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**THE ROLE OF THE HUMAN RIGHTS DEFENDER IN PROMOTING AND
PROTECTING THE HUMAN RIGHTS OF POLISH ARMED FORCES
PERSONNEL**

Ladies and Gentlemen!

Thank you for the opportunity to participate in this conference. The second time I have the pleasure of presenting the activities of Polish ombudsman for the military personnel on the conference on ombuds institution for the armed forces. In my presentation I would like to focus on the several key issues related to the activities of the Human Rights Defender of the Republic of Poland in this matter.

1. Human Rights Defender

At the beginning let me mention the Human Rights Defender – Mr. Janusz Kochanowski, who tragically died in a plane crash near Smolensk on 10th April. He wanted to participate in this conference, but the sudden and unexpected death, tragically interrupted his mission.

Mr. Kochanowski with the President Lech Kaczynski and scores of the other senior Polish figures, including the supreme command of all Polish Armed Forces with the Chief of General Staff, were en route to Katyn (Russia), to commemorate of the 70th anniversary of the massacre of thousands of Poles by Soviet forces during World War the second.

We lost a great lawyer and exemplary patriot, always full of passionate. We lost the most active and enteric ombudsman since the creation of this institution.

This speech is also on his behalf.

Let me first give you a brief overview about the position and competences of the Human Rights Defender.

2. Ombudsperson in Poland

The Human Rights Defender as an organ of state was established in Poland in 1987, before the final collapse of the Communist regime. Currently, his position and competences are regulated by the Act of fifteenth of July 1987 and the Constitution of the Republic of Poland of 1997. The Constitution also recalls of the Children Rights Defender.

In accordance with article 208 section 1 of the Constitution, the Human Rights Defender safeguards the human and civil liberties and rights defined in the Constitution and other normative acts. He is not an organ dependent in any measure on other state organs, including the Minister of Defence.

3. The scope of cases

The Defender deals with various issues which are related to broadly understood protection of freedom and individual rights. Addressed to the Defender's motions in the previous twenty-two years mostly related to labor law and social security (24,7%), criminal law (16,9%), business law, tax and protection of consumers rights (13,1%), administrative law and housing (11,7%), civil law and property management (11,4%) and penal executive law (8,7%).

In May 2009, the Defender received a millionth motion.

Next chart will show the number of new motions were received the Defender over twenty-two years. Interestingly, in the first year of the Defender, even during the communist regime, he received the largest number – over forty-four thousand motions.

4. Human Rights Defender and the Armed Forces

Should be emphasized that in Poland there are no specialized body that in charge of protecting the rights of military personnel. So that, the Human Rights Defender performs these competencies.

Everybody has the right, in accordance with the principles defined in the act, to appeal to the Human Rights Defender for help in the defence of liberties and rights infringed by organs of public authority (art. 80 of the Constitution).

People usually appealed to the Defender with difficult cases and usually after exhausting the legal means available to them and when not having the possibility of finding help from any other institution.

It is understandable that this broad range includes also soldiers of the Republic of Poland's Armed Forces, irrespective of where they are performing their duties – in Poland or beyond the country's borders.

5. Military matters in the activity of the Human Rights Defender

With reference to the problem of complaints directed by soldiers to the Defender, it must be emphasised that the military community is rather closed and its problems rarely reach public opinion.

The most important problems of Polish Armed Forces in 2009 are:

1) The systematic reduction in the Armed Forces. It has a direct effect on the feeling of stability and certainty about the possibility of continuing to serve in the army. The decisions to dissolve a unit are passed on to the interested parties at the last minute, which makes it impossible for them to undertake effective action in the field of finding other employment and guaranteeing a peaceful existence for their families.

2) Problems of professional soldiers – a particularly large number came from the newly-formed corps of professional privates. The direct reason for this was a change in the regulations (effected when the army became fully professional) concerning the limiting of possibilities for soldiers in the professional private corps to sign contracts for only 12 years. The interested parties were taken aback by this decision because earlier, when they had signed their contracts, nothing was known about these limitations and nobody had informed them about this matter.

3) The closure of many military units and garrisons. The soldiers serving until then in those garrisons were given a choice: either a transfer to other units around the country or the cessation of their military service.

6. Soldiers' matters in 2009 in statistics

In 2009, the Human Rights Defender received fewer complaints than in the previous year. Whereas in 2008 there were 222 new cases in the field of the defence of soldiers' rights, in 2009 there were only 177 new cases.

This is illustrated in the pie chart.

The main problem areas in new cases in the field of the defence of soldiers' rights in 2009 concerned:

- | | |
|--|---------|
| - professional soldiers | – 17.4% |
| - service conditions and foreign missions | – 15.4% |
| - the rights of soldiers in alternative military service
compulsorily employed in mines | – 15.4% |
| - accidents while serving, compensation, military invalids | – 12.8% |
| - enlistment and dismissal from service | – 8.1% |

7. Visits to military units

The majority of “military cases” need to be examined on site in the units where the soldiers are serving, including in those forces which have been selected to serve abroad.

The Defender tries to visit the places where they are serving and to become acquainted above all with the appropriate equipment, soldiers' accommodation conditions, food, preparation for the performance of duties, medical care and also the possibility of contacting their family and friends back home.

In December 2009, the Deputy Human Rights Defender visited Polish soldiers carrying out their duties in the Polish Military Contingent in Afghanistan, where also examined the possibility of offering quick and effective aid to the wounded and the possibility of maintaining contacts with their families and friends who remain in the country.

These visits are also a significant factor in the promotion and defence of human rights among the personnel of the Armed Forces of the Republic of Poland.

Please, let us focus on the method of handling cases of military personnel.

8. Dealing with the cases

In the military units are organized meetings with soldiers. Depending on possibilities, are conducted in groups, usually of particular personnel corps (officers, non-commissioned officers, privates) and, what is uncommonly important, without the participation of their superiors. Next, the presented problem is discussed with the commanders of the contingent. During these meetings, every soldier can present the problem troubling him without giving his name. If a soldier does not wish to present his problem at such a meeting, he can do so on an individual basis.

It must be emphasised that the soldiers are informed in detail about the legal means to which they are entitled in the particular matter being discussed and about the possibilities of appealing against any decisions taken.

Before I end my presentation, I'd like to mention the promoting human rights among all soldiers (including above all the commanders) of knowledge about human rights and their defence.

9. Promoting human rights

During the visits in military units and meetings with soldiers and also when examining the cases being conducted, the Defender systematically informs the military personnel about the entitlements that they possess and the legal possibilities in the settling and resolving of any problems that may be troubling them. The Defender also passes on information about the situations in which the soldiers can and should appeal to the Defender.

The Defender informs the commanders (persons) responsible for the stated irregularities about the findings reached. Another equally important element of the Defender's activities is the passing on to the military personnel of information about the actions undertaken and also about their effects.

The Defender cooperates with the governmental authorities in the matter of the problems presented and of the appropriate proposals directed to the Minister of Defence referring to military personnel. Information is also exchanged on the activities undertaken by the Minister of National Defence (e.g. in matters signalled by the Defender) and about their effects. This cooperation is intended to increase the effectiveness and efficiency of activities undertaken by the Defender on behalf of all the soldiers in the Armed Forces of the Republic of Poland.

Thank you very much for your attention!