



HELŚIŃSKA FUNDACJA PRAW CZŁOWIEKA
HELSINKI FOUNDATION for HUMAN RIGHTS

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Warsaw, 12 September 2006

The Honorable
Mr. Zbigniew Ziobro
Minister of Justice
Attorney General
Al. Ujazdowskie 11
00-950 Warsaw

Dear Mr. Minister,

In the recent period the Helsinki Foundation for Human Rights has received many signals about a worrying practice of referring, without any legal basis, persons with valid driving licenses for psychological examinations in order to determine whether there are any psychological contraindications for them to drive motor vehicles. According to the information we received, the prosecutors send requests to the starosts (heads of local authorities) to order such examinations in each case, when they find out during the performance of their duties that a driver may be addicted to alcohol or drugs, regardless of whether this person committed an offence against road safety or not.

But according to the bill – the Road Traffic Act (Journal of Laws of 2005, No. 109, Item 908) ordering the abovementioned examination may only occur under the circumstances enumerated in Art 124 of this Act.

According to the above-mentioned regulation the following individuals are required to take a psychological examination in order to determine whether they are psychologically predisposed to drive a motor vehicle:

- 1) A candidate for the position of an instructor or an examiner of individuals seeking a driving license, as well as a person applying for a permit to drive a tram;
- 2) a person driving a motor vehicle referred by a decision of traffic control authorities, if:
 - a. he or she was driving under the influence of alcohol or a substance giving similar results,
 - b. exceeded the number of 24 points received on the basis of Art.130, point 1 (the so called “penalty points”);
- 3) a person driving a motor vehicle who has caused an accident, in which there are casualties;
- 4) a person driving a motor vehicle referred by a medical doctor, if during the medical examination the doctor identified the need for psychological examination;
- 5) a person referred by the head of a given organizational unit of the Armed Forces of the Republic of Poland, if this person is supposed to undergo training as an army driver;
- 6) a person applying for a reissue of his or her driving license, withheld because of psychological contraindications for driving motor vehicles.

As the above mentioned regulations show, there is no legal basis to refer people with diving license for psychological examination only because they may be addicted to alcohol or intoxicants (as the necessary condition is that they are referred for an examination as a result of driving under the influence of alcohol or a substance giving similar results).

With regards to the above, we are asking you, Minister Ziobro, to clarify the issue under discussion and undertake appropriate actions in order to stop the prosecutors from submitting motions to the local authorities to conduct actions without legal basis.

With highest regards,
On behalf of the Foundation Board

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Marek Antoni Nowicki
President of the HFHR Board