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The Freedom of Assembly – the Past, the Present and the Future

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By the beginning of the XXI century the international community could witness an intensified social activity, which manifested itself as assemblies – organized, as well as spontaneous, legal or illegal. Ones that were used solely to express an opinion or to make a statement and others that in a way changed the course of history.

Assemblies were always connected with emotions. When people together and rapidly show their discontent with the reality they live in, they do not consider the question whether their actions are lawful or not. This is the part and a great task of the legislator to systemize this grave part of public life. We cannot forget that the possibility to assembly is a freedom – guaranteed, if we want to analyze it formally, by numerous international legal statutes and perfectly understood – ideologically and in its nature – by each European citizen.

Social anger – the result of the deepening gap in wealth – gave birth to the Occupy movement. Nations of Northern Africa, tired with social insecurity and authoritarian ruling of individuals, began revolutions of their own – it is yet to be determined whether it will bring them to liberal democracy or submerge in a system based on religious fanaticism. These events are as interesting as they are important, which is why we mention them in this short introduction, in the very least.

However, our inspiration for this paper were the events of 11 November in Warsaw, on the Independence Day, and the discussion which emerged afterwards. We thoroughly looked into Polish statutes, the Constitution and proposed amendments. Moreover, we compared legal systems of other countries for better and deeper understanding of the matter.

But let us begin with a historical perspective.

The right to freedom of assembly is one of the most demanded public rights nowadays. However, the history of public assembly is much older, since such assemblies already existed in ancient Rome and Greece. Public gatherings, to which only citizens were allowed, were the arena for important decision making and government conduct. The origins of freedom of assembly can be traced back to the era of Enlightenment. It was a watershed period, during which the man was thought to “be liberated from all worldly ties” and was supposed to “follow reason in his conduct and understanding of the world and himself” (Cegielski, Zielińska 1997: 224–233). One of the greatest philosophers of this period was Montesquieu, who in his widely read work “Of the Spirit of Laws” (1748) repeatedly praised the freedom of speech.

Montesquieu defines freedom as “the right to do everything that every act lets (...)” (Monteskiusz 1997: 136). He distinguishes two types of freedom: political and philosophical freedom. According to Montesquieu, political liberty cannot be tied only with the system, it should also be considered in connection

with the citizen. He rightly pointed out that “it may happen that the state system will be free, but not a citizen, a citizen will be able to be free, the system does not. In these cases, the system will be free from the law, but actually, the citizen is free de facto but not de jure” (Monteskiusz 1997: 161).

English documents of much earlier period, such as the Magna Carta (1215), the Petition of Right (1628) and the English Bill of Rights (1689) also dealt with human rights but did not refer to the freedom of assembly specifically.

Englishmen often assembled to discuss their grievances with the monarch¹. However, they did so at their own risk because any such gathering was subject to suppression if the monarch felt the assembly imposed an undue threat to the crown.

For the first time the freedom of assembly was guaranteed in writing in the Declaration of Rights of Pennsylvania (1776). Article 16: XVI. states that “the People have a right to assemble together, to consult for Their common good, to instruct Their Representatives” (Zinn 2010: 320–341).

The right to freedom of assembly has been implemented in an amendment to the Constitution of the United States of 1787. The inclusion of freedom of assembly was one of the main suggestions of James Madison. Many members of the Committee of the House of Representatives opposed the inclusion of such a provision, as they believed such written guarantee was unnecessary².

As a result of the wave of Enlightenment, the freedom of assembly has been recognized in France in the Declaration of the Rights of Man and Citizen of 1789. It did not mention the right of assembly directly, but article 4 defines freedom as “the right to do anything that does not harm others”, article 10 refers to “the freedom of expression and freedom of speech”, and article 11 contains the provision of “non-infringement of public order in the expression of those opinions” (Sczaniecki 2009: 218–243). Although the declaration appeared in the preamble to the French Constitution of 1791, and was the inspiration for the evolving constitutions in several countries, the freedom of assembly was soon greatly reduced in France. According to article 291 of the Napoleon’s Criminal Code (1810), each assembly over 20 persons required prior authority approval. In France, the freedom of assembly was not restored before 1907 (Sczaniecki 2009: 320–347).

Nowadays, the freedom of assembly is one of the fundamental human rights. The great contribution to the development of that right came from World War II. The numerous events of drastic human rights violations by the Nazis led the UN

¹ members.mobar.org/civics/freetoassemble.htm (31.03.2012).

² Ibidem.

member states to adopt the United Nations Charter. In the following years, it was found that the United Nations Charter formulated the concepts of human rights too generally; as a result, in 1948 the UN General Assembly adopted a Universal Declaration of Human Rights which proclaimed that “Everyone has the right to freedom of peaceful assembly and association” (Article 20(1)) and “No one may be compelled to belong to an association” (Article 20(2)) (Przyborowska-Klimczak 1995: 166).

Another international act expressing the concepts of human rights is the Convention for the Protection of Human Rights and Fundamental Freedoms adopted in 1950 by the Council of Europe. This convention is called the jewel in the crown, because it creates a procedure for the control of human rights that allows a request to end the infringement of rights, restoration of the state from before the infringement and offering appropriate financial compensation to those affected (Łazowski, Zawidzka 2008: 234–236).

Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms states that “everyone has the right to freedom of peaceful assembly (...)” (clause 1) and it confirms that no more restrictions will be placed than such as are prescribed by law on members of assembly (clause 2).

The International Covenant on Civil and Political Rights established by the UN General Assembly in 1966 also confirms the right to assembly through the words of article 21 which proclaims that “the right of peaceful assembly shall be recognized” (Przyborowska-Klimczak 1995: 180).

In socialist systems, the right to assembly was formally guaranteed by the constitutions of the countries belonging to the USSR (as well as the Soviet constitution). However, in practice these guarantees did not correspond with the reality and the exercise of law. As a result, the right to freedom of assembly and the acts that allow its implementation in real life are still relatively new and problematic for the former Eastern block, hence the numerous dilemmas associated with its usage.

One of the problems we encountered whilst writing our paper was the attempt to fully define the term “the right to freedom of assembly” on the basis of international acts and their connection with legal domestic solutions.

Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms does not define the term ‘assembly’. The decision about recognizing a gathering of a group of people as an assembly is made by the European Court of Human Rights authority.

The constitutional tradition of the countries-parties to the Convention formed some elements which are vital to the understanding of the definition of

assembly. For a gathering to be called an 'assembly', the group must consist of minimum two people together in the same time and public place. The required number of two members holds for the actual assembly, because in the preparation stage already a single person can be protected according to the regulations of the Convention.

The European tradition however, shaped a different outlook. According to this tradition, the minimum size of an assembly differs in each country's statute. For the most it is more than two people. In the case of a statute regulation which proclaims that two people are not enough to form an assembly, the group is treated only as a crowd which does not benefit from the provisions of the aforementioned convention ensuring protection of a public assembly. As of the goals and reasons behind the assembly, the choice is completely free and the convention does not provide any guidelines.

According to constitutional tradition, the right of an individual to freedom of free, peaceful assembly is composed of 3 entitlements: the right to the organization of assembly, the right to the participation in an assembly and the right to the management of an assembly.

The right to the organization of an assembly includes the possibility of making a decision independently or together with other members about the organization of a demonstration, determining its character (public or private), object, subject, target, term, place as well as the entitlement to free, public announcement about the assembly. The object and target cannot break the constitutional order in the particular country.

The term, as well as the place of an assembly may create political and social consequences of substantial meaning for the assembly. The state is not entitled to change the date that was chosen by the organizers of the assembly.

A situation fulfilling the conditions of article 11.2 is an exception, as it allows for an automatic prohibition of the assembly. As of the appointment of the location of the assembly, restrictions stem from the rights and freedoms of other people, for example ownership rights as well as restrictions imposed by statutes such as the ban on organizing an assembly in places that are strategic for national security. The arrangement of place and time should be done in cooperation with appropriate organs of public authority.

It is more than necessary to keep a sound balance between individual and public interest, as favoring of either one can give ground to a ban on the event.

According to the right to free participation in peaceful assemblies, a person cannot be penalized for the participation in an assembly. The situation differs in the event of a participant's reprehensible conduct.

Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms also protects the participants' right to free access to the location of the assembly. However, article 11 gives no protection to the crowd not being the part of the assembly.

The last right of an individual to free assembly concerns the management of its gathering. The subjects entitled to manage the assembly are the official organizer and his proxy. This can be limited only in the event of reasonable suspicions that the demonstration is either too risky or dangerous for preserving public order.

The state is obliged to provide means by which the entitlements of article 11 will be executed. However, this article protects only peaceful assemblies. Therefore, an attempt to forbid an assembly in case of suspicions of a probable use of violence during the assembly would not breach the rules of this article. Furthermore, the Convention gives no protection to assemblies which are illegal from the stand of domestic law.

An assembly as a process is composed of 3 stages: preparation, the actual assembly and the ending of the assembly. All of the stages are protected, but the Convention underlines the importance of the protection of the actual assembly the most.

Several kinds of assemblies can be distinguished, but domestic law concentrates on public assemblies. Public assemblies are by far the most likely to be an arena for riots and other disturbances. Article 11 of the Convention protects spontaneous assemblies as well. This kind of gatherings is characterized by giving no information in advance to the domestic authorities about the time and place of the assembly – it is an immediate reaction to current headlines, for example political affairs.

Another act dealing with the freedom of assembly is the European Charter. The European Parliament briefly described the origin of this act: "Drawn up by a convention bringing together the European institutions, representatives of the national parliaments, lawyers, academics and representatives of civil society, the European Charter was adopted as a recommendation and reference text by the European Council in Nice in December 2000. It is a complementary text to the European Convention on Human Rights, which was an initiative of the Council of Europe."

Premises of article 12.1 of European Union Charter of Fundamental Rights are equivalent to premises of the European Convention on Human Rights, but its range is wider because they are applicable in all levels including the European.

Poland, along with Great Britain and the Czech Republic, allowed for only a limited practice of the Charter of Fundamental Rights. This was possible

upon the entering to Protocol 7, which became a part of the Lisbon Treaty. The Protocol consists of two articles proclaiming that no court or tribunal, including the EU Tribunal of Justice, can find the Polish domestic law as incompatible with the fundamental rights and freedoms contained in the Charter and that Poland will abide by the regulations of the Charter only in such range in which they are agreeable with Polish domestic law.

The extensiveness of the range of international law caused the inability to develop a specific legal definition for the right to freedom of assembly. The above arguments show that attempts have been made, but overall the tradition of European law and the democratic theories have prevailed and influenced the legal awareness of the term “right to freedom of assembly”.

In a democratic state of law people, its citizens, are the sovereign (Garlicki 2010: 54). Their decisions influence the way that legislative procedure, ruling the country or other institutions should look like. Functioning of such a system should be based on inherent, inalienable freedoms of an individual, a human being. State’s objective is to protect these freedoms and allow people to execute them (Jabłońska-Bonca 2007: 45). Law does not create them, the state can declare and guarantee such freedoms at best and limit them only in justified cases when it is requested to protect other, common for the whole community, values (Suski 2007: 65). The sovereign has to agree on such limitation. One of the most basic freedoms is the one to assemble (Garlicki 2010: 105; Suski 2007: 67).

After the Second World War the international community agreed, that every person is born with a set of freedoms due to the simple fact of being human, and that fact has to be strongly stated and protected. The Universal Declaration of Human Rights was enacted by the General Assembly of newly created United Nations (Jabłońska-Bonca 2007: 360; Suski 2007: 84).

Next one was the European Convention on Human Rights whose task was to guarantee some of the freedoms stated in the UN act by the state members of the Council of Europe. It is here where one can find Article 11 which states “Everyone has the right to freedom of peaceful assembly and to freedom of association with others”. Poland ratified it on January 19, 1993 and as a result, among others, recognized the jurisdiction of the European Court of Human Rights (Suski 2007: 88–95).

Another significant international act was the International Covenant on Civil and Political Rights. Its Article 21 states: “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre

public), the protection of public health or morals or the protection of the rights and freedoms of others.” Poland ratified it in 1977 (Suski 2007: 84–88).

Incorporation of acts listed there to its legal system does not surprise as Article 9 of the Polish Constitution states: “The Republic of Poland shall respect international law binding upon it.” These acts are applied directly (Garlicki 2010: 145; Suski 2007: 83).

Freedom of assembly is declared on the constitutional level in Article 57: “The freedom of peaceful assembly and participation in such assemblies shall be ensured to everyone. Limitations upon such freedoms may be imposed by statute” (Suski 2007: 74). One can see how similar it is to articles of international law. It is one of the ways of protecting this freedom by the legislator.

In addition a Statue of Law of Assemblies of 5th of July 1990 was established. It should be stressed that it was adopted in 1990 so just after the transformation in Poland and seven years before the enactment of Constitution of Polish Republic of 2nd of April 1997. It regulates the matter of our interest very precisely on the statutory level. Its first two articles state: “Each person may enjoy the freedom of peaceful assembly (Article 1).” and “Freedom of assembly may only be subject to limitations that are provided by law (Article 2).” After that declaration a detailed regulation follows: who, how, when is allowed and when not to organize an assembly (Suski 2007: 132).

Polish legislator takes quite a complex approach to regulating the freedom of assembly. Article 57 of the Constitution is principal and states: “The freedom of peaceful assembly and participation in such assemblies shall be ensured to everyone. Limitations upon such freedoms may be imposed by statute.”

This superiority is confirmed by Article 2 of the statute: Law on Assemblies.

It is an act which specifically determines the way to set up an assembly and, of course, determines the limits to this freedom. It should be noted that the act does not apply to assemblies that are organized by state or local government authorities or the ones that are held within the activities of the Catholic Church, other Churches, and religious unions (Article 4).

According to the statute the assembly is a gathering of at least 15 people convened in order to confer over an issue or with an aim to express jointly their position (Article 1.2). The requirement of 15 people present is a necessary but not sufficient condition. The group can be considered an assembly only when it gathers in the open in areas accessible to unspecified individuals (Article 6. 1). Likewise, when fewer than 15 people gather in the open, it is not a publicassembly.

The right to organise assemblies is granted to persons with full capacity to legal acts, to legal persons, other organisations, as well as groups of persons

(Article 3). When the demonstration is being organized by a legal person or other organization without legal personality a specified person must be selected as a leader. He/she will handle matters related to the assembly on its behalf. For instance, opening the assembly, presiding over its course, and dismissing the assembly (Article 10).

Under Article 1 of the law on Assemblies each person may enjoy the freedom of peaceful assembly. It is not limited by citizenship, capacity to perform legal acts and so on.

During the preparation of a public assembly the organiser shall notify the commune authorities so that the notification is delivered no later than 3 but no earlier than 30 days before the planned date of the assembly (Article 7). The commune authority shall prohibit a public assembly, if the purpose or fact of holding of that assembly is against the act or violates the provisions of penal law or the holding of that assembly may pose a threat to the life or health of individuals or to property of considerable value (Article 8). The refusal cannot be determined by the announcement of counter-demonstrations, even in cases where it may cause a disturbance.

When a negative decision based on reasons other than described above is delivered to the organizer or the organizer does not agree with the opinion that the planned assembly is dangerous to life, health or property, the organizer may appeal to the region governor (Article 5.2). An appeal should be lodged within 3 days of the date of delivery of the decision. The lodging of an appeal does not stop the execution of the decision (Article 9. 2 and 3). Decision taken by the governor shall be delivered to the organizer within 3 days from the date of the appeal. If the governor rules against the assembly, the organizers of public assembly have the right to file a complaint directly to the Supreme Administrative Court.

In case where a person – a participant of the assembly – violates the provisions of the act the leader has the right to demand that the person leaves the site of the assembly. If the person fails to conform to the demand, the leader may call the police or municipal guards for assistance. If the participants of an assembly fail to subordinate to the leader's orders, or the progress of the assembly is against the act or violates the provisions of penal law, the leader should disband the assembly. Once the assembly is disbanded or dismissed, its participants must leave the site of the assembly without delay (Article 10).

At the request of the organizer, the commune authority provides police protection, when necessary and possible. The authority may also delegate its representative to the assembly (Article 11). The representative of the commune is authorized to disband the assembly, if the progress of that assembly poses a threat to the life or health of individuals or to property of considerable value, or

violates the provisions of the act or of penal law, and the leader refuses to disband the assembly. To do so the representative has to warn the participants three times before the termination of an assembly.

The important role in the protection of the freedom of assembly is assigned to the Constitutional Tribunal. One of the functions of the Constitutional Tribunal is the control of the conformity of legal provisions to the Constitution of the Republic of Poland.

The President of the Republic, the Commissioner for Citizens' Rights (*Ombudsman*), Marshal of the Sejm of the Republic of Poland, The Marshal of the Senate of the Republic of Poland, The Prime Minister of Poland, 50 deputies, 30 senators, First President of the Supreme Court, The President of Supreme Administrative Court, Public Prosecutor General, The President of The Supreme Audit Office have the right to appeal to the Constitutional Tribunal for its judgment about specific provisions. In the last several years the Constitutional Tribunal in Poland controlled provisions connected with the freedom of assembly a few times. The judgments of the Tribunal in these cases often aroused opinion public's wide interest. In our paper we present two judgments of the Constitutional Tribunal connected with the subject.

In 2004 the President of Poland appealed to the Constitutional Tribunal for its judgments concerning two provisions which had been contained in the act amending the Law on Assemblies³.

The first provision proclaimed that people, whose external appearance does not allow to recognize their identity, cannot participate in assemblies. Among many issues, the regulation concerned the use of masks and balaclavas by participants during assemblies. During the process of assessing conformity of the provision with the Polish Constitution the Tribunal paid close attention to several aspects.

Firstly, the constitutional freedom to assembly gives its participants the right to preserve their anonymity. The only exception to this applies to the organizer of the assembly, who according to the statute cannot be anonymous. The second provision examined by the Tribunal referred to the obligatory peaceful character of the assembly. A participant's will to dress up for the assembly will not always be treated as a breach of the peaceful character of the assembly. According to the Tribunal, actions such as bringing weapons to the assembly cannot be leveled to changing the participant's looks as it would be a clear breach of the legally guaranteed by the right to freedom of assembly. The third aspect looked upon by the Tribunal was the lack of a sound definition of when exactly the identification

³ TK ZU 2004/10A poz. 105.

of a person is impossible. Attempts of the execution of this regulation would cause a high level of freedom for the authorities in their rulings, which in case of constitutional regulations should not take place. Furthermore, the Tribunal also made reference to the fact that according to the legally binding regulations of the Act on Assemblies, the Police have the means needed to establish the identity of the participants of an assembly. All of the above arguments caused the Tribunal's judgment of rejecting the provision, as it violated the constitutional regulations. As a result, the provision did not become a part of the Act.

In the same judgment the Constitutional Tribunal referred to the provision which proclaimed that the liability of the organizers of assemblies for damages done during the assemblies and directly after the assemblies is equal to the liability of participants who caused these damages.

The Tribunal paid attention to the fact that during mass assemblies proving that a person was a participant could give rise to difficulties. Therefore, the organizer of the assembly has to take liability for the damages caused by the participants.

The expression "directly after assemblies" was not unambiguous as in consequence the provision did not define when something happens directly or not directly after an assembly. The authors of this provision defined more or less the time when the organizer had responsibility for damages but they did not mention that this provision concerned only damages done in the actual place of the assembly. Moreover, the members of the Tribunal questioned the reasons of introducing this provision. It is impossible for the organizer of an assembly to assure definite security and no damages caused by the participants. Thus, the provision only discouraged the organizer from organizing the assembly. According to the judgment of the Constitutional Tribunal this provision also was not in conformity with the Constitution.

In accordance with the position of the Constitutional Court the solutions adopted in the amendment to the Act, particularly those relating to the transfer of organizer's responsibility for damage caused during the assembly, including the risk of financial liability constitute the factors that create the barrier of the fulfillment of the freedom of assembly that is substantial and not justified enough with the reasons of democratic state.

Another judgment of the Constitutional Tribunal, significant for the understanding of the freedom of assembly, was pronounced in 2006⁴.

⁴ OTK ZU 2006/1A poz. 4.

The applicant in this case was the Commissioner for Citizens' Rights. The regulation in question derived from the Road Traffic Act which enumerated situations requiring special permission from the local authorities due to their problematic character. The enumerated situations included rallies, races as well as assemblies, which was the reason behind filing the notion by the Commissioner – the provision thus imposed further restrictions for the organizer of an assembly. Upon making a judgment, the Tribunal pointed out the legally dysfunctional juxtaposition of various sports events with the assemblies. The Tribunal accused the legislator of not considering that public assemblies are a form of executing political freedom, which is guaranteed in the Constitution. The members of the Tribunal also pointed out the inconsistency of the mentioned regulations as no special permission is needed for the organization of various religious events, which are a form of the execution of the freedom on consciousness and religion also guaranteed in the Constitution. The Tribunal proclaimed the incompatibility of the provision with article 57 of the Constitution of Poland which refers to the freedom to assembly. The questioned part of the provision of the Act on Road Traffic has ceased to be effective.

We would like to add that on 14 September 2012 Polish government enforced amendment to the statute of *Law on Assemblies*. It was the result of incidents that took place during the celebration of Independence Day on November 11 2011.

The amendment provided for more limited restrictions as to the possibility of its conduct, when an assembly is organized nearby buildings protected by the Government Protection Bureau, municipal authority shall inform the Head of the Government Protection Bureau about the location, the date and the expected number of participants of the assembly. Furthermore, the assembly held by two or more organizers at the same time with identical or partially overlapping routs it is possible to separate them or organize them in such a way that their conduct do not threaten the life or health of people and their belongings of a substantial size. Article 7 imposed the requirement that the chairman of the assembly has to provide his personal information and a photo. The Chairman of the assembly is required to bear a personal ID. The time for appeal against the decision prohibiting the public assembly was shortened to 24 hours of the receipt of the decision. The appeals shall be submitted to the governor, who shall examine them also within 24 hours.

These solutions seem to contribute to the safety of assembly and do not contradict the freedom protected by the Constitution.

Let us now compare two cases of the active use of the freedom of assembly.

On 11 November, Polish Independence Day two counterdemonstrations gathered – Independence March organized by nationalist, extreme right wing

groups National Radical Camp (ONR) and National Rebirth of Poland (ONR)⁵ and Colorful Independent manifestation of Agreement of 11 November⁶, assembly of various leftist organizations. The clash of the opposite ideologies led to riots in the streets of Warsaw: initial disturbance on Nowy Świat Street caused by the clash between German antifascists, Polish nationalists and the police, which was quickly tamed⁷; minor attacks of nationalist groups on Colorful Independent, partially resisted by the demonstrators themselves, partially calmed down by the police. At 3 PM, the time appointed by the organizers for the beginning of March, aggression of the right wing hooligans turned towards the police officers responsible for safeguarding both of the courses of the demonstrations⁸. In effect of the riots, the city and the private entrepreneurs suffered high financial losses⁹. Numerous people suffered damage to their health; many have been arrested by the police¹⁰. Greece has severely suffered effects of the global economic crisis: inflation, unemployment and increasing debenture. The crisis has caused a determined reaction of the international community, mainly of the European Union countries. The intention was to have the Greek government of Georgios Papandreou accept a wide variety of economic reforms in exchange for the financial help. This has intensified the society's reluctance towards the government and eventually provoked massive protests. Between 25 May and 28 June Greeks expressed their discontent, organizing themselves via Facebook page Indignants at Syntagma¹¹, which is the square in Athens where the Hellenic Parliament is seated. During these days the protests had a peaceful character (with minor

⁵ <http://marszniepodleglosci.pl/2010/11/05/pytania-i-odpowiedzi-w-sprawie-marszu-niepodleglosci/>, (31.03.2012); <http://www.nop.org.pl/2011/11/14/marsz-niepodleglosci-w-warszawie/> (31.03.2012).

⁶ <http://www.11listopada.org/sklad> (31.03.2012).

⁷ <http://www.mmwarszawa.pl/393098/2011/11/11/przepychanki-z-policja-zamknieta-ulica-nowy-swiat?category=modo> (31.03.2012); http://warszawa.gazeta.pl/warszawa/1,34889,10628769,Zamkneli_Nowy_Swiat_Policja_Zaatakowali_nas_.html (31.03.2012).

⁸ <http://wiadomosci.onet.pl/kraj/200-osob-zatrzymanych-policja-obrzucona-kostka-bru,1,4904613,wiadomosc.html> (31.03.2012).

⁹ <http://media2.pl/media/85774-Zdemolowany-woz-Polsat-News,-woz-TVN24-w-plomieniach.html> (31.03.2012).

¹⁰ <http://www.alegazeta.pl/wiadomosci/wstepny-bilans-i-pierwsze-aresztowania-po-zamieszkach-z-11-listopada>, (31.03.2012); http://en.wikipedia.org/wiki/2010%E2%80%932012_Greek_protests (31.03.2012).

¹¹ <https://www.facebook.com/pages/%CE%91%CE%B3%CE%B1%CE%BD%CE%B1%CE%BA%CF%84%CE%B9%CF%83%CE%BC%CE%B5%CE%BD%CE%BF%CE%B9%CE%A3%CF%84%CE%BF%CE%A3%CF%85%CE%BD%CF%84%CE%B1%CE%B3%CE%BC%CE%B1/210627972310743> (31.03.2012).

incidents like blocking all exits from the parliament, preventing politicians from leaving the premise¹²). Assemblies differed with number of protesters present but with time more and more people expressed their support for the cause. One of the biggest demonstrations was the one which took place on 5 June, estimated 100000 even up to 500000 people attended¹³. 28 June was set as the beginning of 48-hours general strike against new austerity measures¹⁴. The protests quickly turned into riots, lasting until the next day and violently pacified by the police¹⁵. Few hundred people were injured and it caused a strong resentment of the public opinion.

Demonstrations continued for a long time. The situation caused the appointment of a new government which now works on stabilizing the situation.

In Greece as well as in Poland demonstrations had a similar course of action from the legal point of view. Democratic systems of both countries, their legislature and respected international agreements guarantee their citizens the freedom of expressing their statements by organizing public assemblies on the streets and squares of the cities; however with strong emphasis on their peaceful character (Garlicki 2010: 111). In both cases organizers assumed their lawful course of actions and for some time everything was functioning in accordance with rules of social conduct. When these rules were broken protesters met with rapid, sometimes too violent reaction of the police. Legislators have felt the urge to change some regulations concerning the freedom of assembly.

In Poland one of the initiators of these changes is the President¹⁶ who intends, with his statutory project, to change the law without changing or affecting provisions of the Constitution¹⁷. While we write these words the public consultations are ongoing¹⁸. Some civil rights organizations like Helsinki Committee for Human Rights have made their reservations concerning the new

¹² <http://www.protothema.gr/greece/article/?aid=125447> (31.03.2012); <http://www.skai.gr/news/greece/article/170979/evdomi-imeragaganaktisis/> (31.03.2012).

¹³ <http://www.skai.gr/news/greece/article/171424/aganaktismenoi-protofanis-summetohi-se-athina-kai-alles-poleis/> (31.03.2012); <http://www.haaretz.com/news/international/greek-unions-launch-48-hour-strike-against-austerity-measures-1.370020> (31.03.2012).

¹⁴ <http://www.haaretz.com/news/international/greek-unions-launch-48-hour-strike-against-austerity-measures-1.370020> (31.03.2012).

¹⁵ <http://www.skai.gr/news/greece/article/173486/nuhta-edasis-sto-sudagma/> (31.03.2012).

¹⁶ http://warszawa.gazeta.pl/warszawa/1,34862,10631027,Prezydent_Warszawy_po_marszu_trzeba_zmienic_ustawe.html, 31.03.2012r.

¹⁷ <http://www.prezydent.pl/prawo/ustawy/zgloszone/art,9,prezydencka-inicjatywa-skierowana-do-sejmu.html>, (31.03.2012).

¹⁸ <http://panoptykon.org/wiadomosc/prace-nad-ustawa-o-zgromadzeniach-ida-jak-burza> (31.03.2012).

law, for instance prohibition of covering the faces of protesters¹⁹. The work on the project is still unfinished.

In our paper we have presented historical events that shaped the freedom of assembly as it is now and have taken a closer look at international agreements which are the basis for the discussed matter. To take it from larger to smaller we have shown the Polish statute and the way the freedom of assembly is regulated in our legal system. The connection is clear – as a member of the international community, a European democratic country, Poland respects the agreements and considers freedoms of its citizens as the highest values.

Next we have shown some real-life cases – even the ones on a verge of breaking other freedoms such as the concept of physical integrity, when assemblies turn into riots. It should be emphasized that the law protects only peaceful assemblies, breaking of that rule results in a very harsh reaction from the police or other security forces. In such situations the society must look closely whether actions of both sides are justified, when they become unlawful and report and publicize any violation.

We are witnesses to moments of a historical significance. Financial crises will end but social and cultural impacts of them will remain. Some researchers argue that recent crisis was a result of corrupted values, institutions and politics (Firlej 2011: 189). These are not easy and quick to change so as long as people will feel discontent with them, they will protest.

German historian Michael Wolffsohn believes that Europe is entering into a time of rapid transformation²⁰. His observations are based on the events in North Africa and concern the problems of immigration and the clash of cultures. We are yet to see whether his conclusions were accurate but one thing is certain – citizens will use their freedom to assembly, probably more often than ever. It is crucial to observe these changes, to study this freedom, understand its importance and protect it from any activity aimed at limiting it as well as from people determined to use it as a way to derail democratic, lawful discourse.

¹⁹ http://www.hfhrpol.waw.pl/legislacja/index.php?option=com_content&view=article&id=368%3Azgromadzenia-wysuchanie-publiczne-w-sprawie-prezydenckiego-projektu-ustawy&catid=38%3Aaktualnoci&Itemid=1, (31.03.2012).

²⁰ http://wyborcza.pl/1,97738,9832410,Nadciaga_krwawa__europejska_wojna.html (31.03.2012).

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