‘Incessant conflicts on national, ethnic, religious or economic grounds polarise and deepen the sense of injustice and pervasive harm. Such states are an ideal breeding ground for radical ideologies and social movements. These, in turn, (...) can successfully develop into a form of political violence. Terrorism is a media and politically attractive concept. On the one hand, the images of further attacks provide the audience with high viewing figures and capture their attention for a long time. On the other hand, the fear and horror generated by these public images provide a stimulus for the creation of anti-terrorist legislation and the arming (not only in terms of competence) of the services and special forces. Nonetheless, this is the only way to confront an asymmetrical and invisible adversary. It is impossible to fight terrorists in any other way. It is necessary to prepare for worst-case scenarios – despite the frequent lack of statistics justifying such actions, and the history of attacks in a particular state – as this is the nature of conducting counter-terrorism operations. The state should be prepared for a potential attack at all times, as it is the terrorists who each time choose the nature of the target, the place and the time of the attack – having on their side the advantage of surprise and the possibility to act beyond the law and any ethical and moral rules’.

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Terrorism has long lost its character as a real threat only in certain ‘combustible’ (and remote) regions of the globe. Presently, terrorism is usually considered a global phenomenon.\(^3\) In fact, however, it should be emphasised that in the first quarter of the 21st century, terrorism is a security threat in all dimensions – local, regional, national and global.

The problem of terrorism had also been perceived in Poland for many years, but it was only in 2016 that it was finally possible to adopt a comprehensive law defining the principles of counter-terrorism activities and cooperation between the authorities competent to carry out these activities. This act introduced into the Polish legal system, inter alia, the institution of alert levels.\(^4\)

Unfortunately, as a result of a preliminary analysis, it can already be concluded that there are defects and ambiguities in the Anti-Terrorism Act of 10 June 2016\(^5\). In response to the above problem, the author constructed the hypothesis: there is a semantic dualism of the term ‘alert levels’ in the Anti-Terrorism Act and ambiguity in the meaning of the term ‘CRP’.

In this situation, it was necessary to investigate the issue and prepare remedial proposals.

The purpose of this research was to enable the improvement of the alert levels system. The research forming the basis for drafting this article utilised theoretical methods, in particular, an analysis review of pertinent literature, legal acts and current emergency management plans, as well as synthesis, generalisation and unreliable and reliable inference.

**Historical outline**

When looking for the roots of today’s alert levels from the Anti-Terrorism Act, one should go back to when Poland joined the North Atlantic Treaty Organization (NATO). As a member of the alliance, the Republic of Poland (henceforth referred to as the RP) was then faced with the necessity to adapt its defence system, and thus also adapted elements of the legal system to the solutions functioning within the organisation – including, inter alia, to the NATO Precautionary System, and then, after its transformation, to the NATO Crisis Response System (henceforth referred to as NCRS). In Poland, accordingly, first the National Defence Emergency System was created as a counterpart to the NATO Precautionary System and then, after its transformation, to the NATO Crisis Response System (henceforth referred to as NCRS). In Poland, accordingly, first the National Defence Emergency System was created as a counterpart to the NATO Precautionary System and then the National Crisis Management System (hereafter NCMS) as an implementation of the NCRS on Polish soil. The NCMS, like its NATO model, the NCRS, comprised five essential components: prevention options

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\(^4\) See: Rozdział 3 Stopnie alarmowe (Alert levels) - Ustawa z 10 czerwca 2016 o działaniach antyterrorystycznych (DzU, 2021, item 2234), hereinafter referred to as: Anti-Terrorism Act.

\(^5\) Ustawa z 10 czerwca 2016 o działaniach antyterrorystycznych (DzU, 2021, item 2234).
(preventive actions), crisis response measures, counter-surprise, counter-aggression and alert levels. At this point, it is worth emphasising the comprehensiveness, legibility and high substantive value of the NCMS.

The last element of the aforementioned NCMS consisted of overt alert levels introduced in the event of:
— obtaining information on the possibility of a terrorist event or other event whose nature and extent are difficult to predict – first alert level,
— obtaining information on the possibility of an event of a terrorist nature or another event posing a threat to state security – second alert level,
— obtaining information on persons or organisations preparing terrorist activities detrimental to the security of the state or the occurrence of acts of terror detrimental to the security of other states, or in case of obtaining information on the possibility of occurrence of another event detrimental to the security of the Republic of Poland or other states – third level of alert,
— the occurrence of an event of a terrorist nature or another event causing a threat to the security of the Republic of Poland or other states – fourth alert level.

Although the NCMS did not have the character of a legal act (List of Undertakings and Procedures for Activating the NCMS was a document ‘accepted’ by the Council of Ministers and was part of the then Defence Response Plan of the Republic of Poland), it should be stated that the alarm levels formulated therein constituted a prototype for the creation of the first such alarm degrees functioning in the Polish legal system. Direct analogies in the structure of the alarm levels can be found: firstly between the alarm levels from the NCMS and the already archived degrees of readiness of the Police to counter terrorist threats from the order No. pf 964 of the Commander-in-Chief of the Police of 9 September 2004 on the determination of the manner of achieving readiness of the Police to counter terrorist threats and the alert levels from order No. 74 of the Prime Minister of 12 October 2011 on the list of undertakings and procedures of the crisis management system; then between the aforementioned and the levels from the current Act.

For the sake of further consideration, special attention should be paid here to the evolution of the aforementioned ordinance of the Prime Minister on the List of Undertakings and Procedures of the Crisis Management System. The final version of the changes under way is relevant, i.e. order

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8 Both of the documents mentioned were classified documents and were not published.
10 Zarządzenie Nr 74 Prezesa Rady Ministrów z dnia 12 października 2011 w sprawie wykazu przedsięwzięć i procedur systemu zarządzania kryzysowego. Electronic source: https://n-6-2.dcs.redcdn.pl/file/o2/tvn/web-content/m/p1/t/204da255aa2cd4a75ace-6018fad6b4d/530a38f5-49d4-4f8b-a2c4-eea2a4b17f88.pdf, accessed: 06.07.2022.
No. 18 of the Prime Minister of 2 March 2016,\textsuperscript{11} published moments before the emergence of the Anti-Terrorist Act, replacing the earlier order No. 74 of 2011, which draws attention to the threats in the Polish cyberspace. It is order No. 18 that expands the catalogue of alert levels from four to eight and contains explicitly, for the first and only time in full correct wording (correct structure), the alert levels for threats in the RP’s cyberspace, which are ‘hereinafter referred to as CRP alert levels’\textsuperscript{12}.

**Alert levels – the meaning of the term**

In 2016, just before the NATO summit,\textsuperscript{13} World Youth Day\textsuperscript{14} and the visit of Pope Francis\textsuperscript{15} in Poland, an act on anti-terrorist activities was prepared, which, inter alia, at the statutory level, introduced the institution of alert levels into the Polish legal system. The act of 10 June 2016 was promulgated on the 24th of the same month and its *vacatio legis* was set at seven days. The importance of this document and the unquestionable need for its preparation and rapid implementation should be emphasised here, but the particular haste at the last stage of the procedure, forced by the aforementioned events, meant that several errors crept into the content of the act, which should have already been eliminated.

One such mistake is the one signalled above – the appearance of the ‘CRP’ abbreviation which is nowhere defined (not only in the act, as order No. 18 of the Prime Minister of 2 March 2016 is, after all, no longer in force) next to the name of four of the eight alert levels. Without knowing the cited genesis of the alert degrees and, in particular, the latest update of the Prime Minister’s order on the list of undertakings and procedures of the crisis management system of 2016, it is difficult to link the CRP abbreviation functioning at the statutory level with the description preceding and introducing it: ‘In the case of a threat of a terrorist incident concerning information and communication systems of public administration bodies or information and communication systems constituting critical infrastructure, or in the event of the occurrence of such an event, one of the four alert levels of the CRP may be introduced’\textsuperscript{16}.

\textsuperscript{11} Zarządzenie nr 18 Prezesa Rady Ministrów z 2 marca 2016 w sprawie wykazu przedsięwzięć i procedur systemu zarządzania kryzysowego. Electronic source: https://www.stawiguda.pl/userfiles/OC/Komunikaty_zew/Zarz%C4%85dzenie%20nr%2018%20Prezes%20Rady%20Ministr%C3%B3w%20%20dzien%202016%20marca%202016%20r.pdf, accessed: 06.07.2022.

\textsuperscript{12} Ibid., § 2 pkt. 1.

\textsuperscript{13} The first NATO summit organised in Poland (July 8–9, 2016).

\textsuperscript{14} 31st World Youth Day – a meeting of young Catholics, which took place on July 26–31, 2016 in Kraków.

\textsuperscript{15} Pope Francis visited Poland on July 27–31, 2016. During the visit, he participated in a meeting with young people as part of the World Youth Day, among others. It should be noted that this was the first visit of this Pope to Poland at the time (John Paul II [9 times] and Benedict XVI [once] had visited Poland before).

\textsuperscript{16} Ustawa z 10 czerwca 2016 o działaniach antyterrorystycznych (DzU, 2021, item 2234), Art. 15 sec. 2.
There is not a word about cyberspace or cyber threats in the description quoted above, but only about: terrorist incidents, ICT systems of public administration bodies and ICT systems forming part of critical infrastructure. Additionally, a *propos* an element of the RP, the quoted fragment also does not mention the Republic of Poland. Threats justifying the introduction of the CRP alert level are linked in the act directly to the type of systems at risk, and not to the (cyber)space of the Republic of Poland. On the contrary, according to Art. 16 sec. 1 point 5 and sec. 2 of the act on anti-terrorist activities, alert levels and CRP alert grades, with certain reservations, may be introduced outside the territory of the Republic of Poland.

Thus, where does the CRP acronym come from and what does it mean? By intuition (because who remembers the quoted order No. 18?), we all(?) assume(?) that the CRP alert level means the alert level introduced in connection with threats in the Republic of Poland’s Cyberspace. Yet, this is only ‘our’ presumption.

The only reasonable solution here is to refer (not indicated in the Act) to the definition contained, for example, in the Cyberspace Protection Policy of The Republic of Poland, which directly says: ‘cyberspace of the Republic of Poland (hereinafter referred to as CRP) –cyberspace within the territory of the Polish state and beyond, in places where the representatives of the RP are functioning (diplomatic agencies, military levies)’.  

Another mistake that has crept into the area of statutory alert levels is the double-meaning use of the term ‘alert degrees’ in the same act. In section 3 of the Anti-Terrorism Act, entitled ‘Alert levels’, the term is undoubtedly used in a sense that encompasses all the alert degrees referred to in that section. It is undisputed at this point that the term ‘alert levels’ includes here the four alert levels and the four CRP alert levels. At the same time, already in the first article of section three, *i.e.* in Art. 15, we read: ‘In the event of a threat of a terrorist incident or in the event of the occurrence of such an incident, one of the four alert levels may be introduced’. Which indicates that, in this case, the identically written and sounding term ‘alert levels’ already applies to only four of the eight alert degrees, those four without the CRP extension.

In the next section, the legislator indicates that in the case of potential or materialised threats of a terrorist nature concerning the ICT systems of public administration bodies or ICT systems forming part of critical infrastructure, one of the four CRP alert levels can be introduced. In this way, the legislator again makes a clear distinction and indicates that it

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17 These reservations are essentially set out in Art. 16 sec. 1 point 5 and sec. 2 of the Anti-Terrorism Act.
19 Ustawa z 10 czerwca 2016 o działaniach antyterrorystycznych (DzU, 2021, item 2234), Art. 15 sec. 1.
has introduced four alert (general) levels and four CRP alert levels, which together constitute a set of eight degrees.

At the same time, in the following sections, the legislator again merges the ‘general’ and CRP alert levels by explicitly indicating that: the first level is both the first alert level and the first CRP alert level; the second level is both the second alert level and the second CRP alert level; the third level is both the third alert level and the third CRP alert degree; the fourth level is both the fourth alert level and the fourth CRP alert level.\(^{21}\)

In contrast, in other sections, the legislator uses the delimiting words: ‘alert levels or CRP alert levels’.

To conclude, it should be noted that one term ‘alert levels’ used in the act on counter-terrorist activities, depending on the context, means either all alert levels and all CRP alert levels, \(i.e.\) a total of eight levels, or only the ‘general alert levels’ – \(i.e.\) the four ALPHA, BRAVO, CHARLIE and DELTA alert levels without the CRP extension.

An example of good practice in this area is constitutional states of exception, where the basic law in Art. 228 indicates that ‘in situations of specific threats, if ordinary constitutional measures are insufficient, an appropriate state of exception may be declared: martial law, state of emergency or state of natural disaster’.\(^{22}\) As can be observed, there is no duplication of names here (as in alert levels) – the three states have their own separate names, and they are collectively called states of exception.

An additional aspect (problem) was already mentioned in 2014 by Zbigniew Piątek, who wrote that the English term ‘Security Alert States’\(^{23}\) should be translated as ‘alert states’, but as he explained, due to the necessity to standardise nomenclature in Polish normative documents, the term ‘alert levels’ is used.\(^{24}\) An additional premise for the adoption of the name ‘alert levels’ could have been the fact that Polish legislators were particularly cautious in their approach to the concept of the above-mentioned states of exception, as a category almost reserved for legal situations defined and regulated in detail in the Constitution of the Republic of Poland and in specific acts concerning states of exception defined in the said basic law. Such an approach, in the author’s view, could have been an additional reason for the legislator not reaching for the term ‘alert states’ indicated by Z. Piątek, as it could, with such a name, directly lead to associating newly introduced alert levels with subsequent states of exception.\(^{25}\)

\(^{21}\) Ibid., Art. 15 sec. 3–6.

\(^{22}\) Constitution of the Republic of Poland of 2 April 1997 (DzU, 1997, No. 78, item 483 as amended), Art. 228.


Selected principles of legislative technique

Analysing the problem of the dualism of the meaning of alert levels signalled in the title and the ambiguity of the term ‘CRP’ in the name ‘CRP alert levels’ in the Anti-Terrorism Act, attention should be paid to the principles of law-making, and in this case, in particular, to the principles applicable in the area of creating and editing statutory texts.

As Marcin Dorochowicz and Hubert Żurkiewicz write, the obvious and fundamental duty of the legislator in a state of law is to create ‘good law’. This can be interpreted as the duty to create a law that is free of defects and prepared in accordance with established norms and good practices. For this to be possible, legislators must adhere to established rules. Otherwise, chaos would arise instead of law, which law in its essence is intended to counteract.

In Poland, the basic principles of legislative technique are governed by the ordinance of the Prime Minister of June 20, 2002 on the ‘Principles of Legislative Technique’. This act presents, inter alia, the principles of building an act and creating: the title of the act, substantive, episodic, transitional, adapting and final provisions.

The general editorial principles for documents of an act rank in the aforementioned regulation are contained in Chapter 1, entitled General Provisions. Pursuant to them, a law should regulate a given field of matters exhaustively and comprehensively. It should be constructed in such a way that it is not necessary to introduce numerous exceptions to the regulations adopted in it. At the same time, it should not leave any important matters in the regulated area outside the scope of its regulation.

The provisions of the act should be edited in a concise and synthetic manner, without excessive detail, in a manner consistent with typical descriptions of situations occurring in a given field. The provisions of the act should express the intentions of the legislator accurately and in a manner that is unambiguously understandable to their addressees. The language of the Polish act should comply with the rules of the Polish language syntax, using (only) correct linguistic expressions in their basic and commonly accepted meaning. For the sake of readability and proper understanding of the content, multiple compound sentences should be avoided. Equal terms are used to designate identical concepts, and

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29 Obwieszczenie Prezesa Rady Ministrów z 29 lutego 2016 w sprawie ogłoszenia jednolitego tekstu rozporządzenia Prezesa Rady Ministrów w sprawie ‘Zasad techniki prawodawczej’ (DzU, 2016, item 283).
different concepts are not designated by the same terms’. 30 When creating statutory provisions, the use of specialised terms (in particular terms that are not commonly understood) and foreign language terms or borrowings should be avoided – if this is not absolutely necessary for the proper understanding of the text. Newly created concepts or linguistic structures should also not be used. An exception to the latter rule is the situation when in Polish – in the vocabulary used so far – there is no appropriate term. Nevertheless, this derogation does not exclude the necessity to clearly and precisely specify – to unambiguously define in the act – the meaning of a newly introduced concept or abbreviation.

Summary and proposed changes to the act

To paraphrase Kuba Jałoszyński and Jarosław Stelmach, it can be ascertained that users and researchers of alert levels for many years have used the notional apparatus defined in the act, adopted and reproduced completely uncritically. 31 Meanwhile, analysing the content of Chapter 3 ‘Alert levels’ of the Anti-Terrorism Act, one must conclude that we are dealing here with a semantic dualism of the term ‘alert levels’ and a failure to define the meaning of the CRP abbreviation, which constitutes a direct violation of the basic principles of legislative technique. Moreover, the above-mentioned accumulation of ambiguities in the content in the act clearly has the potential to cause non-uniformity in case law in disputed cases, which, again, contradicts the need to preserve uniformity of jurisprudence, which is an essential constitutional value and the basis for political uniformity. 32 It should also be borne in mind that the efficient, effective and righteous operation of the state is largely determined by the uniformity of its legislation, judicial decisions and understanding of the law.

The flaws identified by the author cause disruptions to uniformity in all three areas mentioned above, and therefore need to be addressed immediately.

A simple and effective solution to the problem could be to add:
— the words in the title of chapter three: ‘and CRP alert levels’,
— in Art. 15 sec. 2, the development of the CRP abbreviation, e.g.: ‘In the case of a threat of a terrorist event concerning information and communication systems of public administration bodies or information and communication systems constituting critical infrastructure, or in the case of the occurrence of such an event, one of the four alert levels concerning threats in the cyberspace of the Republic of Poland, hereinafter referred to as “CRP alert levels”, may be introduced’.

30 Ibid., § 10.
31 Jałoszyński K, Stelmach J, op. cit., p. 32.
To sum up, it should be stated that the identified issue has been scrutinised and solved. As a result of the conducted theoretical research, it was confirmed that the content of the provisions on alert levels is constructed in violation of the rules of legislative technique, which may give rise to inconsistent interpretations. At the same time, it should be highlighted that there are (and have been indicated) possibilities for the quick and effective repair of the irregularities.

References

8. Obwieszczenie Prezesa Rady Ministrów z 29 lutego 2016 w sprawie ogłoszenia jednolitego tekstu rozporządzenia Prezesa Rady Ministrów w sprawie ‘Zasad techniki prawodawczej’ (DzU, 2016, item 283).

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**Keywords:** security, alert levels, CRP, anti-terrorism, counter-terrorism

**Summary:** The long-awaited act of June 10, 2016, on anti-terrorist measures introduced the institution of alert levels to the Polish legal system, *i.e.* universally applicable law. Unfortunately, in this act, we come across the single-sounding phrase ‘alert levels’ in two senses; sometimes as a set of eight degrees referred to in the act, but sometimes also as four alert levels: Alpha, Bravo, Charlie, and Delta. Moreover, in this act, the abbreviation CRP (CRP alert levels) appears, which is not described anywhere. This article takes a closer look at the origins of today’s alert levels and presents the above-identified issues: the semantic dualism of the term ‘alert levels’ and the ambiguity of the ‘CRP’ abbreviation. The author presents his proposed solutions to these problems in the summary.

**Palabras clave:** seguridad, niveles de alerta, CRP, antiterrorismo, contraterrorismo

**Resumen:** La largamente esperada Ley de 10 de junio de 2016 sobre actividades antiterroristas incorporó al ordenamiento jurídico polaco la institución de los grados de alerta, una ley de aplicación universal. Lamentablemente, en esta ley nos encontramos con la expresión unívoca “niveles de alerta” en dos sentidos, una vez como el conjunto de ocho niveles a los que se refiere la ley, y otra vez como los cuatro niveles de alerta: Alfa, Bravo, Charlie y Delta. Además, la abreviatura CRP (niveles de alerta CRP) no aparece en ninguna parte de esta ley. El artículo examina más de cerca los orígenes de los niveles de alerta actuales y presenta los problemas identificados anteriormente: el dualismo semántico del término “niveles de alerta” y la ambigüedad de la abreviatura CRP. El autor concluye con sugerencias para resolver estos problemas.