

Zarząd  
Federacji Stowarzyszeń  
Służb Mundurowych RP  
L.dz. 155/2014

Warsaw, 16 December 2017



**Director of the European Union Agency for Fundamental Rights  
Mr. Michael O'Flaherty**

**Schwarzenbergplatz 11  
A-1040 Vienna  
Austria**

**Dear Sir,**

In the name of the Federation Associations of Law Enforcement Services of the Republic of Poland I kindly ask you to provide us with any possible support in fighting for our breached constitutional rights as well as our human rights included in the international law particularly in the European Convention for the Protection of Human Rights and Fundamental Freedoms.

On the 16<sup>th</sup> of December 2016 a law has been adopted which drastically decreases the pension and invalidity benefits for law enforcement officers who were in service for at least one day before 31<sup>st</sup> July 1990. It is already a second legal act which decreases mentioned above benefits for the officers served in the security services of the State. The first one, enacted in 2009, decreased the benefits contribution from 2.6% per year of service before 1989 to 0,7% per year of service in that period. The current one does not only reduce it to 0,0% for each year of the service before 31<sup>st</sup> July 1990 but also in its range includes a much larger group of pensioners (the estimate number is now 50 000). This legal act also sets up a ceiling which cannot exceed the average pension level established in the general national security insurance system. In practice the current pension or invalidity is between 800 and 1700 PLN (net). For reference the minimum salary in 2017, in Poland is currently 1450 PLN (net).

After the political transformation in Poland in 1989, State security services were verified. The appropriate commissions appointed by the Government of Tadeusz Mazowiecki, the first prime minister of free Poland, decided each individual officer whether he was worthy of serving in various uniformed formations in Poland after said political transformation. Those who have passed the verification positively,

were guaranteed by the State, the conditions of service and pensions on the basis of the same terms as for newly admitted officers.

The legal act referred to, unfortunately, did not comply with these guarantees. Among others, it introduces collective responsibility, violates the principle of non-retroactivity of law. It is a clear repression used by the parliament and not through judicial system without proving any individual guilt. It violates the principle of acquired rights, the principle of citizen's trust to the state, right of ownership and is clearly discriminatory towards positively verified officers.

The act also remains in sharp contrast with the Constitutional Tribunal's verdict issued in 2010 (case K6 / 09), which stated that: *"Each officer of the security forces of People's Republic of Poland, who has been employed in the newly created security police, has fully guaranteed equal rights to those appointed to these services for the first time since the middle of 1990, have equal rights to enjoy the privileged rules of retirement provision", "Service in the organs of sovereign Poland after 1990 is also treated equally, regardless of whether the officer previously served in the service in the security organs of People's Republic of Poland, or not."*

It should also be emphasized that the changes were made by the Polish authorities 27 years after the political transformation.

These and many other violations of fundamental, constitutional and human rights, have been pointed in their opinions, among others by: the First President of the Supreme Court, the Commissioner for Citizens' Rights, the Independent Self-Governing Trade Union of Police officers, the Helsinki Foundation for Human Rights and many others.

The goal and statutory duty of Federation Associations of Law Enforcement Services of the Republic of Poland is to provide help or support to tens of thousands of retired officers of uniformed services affected by the act, as well as to their families and aims to ensure a dignified life for them. The saddest effect of the introduction of the act is the death of 25 people caused by either suicide or a violent reaction of the organism to a message about the reduction of the benefit (strokes, heart attacks)

We believe that EU fundamental rights bind all citizens of the Member States, and that it is not only the duty of public authorities to not violate them, but also to protect citizens against violations of their rights by others.

With the above in mind, I would like to ask of you once again to take all possible measures to restore violated rights protection.

Respectfully yours,



**Zdzisław Czarnecki**  
**President**  
**Of the federation of Associations of**  
**Uniformed Services of the Polish Republic**  
**Krochmalna str. 32 lok.35**  
**00-864 Warsaw**  
*Attachments:*



1. *Opinion of the First President of the Supreme Court of 9/12/2016 no. BSA III-021-525 / 16 to the governmental bill amending the act on retirement provision of Police officers ...*
2. *Opinion of the Helsinki Foundation for Human Rights of 13/12/2016*
3. *Opinion of the Independent Self-Governing Trade Union of Police officers of November 28, 2016*
4. *Notary statement of Minister Andrzej Milczanowski*