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PROCEDURAL JUSTICE STANDARDS IN DISCIPLINARY PROCEEDINGS OF THE POLICE OFFICERS

The Police Act², adopted on April 6, 1999, regulates the course of disciplinary proceedings of the Police officers. In my opinion, the norms adopted in it should be verified by the prism of procedural justice standards applicable in civilized countries³. Specifically, it is about which of them and to what extent are respected, especially in the context of a repressive character of the proceedings and the fact that it takes place before the Police administrative bodies – a disciplinary superior and a higher disciplinary superior⁴. Judicial review occurs only after⁵ the completion of the official stage (the Police administration bodies).

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² See the Act of 6.04.1990 on the Police (i.e. Journal of Laws of 2016, it. 1728 as amended), further referred as the The Police Act.

³ The issue can be discussed also on the ground of other professional pragmatisms – eg. the Prison Service Act; cf. B. Baran, *Postępowanie dyscyplinarne funkcjonariuszy Służby Więziennej*, Warszawa 2016.

⁴ See Article 135k of the Police Act.

⁵ See Article 138 of the Police Act.

Procedural justice is an inherent part of the broader concept of justice. It has long been accepted⁶ that fair and just is what conforms to the accepted formal rules. The material standards were assessed by the prism of implemented for their usage procedural rules. In the axiological-philosophical dimension, they were rooted in T. Hobbes⁷, J.J. Rousseau's⁸ and I. Kant's⁹ theories.

Contemporary approach to procedural justice, the most widely represented by J. Rawls, refers to the idea of social co-operation¹⁰ also supported by formal rules of justice¹¹. The author enumerates: general subject, participation, abstractness, preferentiality, and balance. In the axiological dimension he formulates the thesis of the priority of justice over efficiency. It seems that this directive should also apply in disciplinary proceedings of the Police officers.

Rawls' procedural standards have not gained universal approval. In this matter other, more general, theoretical concepts developed. Particularly noteworthy, in my opinion, is systematics of standards presented by R.S. Summers¹². The author lists *process values* as follows: 1. participatory governance, 2. process legitimacy, 3. process peacefulness, 4. humaneness and respect for individual dignity, 5. personal privacy, 6. consensualism, 7. procedural fairness, 8. the procedural rule of law: "procedural legality", 9. procedural rationality, 10. timeliness and 11. finality. A different catalog, but axiologically consistent with R. S. Summers' standards, was designed for administrative procedures¹³. According to the adopted approach, the administrative procedures should pursue: 1. possibility to hear the participants of the proceedings, 2. finding out about the outcome of the proceedings by the person concerned, 3. access to the relevant information for persons involved in the proceedings, 4. disclosure of motives of a decision and, 5. providence of a means to challenge the decision.

The Polish legal doctrine also offers a catalog of standards of procedural justice. According to Z. Ziemiński¹⁴ a "due process" should ensure: 1. the impartiality of persons who settle the case, 2. institutional review of the decision (possibility of appealing against the decision), 3. the existence of rules permitting the determination of facts, 4. facilitating the procedural situation the weaker party, 5. recognition

⁶ See J. Stelmach, *Współczesna filozofia interpretacji prawniczej*, Kraków 1999, p. 135 *et seq.*

⁷ See T. Hobbes, *Lewiatan, czyli materia, forma i władza państwa kościelnego i świeckiego*, Warszawa 2005, *passim*.

⁸ See J.J. Rousseau, *Umowa społeczna*, Warszawa 2002, *passim*.

⁹ See J. Stelmach, *Współczesna...*, p. 137-138.

¹⁰ See J. Rawls, *Liberalizm polityczny*, Warszawa 1998, p. 29 *et seq.*

¹¹ The criticism of this concept is discussed by M. Borucka-Arctowa, *Koncepcja sprawiedliwości proceduralnej i jej rola w okresie przemian systemu prawa – analiza teoretyczna i funkcjonalna* [in:] K. Pałeczki (ed.), *Dynamika wartości w prawie*, Kraków 1997, p. 31.

¹² R.S. Summers, *Evaluating and Improving Legal Processes – a Plea for „Process Value”*, "Cornell Law Review" 1/1974, p. 20-29.

¹³ D.J. Galligan, R.H. Langan, C.S. Nicandrou, *Administrative Justice in the New European Democracies*, Oxford 1998, p. 29.

¹⁴ Z. Ziemiński, *O pojmowaniu sprawiedliwości*, Lublin 1992, p. 177-181.

of the equal treatment as a part of the adversarial principle, 6. ensure the possibility of actual access to the proceedings.

For the purposes of this paper, I use the previously conceived concept of R. S. Summers, which in my opinion, contains the richest set of protected values. However, I will not discuss all 11 procedural standards formulated by this author, but I focus on those that are of particular importance in the Police officers disciplinary proceedings. The arguments in this matter will be supplemented by references to the basic principles of this procedure because they are an important aspect of the implementation of process values at the functional level.

Especially important for the disciplinary procedure of the Police officers I do consider:

- the procedural rule of law: "procedural legality",
- humaneness and respect for individual dignity,
- procedural fairness,
- procedural rationality,
- process peacefulness,
- participatory governance,
- process legitimacy,
- finality.

The above sequence of standards does not correspond to the gradation assumed by R. S. Summers but is due to the specifics of disciplinary proceedings of the Police officers. By making this selection, I aimed at as far as possible determination to what extent these universal values¹⁵ are reflected in the procedure being the subject of this study.

The implementation of the idea of procedural justice is of fundamental importance to the rule of law, manifesting itself in the strict observance of the law. In the Polish legal system this standard is *expressis verbis* formulated in Article 7 of the Polish Constitution. At the subjective level it is addressed to all public authorities - *lege non distinguente* - also those operating in the disciplinary proceedings. Therefore they are obliged to obey the rules governing the conduct of the proceedings. In practice, this implies, on the one hand, the obligation to undertake all activities only within the limits set by the act of law, and, on the other hand, the prohibition on misleading the participants of disciplinary proceedings and / or the exploitation of their unconsciousness in respect of their rights.

The procedural rule of law: "procedural legality" as a standard of procedural justice is of special importance in the competence sphere. I am referring in particular to the inadmissibility of extending the interpretation of competency standards in disciplinary proceedings in the Police officers cases. In this matter, the directive "what is not forbidden is allowed" does not apply. Consequently, disciplinary authorities

¹⁵ See Ch. Perelman, *O sprawiedliwości*, Warszawa 1959, p. 123.

should apply competence provisions in a manner that closely corresponds to their textual wording¹⁶. In particular, they cannot enter into the sphere of constitutionally guaranteed rights and freedoms of the alleged offender (the Police officer) or other parties involved in the proceedings (eg. an aggrieved party, witnesses).

The procedural rule of law: "procedural legality" as a standard of procedural justice is universal, not only in the substantive but also temporal aspect. It applies to all phases and stages of the disciplinary proceedings, from institution, through the explanatory proceedings¹⁷ and issuing the ruling, ending with the executions. It is according to this sequence I will continue to examine this issue.

At an early stage, the procedural rule of law (procedural legality) as a fundamental standard of procedural justice manifests itself in the obligation to institute disciplinary proceedings. Its essence boils down to the fact that justified suspicion that the Police officer has committed a disciplinary offense obliges the disciplinary superior to institute proceedings on his own initiative. At the stage of evidence proceedings the procedural legality manifests itself in the respect of the rights of its participants by the disciplinary spokesman (in the course of evidence). This applies not only to an alleged offender but also witnesses¹⁸ and other parties involved in the proceedings. Essentially similar mechanism applies to the adjudicative stage, with the difference that the addressee is disciplinary superior or higher disciplinary superior. Particular attention in this context deserves the provisions of Article 135j (2) of the Police Act, because it *expressis verbis* sets standards of procedure. At the appeal stage, the instrument for the implementation of the rule of law appears to be the legal norms that make it possible to restore lawfulness if at first instance a violation of the disciplinary procedure has occurred. I refer here primarily to the rules governing the functioning of remedies in which the basis for the appeal is the so-called *error in procedendo*, which results from the literal interpretation of Article 135k of the Police Act.

In my opinion, an important aspect of the procedural legality as a standard of procedural justice is the principle of legal certainty¹⁹. Its essence is reduced to the permanent and possibly clear definition of the legal status of participants in a disciplinary proceedings. The normative expression of its implementation under the Police Act are institutions as follows: the irrefutability of disciplinary decisions, in particular the validity of the decision (Article 135o of the Police Act), vaporized dates (eg. Article 135k (1) of the Police Act), limitation periods (Article 135 (3) of the Police Act) and negative prerequisites of the proceedings obliging the disciplinary bodies to refuse to institute or discontinue it (Article 135 (1) (4) of the Police Act).

¹⁶ See eg. Article 135e (5) of the Police Act and Article art. 135j (9) of the Police Act.

¹⁷ See B. Opaliński, P. Szustakiewicz, *Policja. Studium administracyjnoprawne*, Warszawa 2013, p. 167.

¹⁸ See Article 135p (2) of the Police Act.

¹⁹ See M. Cieślak, *Polska procedura karna*, Warszawa 1971, p. 222 *et seq.*

Humaneness as a standard of procedural justice implies respect for persons involved in the conduct of the proceedings, in particular respect for their personal dignity and to save them unnecessary encumbrances. Instrumental or degrading treatment by disciplinary authorities is particularly unacceptable. The protection of private life of the parties to the proceedings is inherently connected with such a view of humaneness. Respecting this dimension is especially important in a situation where a disciplinary offense has been committed outside of the service and is not related to the employment²⁰.

Humaneness as a standard of procedural justice in disciplinary proceedings concerns various interests of its participants, such as mental peace or a need for a fair assessment of the behavior revealed during the proceedings. Deeply human dimensions have those provisions that directly respect the dignity of the alleged offender. The principles of presumption of innocence and *in dubio pro reo* stand out here.

The principle of the presumption²¹ of innocence²² in disciplinary proceedings of the Police officers is a directive according to which the alleged offender must be considered innocent until his guilt is proven and confirmed by a final judgment. On normative grounds it is *expressis verbis* formulated in Article 135g (1) (1) of the Police Act. It implements one of the fundamental civilizational standards²³ for all categories of proceedings in which the defendant is subject to sanctions. The principle adopted in the Police Act is axiologically fully coherent with the Polish Constitution, what should be noted with approval.

The primary consequence of the principle of the presumption of innocence²⁴ is that the burden of proof resting on the subject, who acts as the prosecutor. The problem in a disciplinary proceedings in the case of the Police officers is that this rule has not been *expressis verbis* formulated in any provision. It is therefore appropriate to refer to the universal standards applicable in civilized countries rooted in the Latin maxim *onus probandi incumbit acton*. In practice that means that the physical burden of proof²⁵ is on a disciplinary spokesman. Proving the guilt by a disciplinary spokesman is a necessary prerequisite for the punishment. An alleged offender does not have to prove that he is innocent²⁶. Consequently, the judgment of acquittal²⁷ may be taken both when his innocence was recognized and when his innocence has

²⁰ See B. Opaliński, P. Szustakiewicz, *Policja. Studium administracyjnoprawne*, Warszawa 2013, p. 165.

²¹ The historical aspect of this principle is thoroughly analyzed by E. Żak, *Rzymskie korzenie zasady in dubio pro reo*, „Biuletyn Lubelskiego Towarzystwa Naukowego »Humanistyka«” 1993, vol. 34, no 1, p. 85-91 and S. Waltoś, *Proces karny...*, p. 325.

²² See M. Cieślak, *Polska procedura...*, p. 340 *et seq.*; S. Waltoś, *Proces karny. Zarys systemu*, Warszawa 1985, p. 324 *et seq.*

²³ See Article 14 (2) ICCPR and Article 6 ECHR.

²⁴ Presumption of innocence is a rebuttable presumption (*praesumptio iuris tantum*).

²⁵ See M. Cieślak, *Polska procedura...*, p. 338.

²⁶ See B. Opaliński, P. Szustakiewicz, *Policja. Studium administracyjnoprawne*, Warszawa 2013, p. 169.

²⁷ See Article 135j (1) (1) of the Police Act.

not been proven, but has not proven his guilt as well. Only in exceptional cases the burden of proof may fall on the alleged offender if he refers to circumstances that exclude liability.

The obvious human underpinning seems to have also been laid down in Article 134h (3) of the Police Act which states the obligation to take account of mitigating circumstances when imposing a punishment. Primarily, the situation when the alleged offender voluntarily reported to his/her superior that he/she committed a disciplinary offense before the institution of disciplinary proceedings or he/she tried to reduce its consequences. A similar situation is also a case when a disciplinary proceedings, which have been closed under a valid decision, is re-instituted when the evidence, which constituted grounds for the establishment of circumstances important for the case has proven to be false²⁸.

Undoubtedly the idea of humaneness implemented in provisions of the Police Act what defends the dignity and privacy of participants in the proceedings. I refer here to the right to refuse to testify by next of kin of the alleged offender²⁹ or refusal to answer a question, if such an answer might expose the witness himself or his next of kin to liability for an offence or a contravention³⁰. In essence, the analyzed standard of procedural justice also implements the possibility of exemption from obligation to give testimony or answer questions by the person who has a particularly close relationship to the alleged offender³¹. In direct relation to the above-mentioned mechanisms is the fact that the disciplinary authorities are prohibited from imposing sanctions on the participants in the proceedings. It is *expressis verbis* stated in Article 135p (1) *in fine* of the Police Act.

However, in the broadest sense the humaneness of disciplinary action is reflected in rights of accused person to refuse to give a statement and *a fortiori* also to answer to questions. Directive from Art. 135f (1) (1) of the Police Act clearly implements the principle of the prohibition of forced self-indictment.

The mechanisms of facilitating the participation of an ill or disabled person in the proceedings are also important for the human dimension of the disciplinary proceedings. It is also of practical importance, in my opinion, to stay disciplinary proceedings due to occurrence of long-lasting obstacle³² hindering the conduction of proceedings on the part of the alleged offender or another participant.

A necessary element of the idea of procedural justice is the procedural fairness. According to R.S. Summers, it manifests itself in respecting the vital interests of its participants in proceedings' course. By their nature, in the disciplinary proceedings of the Police officers, they are designed to respect the legitimate interests of the alleged offender. This standard has very clearly imprinted shapes in the Police Act.

²⁸ See Article 135r (1 and 2) in conjunction with (6) of the Police Act.

²⁹ See Article 182 Polish Criminal Procedure Code in conjunction with Article 135p (2) of the Police Act.

³⁰ See Article 183 § 1 Polish Criminal Procedure Code in conjunction with Article 135p (1) of the Police Act.

³¹ See Article 185 Polish Criminal Procedure Code in conjunction with Article 135p (1) of the Police Act.

³² See Article 135h (3) of the Police Act.

I refer in particular to the presumption of innocence, *in dubio pro reo* and the right to defense. In my opinion the standard of procedural justice is implied also by the regulations giving the disciplinary superior the right to refrain from imposing the punishment³³ or the prohibition of imposing more than one disciplinary punishment for several disciplinary offenses³⁴.

Against this background, it should be noted that the provisions of the Police Act protect the legitimate interests of the deceased officer's family. Disciplinary proceedings shall be re-instituted upon request of a family member eligible for the Police family pension in case of the accused the Police officer death³⁵. Moreover, they have the right to lodge appeals under this proceedings³⁶. Such a solution contains itself an essential element of realizing the idea of the procedural fairness.

Another standard highlighted by R.S. Summers is the procedural rationality³⁷ of objective and impartial, careful analysis of evidences and arguments raised in the proceedings, and the justification of its decisions. In essence, this standard is about eliminating the undoubtedly harmful phenomenon of the voluntary nature of the disciplinary bodies involved in the case. In my opinion, an important aspect of procedural rationality is also the speed of conduct. Lack of this feature makes the procedure becoming chronic, and as a consequence, the value of justice is significantly reduced.

The rationality of the disciplinary procedure is manifested above all in the objectivity of disciplinary case-law. On the forefront, in this matter, is the complex of norms that form the basis of the principle of objective truth³⁸. At this point it is worth underlying that also other institutions of disciplinary proceedings implement in practice this postulate. I mean here the possibility for a higher disciplinary superior to take over disciplinary proceedings before the ruling is issued if he/she is of the opinion that it is necessary owing to the nature of the case³⁹ or in case of an intention to impose the punishment in the form of dismissal from the service in the Police, the disciplinary superior shall, prior to issuing the disciplinary decision, summon the accused person to report for a hearing in disciplinary proceedings⁴⁰.

³³ See Article 135j (1) (2) of the Police Act.

³⁴ See Article 134g (2) of the Police Act.

³⁵ See Article 135r (2 and 6) of the Police Act.

³⁶ See Article 135s (5) of the Police Act.

³⁷ The necessity of reasonable application of the law is emphasized by Ch. Perelman, *Logika prawnicza. Nowa retoryka*, Warszawa 1984, p. 219.

³⁸ I mean here the following procedural mechanisms:

- the explanatory proceedings,
- the collection of evidences and undertaking the proceedings necessary for solving the case by a disciplinary spokesman,
- appointment of a commission to examine and investigate the appealed decision,
- the development of a report complete with a notion referring to the resolution of the appeal by the aforementioned commission.

³⁹ See Article 134i (2) of the Police Act.

⁴⁰ See Article 135j (9) of the Police Act.

An important aspect of rationality as a standard of procedural justice is its impartiality⁴¹. It is particularly important in this matter to regulate the keeping of persons directly involved in the case, or related by family or functionally, with the alleged offender or the aggrieved party. I mean, first of all, the provisions of Article 135c of the Police Act, which precisely determines the circumstances when there is an exclusion of disciplinary bodies⁴².

Eliminating the arbitrariness of the disciplinary case-law as a direct object of the procedural rationality are the provisions governing the justification⁴³ of the decisions made in the proceedings. They concern not only disciplinary decisions (eg. Article 135j (2) (6) of the Police Act), but also resolutions (eg. Article 135e (7) (6) of the Police Act), and refer not only to first instance but also the appeal stage of a proceedings.

The immanent feature of the rationality of proceedings conduct as a standard of procedural justice is the speed of the procedure. This means that the disciplinary proceedings should be conducted without undue delay and to be as short as possible. I mean here in the first place the so-called limitation periods, which specify the latest date of performance in the proceedings. The same aim also applies to general terms in which the legislator used a typical term of an indeterminate nature, ie. "without delay", as in the case of Article 135j (7) of the Police Act.

The procedural standard distinguished by R. S. Summers is also the process peacefulness, understood as a normative tendency to alleviate conflicts resolved in the course of the proceedings. In the case of a disciplinary procedure of the Police officers, this standard is not of primary importance. It does not mean, however, that it is completely marginalized in the legislation in force. It is implemented in institution such as refrain from imposing the punishment under Article 132 (4a-4c) of the Police Act.

Another standard in the R. S. Summers conception is the participatory governance in the proceedings. By the nature of things in the disciplinary procedure of the Police officers - due to the good of the service - the participation of third parties is severely limited. This does not mean, however, that it does not completely occur. I believe that this standard is implemented in a limited scope by participating in the proceedings of the Police union representatives. They are designated⁴⁴ by the voivodship board of the Police union to the commission appointed to examine and investigate the decision appealed against. In relatively small dimensions they represent the social factor at the appeal stage of the disciplinary proceedings.

Another dimension of the participatory governance in disciplinary proceedings is the representation of the alleged offender or the aggrieved the Police officer by the

⁴¹ See A. Sulikowski, *Trzy filary nowoczesnego logosu sądzenia i ich postmodernistyczna krytyka* [in] M. Błachut (ed.), *Ponowoczesność*, Wrocław 2007, p. 217-218; Z. Tobor, T. Pietrzykowski, *Roszczenie do bezstronności* [in:] J. Stelmach (ed.), *Filozofia prawa wobec globalizmu*, Kraków 2003, p. 57-60.

⁴² See also Article 135m (4) in conjunction with Article 135c (1-3) the Police Act.

⁴³ Ch. Perelman, *Logika...*, p. 203 *et seq.*

⁴⁴ See Article 135m (1-3) of the Police Act.

Police union under Article 7 (2) of the Trade Unions Act. In textual wording the provision applies only to employees, but *a completudine*, in my opinion, is also applicable to the Police officers, in accordance with the directive set out in Article 2 (6) of the Trade Unions Act, which *expressis verbis* in the subjective sphere concerns the Police officers. This does not change the fact that the standard of the participatory governance in disciplinary proceedings is implemented *de lege lata* in a very limited scope.

Another procedural standard developed by R. S. Summers is process legitimacy. In the case of the Police officers disciplinary proceedings it is implemented because the entire procedure, both at the official and the court stage is governed by normative acts of the statutory rank⁴⁵, eg. the Police Act and the Polish Criminal Procedure Code, passed by democratically elected representatives of the nation in the parliament. It is therefore entitled in the context of Article 4 (2) of the Polish Constitution to state that the consent of citizens has been indirectly expressed, which in the axiological domain fully legitimizes the proceedings.

The last of the standards of procedural justice distinguished by R. S. Summers is the finality of proceedings in the investigation of the previously indicated values. In my opinion, this standard is a kind of metastandard. In essence, it contains all the others. Its normative guarantees results primarily from instances verification procedures. This applies in particular to the objections made to the *error in procedendo*, but it is worth pointing out that this applies not only to the official but also to the court stage.

Summing up the analysis of the standards of procedural justice⁴⁶, it is justified to state that the rules governing disciplinary proceedings of the Police officers in relatively wide dimension serve the value⁴⁷ identified with those standards, thereby realizing the fundamental idea of material justice⁴⁸. It should be emphasized that some institutions or procedural mechanisms meet the requirements of more than one standard. Especially in the standards of humaneness and procedural fairness there is a strong penetration of protected values. Thus many provisions, rules or even whole institutions can be assigned to more than one standard simultaneously. Such a diffusion reflects well on the axiological construction of standards regulating the course of the disciplinary proceedings of the Police officers.

⁴⁵ See Article 138 of the Police Act.

⁴⁶ See T. Chauvin, *Prawa stają się prawem. Demokratyczne procedury w służbie wartości* [in:] M. Wyrzykowski (ed.), *Prawa stają się prawem. Status jednostki a tendencje rozwojowe prawa*. Konferencja Wydziału Prawa i Administracji 25 lutego 2005 roku, Warszawa 2006, p. 193.

⁴⁷ At this point it is worth pointing out R.S. Summers, *Evaluating and Improving Legal Process...*, p. 3, *I use the phrase „process values” to refer to standards of value by which we may judge a legal process to be good as a process apart any of “good result efficiency” it may have.*

⁴⁸ See Z. Ziemiński, *O pojmowaniu...*, p. 172 and J. Stelmach, *Współczesna filozofia interpretacji...*, p. 143.

Bibliography

- Borucka-Arctowa M., *Koncepcja sprawiedliwości proceduralnej i jej rola w okresie przemian systemu prawa – analiza teoretyczna i funkcjonalna*, [in:] K. Pałeczki (ed.), *Dynamika wartości w prawie*, Kraków 1997.
- Chauvin T., *Prawa stają się prawem. Demokratyczne procedury w służbie wartości*, [in:] M. Wyrzykowski (ed.), *Prawa stają się prawem. Status jednostki a tendencje rozwojowe prawa*. Konferencja Wydziału Prawa i Administracji 25 lutego 2005 roku, Warszawa 2006.
- Cieślak M., *Polska procedura karna*, Warszawa 1971.
- Galligan D.J., Langan R.H., Nicandrou C.S., *Administrative Justice in the New European Democracies*, University of Oxford 1998.
- Hobbes T., *Lewiatan, czyli materia, forma i władza państwa kościelnego i świeckiego*, Warszawa 2005.
- Jasiński W., *Bezstronność sądu i jej gwarancje w polskim procesie karnym*, Warszawa 2009.
- Kmiecik Z., *Idea sprawiedliwości proceduralnej w prawie administracyjnym. Założenie teoretyczne i doświadczenia praktyki*, „Państwo i Prawo” 1994, z.10.
- Montesquieu de Ch.L., *Oeuvres completes*, Paris 1964.
- Opaliński B., Szustakiewicz P., *Policja. Studium administracyjnoprawne*, Warszawa 2013.
- Perelman Ch., *Logika prawnicza. Nowa retoryka*, Warszawa 1984.
- Perelman Ch., *O sprawiedliwości*, Warszawa 1959.
- Rawls J., *Liberalizm polityczny*, Warszawa 1998.
- Sulikowski A., *Trzy filary nowoczesnego logosu sądownictwa i ich postmodernistyczna krytyka* [in:] M. Błachut (ed.), *Ponowoczesność*, Wrocław 2007.
- Summers R.S., *Evaluating and Improving Legal Processes – a Plea for „Process Value”*, „Cornell Law Review” 1974.7.60.
- Stelmach J., *Współczesna filozofia interpretacji prawniczej*, Kraków 1999.
- Tobor Z., Pietrzykowski T., *Roszczenie do bezstronności*, [in:] J. Stelmach (ed.), *Filozofia prawa wobec globalizmu*, Kraków 2003.
- Waltoś S., *Proces karny. Zarys systemu*, Warszawa 1985.
- Ziemiński Z., *O pojmowaniu sprawiedliwości*, Lublin 1992.
- Żak E., *Rzymskie korzenie zasady in dubio pro reo*, „Biuletyn Lubelskiego Towarzystwa Naukowego »Humanistyka«” 1993, vol. 34, nr 1.

Summary: The article is devoted to the subject of proceedings’ standards in disciplinary proceedings against the Police officers. The author discusses in details each of the standards in accordance to the provisions of the Police Act. Views presented in the article lead to the conclusion that current regulations of the Police Act on officers’ disciplinary proceedings realize values identified with described proceedings’ standards. The idea of the proceedings’ justice is realized by the Polish disciplinary proceedings against the Police officers.

Keywords: proceedings’ standards, disciplinary proceedings, objectivity of proceedings, the Police officer, the Police

STANDARDY SPRAWIEDLIWOŚCI PROCEDURALNEJ A POSTĘPOWANIE DYSCYPLINARNE FUNKCJONARIUSZY POLICJI

Streszczenie: W niniejszym artykule autorka przedstawia standardy proceduralne w postępowaniu dyscyplinarnym prowadzonym wobec funkcjonariuszy Policji, omawiając jednocześnie w sposób szczegółowy poszczególne standardy w kontekście regulacji zawartych w ustawie o Policji. Przedstawione rozważania prowadzą do konkluzji, iż przepisy o postępowaniu dyscyplinarnym wobec policjantów realizują utożsamiane z poszczególnymi standardami wartości, wypełniając przesłanki stosowania idei sprawiedliwości proceduralnej.

Słowa kluczowe: standardy proceduralne, postępowanie dyscyplinarne, obiektywizm postępowania, policjant, policja