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FIREARMS PERMITS FOR PERSONAL PROTECTION PURPOSES

POZWOLENIE NA BROŃ PALNĄ W CELACH OCHRONY OSOBISTEJ

Abstract: The most difficult weapon permit to obtain in Poland is a permit for a weapon for personal protection. The leading cause of the rejection of most applications in the administrative proceedings department of the provincial police head quarters is the requirement to document a constant, relative and above-average threat to life, health and/or property. The question of proper documentation is not so clear cut.

Zarys treści: Pozwoleniem na broń, które najtrudniej w Polsce zdobyć jest pozwolenie na broń do ochrony osobistej. Główną przesłanką odrzucającą większość wniosków w wydziale postępowań administracyjnych Komend Wojewódzkich Policji jest zapis o udokumentowaniu stałego, realnego i ponadprzeciętnego zagrożenia życia, zdrowia i/lub mienia. Kwestia właściwego udokumentowania nie jest taka oczywista.

Keywords: fire arms, personal protection, permit, danger do life, ammunition

Słowa kluczowe: broń palna, ochrona osobista, pozwolenie, zagrożenie życia, amunicja

Introduction

The principles of issuing and withdrawing permits for arms, acquisition, registration, storage, disposal and deposition of arms and ammunition, transport through the territory of the Republic of Poland and the import from abroad and export abroad of arms and ammunition, as well as the principles of possession of arms and ammunition by foreigners and the principles of operation of shooting ranges are defined in the Act of 21 May 1999 on arms and ammunition.¹ According to the Act, a permit for

¹ *On arms and ammunition Act of 21 May 1999, Dz. U. (Journal of Laws) 1999, no. 52 item 549, as amended.*

firearms (including combat, hunting, sport, gas, alarm and signal firearms) is issued by the Provincial Police Commander with jurisdiction over the place of permanent residence of the person concerned. The organisational unit dealing with matters related to weapon permits in the Provincial Police Headquarters is the Administrative Proceedings Department. Therefore, all applications (requests) for firearms permits should be submitted to the Administrative Proceedings Division of the Voivodship Police Headquarters in person or by mail to the address of the respective WPA.

Requirements for obtaining a firearms licence

According to the Weapons and Ammunition Act,² a person applying for a firearms permit should draw up an application for a firearms permit addressed to the Provincial Police Commander, indicating in it: the purpose for which the permit is to be issued, the type of weapon applied for, the number of weapons and provide a valid reason for having the weapon. In addition, the application must be accompanied by:

1. A medical and psychological certificate issued by an authorised doctor and psychologist, stating that he or she does not belong to the persons listed in Article 15(1) (2–4) of the Weapons and Ammunition Act and confirming that he or she may dispose of weapons (Article 15(3) of the Weapons and Ammunition Act of 21.05.1999). The cost, for example, at the Military Specialist Medical Clinic in Bielsko-Biała, 2a Willowa Street, is PLN 700 (as of April 2022). The examinations are carried out within one day and end with the issue of a medical and psychological certificate.

2. Proof of payment of stamp duty in the amount of PLN 242 for the issuance of the permit, paid into the account of the indicated City Office, in accordance with the Act of 16 November 2006 on stamp duty.

A valid reason for possessing a firearm for personal protection is considered to be, in particular, a permanent, real and above-average threat to life, health or property.

Personal case

After fulfilling the statutory obligations, I received correspondence:

On 12 April 2022, I received a decision under Article 36, Article 123 § 1 and Article 268a of the Law of 14 June 1960, Code of Administrative Procedure (Journal of Laws of 2021, item 735, as amended),³ and setting a new deadline of 23 May 2022 for completing the administrative proceedings⁴ for issuing me a permit to possess a combat firearm for personal protection. In the justification, I was informed that the proceedings could not be completed within the statutory deadline due to the need to obtain proof of my place of residence, information from the National Criminal

² *Ibidem.*

³ *Code of Administrative Procedure Act of 14 June 1960, Dz. U. (Journal of Laws) 1960, no. 30, item 168, as amended.*

⁴ *Ibidem.*

Register, as well as to perform inquiries with a third party. These circumstances made it impossible to substantively complete the administrative proceedings within the statutory deadline for reasons beyond the control and fault of the authority. According to Article 36 of the Code of Administrative Procedure, any failure to complete a case within the time limit specified in Article 35 of the Code of Administrative Procedure⁵ shall be notified to the public administration body. The public administration body is obliged to notify the parties, stating the reasons for the delay and indicating a new deadline for handling the case.

In view of the above, the Head of the Administrative Proceedings Department of the NPC set a new deadline for the completion of the proceedings. Note, a party is not entitled to complain about this decision and may challenge it only in an appeal against the decision. Attached to the above decision was a document, with a request to provide any evidence to prove the existence of the threat referred to in the original application, dated 21 March 2022. If there were any other circumstances indicating the existence of a threat to life, health or property, the request was to be presented and documented within the time frame mentioned. The above is necessary because the police authority shall only issue a gun permit if the applicant does not pose a threat to themselves, public order or safety, and presents a valid reason for having a weapon. A valid reason is considered, in particular, a permanent, real and above-average threat to life, health and property. The evidence referred to above (copies of documents, in the form of certified copies of documents which had the same evidential force of the originals) had to be sent, within 14 days of the date of delivery of this letter, to the address of the Provincial Police Headquarters Administrative Proceedings Department. Pursuant to Article 79a § 4 of the Code of Administrative Procedure,⁶ I was informed that failure to document the above may result in the issuance of a decision inconsistent with the party's request.

On 23 May 2022, a decision was sent which set a new deadline of 21 June 2022 for the completion of administrative proceedings for the issuance of a permit to possess combat firearms for personal protection. An additional justification which was given was the impossibility of completion within the statutory deadline due to the need to obtain information from the Police Station in Łodygowice, as well as to perform inquiries with a third party. The rest of the order was the same as the previous letter.

On 21 June 2022, a second decision was sent which set a new deadline of 21 July 2022 for the completion of administrative proceedings for the issuance of a permit to possess a combat firearm for personal protection. An additional justification which was given was the impossibility of completion within the statutory deadline due to the need to obtain information from the Police Station in Zywiec, as well as to perform inquiries with a third party. The rest the order was the same as the previous letter.

On 13 July 2022, a third decision was received, setting a new deadline of 22 August 2022 for the completion of the administrative proceedings for the issuance of a permit to a party to possess a combat firearm for personal protection. As on the two previous occasions, the additional justification was the impossibility of completion

⁵ *Ibidem.*

⁶ *Ibidem.*

within the statutory deadline due to the need to carry out inquiries with a third party. Again, as before, the rest of the order was the same as the previous letters. A document was attached to this third order, with the information: “realizing the obligation set forth in Article 79a § 1 of the Code of Civil Procedure,⁷ I inform you that you still have not documented a valid reason for possession of combat firearms for personal protection, as referred to in the provisions of the Law on Weapons and Ammunition. This may result in the issuance of a decision inconsistent with the request. Therefore, within 7 days from the date of delivery of this letter, there is still an opportunity to provide evidence of a valid reason for possession of weapons for personal protection, i.e. the existence of a permanent, real and above-average threat to life, health or property. At the same time, I would like to inform you that in accordance with Article 10 of the Code of Administrative Procedure⁸, you have the right to make statements, explanations and submit requests for evidence in the administrative proceedings, and before the decision is issued, you have the opportunity to comment on the evidence and materials collected and the demands made”.

In view of the above, in accordance with Article 10 of the Code of Administrative Procedure, I was invited to actively participate in the proceedings within 7 days of the delivery of this letter. The above-mentioned entitlement can be exercised in the Weapons Permits Team of the Administrative Proceedings Department of the Regional Police Headquarters. Failure to participate in the ongoing proceedings would result in a decision based on the materials available to the WPA in this case. The person in charge of the proceedings was also given.

On 22 August 2022, I was notified of a decision to refuse to issue a permit to carry one combat firearm for personal protection.

Reasons for the refusal decision

On 21 March 2022, the police authority received my application (third party, plus applicant) for a permit to carry one combat firearm for personal protection. In support of the application, the third party, among other things, stated that they are engaged in a business which involves the complex execution of public orders and auctions of movable property from bailiffs, tax offices and receivers. During the course of the proceedings, the third party further submitted additional justification for the application for the issuance of the permit, indicating, among other things, that I personally convoyed cash. As an example of a threat to property, a call to a police patrol on 31 January 2022, in the village of Belk, was pointed out. A medical and psychological certificate of fitness to dispose of a weapon was also submitted. The Police Authority also determined that the party had a positive reputation in their place of residence and was a person with no criminal record.

According to the information collected, it additionally emerged that incidents at their place of residence indicating a threat to life, health or property were not reported.

⁷ *Ibidem.*

⁸ *Ibidem.*

Additionally, the Police Station reported that the police intervention in the village of Belk was as a result of the party's report concerning the collection of a vehicle bought in a bailiff's auction. During the incident, there was no danger to the party's life, health or property. The party did not file a notice of a crime or offence in connection with the incident. In accordance with Article 10 of the Code of Administrative Procedure, the party was assured of participation in the administrative proceedings, as well as being informed of the provision of Article 79a § 1 of the Code of Administrative Procedure.⁹ Within the prescribed time limit, the party failed to provide the police authority with evidence of a valid reason for possessing a combat firearm for personal protection. However, the arguments cited in the party's application and the materials collected in the course of the proceedings do not, in the opinion of the authority of the first instance, provide grounds for issuing a combat firearm permit.

According to Article 10(1) of the Law on Weapons and Ammunition,¹⁰ the competent police authority shall issue weapons permits if the applicant does not pose a threat to himself, public order or safety, and presents a valid reason for owning weapons. Weapons permits are issued in particular for personal protection purposes. The provision also stipulates that a valid reason for a gun permit for personal protection purposes is considered, in particular, a permanent, real and above-average threat to life, health or property. The aforementioned prerequisites must exist cumulatively, and the threat must arise from objective circumstances, and not just from the belief of the person applying for a gun permit. The burden of proving that such a state of facts exists is on that person. This does not relieve the police authority of the obligation to take all steps necessary to establish the facts of the case and gather evidence to freely assess whether the request is justified and a gun permit should be issued. Thus, the applicant may cite any circumstance that, in their opinion, indicates that they are at risk, but the assessment of whether it meets the requirements of Article 10(1) and (2)(1) and (3)(1) of the Law on Arms and Ammunition,¹¹ belongs to the Police authority. The Police Authority, in evaluating the evidence, does not have to share the applicant's view of the need to protect their life, health or property with weapons.

This means that although a party (the applicant) has the right to invoke any, in their point of view, relevant circumstances that, in their view, prove a threat, it is up to the authorities competent for weapons permits to determine whether these circumstances justify consideration of the case in accordance with the applicant's wishes. Indeed, it should be noted that the provision of Article 10 of the Law does not even specify exemplary circumstances indicating the existence of a threat giving grounds for equipping the applicant with a private combat weapon. Therefore, in police practice resulting from the rationing nature of the Law on Arms and Ammunition, it has been assumed that these must be special circumstances, distinguishing the applicant from the general public. In the case of a combat firearm, and thus a particularly dangerous tool, these must be circumstances confirming that their life, health or property is in such danger that protection with a weapon of this particular type is

⁹ *Ibidem.*

¹⁰ *On arms and ammunition Act of 21 May 1999, op. cit.*

¹¹ *Ibidem.*

required. At the same time, the danger of an attack on these goods must be constant, real and above average in comparison with other citizens in a similar situation, and therefore cannot be based only on the subjective belief of the applicant. Thus, a mere feeling of danger is not sufficient for the issuance of a permit for a combat firearm for personal protection. What is important, however, is for the applicant to indicate that the threat to their life, health or property is constant, real and above average. The right to own combat firearms for personal protection should be granted if the evidence cited by the applicant proves the existence of these circumstances, and means other than combat firearms would be insufficient for protection. Indeed, Polish law does not provide for a citizen's right to possess weapons, and this is strictly regulated by the provisions of the Law on Weapons and Ammunition (see, the judgment of the WSA in Warsaw of 21 August 2012 ref. act II SA/Wa 935/12).¹²

In the administrative proceedings conducted, it was not established that the party posed a threat to themselves, public order or security. The party is a person with no criminal record, as evidenced by information obtained from the National Criminal Register. They also have a positive reputation in their place of residence. However, the above circumstances do not allow the party's application to be granted in accordance with their request without the existence of a valid reason for possession of combat firearms for personal protection, which is considered, in particular, a permanent, real and above-average threat to life, health or property.

In the course of the proceedings, a valid reason for the possession of weapons was not established. The arguments presented by the party in the application for a gun permit and in the course of the proceedings, in the opinion of the first-instance authority, do not constitute a valid reason for owning combat firearms. The party indicated that they conduct business activities and that in connection with these activities they reported an intervention by the Police in Bełk on 31 January 2022. The party also stated that they escort cash in connection with the business. In the opinion of the authority of the first instance, these are not circumstances that confirm the applicant's current above-average danger. This is because they do not prove a direct, constant and real threat to the party's life, health or property. A party's concern for their safety related to the running of a business and carrying cash cannot prejudice the granting of a firearm permit for personal protection. Indeed, the mere fact of conducting business and the associated transportation of cash, as well as subjective feelings of danger, does not imply the existence of a threat to life, health and property that would justify the issuance of a firearm permit for personal protection. Concerns such as the applicant's are held by many business people, and such an interpretation would make it necessary to also equip them with firearms. Moreover, carrying cash is not an unusual phenomenon and does not distinguish the party from other entrepreneurs. It should be pointed out that insecurity for various reasons is declared by a great many people. However, this does not imply an obligation to issue a gun permit to anyone who applies for one. Permits for firearms for personal protection are issued to people who present a valid reason for owning a weapon, which, according to the legislation, is in particular a permanent, real and above-average threat

¹² Judgment of the WSA in Warsaw of 21.08.2012, ref. no. II SA/Wa 935/12.

to life, health or property. A party's belief that it is in danger from its activities, as well as the subjective fears indicated by the party, cannot therefore prejudice the granting of a combat firearms permit. It is still important for the applicant to demonstrate that they are in a situation of particular danger. However, there is no evidence of such a threat. Otherwise, the police authorities would be obliged to issue a permit to any person conducting business and personally transporting cash, regardless of whether there is a constant, real and above-average threat by virtue of their business and duties. The party, on the other hand, may use cashless trading and if, for some reason, the party chooses not to, they do so at their own risk. Indeed, the threat justifying the need to carry a weapon for personal protection must be above-average, distinguishing the person in question from the general population in a similar life situation, and, moreover, constantly and realistically existing. In turn, the type of circumstances that the party claims are invoked by most people who, by virtue of their activities, want to obtain a combat firearms permit for personal protection. Thus, these are not special circumstances, but typical ones, and as such they cannot prejudice the issuance of a weapons permit. Similarly, the police intervention of 31 January 2022 in the village of Belk, indicated by the party, also cannot prejudice the granting of such a permit. Indeed, the information obtained from the Police Station shows that the intervention concerned the surrender of a vehicle bought in a bailiff's auction. The report also indicated that the previous owner did not want to hand it over. In the presence of the officers, however, the individuals came to an agreement. There was no danger to the life, health or property of the party during this incident. Therefore, this event cannot be considered as a basis for issuing a combat firearm permit for personal protection. Furthermore, the party has not demonstrated any other grounds justifying the need for a weapon for personal protection. In turn, the subjective belief that they may become a victim of an attack on life or health is not sufficient. In the course of the administrative proceedings, the party did not present evidence to establish that there is currently a clear above-average threat of criminal action, which would justify the possession of a means of self-defence in the form of a firearm for personal protection. It was not proven that their life, health and property are currently under constant, real and above-average threat. The existence of the threat in question was only inferred from the fact that the business operates and deals with substantial cash sums. This inferred threat, which the party tried to demonstrate, does not bear the characteristics of a permanent, real and above-average threat, but only the characteristics of a hypothetical threat. This is also pointed out in their rulings by administrative courts. Thus, for example, the Provincial Administrative Court in Warsaw in its judgment of 29 August 2013, ref. no. II SA/Wa 739/13¹³ indicated, among other things, that the lack of a sense of security, for a variety of reasons, is declared by many people. However, this does not imply an obligation to issue a gun permit to anyone who applies for such a permit, and

¹³ II SA/Wa 739/13, Stałe, realne i ponadprzeciętne zagrożenie życia, zdrowia lub mienia jako przesłanka ubiegania się o pozwolenie na posiadanie broni. Wyrok Wojewódzkiego Sądu Administracyjnego w II SA/Wa 739/13, Stałe, realne i ponadprzeciętne zagrożenie życia, zdrowia lub mienia jako przesłanka ubiegania się o pozwolenie na posiadanie broni. – Wyrok Wojewódzkiego Sądu Administracyjnego w Warszawie – LEX no. 1367770.

the assessment in these matters is up to the police authorities, who may pursue a more or less stringent policy in this regard. In turn, the Supreme Administrative Court, in its judgment of 6 June 2014, ref. II OSK 32/13,¹⁴ indicated that the identification of only combat firearms as a means of protection is not justified, since there are such instruments of financial trading that allow, if not to eliminate completely, then at least to minimize the possible threat associated with cash trading or products of significant value. There is also nothing to prevent the applicant from using the services of a security company for the company's headquarters, or for providing protection at the place of residence, if they feel the need to do so. If, for some reason, a party does not choose these solutions, it does so at its own risk. In other judgments it is pointed out that the issuance of a permit to possess firearms must be justified in each individual case by special factual circumstances, and these must not be subjective circumstances, but objectively existing ones (e.g., the judgment of the Provincial Administrative Court in Warsaw of 6 November 2014, ref. Akt. II SA/Wa1188/14).¹⁵ The Provincial Administrative Court in Warsaw in the judgments of 13 June 2012, Akt. no. II SA/Wa621/12;¹⁶ of 30 March 2012, Akt. no. II SA/Wa2603/11;¹⁷ of 26 February 2014, Akt. no. II SA/Wa2068/13¹⁸ and of 25 July 2014, Akt. ref. II SA/Wa893/14¹⁹ also indicated that a threat to life, health or property constituting a valid reason for possessing weapons, in order to be considered permanent, must manifest permanence and timeliness, while its reality must be real and objective, and not characterized by subjectivity. A real threat is a foreseeable or highly probable threat. It must arise from a sequence of events that have occurred in the applicant's life and have affected them. Above-average, on the other hand, cannot be reduced to a hypothetical situation, but must be extraordinary and unprecedented. Similarly, the Supreme Administrative Court ruled in the judgment of 25 June 2015, ref. II OSK2836/13,²⁰ indicating, among other things, that the condition for granting a gun permit for personal protection purposes is a strictly, defined by law, relationship of circumstances that, occurring together, can constitute a valid reason justifying the granting of the permit. One of these prerequisites is a permanent, threat to the life, health or property of the applicant. Therefore, it cannot be a circumstance that existed in the past and no longer exists today, because then the element of permanent occurrence of danger is missing. Since all three of these prerequisites characterizing the threat (permanence, reality and above-average) must be present together, then the determination that one of them is not present results in the other prerequisites losing their *raison d'être* in the sense that they cannot justify successfully applying for a gun permit. Thus, even a real and above-average threat, which, however, is not permanent, but has occurred in the past and no longer exists today, cannot be considered a valid reason for granting a firearm permit for personal protection. In the opinion of the courts, the applicant's subjective assessment of a threatening danger cannot be the basis for issuing a combat

¹⁴ Judgment of the WSA in Warsaw of 06.06.2014, ref. no. II OSK 32/13.

¹⁵ Judgment of the WSA in Warsaw of 06.11.2014, ref. no. II SA/Wa1188/14.

¹⁶ Judgment of the WSA in Warsaw of 13.06.2012, ref. no. II SA/Wa621/12.

¹⁷ Judgment of the WSA in Warsaw of 30.03.2012, ref. no. II SA/Wa2603/11.

¹⁸ Judgment of the WSA in Warsaw of 26.02.2014, ref. no. II SA/Wa2068/13.

¹⁹ Judgment of the WSA in Warsaw of 25.07.2014, ref. no. II SA/Wa893/14.

²⁰ Judgment of the WSA in Warsaw of 25.06.2015, ref. no. II OSK2836/13.

firearm permit for personal protection. It is particularly clear in view of the need to interpret as restrictively as possible the provisions regulating access to a deadly weapons in a situation where human life is under special protection (Article 38 of the Polish Constitution).²¹ The degree of danger must be proportionate such that the issuance of a gun permit is an appropriate preventive and defensive measure against it. A party applying for the issuance of a permit should prove that they are in a situation of constant, real and above-average danger to life, health or property, or alternatively, they should show that certain types of events affecting them demonstrate such a danger. Therefore, it follows from the above case law that the granting of the right to own weapons cannot be based solely on the subjective belief of the applicant. It is necessary to provide a valid reason for such a decision, because a gun permit is not issued for a purely preventive purpose. Weapon permits cannot be issued beyond a real and necessary need arising from the purpose for which the weapon is to be used. The party has failed to prove that their life, health or property is under constant, real and above-average threat of unlawful attack. A valid reason supporting the issuance of a firearm permit for personal protection was also not established during the proceedings. Therefore, in a situation where no events have been established that could justify a party's fear of an attack on their health, life or property, the decision to refuse to issue a firearm permit for personal protection must be considered valid. At the same time, it should be pointed out that the refusal to issue a firearms permit does not prevent a party from ensuring their own safety with means of personal protection that are not subject to restriction, and therefore do not require a permit from the police authority, and which will successfully fulfil the preventive role expected by the party (these include, for example, hand-held gas throwers or electric stun guns within certain parameters). After all, a gun permit is not issued just in case, but only when the factual findings concerning the applicant for the permit irrefutably indicate that other measures to protect his life and health are insufficient or ineffective.

Applications

The denial of a gun permit is an unpleasant surprise that many applicants face. They may have already learned to shoot, passed the medical and psychological examinations and have in hand a certificate of no criminal record. What is more, they may have fulfilled the formalities justifying the "purpose" of issuing the permit, so they are only a formality away from buying their own gun; an administrative decision. However, the WPA's correspondence shows that, according to the Police, they may nevertheless pose a threat, which justifies the refusal to issue a positive decision. The Police's assessment invariably has a key influence on whether one will gain the "privilege" of owning a gun. Until 2011, Article 10 (1) of the UBiA read as follows: "The competent police authority shall issue a gun permit if the circumstances claimed by the applicant justify the issuance of the permit." This provision gave the police authorities full discretion in

²¹ Constitution of the Republic of Poland of 2 April 1997, Dz.U. (Journal of Laws) 1997, no. 78, item 483, as amended.

assessing whether the applicant should be allowed the privilege in question. This, of course, led to much controversy. Each Provincial Police Chief or Military Police Chief had their own local policy on issuing permits. As a result, in one province it was easier to get a permit, while in another it was more difficult. This differentiated the legal situation of citizens, who could not count on equal treatment. This was at the root of the 2011 amendment, which introduced the wording of Article 10(1) of the UBiA, which remains in effect today: “The competent police authority shall issue a gun permit if the applicant does not pose a threat to himself, public order or safety, and presents a valid reason for having a gun.”

Some “important” reasons take a rather “Kafkaesque” form. In order to become a collector one has to become a member of a collectors’ association, but to own a weapon for a commemorative purpose it is enough to show, for example, that it was donated to us. Importantly, the catalogue of purposes is open. That is, we can apply to possess a weapon for any other purpose than those listed in Article 10(2) of the UBiA. Moreover, even within the scope of the purposes listed in Article 10(2) of the UBiA, we can prove a valid reason by other means of evidence than those indicated in Article 10(3) of the UBiA. This is indicated by the words “in particular” used in both of these paragraphs of Article 10. Police authorities refuse to issue a permit for the purposes indicated in Article 10(2) solely on the grounds that the applicant has not shown the evidence indicated in Article 10(3). In my opinion, this practice is wrong. The authority should consider all the evidence provided and take into account all the circumstances. Only on the basis of these should it assess whether they are sufficient to establish a valid reason. This applies primarily to a sports permit. Here, however, the applicant always runs the risk of encountering the past, well-known, full discretion of the police authorities. It must be taken into account that the Administrative Courts are reluctant to challenge the competence of the Police authorities in their assessment. However, the revocation of such decisions is possible. In practice, however, this is limited to situations in which the police authority has clearly exceeded the limits of its discretion or made procedural errors involving, for example, the omission of important evidence. Merely showing a valid reason is not enough to obtain a permit. Refusal to issue a gun permit can be dictated by security reasons, in which case the discretion of the police is even greater than in the case of a valid reason. This is confirmed by the Administrative Courts, which explicitly confirm universally that it is the Police who have the right to make this assessment. Of course, judicial overturning of a refusal decision is possible, but this is limited to exceptional failures of administrative procedure. After all, any evaluation must be based at least minimally on the evidence presented in the proceedings. Thus, the Administrative Court may overturn the decision if it finds that the police authority exceeded its administrative discretion. In practice, this will mean issuing a decision that is completely disconnected from the reality documented in the proceedings. On the other hand, it is doubtful the Administrative Court would consider whether a person convicted of a series of minor offences is dangerous or not. That is what the police are for. This is where another problem arises, as in practice a clean Criminal Record and a positive psychological

examination alone are not sufficient proof that a person is not a danger. Police authorities consider the situation cross-sectionally, analysing the person's attitude to obeying the law in a broad sense. For example, if a person notoriously endangers the life and health of others in traffic there is also no guarantee that he or she will behave differently when in possession of a weapon. It should be borne in mind that such a decision is made by an official who, if in doubt, will refuse to issue a gun permit. Such an attitude is hardly surprising to see. How do the police know about our past? First of all, from the KSIP (National Police Information System). This contains all the information of our infamous past, even that which is expired or time-barred. The Polish legal system does not provide for automatic deletion of data on expired convictions from KSIP. They are removed from the KRK (National Criminal Register), but remain in the KSIP, which is administered by the Police Chief in Warsaw. So, before applying for a permit to carry a gun, it is worth first applying to the Chief of Police for the deletion of data on expired or time-barred crimes and misdemeanours, thanks to which our records in the KSIP should be cleared. Bear in mind, however, any fine within two years of a previous offence causes the expiry or time-barred date to reset and start running anew. In such a case, our request to erase the data on offences will be rejected.

Bibliography

- Constitution of the Republic of Poland of 2 April 1997, Dz.U. (Journal of Laws) 1997, no. 78, item 483, as amended.
- On arms and ammunition* Act of 21 May 1999, Dz. U. (Journal of Laws) 1999, no. 52 item 549, as amended.
- Code of Administrative Procedure* Act of 14 June 1960, Dz. U. (Journal of Laws) 1960, no. 30 item 168, as amended.
- Judgment of the WSA in Warsaw of 30.03.2012, ref. no. file II SA/Wa2603/11.
- Judgment of the WSA in Warsaw of 21.08.2012, ref. no. II SA/Wa 935/12.
- Judgment of the WSA in Warsaw of 29.08.2013, II SA/Wa 739/13, LEX, no. 1367770.
- Judgment of the WSA in Warsaw of 06.06.2014, ref. no. II OSK 32/13.
- Judgment of the WSA in Warsaw of 06.11.2014, ref. no. II SA/Wa1188/14.
- Judgment of the WSA in Warsaw of 13.06.2012, ref. no. II SA/Wa621/12.
- Judgment of the WSA in Warsaw of 26.02.2014, ref. no. II SA/Wa2068/13.
- Judgment of the WSA in Warsaw of 25.07.2014, ref. no. II SA/Wa893/14.
- Judgment of the WSA in Warsaw of 25.06.2015, ref. no. II OSK2836/13.

Summary

The refusal to issue a gun permit is an unpleasant surprise that many applicants face. A police authority will issue a weapons permit if the circumstances relied upon by the applicant justify its issuance. However, this is an evaluative decision and is often based on the data contained in the KSIP. In order to help avoid a refusal, it is worth ensuring that the time-barred data in this register is removed by submitting an appropriate application.