

*Mgr. Marek Radosta
Police Academy of the Czech Republic in Prague
Faculty of Security and Law
Department of Criminal Police*

Legal Frame for the Use of Non-lethal Technologies at Selected European Security Forces

Introduction

The development and use of non-lethal means of security forces and defense corps is a highly discussed topic these days. In particular, over the last ten years, these technologies have advanced by leaps and bounds.

With regard to the increase of aggressiveness and criminality, armed security forces must undertake repressive measures from time to time. Based on this fact, responsibility of the use of force by any armed security forces must always undergo not only investigation by the public, but also inspection by the courts. The use of force must always be adequate and clearly definable.

The appropriate solution is to equip a trained member by non-lethal technologies, which will make his or her decision easier, and may be applied against the offender almost immediately without any major damage or injuries. These technologies save, in particular, the health of an offender and security forces do not have to defend themselves in court or to the public for “inappropriate” use of force against such a person.

European security forces of countries neighbouring the Czech Republic, whose actual condition of non-lethal weapons the author of this article would like to introduce, take this direction. The objective of this article is to create a compact overview of legal rules and non-lethal technologies used at selected European security forces.

Federal Republic of Germany

Within the territory of the Federal Republic of Germany, there are 17 different active police departments. Each of the federal states has its own state police (Landespolizei, abbreviation: LaPo). Thus, 16 different police departments operate independent of each other, while their competence is limited strictly to the territory of the respective federal state. These police departments may not be compared to our municipal or district police. The analogy of municipal police in Germany exists as the so-called Order Office (Ordnungsamt) at magistrates, offices or individual municipalities.

The superior body of police departments, active within the entire territory of Germany, is the Federal Police (Bundespolizei, abbreviation BPol). This police body fulfils the task of national border protection, is active in the area of fighting illegal migration, supervision over security and order at airports, stations and railways, and in general at large-scale social and sporting events. It secures government buildings and

buildings of representative offices of the Federal Republic of Germany abroad. Its members are also sent to foreign missions.

Each federal state has its own ministry of the interior, police and police act. Provisions of respective laws differ in their contents, so the author has prepared a transparent table with abbreviations of laws of the respective acts for better orientation. Abbreviations of acts are commonly used in Germany, so it is not necessary to mention their full names. Part of the table is also the paragraph, according to which it is possible to find the section related to enforcement means in these acts.

Table No. 1 – Enforcement means in the acts of the Federal Republic of Germany

Name of the state	Law abbreviation	Section for enforcement means
Federal Police (BPol)	UZwG	sec. 2
Baden-Württemberg	PolG	sec. 50 par. 2
Bavaria	PAG	sec. 78 par. 3
Berlin	UZwG-Bln	sec. 2 par. 3 sec. 21b)
Brandenburg	BbgPolG	sec. 61 par. 2
Bremen	BremPolG	sec. 41 par. 4
Lower Saxony	Nds. SOG	sec. 69 par. 3
Thuringia	PAG	sec. 59 par. 3
Hamburg	SOG	sec. 18 par. 3
Hessen	HSOG	sec. 55 par. 4
Mecklenburg-Vorpommern	SOG M-V	sec. 102 par. 3
Rhineland-Palatinate	POG	sec. 58 par. 3
Saarland	SPoIG	sec. 49 par. 5
Saxony	SächsPolG	sec. 31 par. 2
Saxony-Anhalt	SOG LSA	sec. 58 par. 3
North Rhine-Westphalia	PolG NRW	sec.58 par. 3
Schleswig-Holstein	LVwG	sec. 251 par. 3

In the Act on Police, the means of enforcement or the means of direct coercion, are mentioned only scarcely, and there are only general conditions mentioned for their use. For example, in the act on police of Baden-Württemberg, the sum of enforcement means may not be found at all. Furthermore, there are some non-lethal technologies, classified as enforcement means in certain states that are classified as prohibited weapons in this act. For example, we can mention TASER that was classified as a weapon, and in 2008 it was included into Annex No. 2, Section 1, No. 1.3.6., of the Act on Weapons (WaffG) as a prohibited weapon. As their reasoning, lawmakers

published it as “Special danger and potential for misuse.” Therefore, the use of TASER is considered the use of a fire weapon and not a means of enforcement.

Respective police bodies use mostly the same enforcement means, albeit the provisions in the act are not always the same. Their lists and use are specified in the acts of lower force and other internal methodical instructions. Therefore, for the list of enforcement means, I have applied the Act of Police of Bavaria.

The Bavarian police department observes the act Polizei-aufgabengesetz (PAG), where the list of auxiliary means is specified in sec. 78:

(3) Auxiliary means are handcuffs, **water cannon**, physical barrier, police dogs, police horses, police vehicles, **irritating and incapacitating agents** and **explosive substances**.

(4) Weapons are police truncheon, **electrical impulse devices** and other comparable weapons, pistols, revolver, **rifle**, submachine gun, machine gun and hand grenade.

Table No. 2 – Non-lethal technologies according to the PAG

List of non-lethal arms – sec. 78	
Type of non-lethal technology	Type of means
sec. 78 par. 3, Water cannon	<ul style="list-style-type: none"> Mercedes-Benz 2628 6x6 – WAVE 9 Mercedes-Benz 3341 6x6 – WAVE 10
sec. 78 par. 3, Tear gas and other irritating substances	<ul style="list-style-type: none"> Defence spray pepper RSG Irritating CS ammunition for MZP 1 launcher
sec. 78 par. 3, Explosives	<ul style="list-style-type: none"> NICO explosive
sec. 78 par. 4, Electrical impulsive devices and other comparable weapons	<ul style="list-style-type: none"> TASER X26E TASER X26P TASER X2
sec. 78 par. 4, Rifles, grenades	<ul style="list-style-type: none"> MZP 1 grenade launcher (police version HK 69)

Republic of Austria

Austrian police execute their activity based on the federal act “on the Organisation of Security Management and Police Activity” (Sicherheitspolizeigesetz (SPG) – BGBl. Nr. 566/1991 idF). In this act, there are general conditions for the use of enforcement means, specified in sec. 50. More specifically, only the legal authorisation to use “enforcement means” is mentioned here, or enforcement means comprised only of those that lead to the overcoming active resistance or attack. Enforcement means also include those that cause direct physical pain to the person they are used against. Therefore, non-lethal enforcement means are mentioned as ordnance weapons, according to the act mentioned below (Dienstwaffen).

A federal act “on the Use of Arms by Federal Police Bodies and Local Police Bodies” (Waffengebrauchsgesetz BGBl. Nr. 149/1969 idF) refers to respective types of ordnance weapons (non-lethal enforcement means).

Here, in sec. 3 of the federal act, the following means are listed as ordnance weapons:

1. *rubber and other truncheons,*
2. **tear gas and other irritating substances**, causing only temporary incapacity,
3. **water cannon,**
4. **fire arms.**

Table No. 3 – Non-lethal technologies according to the SPG

List of non-lethal ordnance weapons – sec. 3	
Type of non-lethal technology	Type of means
sec. 3 par. 2, Tear gas and other irritating substances	<ul style="list-style-type: none"> • MK – 3 defence spray • Irritation CS ammunition for HK 69 launcher
sec. 3 par. 3, Water cannon	<ul style="list-style-type: none"> • Water cannon Scania P 114 CB 4x4 – Rosenbauer
sec. 3 par. 4, Fire arms	<ul style="list-style-type: none"> • HK 69 launcher • TASER X26E

Republic of Poland

The activity and objective of Polish police is specified in the act Ustawa o Policji, Dz. U. 2016.0.1782 from May 6, 1990. This act defines the basic tasks and departments of armed security forces and contains a section related to the employment relationship. WIt may be compared to our act on employment of members of security forces.¹ The use of enforcement means is specified in the act Ustawa o środkach przymusu bezpośredniego i broni palnej, Dz. U. 2013.0.628 from May 24, 2013, designed for all security forces in Poland. In this act the following non-lethal technologies are specified in Article 12:

- 5) **net,**
- 8) **water cannons,**
- 11) **special ammunition,**
- 12) **chemically incapacitating devices:**
 - a) **hand sprays with incapacitating substance,**
 - b) **“bag“ launchers with incapacitating substance,**
 - c) **grenades with incapacitating substance,**
 - d) **other devices to launch incapacitating substances,**
- 13) **devices to paralyze persons using electrical current,**
- 20) **deafening or blinding pyrotechnic devices.**

In the list of these technologies, directional sound generators are missing (highlighted in red in the table below). These are considered as non-lethal technologies for this article, nevertheless they are not considered as enforcement means in Poland, according to law.

¹ Act No. 361/2003 Coll., on Employment of Members of Security Forces.

Table No. 4 – Non-lethal technologies according to the act of Polish police (Dz.U. 2013 poz. 628)

List of enforcement means – art. 12	
Type of non-lethal technology	Type of means
5) net	<ul style="list-style-type: none"> • RWGŁ-3 launcher with SZO-84 rod for net launching
8) water cannon	<ul style="list-style-type: none"> • Water cannon – “Hydromil II” Jelcz • Water cannon – 6000 Tajfun Renault • Water cannon – „TAJFUN III“ Scania R420 6x6
11) special ammunition	<ul style="list-style-type: none"> • Rubber shots Bąk (12 mm cartridge) • Rubber cartridges CHRB 20, 30, 50 (used in Mossberg 590, Remington 870 MCS and Hatsan shotguns)
12) a) hand spray with incapacitating substance	<ul style="list-style-type: none"> • RMG 75 defensive spray • RMP LE-10 defensive spray
12) b) “bag” launchers with incapacitating substance	<ul style="list-style-type: none"> • Bag launcher of liquid mixtures (with irritating or colouring substance)
12) c) grenades with incapacitating substance	<ul style="list-style-type: none"> • UGŁ-200 grenade • UGŁ-200/1 grenade (used separately or in the RWGŁ-3, AWGŁ-3 launchers) • 26 mm cartridge NPL-26, irritating (to be used in a signal pistol, wz. 78, and in a high capacity RGZ- 86 launcher)
12) d) other devices serving for launching of paralyzing means	<ul style="list-style-type: none"> • Irritating shot CS-94 (12 mm cartridge) • Irritating shot CS-94 M • Irritating shot CS -98 (used in Mossberg 590, Remington 870 MCS and Hatsan shotguns)
13) paralyzing of persons by electric current	<ul style="list-style-type: none"> • TASER X26 • TASER X2
20) <i>deafening or blinding pyrotechnic means</i>	<ul style="list-style-type: none"> • Acoustic petard
Not classified – Acoustic weapon	<ul style="list-style-type: none"> • LRAD – Long Range Acoustic Device

Slovak Republic

Within the territory of Slovakia, the Police Corps of the Slovak Republic primarily serves for the enforcement of law. These forces work on the basis of act No. 171/1993 Coll., on Police Corps, as amended. This act exhaustively defines, the enforcement means that a member of the forces may use. Enforcement means are divided here into general and special, as it also used to be in the Czech Republic. General enforcement means are specified in sec. 50 and special ones are specified in sec. 62.

Sec 50 Enforcement means:

- b) **means to overcome resistance and to avert attack**,
 (sec. 50 par. (2) means to overcome resistance and to avert attack are truncheons, defence rods, defence shields, **tear devices** and **electrical paralyzers**).
- j) **special water cannon**,
- k) **emergency explosive device**,
- o) **use of special cartridges**.

Sec. 62 Special enforcement means, special arms and their use:

- a) **temporarily paralyzing means**,
- b) **special launch and shock devices, not of an arm nature**,
- c) **specially adjusted fire arms**,
- d) **special explosive items and special charges**.

Table No. 5 – Non-lethal technologies according to the act on police force

List of enforcement means according to sec. 50 and sec. 62	
Type of non-lethal technologies	Type of means
sec. 50b) means to overcome resistance and to avert attack	<ul style="list-style-type: none"> • Defensive spray • TASER X26E
sec. 50j) special water cannon	<ul style="list-style-type: none"> • CAS32 Tatra T 815/THT
sec. 50j) emergency explosive	<ul style="list-style-type: none"> • Emergency explosive P1 a P2
sec. 50o) use of spec. cartridges	<ul style="list-style-type: none"> • Cartridge with rubber colour mark or irritating projectile
sec. 62a) temporarily paralyzing devices	<ul style="list-style-type: none"> • Heckler & Koch HK69 grenade launcher
sec. 62b) special launching and shock devices, not of a weapon nature	<ul style="list-style-type: none"> • Paintball TIPPMAN 98 Carbine • Kraken hand launcher (emergency unit of Prison Forces of the SR)

Conclusion

A number of platforms and types of non-lethal technologies exist in European security forces. Each country has its own specifics while respective security forces using these means, also have their own specifics. The objective of this article was to introduce platforms of non-lethal weapons that could have adequate potential use also in the Czech Republic.

From the list of mentioned weapons, German modern water cannons, directional acoustic generators and net launchers of Polish colleagues are particularly interesting for Czech security forces. Security forces in the CR do not use these means now, as they are obsolete or in limited quantities. Therefore, experiences from their use abroad could make future selection easier.

From the list of all identified non-lethal technologies of the selected armed securities forces mentioned in the tables, a similar direction for the acquisition of these technologies is apparent. This direction is clear, particularly in the case of electric non-lethal means that have been implemented into weaponry in recent years by all selected security forces, including Czech forces.

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RESUMÉ

Tento článek analyzuje a porovnává současný stav legislativy týkající se ozbrojených a bezpečnostních sborů vybraných evropských zemí, které legálně používají nesmrtící zbraně a prostředky. Článek se zaměřuje výhradně na ustanovení zákonů týkajících se výčtu, oprávnění a způsobu použití těchto technologií. Zjištěné nesmrtící technologie zapracovány do přehledných tabulek s ohledem i na správné zařazení k zněním paragrafů dotčených zákonů.

Klíčová slova: bezpečnostní sbor, nesmrtící zbraně, distanční elektrický paralyzátor, vrhací prostředek, zásahová výbuška.

R E S U M É

This article demonstrates the actual condition of legislation to the reader, related to armed and security forces of selected European countries, using non-lethal weapons and means legally. This article is focused only on the provisions of acts related to the list, authorizations and ways of use of these technologies. Found non-lethal technologies are listed into transparent tables considering also the right assignment to provisions of affected acts.

Keywords: security forces, non-lethal weapons, distant electrical paralyzer, launcher, emergency explosive.