental dimensions of security has become essential. However, XXI. century, the military segment of security chooses with new emphases. Security policy challenges, which require comprehensive and coordinated political, economic and, where necessary, military action, are becoming increasingly important. Globalization and unequal development are causing profound changes in Hungary's security environment. The process of globalization and international integration not only strengthens openness and better access to the achievements of action but also makes them more vulnerable to the effects of threats and dangers. New centres of power have emerged or are rising, and we must reasonably reckon with weak and dysfunctional states. For each actor, scientific and technological advances do not represent targeted uses in the context of strategic threats. The emergence and strengthening of non-state actors threatening security continues. All this rearranges and makes the security situation in each region and the international balance of power more unpredictable.

CONCEPTUAL BASIS

Perhaps there are few disciplines in the world today that would struggle with such terminological chaos as law enforcement. For example, the definition of law enforcement in Hungarian literature, like law enforcement, is quite controversial. In some cases, policing is applied to the mere performance of the police organization; in other cases, the authors use an extremely comprehensive concept of policing. According to the latter, the policing is the segment of public administration that provides general security to society and that eliminates disturbances resulting from unlawful human behaviour in possession of a monopoly of

legitimate physical violence.¹ At the same time, law enforcement activities are carried out by other law enforcement and administrative bodies, and even by private economic organizations. In this sense, a law enforcement-type task may sometimes be performed by a professional member of a law enforcement organization, a non-law enforcement officer of the Immigration and Citizenship Office, or a member of the Nature Conservation Service, and we could list. In a broad sense, security can also be assessed as a law enforcement activity: the activity of a field guard employed by the local government or even a plant police officer employed by an economic organization, as well as the area covered by private security market participants (money carriers, bank guards, security guards).

Conceptual, definitional problems come under even more severe judgment if we realize that there are indeed contradictory, opaque, overlapping directions in terms of basic concepts as well. It is enough to think of the concept of law enforcement (or law enforcement science). The term is specifically a Hungarian entity, although of course its equivalent is used abroad; however, the term is known in German (*Polizei* and its various forms), and Anglo-Saxon fields (*Policy* and its various forms) return the definition immanent in any way essence rather than formally.² Regarding the concept of policing, we can distinguish (among many other demarcations) the concepts of material, institutional (or organizational), and formal policing.³ The essence of the material concept is that he perceives the police as the embodiment of legitimate violence and legal coercion, the aim of which is to protect individuals and society from conduct that threatens public order and public security. The term institutional (or organizational) refers to a specific group of bodies and institutions that have law enforcement powers. In a formal sense, we mean the functions that the state exercises by its law enforcement agencies.⁴

In the present work, we use law enforcement in a narrow sense, i.e. as a concept identical to or close to “classical” law enforcement, i.e. as a collective category of conduct aimed at preventing or eliminating violations or threats to public order and ensuring public order.⁵ To further nuance the picture, we must also refer to the fact that today (and even before today) there have been trends that have brought with them new concepts. This circumstance further complicated the already problem-free conception or use. For example, municipal police and community police have emerged as new concepts, but we could go on and on.

In terms of its tasks and powers, the municipal police is similar to the state (centralized) police, however, it is subordinated to the given local government, so from the point of view of leadership the local government is a relevant police body operating as an integral part of it. Thus, the municipal police is an alternative to the state-run police - although perhaps it is better to look at it as an adjunct - already if we consider the place held in the organizational system of the public administration.⁶ Examining the issue only from the side of public service - and not from the side of police, law enforcement - the primary difference between the two organizational structures is which public entity provides the public service and which is

¹ See, for example, the standpoint of Géza Finszter. Finszter Géza: *A rendészeti rendszer alkotmányos és közjogi alapjai* [The constitutional and public law foundations of the law enforcement system], Budapest, 2008, 18-19.

² Katona Géza: *A kriminálpolitikai és a rendészettudományi fogalomrendszer analízise, az egységes fogalomhasználat biztosítása* [Analysis of the concept system of criminal policy and law enforcement, ensuring uniform use of concepts], Budapest, 2008, 11.; Szamel Lajos: *A rendészet és a rendőrség jogi szabályozásának elméleti alapjai* [Theoretical bases of the legal regulation of the law enforcement and the police]. Budapest, 1990, 27.

³ Katona Géza: *Adalékok a rendészet fogalmának meghatározásához* [Additives to define law enforcement]. *Rendészeti Szemle*, 1993/6.

⁴ Hans-Gerd Pieper: *Polizei- und Ordnungsrecht NRW* [Police and police security law], ALPMANN und SCHMIDT, Münster, 2011, 1.

⁵ To put it simply, we mean policing in the ordinary sense, and we do not cover areas such as immigration, border policing, fire policing, disaster relief, environmental policing..

⁶ For an overview of Hungarian concepts, see Kókényesi József: *Az önkormányzati rendészet néhány kérdése* [Some questions of local government policing], Budapest, 2008.

SOME THOUGHTS ON PERFORMING A LAW ENFORCEMENT PUBLIC TASK AS A PUBLIC SERVICE

responsible for it. It is clear that, even if a clean model could be implemented, but there is very little chance of this in the current situation in Europe, the state or the municipality would be solely responsible for providing this public service. However, it is not difficult to see that public service is also unequal in the case of the state police model, as in some areas serve more police officers, with more professional commitment, etc., in others, there is less, which in itself is disproportionate. If only the local government model were to be implemented, these inequalities would probably - and certainly - intensify. Why? Because the municipality is responsible for the provision of the public service, including its financing. Just looking around, either in Hungary or in Europe, near or far, it can be seen that a municipality with stronger economic potential can objectively provide more resources for police tasks than a poorer settlement with only modest economic potential (county, region, etc.).

Moreover, a larger resource can mean more professionals, more modern technology, and possibly better working conditions, which can mean a higher level of public service, ergo better public safety. Of course, we must also draw attention to the fact that in the case of such a model, a more favourable resource background is not enough in itself, as it is only an objective option, but by no means a guarantee of better public service, as it requires from their political will, resources can be allocated to the provision of certain public services, without which economic opportunities will only be realized as untapped opportunities. On the other hand, it is also true that a municipality that can present more modest resources can spend more on its police if decision-makers so decide. However, given that as a result of the global crisis that began in 2008, the possibilities of accessing resources have not been reduced, it is also conceivable that more resources would be available only at the expense of other public services.

About municipal police, there has been a recent structural change in the several Member States of the European Union. In Belgium, police reform took place in 2000 and 2002.⁷ The former federal gendarmerie, the federal criminal police, and the community police were integrated into a police organization (Integrated Police). The integrated police were organized at two levels of competence: the Federal Police, which employs 13,000 staff, and the Local Police, which is zoned and has 27,000 staff. Based on these, we could ask how the population judges the reorganization of the police, its efficiency. Studies conducted in 2008-2009 show that 80% of the population is satisfied with the reorganization of the police.

In Austria, the 37 Community security guards have nearly the same rights as the federal police, so it is immediately apparent that there is a level of community policing below, or rather in addition to, the federal level. Accordingly, Austrian law precisely defines the competences and powers of each body.

In Italy, by contrast, the picture is rather inhomogeneous for local police. Every Italian municipality has one or more local police officers on duty. However, the local police cooperate with the national police in very different ways, and these standards of cooperation are extremely difficult to compare between municipal police. It is also difficult to see that there are several police units at the national level, or at least law enforcement: the Police of the State (Polizia di Stato), the Gendarmerie (Carabinieri), the Financial Guard (Guardia di Finanza) and the Penitentiary Police (Polizia Penitenziaria).

In England and Wales, the Police Reform Act came into force in May 2012. One of the important elements of the reform was the involvement of the population, the civil sphere, and the strengthening of cooperation - as we have already indicated as a trend. As part of the reform, residents will elect the Police and Crime Commissioner (PCC) for each police station. This process is not exactly like the practice in Anglo-Saxon, USA, where the sheriff is also elected there. The legislator hopes that this measure will strengthen the local responsibility and role in maintaining local security and will replace the work of the existing Police

⁷ Gregor Wenda: Kommunale Polizeien in Europa, Öffentliche Sicherheit [Local Police in Europe, Public Security], 2012/1-2., 54-55.

Authorities. Of course, we must not forget that this actor enjoys the political support of public life; he/she has achieved his election because candidates supported by political parties are running for office.

The community police is an immanent feature of social cooperation.⁸ In the concept, community refers to the community of people, and this can be interpreted at different levels of society.⁹ The starting point of the community police and the key to its effectiveness and efficiency is paying attention to social problems, understanding them and the intention to solve them.¹⁰ Thus, community-type policing does not act in a society based on the authority of state authority but is nurtured by the trust of law-abiding members of social groups. In the absence of this trust, the efficiency of the police is greatly reduced, as exemplified by the example of centralized, state-owned police (most recently, for example, the idea of a community police force in Central and Eastern Europe). It does not only apply to state law enforcement activities, and especially not only to Hungary, but we must refer to the fact that the pre-existing trust of society and individuals in the state institutional system has faltered. However, this too means that, as the police have to build on the trust and involvement of citizens and members of society, the efficiency of the police is reduced, as the information needed to operate does not or does not reach it as quickly as it does necessary for efficient and effective operation. As a result of this loss of confidence, the image of the community police is logically strengthened, which may be of great help in restoring social trust.¹¹ At this point, however, we must definitely refer to a significant circumstance: the community police are not exclusively the same as the municipal police. After all, if a person who is not sensitive to the problems of the given community, and in some cases not from that community (i.e. from another settlement, for example) performs law enforcement activities, we can talk about municipal police, but not about the community.¹²

CONCLUSIONS

As can be seen above, law enforcement is organized differently in European countries. This difference is mainly because different countries have different historical and social traditions. Whichever solution we examine, despite the differences, each aims to preserve public order and public order. The countries' goal is always to develop an efficient, economic and professional law enforcement activity as a public service. How effective this is always determined by social context.

BIBLIOGRAPHY

Finszter Géza: A rendészeti rendszer alkotmányos és közjogi alapjai [The constitutional and public law foundations of the law enforcement system], Budapest, 2008;
Katona Géza: A kriminálpolitikai és a rendészettudományi fogalomrendszer analízise, az egységes fogalomhasználat biztosítása [Analysis of the concept system of criminal policy and law enforcement, ensuring uniform use of concepts], Budapest, 2008;

⁸ Finszter Géza: A rendészeti rendszer alkotmányos és közjogi alapjai [The constitutional and public law foundations of the law enforcement system], Budapest, 2008, 143.

⁹ The starting point of the model was the United States. See details: Wesley G. Skogan: An Overview of Community Policing: Origins, Concepts and Implementation. In: Tom Williamson (ed.): The Handbook of Knowledge Based Policing: Current Conceptions and Future Directions, John Wiley & Sons Ltd, Chichester, 2008, 44.

¹⁰ Jelentőségéhez lásd Mátyás Szabolcs: A településszerkezet és a bűnözés összefüggései a magyar főváros példáján [The connections between the settlement structure and crime on the example of the Hungarian capital], *Belügyi Szemle*, 2018/5, 105-115.

¹¹ Education also has a role to play in this. See Elena-Ana Iancu: Quality education by implementing standards in the law field. In: Elena-Ana Iancu (Nechita) [ed.]: *Siguranța persoanei și construirea capitalului social - The person's safety and building social capital*, Universul Juridic, Bucharest, 2019, 563-565.

¹² Christión László: A rendészet alapvonalai, önkormányzati rendőrség [Basic lines of policing, municipal police], Universitas-Győr Nonprofit Kft, Győr, 2011, 185.

SOME THOUGHTS ON PERFORMING A LAW ENFORCEMENT PUBLIC TASK AS A PUBLIC SERVICE

- Szamel Lajos: A rendészet és a rendőrség jogi szabályozásának elméleti alapjai [Theoretical bases of the legal regulation of the law enforcement and the police]. Budapest, 1990;
- Katona Géza: Adalékok a rendészet fogalmának meghatározásához [Additives to define law enforcement]. Rendészeti Szemle, 1993/6.
- Hans-Gerd Pieper: Polizeiliche und Ordnungsrecht NRW [Police and police security law], ALPMANN und SCHMIDT, Münster, 2011;
- Kökényesi József: Az önkormányzati rendészet néhány kérdése [Some questions of local government policing], Budapest, 2008;
- Gregor Wenda: Kommunale Polizei in Europa, Öffentliche Sicherheit [Local Police in Europe, Public Security], 2012/1-2;
- Finszter Géza: A rendészeti rendszer alkotmányos és közjogi alapjai [The constitutional and public law foundations of the law enforcement system], Budapest, 2008;
- Wesley G. Skogan: An Overview of Community Policing: Origins, Concepts and Implementation. In: Tom Williamson (ed.): The Handbook of Knowledge Based Policing: Current Conceptions and Future Directions, John Wiley & Sons Ltd, Chichester, 2008;
- Mátyás Szabolcs: A településszerkezet és a bűnözés összefüggései a magyar főváros példáján [The connections between the settlement structure and crime on the example of the Hungarian capital], Belügyi Szemle, 2018/5;
- Elena-Ana Iancu: Quality education by implementing standards in the law field. In: Elena-Ana Iancu (Nechita) [ed.]: Siguranța persoanei și construirea capitalului social - The person's safety and building social capital, Universul Juridic, Bucharest, 2019;
- Christián László: A rendészet alapvonalai, önkormányzati rendőrség [Basic lines of policing, municipal police], Universitas-Győr Nonprofit Kft, Győr, 2011.