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ACT XXXIV OF 1994 ON THE POLICE

[excerpts]

[...]

THE OBLIGATION TO TAKE ACTION

Section 13

(1) Proceeding in his competence, the Police Officer shall take or initiate measures upon finding, or being notified of, a fact or circumstance which requires Police intervention. In urgent cases, the Police Officer shall be under the obligation of taking measures even if he is not on duty provided that he is in a condition of being fit to take action at the time when it becomes necessary.

(2) The Police Officer shall take action in compliance with the provisions of law and without bias.

(3) If the Police Officer is impeded in taking action by an object, he may remove it or otherwise avert the impediment and the Police shall indemnify for the damage suffered the person not in fault for causing the necessity for action.

Section 14

The Police Officer shall contribute to averting dangerous situations compromising public security. If averting the dangerous situation falls in the competence of another organ which is unable to act without delay, the Police Officer shall immediately take charge of notifying the authority responsible for averting the dangerous situation or another competent organ.

THE REQUIREMENT OF PROPORTIONALITY

Section 15

(1) A Police measure shall not cause a detriment which is manifestly out of proportion with the lawful objective of the measure.

(2) Of several possible and suitable options for Police measures or means of coercion, the one which is effective and causes the least restriction, injury or damage to the affected person shall be chosen.

REQUIREMENTS FOR APPLYING MEANS OF COERCION

Section 16

(1) The Police Officer shall apply a coercive measure only under the conditions determined by an Act. The application of means of coercion shall not be continued if resistance breaks and the effectiveness of the Police measure can be ensured without it.

(2) Regulations for the use of means of coercion applicable by the Police (Chapter VI.) shall be determined by the Minister of the Interior. Aspects of health protection shall be observed in the use of coercion.

(3) The Police Officer shall not apply torture, interrogation under coercion, cruel, inhuman or degrading treatment and shall refuse to execute instructions to apply such treatment. The Police Officer shall take measures against a person to prevent such behaviour irrespective of the service assignment, rank or identity of that person.

COMMON PRINCIPLES AND RULES FOR THE APPLICATION OF MEASURES AND MEANS OF COERCION

Section 17

(1) In the scope of its competence, the Police may restrict the right to bodily integrity, personal freedom, the inviolability of the residence, personal secrets and the secrecy of correspondence as well as the right to private property, as provided by an Act.

(2) If means of coercion are applied in the course of a Police action, causing an injury or taking a life shall be avoided if possible. Assistance shall be given to the person injured in the course of a Police action as soon as possible, if necessary, the Police Officer shall secure medical aid and if the injured person is taken to hospital the Police Officer shall see that a relative or another person in contact with the injured person is notified.

[...]

Section 19

(1) Everyone shall submit to a Police measure obeying the instructions of the Police Officer if the measure is aimed at the implementation of provisions set forth in statutes, unless otherwise provided by an Act or an international treaty. In the course of Police action, its lawfulness shall not be challenged unless its unlawfulness may be seen as manifest.

(2) In the case of resistance against the lawful measure taken by the Police Officer, the measures and means of coercion determined in this Act may be applicable.

Section 20

(1) In the course of an action, the Police Officer shall be certified by his uniform and identification badge or service certificate.

(2) If the Police Officer is not wearing a uniform before taking action, he shall orally declare being a Police Officer and - unless such action would endanger the success of the measure - identify himself by the service certificate.

(3) After completing a measure, the Police Officer shall communicate the number of his identification badge or produce his service certificate, giving name and place of service upon request by the subject of the measure.

[...]

CHAPTER VI

MEANS OF COERCION

BODILY COERCION

Section 47

In order to break resistance, the Police Officer acting in official capacity, may apply coercion by bodily force to compel a person to act or to refrain from action (bodily coercion).

SHACKLES

Section 48

(1) The Police Officer may put shackles on a person to be limited or limited in his personal freedom

- a) to prevent him from harming himself,
- b) to prevent him from attacking,
- c) to prevent him from escaping.
- d) to break his resistance.

APPLYING CHEMICAL DEVICE, ELECTRIC SHOCKING DEVICE, POLICE TRUNCHEON, FLAT OF SWORD OR OTHER MEANS

Section 49

(1) The Police Officer may use regulation chemical or electric shocking device, Police truncheon or flat of sword in order to

- a) avert an attack directly endangering the life, bodily integrity of others or his own or the security of property,
- b) break resistance to a lawful action taken by Police.

(2) The Police Officer may use regulation rubber bullets, pyrotechnic device, tear gas grenade, capturing net, irritant gas, further on water cannon, to avert the endangerment of the life and bodily integrity of others or of his own or when the conditions of using a gun (Section 54.) are present.

USE OF SERVICE DOG

Section 50

(1) The Police Officer may use a muzzled service dog, on leash or without a leash, as a means of coercion, if the conditions of applying bodily coercion (Section 47.) are present.

(2) The Police Officer may use an unmuzzled service dog on leash if an unlawfully gathered crowd cannot be dispersed through the application of a less severe means of coercion (Sections 47-49.), or if it is necessary to disperse a crowd endangering public safety gravely or to overcome active resistance to Police action.

(3) The Police Officer may use an unmuzzled and unleashed service dog in order to

- a) avert an attack threatening with grave bodily injury;
- b) to apprehend a person who may be suspected with foundation of the perpetration of a serious offence;
- c) avert an attack directed against his person or an act threatening directly his life or bodily integrity.

ROADBLOCK

Section 51

For the purposes of the apprehension of the perpetrator of a criminal offence, the Police may order the reduction of road traffic, in the course of that, taking into account the safety of traffic, a roadblock may be set up.

THE USE OF GUN

Section 52

(1) With the exception of the case of rightful defence and emergency, the right of a Police Officer to use a gun shall be authorised in accordance with this Act.

(2) The use of the gun may take place either by the Police Officer's own decision or upon order. In the case of applying troops in a closed formation, a gun may be used only upon order.

Section 53

(1) Only shooting intentionally and aiming at a person shall be regarded as use of a gun.

(2) If the conditions under this Act for using a gun manifest themselves, the Police Officer may use any object as a weapon. In such a case, the provisions relevant for the use of a gun shall apply as appropriate.

(3) For the application of this Act, the use of regulation rubber bullets, pyrotechnic devices, tear gas grenade, shooting the capturing net at the target by a gun or other shooting device for the purposes of dispersing a mob or maintaining order, shall not be considered as the use of a gun.

(4) The use of regulation plastic projectiles for purposes not mentioned in Par (3) shall take place only the case if, considering all the circumstances, the lawful aims of the use may not be achieved by the use of other means or such a use was unsuccessful. For the use of plastic projectiles, the rules of the use of a gun shall apply as appropriate.

Section 54

The Police Officer may use a gun

- a) to avert a direct threat to, or attack against, life;
- b) to avert a direct attack gravely endangering bodily integrity;
- c) to prevent or to interrupt the perpetration of an offence of causing public danger, terrorist act or aeroplane hijacking;
- d) to prevent an offence to be perpetrated through the use of a gun, explosives or other means suitable to take life;
- e) to prevent an act aimed at the unlawful acquisition of a gun or explosives by violence;
- f) to avert an armed attack directed against a facility of outstanding importance for the functioning of the state or for the supply of the population;
- g) to apprehend, or to prevent the escape of, the perpetrator who took someone's life intentionally,
- h) to apprehend, or to prevent the escape of, the perpetrator of an offence against the state (Chapter X. of the Penal Code), against humanity (Chapter XI. of the Penal Code);
- i) against the person not complying with the Police instruction to put down the weapon or other dangerous object he has with him and whose behaviour indicates the direct use of the weapon or other dangerous object against human life;
- j) to prevent from escaping, from being freed by violence or to catch, a person apprehended, under arrest because of the perpetration of a criminal offence or kept captive under a
- k) to avert an attack directed against the Police Officer's own life, bodily integrity or personal freedom.

Section 55

With the exception of the cases of combating an armed attack or an attack made with weapons or overcoming armed resistance or use against a person in a crowd (Section 57), the use of a gun shall not be allowed if

- a) it endangers the life or bodily integrity of a person the conditions to use of a gun against whom are not present;
- b) the objective of the Police action may be achieved by shooting at an object or an animal.

Section 56

(1) The use of a gun shall be preceded, in the order of listing, by

- a) directing the instructed person to comply with the Police measure;
- b) the application of other means of coercion;

- c) a warning that a gun will be used;
- d) a warning shot.

(2) The measures preceding the use of a gun may be partly or fully forgone if under the circumstances of the case there is no time for the preceding measures and the delay directly endangers the success of the measure or the life or bodily integrity of the Police Officer or any other person.

THE USE OF A GUN AGAINST A PERSON IN A CROWD

Section 57

(1) The use of a gun against a person in a crowd or in a gathering of people shall not be allowed except when the conditions for using a gun against an individual person (Section 54) are present. The use of the gun shall be directed against the individual person.

(2) The use of a gun shall not be found unlawful if, in the course of use of a gun according to regulations, a person, who has not left the scene although instructed by the Police to do so, is hit.

(3) The use of a gun against a person in a crowd or in a gathering of people shall be preceded, in the order of this listing, by

- a) ordering the crowd or the gathering of persons to disperse or to terminate the unlawful behaviour;
- b) the use Police troops or other coercive measure aimed at the dispersion of the crowd or gathering of people;
- c) a warning that a gun will be used;
- d) a warning shot.

(4) For forgoing the measures preceding the use of firearm against a person in a crowd or in a gathering of people, the rules of using a gun against an individual person shall be guiding.

THE USE OF POLICE TROOPS

Section 58

(1) Police Officers may be used as troops

- a) in the case of the perpetration of an offence aimed at changing the constitutional order by force (Section 139. of the Penal Code);
- b) to terminate events endangering the life or safety of the property of person on a . mass scale or to prevent such events and to apprehend the perpetrators;
- c) to find and apprehend an fleeing armed perpetrator of a grave criminal offence;
- d) to terminate an act of terrorism, to free hostages;
- e) to search for a missing object or person;
- f) to prevent a disaster and to eliminate its consequences;
- g) to maintain the order of an event under the Act on the right to assembly or of any other important event;
- h) to guard and protect a protected person, a dangerous shipment or a facility of outstanding importance for the functioning of the state or for the supply of the population;

- i) to secure a large area;
- j) in other cases determined in an Act.

(2) In the course of using Police troops, the Police may limit the rights determined in Par (1) of Section 17 to a justified extent and may close down an area from pedestrian and vehicle traffic.

DISPERSING A CROWD

Section 59

(1) If an unlawfully gathered crowd or a crowd engaged in unlawful conduct does not comply with the order of the Police to disperse, the Police, in addition to the means of coercion regulated in this Chapter, may use the means and take action as listed below against the crowd:

- a) water cannon,
- b) pyrotechnic device, rubber bullet,
- c) irritant gas,
- d) capturing net,
- e) forced dispersion of crowd, performed on horseback or in a formation of vehicles.

(2) The crowd shall be warned in advance of the use of the means mentioned in Par (1).

(3) It shall be prohibited to limit the crowd in leaving the scene.

(4) It shall be prohibited to use a gun for dispersing a crowd

Section 60

(1) In the course of the use of Police troops, Police Officers shall follow the orders issued by the commander of the troops.

(2) In the course of using Police troops, the Police shall not be obliged to examine the individual responsibility of those present at the scene.