

Review article

Role of Polish Armed Forces and Crisis Management System in Cultural Property Protection – review and analysis

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ABSTRACT

Deterring a crisis or war requires the commitment of large forces and resources that may include armed forces, security services or other non-military defense elements. The entire crisis management system is organized by the public administration. A crisis and the threat of war necessitate the implementation of a wide range of tasks aimed at securing life, health and property. Cultural property is a special category of property protected under the Polish legal system. The Republic of Poland undertook to protect it upon accession to the Hague Convention of 1954 on the Protection of Cultural Property in the Time of an Armed Conflict. This international agreement, along with the Polish experiences of the Second World War, laid the foundations for building an efficiently functioning system for the protection of cultural property during an armed conflict. Recent years have brought an increase in global interest in this area. Asymmetric threats against cultural heritage objects forced the involvement of military entities in developing security mechanisms. The author will provide an overview of national institutions tasked with the protection of cultural property in times of peace, assess the quality of these institutions as well as propose *de lege ferenda* postulates that could improve their functioning.

KEYWORDS

monument protection law, security, armed forces, public administration, international law



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Executive summary

In 2020, the Council of Ministers of the Republic of Poland abandoned work on the modernization of the crisis management system. The proposed act on civil protection was to standardize the procedures and obligations of services involved in crisis response in peacetime. This study aims to summarize the procedures for responding to crises that are currently in place, in particular those relating to peacetime and those which put cultural assets at risk.

Methodology

The author consulted service officers responsible for public safety, as well as reviewed a range of sources including academic literature, military doctrine, policy reports and media coverage. The article also takes into account new and unpublished findings.

Key findings

The obligation to prepare monument protection plans is not always complied with, and public administration bodies do not have legal tools to enforce the obligation to prepare them. The security services could participate in their development, but they have no legal basis for it, and therefore they do not do it.

The current system of monument protection in the event of peacetime crises is opaque and complex. It is difficult to clearly indicate the institutions responsible for the implementation of safety measures at each stage of monument protection – in terms of both direct response and evacuation.

Key recommendations

The system of monument protection during crises is relatively efficient, but since it solidified, it has failed a serious test, i.e. the flood in 1997. It also requires more regular and cross-departmental (with mixed civilian and military training audience) stress testing and it needs to be based on a new comprehensive regulation, which will in particular cover a redefined role of civil defense.

Introduction

A state's internal security is a broad matter, but when an attempt is made to interpret the legal provisions relating to one of the main institutions having competence in this regard, not everything seems obvious. Such entities will certainly be law-enforcement agencies (police, border guards, fire brigades) or armed forces. However, the cooperation between some of these institutions may be problematic. Indeed, routine cross-cutting actions, such as firefighting or removal of the effects of natural disasters have already paved the way, and thus some action plans have already been developed. Some areas of cooperation, even if fortunately, have not been tested in practice.

However, it is important to use unambiguous terms for the issues that are the subject of this study. The term "cultural property" (CP) has been defined in Article 1 of 1954 Hague Convention (hereinafter "the Convention") [1] and it means *movable or immovable property, whether secular or religious and irrespective of origin or ownership, which is of great importance to the cultural heritage of a state*. The article also indicates that it includes, among others, monuments of architecture, works of art or history, buildings that preserve or exhibit movable cultural property, and centers containing a large amount of cultural property.

The main term used in this study, cultural property protection (CPP) (as in Article 2 of the Convention), is defined as "the safeguarding of and respect for such property". Practically, CPP is used to describe all efforts dedicated to managing the various challenges related to CP in the event of armed conflict.

Such wording of the Convention allows for the adaptation of a national interpretation of this provision, which was effected in the Act on the Protection and Care of Monuments [2, Art. 3]. Here, too, one can encounter a problem of a definitional nature – in the Polish legal order, the conventional concept of cultural property has been narrowed down by the legislator to the concept of a monument, as defined in the Act on the Protection and Care of Monuments.

The body of literature on cultural property protection is constantly growing, but so far, only a small number of NATO countries have decided to take strong steps to increase the international security of cultural heritage sites [3, p. 21, 87]. This is often related to the priorities

set for particular services in the context of crises when the safety of human life and health will always take priority over material goods.

This text will present the most important threats to cultural property, basic services that take part in cultural property protection, as well as the mechanisms of functioning of these institutions in peacetime in the face of non-military threats will be considered. The author will focus on the role of the armed forces in protecting cultural goods in times of non-military crisis.

Legal basis

Currently, the most widely applicable legal source on the subject is the 1954 Hague Convention, mentioned earlier, and its additional protocols – the first from 1954 and the second from 1999. The Polish legal system, however, addresses this subject in more detail through a few normative acts.

The Act on the Protection and Care of Monuments of 23 July 2003 defines the obligations of public administration bodies related to the planning of the protection of cultural goods and the coordination of tasks aimed at protecting monuments against the effects of threats resulting from crises. The same act also includes a statutory reference, which was incorporated in the Ordinance of the Minister of Culture on the organization and method of protection of monuments in the event of armed conflict and crisis situations of August 25, 2004 [4, Art. 1 (2)] (hereinafter referred to as the Ordinance). It mentions four stages of projects aimed at the protection of cultural property in the event of an armed conflict and crises:

- the phase of prevention and carrying out preparatory works (including the development of protection plans, control and recording),
- the phase of increased readiness (including the disassembly and hiding of the most valuable architectural details and elements of equipment, affixing the blue shield emblem on them),
- crisis response phase,
- the phase of securing and documenting the monument after the threat has passed.

The protection of endangered cultural property is also included in the catalog of personal obligations included in Article 22 of the Act on the State of Natural Disaster of April 18, 2002 [5, Art. 22 (12)].

At this point, a difficulty might arise regarding the applicable regulatory frameworks when several regulations overlap either leaving interpretation gaps or resulting in several institutions being assigned to perform the same task. During the dispute, regulatory frameworks applied in crises (when civilian institutions are in charge) and in a situation of war (when the armed forces are taking control over most spheres of public life) may also be confusing. This can be compared to the legal environment created by the UNESCO Convention of 1977, whose most important addressees are civilian institutions, and the Hague Convention of 1954, which addresses primarily the armed forces of the states parties. Thus, the armed conflict is described in more detail, involving a smaller number of institutions carrying out tasks related to the protection of cultural property. Therefore, for the sake of clarity of the argument, threats of a crisis will be considered first, with particular emphasis on the role of the armed forces.

The primary duty of the Polish Armed Forces is to defend the borders and territory, including taking part in combating natural disasters and eliminating their consequences, in anti-terrorist activities, search operations and saving or protecting human health and life. These

obligations are included in the Act on the General Defence Obligation of November 21, 1967 [6, Art. 3 (2)]. The detailed obligations are defined by the subordinate legal acts which are referred to below.

Continuing the list of non-military institutions having competence over the subject matter, the basic administrative authority, competent for the protection of cultural property is the Minister of Culture and National Heritage (Article 89 of the Act on the Protection and Care of Monuments), but these tasks are rather legislative and managerial. Functions are performed much more frequently by the Voivodes.

Responding to terrorist threats is based on the Act on Anti-Terrorist Activities of June 10, 2016 [7, Art. 4 (3)], however, the marginal indication of competence in the field of the protection of cultural goods means that this act can be omitted in the considerations of the subject matter of the study.

Hazards

The catalog of threats that may have a negative impact on cultural property is not complete and, as shown by the coronavirus pandemic, is still expanding (epidemiological threats may seemingly not have an impact on the protection of cultural property, however, it had a real impact on, among other things, microbiological contamination of surfaces, for example, paintings) [8, p. 22-23]. The basic classification of threats is based on their source – anthropogenic threats (caused by humans) and those of natural origin. Vandalism, arson, nuclear contamination, armed conflicts and theft can be indicated among those attributed to humans. Among the natural ones, there are earthquakes, hurricanes, floods, fires, erosion or even solar radiation [9, p. 22]. How these threats affect particular cultural goods can be illustrated with specific examples:

- roof fire of St. Catherine church in Gdańsk, Poland, May 22, 2006 [10],
- flood in Lower Silesia in 1997, affecting, among others, the Church of Our Lady of the Rosary in Kłodzko, Poland [11],
- Nepal earthquake, damage to Basantapur Durbar square and destruction of the 17th-century Vatsala Durga temple, Nepal, April 25, 2015 [12],
- a windstorm destroying the roof of St. Mary's Church in Szczecinek, Poland, March 12, 2020 [13],
- the destruction of the Citadel in Aleppo, Syria, as a result of the armed conflict in 2015 [14],
- the destruction of archaeological monuments in Umma in Iraq, and Palmyra in Syria, 2015 [15, p. 36].

Some of these threats may occur together, for example, in the event of burglary of cultural property from an area subject to evacuation (related to, for example, a flood).

Military engagement

In the theory of crisis management, military entities have traditionally been assigned with tasks aimed at ensuring external security. The beginning of the 21st century brought changes and enabled the armed forces to perform tasks related to combating non-military threats. Each time, their involvement in such activities must be provided for in the voivodeship crisis management plan (which is the competence of the Government Center for Security of the

Minister of National Defense and the Voivode, and results from Art. 11 (2) and Art. 14 (6) of the Act on Crisis Management [16]) [17, p. 132; 18, p. 18].

The involvement of the armed forces in the protection of cultural property is defined in several normative acts. The most important is Decision No. 72/MON of January 22, 2014, on the observance of the principles of the protection of cultural property in the Ministry of National Defense – the Minister defines in it the duties of commanders in the field of, inter alia, the dissemination of knowledge on the protection of monuments and the manner of dealing with monuments managed by the armed forces [19]. The principles of involvement in the protection of heritage sites are detailed in the order of the General Commander of the Armed Forces No. 26 of 25 January 2015 on the observance of the principles of protection of cultural property in the General Command of the Armed Forces and subordinate organizational structures [20], as well as in the guidelines of the Operational Commander of January 17, 2014, on the protection of cultural property [21], and in Order No. 36 of the Head of the Inspectorate for Support of Armed Forces of February 4, 2015 [22]. All the above-mentioned normative acts essentially result from the above-mentioned Decision No. 72/MON of 2014 and specify its provisions in more detail. At this point, the author would like to focus on the area in which the activities of the armed forces and public administration overlap.

Based on Article 25 of the Act on Crisis Management, the Minister of National Defense may, at the request of the Voivode, delegate units to the disposal of Voivode for performing crisis management tasks, provided that they do not interfere with the basic tasks of the army. Undeniably, the size of the forces and resources is based not only on the content of the application submitted by the Voivode but also on the crisis management plan in which such forecasts are included. An important remark regarding the involvement of soldiers in crisis response concerns the definition of the nature of the tasks for the armed forces provided in the Act. These can only be supportive tasks. Trying to translate this into a practical example of the protection of cultural property, the hypothetical case of evacuation of a museum would be helpful. Museum employees, in the case of emergency, will conduct the main activities such as recording, packing and labeling crates ready for transport. As part of auxiliary activities, soldiers could be involved in carrying the crates to trucks and in transporting them to the designated centering area. Exactly according to this scenario, soldiers of the Territorial Defense Forces during the ZABYTEK-21 exercise in September 2021 in Wrocław, carried out a simulated evacuation of exhibits from an endangered museum building [23].

Crisis management is carried out at every level, from the government to the borough – the head of crisis management is also involved. There is a crisis management center in every voivodeship. On the part of the Armed Forces, the chief of the provincial military staff participates in the meetings of this management center with an advisory voice. If the Voivode deems it necessary, he or she applies for support to the Crisis Management Center of the Ministry of National Defense, whose function is performed by the current Armed Forces Operational Command [24, p. 60].

The actions of soldiers are organized within the framework of military task forces which are formed each time that an appropriate application is received from the Voivode. They are supervised by the Crisis Management Center of the Ministry of National Defense, however, they can receive orders from the commanders of the coordinating services in the area where activities are carried out – for example, from the police departments or fire departments [25, p. 194]. This results in the duality of command and must be further regulated.

The involvement of the newest single service of the armed forces should not be overlooked. Territorial Defense Forces should be considered as a specific formation assigned mainly with

the implementation of crisis management tasks. Nowadays, there are 16 brigades, currently 1 in each voivodeship, with plans to have 3 per voivodeship in the future. Their structures include support assessment teams that can conduct an initial needs analysis and identify the resources necessary to complete the tasks. From the legal point of view, Territorial Defense Forces are distinguished by the fact that their involvement takes place in the same way that resulting from Art. 25 of the Act on Crisis Management. Additionally, Territorial Defense Forces are supporting non-military formations (such as police or fire departments) based on bilateral agreements concluded at the central level. However, Territorial Defense Forces operate outside the authority of the Armed Forces Operational Command, and it is not precisely indicated how they should be involved in crisis response [26]. This makes it possible to react to emerging crises faster than usual.

To sum up, during non-military crises, the armed forces may be engaged to perform tasks related to cultural property protection only when the civil administration is not able to take action. The military will perform them pursuant to Art. 25 of the Act on Crisis Management, only in the event of using up the possibility of carrying out these tasks by non-military forces – the police, border guards, fire brigades or volunteers. These activities will always be auxiliary and supportive. They may include the evacuation of cultural property (Art. 25 (3) (4)) or participation in the protection of property left in the area of threat (Art. 25 (3) (6)) – the latter example is a fairly clear one. When it is not possible to evacuate a cultural property beyond the threatened area, its protection should be organized, but in a crisis, soldiers are not equipped with regular small arms or other means of direct coercion (except the Military Police). This also applies to the performance of patrol tasks, with combined police-and-military patrols. Therefore, the phrase “participation in the protection of property” is the most appropriate, as it is the Police that plays the leading protective role [27, p. 228].

Military training

At present, the competencies of members of the armed forces in the field of cultural property protection are developed on two levels – through theoretical courses and practical exercises. Obviously, the necessity to train personnel results from the Hague Convention of 1954 [3, p. 87].

The theoretical training of military personnel is based on Decision no. 184 / MON of the Minister of National Defense of June 13, 2012, on the organization of the education and training system in the “International Humanitarian Law of Armed Conflicts” in the Ministry of National Defense [28]. This decision determines the content, scope and method of education offered to soldiers and employees of the Ministry of National Defense. It defines international humanitarian law of armed conflicts, a catalog of normative acts with which soldiers are familiarized and the detailed issues of cultural property protection – such as distinctive signs and related rights and obligations. It was an act regulating the subject matter to be taught. The act regulating procedural issues is Decision No. 95 / MON of the Minister of National Defense of July 9, 2020, on the Methodology of training soldiers in the subjects “Civic education” and “Prevention and military discipline” [29]. The decision shows that each soldier, in principle, takes annually 6 hours of training in “Civic education”, of which a maximum of 2 are devoted to the issues of the International Humanitarian Law of Armed Conflicts. And it is only as part of these issues that topics related to the blue shield emblem, the protection of monuments and the Hague Convention of 1954 are taught. It may seem that this is a rather limited amount of time, especially since the above-mentioned two hours must also include the topics of the red cross, the status of a prisoner of war or prohibited combat agents.

Practical skills can be acquired through military exercises and training. An important role is played by the implementation of procedures and guidelines for cultural property protection, and by the way that decisions made in peacetime are reflected in effective action in practice. This is the basis for the proper preparation of the command staff to fulfill the tasks imposed by the 1954 Hague Convention and its protocols. These exercises are conducted primarily in the form of specialized postgraduate courses in the form of a two-sided tactical exercise, and the key to its completion is a good knowledge of humanitarian law – these courses, however, are addressed primarily to officers. Another form of exercise available to a wider range of military personnel are larger-scale exercises, such as DRAGON-21, during which the armed forces, in cooperation with paramilitary organizations, assisted a museum in simulating the evacuation of collections, or ZABYTEK-21, where Territorial Defense Forces had a significant role.

Perspectives

The crisis management system has already been tested in almost every envisaged variant. Working under time pressure combined with a high load of responsibility can lead to a variety of errors, therefore instructions and procedures should be clear, lucid and regularly practiced. The content of the procedures is often classified, and therefore it is difficult to assess their quality. Therefore, without focusing on the capabilities of organizational units that are administering cultural goods, the following section will analyze the perspectives of the crisis management system.

The main difficulty mentioned at the beginning is the multitude of acts regulating the issues of protection of cultural goods in crises. Provisions of domestic law implement two UNESCO conventions with regard to both military and civilian institutions simultaneously. This is why an attempt to combine these provisions in one implementing regulation does not meet the requirements of either of these types of institutions.

Another difficulty may be the above-mentioned question of the subordination of Territorial Defense Forces to the General Staff of the Polish Armed Forces. At present, this single service of armed forces is outside the range of regular units and remains at the exclusive disposal of the Minister of National Defense, which makes it difficult to organize a chain of support for threatened areas. The prospects for the future include the possibility of modifying the crisis notification chain so that the role of the heads of provincial military staff is taken over by the commanders of the territorial defense brigades. Only after having completely spent the forces and resources to carry out actions with TDF soldiers, the commander of the appropriate brigade would submit a request to the chief of the provincial military staff for the involvement of regular formations.

Another significant challenge may be very low awareness of military personnel as far as the application of the 1954 Hague Convention is concerned. The marginal attention that is devoted to training in the field of the international humanitarian law of armed conflicts, amounting to a fraction of 6 hours of training in civic education annually, may sometimes be insufficient to exhaustively cover a matter of such great importance (referring to Decision No. 5/MON of the Minister of National Defense of January 13, 2021, on the introduction of a document supplementing the training in international humanitarian law of armed conflicts in the Ministry of National Defense – DU.7.0.1(B)) [30].

The lesson schedules are prepared by the instructors who, so far, have been able to use the support of the Military Center for Civic Education which issued publications and provided

counseling in the field of civic education for military personnel. Additionally, specifically in the field of protecting cultural property, a new institution was established – the International Center for Training and Research on Cultural Heritage in Danger.

The Center was established under Decision No. 166/MON of the Minister of National Defense of October 22, 2019 [31], on the establishment of the International Center for Training and Research on Cultural Heritage in Danger, and began its operation on May 1, 2020. As part of its activities, it conducts various variants of courses and training for military and civilian specialists in the protection of cultural goods. The training sessions conducted so far have been addressed to military museologists, employees of the department of education, culture and heritage education of the Ministry of National Defense, and to military specialists for the protection of cultural property. The Center also conducts research and popularization of the subject of the Blue Shield Emblem under international humanitarian law and is tasked with the preparation of practical workshops on the response of joint forces (Territorial Defence Forces, police, fire brigades, border guards and military police) to a crisis using a historic infrastructure facility. The Center will not be able to fully operate until 2023 when allied army officers will be working with it and some of the courses will receive a NATO certificate.

The establishment of the Center was an impulse to amend domestic Supplementary Doctrine DU.7.0.1(B) entitled “Training in international humanitarian law of armed conflicts at the Ministry of National Defense”, in which the Center took an active part, modifying the scope of the content provided during training in this field [32]. The subject of the protection of cultural goods enjoys a growing interest not only within the armed forces of the Republic of Poland but also in the world. NATO has amended the doctrine of civil-military cooperation AJP-3.19, and as part of a cross-cutting topic¹, the protection of cultural property has also been included [33].

The Polish system for the protection of cultural property in the event of crises meets half of the recommendations developed by NATO. What is still missing is the availability of a geo-spatial data layer format that could be immediately accessible to military planners and a global inventory of experts on cultural property willing to work with the military with up-to-date contact details which could be readily available to military planners. However, the Center is still working on both missing requirements [34, p. 7].

Finally, a major challenge for the modernization of the Polish crisis management system is the need to redesign the civil defense system, which currently functions primarily in theory.

Conclusions

It is necessary to revise the normative acts regarding the protection of cultural property, in particular the regulation on the organization and method of protection of monuments in the event of an armed conflict and crises. They are inadequate for modern threats such as cyber-attacks or leave interpretation doubts in the case of hybrid threats. Nevertheless, the amendment of these normative acts should be preceded by an amendment to the provisions concerning civil defense. The work carried out so far on the draft act on civil protection and civil defense [35] gave hope for updating and unifying the legal status, but the change of regulations turned out to be potentially too costly and the draft was abandoned. Indeed, it

¹ A cross-cutting topic is a topic that does not belong to the exclusive competence of the allied armed forces and is considered important to be taken into account in terms of its impact on the implemented mission – author’s note.

is the amendment of these regulations that will be crucial for the shaping of a new system of responding to crisis threats [36]. Similar conclusions are formulated about the need for modification of the command system of the armed forces which would be aimed at bringing the organization of the command closer together in times of peace, crisis and war [16, p. 138].

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The author declared no conflict of interests.

Author contributions

The author contributed to the interpretation of results and writing of the paper. The author read and approved the final manuscript.

Ethical statement

The research complies with all national and international ethical requirements.

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Biographical note

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Rola Sił Zbrojnych RP i systemu zarządzania kryzysowego w zapewnieniu ochrony dóbr kultury – przegląd i analiza

STRESZCZENIE

Czas kryzysu i wojny wymaga dużego zaangażowania sił i środków. Mają one różnorodne pochodzenie – mogą to być siły zbrojne, służby bezpieczeństwa bądź inne pozamilitarne ogniwa obronne. Cały ten system organizowany jest przez administrację publiczną. Kryzys i zagrożenie wojenne wymuszają realizację całego szeregu zadań, których efektem ma być zabezpieczenie życia, zdrowia i mienia. Szczególną kategorią mienia chronionego na podstawie polskiego porządku prawnego są dobra kultury. Do ich chronienia Rzeczpospolita Polska zobowiązała się wraz z przystąpieniem do konwencji haskiej z 1954 r. o ochronie dóbr kultury w czasie konfliktu zbrojnego. Ta umowa międzynarodowa, wraz z polskimi doświadczeniami z II wojny światowej, dała podwaliny pod zbudowanie sprawnie funkcjonującego systemu ochrony dóbr kulturalnych na czas konfliktu zbrojnego. Ostatnie lata przyniosły wzrost globalnego zainteresowania tym obszarem zadań. Zagrożenia asymetryczne wymierzone przeciwko obiektom dziedzictwa kulturowego wymusiły zaangażowanie podmiotów militarnych do kreowania mechanizmów bezpieczeństwa. Autor przedstawi charakter krajowych instytucji realizujących zadania z zakresu ochrony dóbr kultury, które określone są z konwencji haskiej z 1954 roku.

SŁOWA KLUCZOWE prawo ochrony zabytków, bezpieczeństwo, siły zbrojne, administracja publiczna, prawo międzynarodowe publiczne

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