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Veterans: current status, challenges and future trends

Nearly fifty years have elapsed since Polish soldiers went on their first foreign mission (Korea 1953). Over that period of time, soldiers sent on missions have not enjoyed any special rights. It was only in 1998 that the first act governing the stay and service of Polish soldiers abroad was passed, namely the Act on the rules of deploying armed forces outside the Republic of Poland. Since the mission in Iraq (2003), injured soldiers applied to the Human Rights Defender for assistance. Their complaints focused on the access to medical treatment and on their difficult financial situation after coming back to Poland. The injured, when they returned home, were covered by the state healthcare system. They were granted special wounded soldier cards; however, such cards were not accepted by many institutions. Veterans had to wait in a queue to see a specialist. Thus, it became necessary to extend their assistance package¹. The Defender intervened in those matters on several occasions. The Minister of National Defence, who shared the Defender's doubts, provided necessary assistance to the injured. He also promised to regulate the status of veterans systemically. In the years 2005-2006, the adoption of the act on veterans was considered, but that idea was abandoned. Meanwhile the number of victims of missions to Afghanistan and Iraq was growing, same as the number of injured. Finally, thanks to the initiative, *inter alia*, of the Human Rights Defender and of mission veterans, on 19 August 2011, the Act on veterans of missions abroad was adopted. It is estimated that about one hundred thousand soldiers and military employees have so far participated in over 80 military missions abroad. Since 1953, about 120 participants in various missions have been killed or have died at home due to injuries.

As pointed out in the draft Act on veterans of missions abroad, the World Veterans Federation, bringing together veteran organisations from over 80 countries, including Poland, recognized former peace missions participants as veterans, in accordance with the Federation's Statute, amended in 1997. However, recognising this group as veterans is contrary to the axiology of Polish veteran law. It is not self-evident that mission participants should be considered as persons fighting for the freedom and sovereignty of the Polish state. Therefore, a separate act was necessary to regulate the above issue, specifying precisely the beneficiaries of the Act and satisfying the expectations of mission participants. Article 19 of the Constitution orders the state authorities to take special care of veterans of the struggle for independence, particularly war invalids. It results

¹ M. Schwarzgruber „Krok do systemu” Polska Zbrojna, Kurier Weterana: Przewodnik dla uczestników misji, p. 4;

from this article that veteran rights should be ensured, however within limits not breaching the principle of social justice. Special care ensured by the state must remain in compliance with this principle. The standard of Article 19 of the Constitution is of positive nature, providing for the grant of rights to a specific group. Implementing this standard does result in any restriction of rights of other entities. It also does not create a need to determine (the level of) benefits which must not be exceeded. The Act respects the above standard by assuming that special care should cover, first and foremost, veterans who suffered damage to their health while being on duty or working on foreign missions. Such persons participated in operations abroad at the invitation or request addressed to the Republic of Poland (its constitutional authorities, i.e. the Council of Ministers or President of the Republic of Poland) by international organisations or by a specific country. In such a situation, it is fully justified to grant special rights to veterans injured in combat actions or in operations directed against them. These veterans, risking their health and often also their lives, have performed and continue to perform their tasks abroad to help maintain peace in the world, whose stability is a guarantee of peace also for the Republic of Poland. Therefore, it is fully justified to assist suffered veterans in their recovery from injuries sustained during their service/work for peace, and to help them regain good physical and mental condition. It is essential not to exclude them, for their devotion and efforts, from social life due to their invalidity. The basic objective of the Act, therefore, is to bring veterans back to normal functioning in the society. This will be possible by providing them with special healthcare, including psychological support, as well as with assistance in enhancing their professional skills, namely improving the level or changing the profile of education, or by granting veterans additional financial support, often necessary to buy expensive medicines or to adapt a flat (house) to the disabled needs. It must not be forgotten that the world of suffered veterans has changed completely after their homecoming- their life plans related career and family often fell to pieces. They have to rebuild everything, and the degree of such rebuilding depends only on the level of external support.²

Efforts aimed at maintaining and building peace worldwide are taken not only by the Armed Forces of the Republic of Poland but also by other uniformed and armed formations such as: the Police, Border Guard, Government Protection Bureau, State Fire Service, Internal Security Agency, and Intelligence Agency; officers of all these agencies participate in the operations abroad.

The definition of the „veteran of operations abroad” covers soldiers, officers of Military Counterintelligence Service and of Military Intelligence Service, as well as military employees who participated in a mission for its entire duration, however, for not less than 60 days. There is one

² justification of the draft act on veterans of military operations abroad, Sejm of the Republic of Poland – 6th term, No of publication 3754;

exception from this general rule, namely, irrespective of the above-mentioned periods, the status of veteran and suffered veteran will be granted to persons who suffered health loss as a result of an accident or disease while on the mission, and were awarded compensation on this account. The above definition also covers officers subordinate to the Ministry of Interior. Officers of the Police, Border Guard, Government Protection Bureau and State Fire Service will be recognised as veterans of operations abroad if they were deployed to operations abroad in a contingent of the Police or Border Guard, or to perform security related tasks of Government Protection Bureau, or as a part of State Fire Service rescue team. With respect to officers of the Police, Border Guard and Government Protection Bureau – continuously for a period for which a given officer was deployed, however, for not less than 60 days; as regards officers of the State Fire Service, due to the specific nature of operations – for 60 days in total. The status of veteran injured in operations abroad is given to persons who, when participating in operations abroad based on deployment, suffered damage to their health due to an accident related to those operations or to a disease contracted when performing official tasks or duties abroad, for which they were granted compensation.

The Act on veterans of operations abroad³, which entered into force on 30 March 2012, defines the status of veteran of operations abroad and veteran injured in operations abroad and their respective rights; it also specifies the terms of exercising these rights as well as relevant procedures, and the competence of authorities in the above-mentioned matters.

The status of veteran and suffered veteran is granted, upon request of the interested person, by the Minister of National Defence by administrative decision. The decision granting the status of suffered veteran contains the information on the percentage of health loss resulting from an accident related to operations abroad or from a disease contracted when performing official tasks or duties as part of operations abroad, for which the compensation was granted; such decision specifies also the amount of allowance for a suffered veteran. Persons who were convicted by a valid court judgment court for an intentional offence or for an intentional tax offence in relation to performing their official tasks or duties while participating in operations abroad, or for an offence against the Republic of Poland, are not entitled to the status of veteran and suffered veteran. Should criminal proceedings or proceedings under the Fiscal Offences Act be instituted against a person applying for the status of veteran or suffered veteran, on charges of the above-mentioned offences, the processing of application would be suspended, pending the legally valid conclusion of such proceedings.⁴

For wounds and injuries suffered during operations abroad, the Minister of National Defence may award a suffered -soldier with a military decoration "For Wounds and Injuries." A suffered

³ Act of 19 August 2011 on veterans of operations abroad (Dz. U. [Journal of Laws] No 205, item 1203);

⁴ <http://mon.gov.pl/misje/weteran/uprawnienia-103246/>

veteran-soldier dismissed from active military service, who, when on duty, was not entitled to receive a uniform and outfit, is entitled receive once such uniform and outfit. A deceased veteran soldier and deceased suffered veteran soldier is entitled to military escort of honour during his funeral in the Republic of Poland.

As for healthcare services, a suffered veteran is entitled to healthcare services (i.e. healthcare services in hospitals and specialist services as part of outpatient healthcare) in the form of treatment of injuries and diseases suffered when performing tasks abroad, on a priority basis; a suffered veteran is also entitled to free-of-charge medicines for the period of treatment of injuries and diseases suffered when performing tasks abroad. A veteran soldier or suffered veteran soldier and the closest members of their families are entitled, on a priority basis, to psychological counselling offered by psychologists in military units and in military psychological laboratories, as well as to counselling provided in healthcare institutions established and supervised by the Minister of National Defence, if health problems of such a soldier are associated with his taking part in operations abroad. A veteran and suffered veteran are entitled, on a priority basis, to a place in a Home for Veterans, functioning as a healthcare centre.

As regards education, a suffered veteran is entitled to financial aid for education at the level of secondary school or first cycle degree programme, or uniform Master's programme.

Suffered veterans, receiving disability pension due to injuries or diseases suffered during their participation in operations abroad, have the right to:

- 1) be referred to a sanatorium at least once in three years;
- 2) be rehabilitated with the aim to fully or partially restore their ability to work (serve) or prevent further deterioration in the state of health;
- 3) receive, free of charge, a motorised wheelchair;
- 4) priority to have a place in a home for veterans or a nursing home;
- 5) be exempt from paying television and radio licence.

Based on the identity cards held, a suffered veteran will be able to use public transport at a 50% rate, irrespective of his place of residence, and will be entitled to 37% discount when using public railway and bus transport in Poland (buying single tickets). Veteran soldiers and suffered veteran soldiers over 65 will be eligible for subsistence allowance as well as for healthcare allowance if they suffer from a persistent disease resulting in an increased cost of living, the need to purchase medicines and dressings, and to travel to healthcare institutions to get medical treatment and undergo rehabilitation, and have access to nursing services due to the age and state of health, and

also in the case of fortuitous events (e.g. fire, flood) significantly deteriorating their financial standing.

As to the rights of employees and suffered veterans-soldiers, they are given priority in employment at organisational units subordinate to, and supervised by, the Minister of National Defence, accounting for their qualifications and psychophysical ability. Their scope of rights will be extended, namely they will be entitled to extra 5 days of paid leave in a calendar year, depending on their participation in the operation outside of Poland, provided that a given person has not used this entitlement on different grounds.

A suffered veteran receiving pension or disability pension is entitled to receive a suffered veteran's allowance, which will be calculated based on the lowest pension. The amount of suffered veteran's allowance depends on the determined percentage of health loss suffered as a result of an accident related to operations abroad or to a disease contracted when performing official tasks or duties as part of operations abroad, for which the compensation was granted, as presented below:

- from 10 to 20% health loss - 10% of the assessment basis;
- from 21 to 30% health loss - 20% of the assessment basis;
- from 31 to 40% health loss - 30% of the assessment basis;
- from 41 to 50% health loss - 40% of the assessment basis;
- from 51 to 60% health loss - 50% of the assessment basis;
- from 61 to 80% health loss - 60% of the assessment basis;
- more than 80% health loss - 80% of the assessment basis.

Benefits received by veterans are tax exempt.

The mere occurrence of an accident during the stay abroad, for a reason having no connection with the fulfilment of mission objectives, will not result in granting the suffered veteran⁵ status. A soldier from a contingent deployed in Afghanistan, for example, filed a complaint to the Voivodeship Administrative Court (WSA) against the decision of the Minister of National Defence on denying him the veteran status. The reason for submitting the request to the court, and earlier to the Minister of National Defence, were two accidents - of 9 June 2009 and of 22 July 2008 when the soldier, Robert K., pulled and strained his Achilles tendon. These injuries happened to the soldier when he was playing volleyball and when he was walking across the airport apron in Kabul, with no military operations taking place around. In the judgment⁶ issued on 29 August 2013, WSA dismissed the soldier's complaint. The said accidents do not fall within the statutory definition of an accident.

⁵ <http://www.lex.pl/czytaj/-/artykul/wsa-weteranem-nie-moze-zostac-zolnierz-kontuzjowany-w-czasie-gry-w-siatkowke;>

⁶ Judgment of the Voivodeship Administrative Court in Warsaw (file ref. No II SA/Wa 719/13);

The claimant did not act in a situation of direct danger, related to the performance of tasks of the Polish Military Contingent, thus, in the Court's opinion, the authority rightly assessed that Robert K. had no right to the status of suffered veteran. The authority reasonably stated that the accidents described in a post-accident report had no direct connection with the operations carried out as part of the tasks for which the contingent had been established and deployed. In addition, the judge added that the legislator also ensured adequate protection to persons who had suffered health damage as a result of an accident not falling within the definition of an accident, by means of the Act of 11 April 2003 on the compensation for accidents and diseases related to military service. The definition of "an accident related to operations abroad" was introduced into the Act for the purpose of distinguishing the said accident from the one specified in the Act of 11 April 2003.

Similar judgments were issued before by other compositions of the Voivodeship Administrative Court in Warsaw, where complaints against decisions of the Minister of National Defence are submitted. In the judgment of 5 June 2013 (file ref. No II SA/Wa 617/13) concerning a soldier who, when getting out of a vehicle transporting unexploded shells, slipped and fell down the vehicle's step, which resulted in bruises and a contusion of his spine, WSA in Warsaw invoked the justification of the draft act which provides for granting rights to veterans injured in combat actions or in operations against them. These veterans, risking their health and often also their lives, have performed and continue to perform their tasks abroad to help maintain peace in the world, whose stability is a guarantee of peace also for the Republic of Poland. The rights provided for in the Act, although partially different from the rights granted to veterans of struggle for independence, do not breach the constitutional rule of special treatment of veterans of struggle for independence. Referring to Article 3 of the Act, it was explained in the draft that the status of the suffered veteran may be applied for by a person who took part, based on deployment, in operations abroad and suffered damage to health as a result of an accident related to those operations or of a disease contracted when performing official tasks or duties abroad, and was granted compensation on this account. In particular, the above applies to a situation where a person was injured as a result of, e.g. explosion of a booby trap or contracted a disease that occurs only in the area of a mission or contingent (e.g. tropical diseases.) No possibility is foreseen to grant the suffered veteran status to a person evacuated to Poland for other medical reasons, not related to an accident or a disease contracted in the area of operations abroad (cf. justification of the draft act on veterans of military operations abroad, Sejm of the Republic of Poland – 6th term, No of publication 3754.)

It results from the above that the legislator intended to grant the suffered veteran status to persons who suffered damage to their health in connection with performing strictly military

operations or in situations directly related to their stay abroad. Such a definition of the entitled group is also indicated by the actions, directly listed in the Act, namely actions taken for the purpose of attacking the enemy or repelling enemy's attacks, assassination attempts or other illegal actions against a person taking part in operations abroad. Thus, the legislator aims at awarding and appreciating persons who risk their lives and health, and are directly involved in events and situations which do not happen in the times of peace.

In Polish military contingents, there are four women for a hundred soldiers – twice as many as in Polish army as a whole. This percentage, however, is the lowest among the NATO states. Although most Polish women soldiers serve in the Land Forces (987), the number of veterans among them is unknown. By 15 July 2013, the status of the veteran was granted to 7,475 persons, including 244 women. In the group of 405 suffered veterans, there were six women. Only two of them applied to the Minister of National Defence for support, and received it. None of them applied for co-financing their education. Eight women were denied the suffered veteran status, and one of them filed a complaint to the Voivodeship Administrative Court (33 men did the same, but all complaints were rejected). From the information of the Social Affairs Department at the Ministry of National Defence it results that formerly female mission participants who were granted the status of the veteran most often worked in administration or healthcare; more recently they worked primarily as soldiers in administrative and command positions. In the last decade, about 50 women soldiers were deployed in missions annually. They were sent to Kosovo, Lebanon, Syria, and Iraq. This changed after 2003, when female specialists in many fields started to graduate from officers' colleges and later also from military academies. The range of positions occupied by women taking part in missions has also extended. Since 2004, women have served as platoon commanders, heads of sections – deputy company commanders, telegraphists-operators, and liaison and operations officers. In Iraq, women could also be encountered on such positions as senior officer, junior specialist, planning and operations officer, head of team, platoon commander, consultant for psycho-prophylaxis, psychologist, legal adviser, and head of office. In 2012, 110 women soldiers took part in missions: 93 in Afghanistan, 15 in Kosovo, and two in Bosnia and Herzegovina.⁷ The recent years have shown that the number of women in the army is growing. It turns out that the demand for women during missions abroad is higher than at home. Motives that drive women soldiers to participate in missions are the same as in the case of men, i.e. satisfying professional ambitions, obtaining experience, willingness to test themselves under difficult conditions, as well as bonds with friends. Women rarely give up missions before their completion and seldom use psychological assistance for veterans. Also, no posttraumatic stress disorder (PTSD) has been found in women so far.

⁷ M. Barwicka „Misjonarki” Polska Zbrojna, No 8 August 2013;

More than 1.5 years have passed since the Act entered into force, thus it is possible to sum it up for the first time. Although the long-term tradition of participation of Polish soldiers in peace missions was pointed out in the justification of the draft, the status of the suffered veteran may not be granted to soldiers who served during peace operations⁸, *inter alia*, in Cambodia, Vietnam or Korea.⁹ There are problems with documenting events taking place several tens of years ago. The major advantage of the Act on veterans is the possibility to create positions for soldiers qualified for military service with restrictions - it will thus be possible to employ soldiers who returned from missions with physical disabilities. The Human Rights Defender sought to create such positions as early as in 2006 when the problem of disabled soldiers returning from Iraq arose. Often, they were young soldiers, ready to give up their disability pension in exchange for a possibility of further military service. Currently, there are about 30 such soldiers serving in the Polish Land Forces. Also, non-commissioned officer courses for soldiers with this category have been started.

Currently, veteran soldiers rarely turn to the Defender for help, as their problems are solved on an ongoing basis. Irrespective of this, during their visits to military units, the Defender's representatives meet not only soldiers on duty but also veteran soldiers whose organisations often operate at military units. During these meetings, those who are interested have an opportunity to present their problems, which are then forwarded to the Ministry of National Defence. Among difficulties faced by suffered veterans, we should mention long-term procedures of granting financial benefits and providing orthopaedic equipment, as well as problems with refund of the cost of medicines. The Act provides for a refund which takes too long, whereas soldiers, in particular suffered veterans, are not particularly well-off.¹⁰ Deputy Minister of National Defence, Czesław Mroczek, promised¹¹ that in December 2014 the Centre for Veteran Soldiers would be built in Warsaw. Veterans will have an opportunity to receive legal advice there and also to stay there when they come to Warsaw for rehabilitation. The main challenge for the Polish ombudsman in the coming years will be to ensure that men and women veterans have a possibility to effectively execute of their rights granted in the Act.

⁸ about 3 thousand Polish servicemen sitting on so-called dispute boards;

⁹ T.Kloc „Żołnierze dostali uprawnienia, a nie przywileje” Polska Zbrojna No 3 March 2013;

¹⁰ <http://prawo.rp.pl/arttykul/995376.html>;

¹¹ DK „Już prawie 7 tysięcy weteranów” Polska Zbrojna, No 4 April 2013;