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CURRENT PRACTICE OF POLYGRAPH EXAMINATION IN POLAND

Polygraph examinations in Poland are conducted in criminal proceedings and in to police and special forces recruitment procedure (pre-employment) as well as in review (screening) of loyalty of such staff and military. Subjected to pre-employment polygraph examinations are candidates to work for the Police, Central Anticorruption Bureau (Centralne Biuro Antykorupcyjne, CBA) Customs Services (Sluzba Celna), Foreign Intelligence Agency (Agencja Wywiadu, AW) Internal Security Agency (Agencja Bezpieczenstwa Wewn^trznego, ABW), Border Guard (Straz Geaniczna, SG), Military Police (Zandarmeria Wojskowa, ZW) Military Intelligence Service (Sluzba Wywiadu Wojskowego, SWW), and Military Counterintelligence Service (Sluzba Kontrwywiadu Wojskowego, SKW).

Polygraph examinations are also allowed in disciplinary proceedings for public prosecutors. The 'correction system' has as yet expressed no interest in using polygraph for controlling the progress in the therapy of sentenced sexual offenders.

In criminal procedures, polygraph examinations have been used sporadically since 1963. Performance of polygraph examinations is permitted verbatim by the Code of Criminal Procedure since its amendment in 2003. From 2003 a few hundred examinations are performed for judicial purposes in Poland each year. The number of examinations conducted for the internal needs

of the police and special forces is unknown, yet the number is generally believed to be an order of magnitude higher.

In a criminal cases, especially in the investigation phase, a polygraph examination is used both for the preliminary elimination of suspects (subjected to examination are suspects, witnesses, and persons whose status has not yet been determined in the trial) and as evidence (examination can be applied to a suspect, the defendant, and witnesses). To use examination results before the court, an expert witness is only allowed to conduct a polygraph examination with the prior consent of the subject and to deliver its result as an expert opinion.

The current state of law admits polygraph examination in the form of an expert opinion performed by an expert witness, which is upheld in a recent decision of the Supreme Court concerning polygraph examination (decision of the Supreme Court of 29 January 2015, I KZP 25/14). In the light of Polish law, a polygraph examination cannot formally be a part of interrogation. It is construed an independent piece of expertise from an expert witness.

According Supreme Court, evidence from polygraph examination in criminal procedure belongs to circumstantial evidence.