

law on Internal Affairs of Posavina Canton (*excerpts*)

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Unofficial translation to English

(*excerpts*)

IV. Police

Article 21.

Police shall perform security jobs and tasks at the Canton.

Police shall act according to the provisions of the Law on Internal Affairs, written regulations and orders the Canton passes in accordance with the Constitution and laws of the Canton, Federation and BiH.

Article 22.

Police shall perform administrative, expert and other jobs and tasks which especially refer to: protection of life and personal safety of people, protection of property, prevention and detection of criminal acts, detection and catching their perpetrators and giving them in charge of competent bodies when not within the competence of judicial police, maintenance of public peace and order, criminal and technical jobs, safety, control and regulation of road traffic, residence and movement of foreigners, control and crossing the state border and protection of certain persons.

Police shall not execute military operations or get involved in them. Law enforcement shall be the exclusive objective of the police.

Article 23.

Uniform police (hereinafter: police officers) shall perform: jobs and tasks on direct law enforcement, protection of lives and property, maintenance of public peace and order, prevention and detection of criminal acts, control and regulation of road traffic, public safety jobs in road and rail-road traffic, as well as other jobs and tasks, from the previous Article, whose nature and conditions require to be performed by uniform police officers.

Police Commissioner and police officers shall wear official uniforms with Cantonal insignia and, in accordance with regulations, shall be armed while on duty.

Police Commissioner, or an official authorized by him, may decide on certain jobs and tasks to be performed by police officers in plain clothes.

Police Commissioner, or an official authorized by the him, may order that other authorized officials conduct specific police jobs and tasks in uniform, when it is in the interest of public order or when necessary for maintenance of public peace and order.

Article 24.

Management in the Ministry is based on principles of joint management in performance of jobs and tasks of the Ministry.

Authorized officials shall be obliged to obey the Commissioner's, or their immediate supervisor's orders to perform official jobs and tasks, except when it is in contradiction with the Constitution and laws of BiH, Federation and Canton.

V. Obligations and Rights of Authorized Officials

Article 25.

Certain employees of the Ministry, in performance of police jobs and tasks, shall have unique duties and entitlements provided by this Law (hereinafter: authorized officials).

Authorized officials are the employees who are directly engaged in operational matters from the domain of the Ministry, and other employees whose jobs, tasks and responsibilities are in a direct relation to those previously mentioned.

The Book of Rules on Internal Organization and Systematization of the Ministry shall regulate which persons are to be considered authorized officials.

Authorized officials shall be issued an official ID card and badge.

Authorized officials shall have right and privilege, in accordance with the regulation on performance of jobs and tasks by police officers, to keep and carry weapons.

Police, in accordance with the internationally recognized human rights standards, shall be obliged to perform their jobs and tasks fully respecting human dignity and basic human rights of all people. The Ministry shall enact regulation on respect of human rights which shall be applied to all units within the ministry. Respect of those regulations shall be subject to an international inspection.

Authorized officials shall give the oath before the Minister and Police Commissioner.

The text of the oath shall say:

“ I declare that I will abide by the Constitution and laws, that I will carry out the jobs and tasks of an authorized official responsibly and consciously, and with all my strength protect rights, freedom and safety of the citizens, and I will carry out the jobs and tasks of an authorized official even if my own life is jeopardized.”

Authorized officials shall also solemnly pledge before the Minister and Commissioner that they will respect the Moral Codex for Professional Police Officers.

The Ministry shall adopt the written Moral Codex for professional Police Officers which portrays values every police officer is to respect while on duty. The Moral Codex for Professional Police Officers, attached as Annex A, shall be put in an acceptable form so that every police officer can carry it while on duty.

Authorized officials in the Ministry shall have ranks. The manner in which they will be awarded such ranks and by which they will lose such ranks shall be determined by the Government.

Article 26.

Authorized officials shall be obliged to carry out jobs and tasks of law enforcement, protection of lives and personal safety of citizens, prevention of criminal acts and catching their perpetrators, as well as jobs and tasks on maintenance of public peace and order, in every occasion no matter whether they are on official duty or they have been particularly assigned to carry them out.

Authorized officials shall be obliged to carry out jobs and tasks of police as well in a case of endangering his/her life while carrying out those jobs and tasks.

Article 27.

When an authorized official, in accordance with the provisions of this Law, carries out a special assignment or gives orders to an individual or legal person in plain clothes, he shall be obliged to identify himself providing that circumstances allow it.

In case of previous paragraph obliged to identify shall be authorized official in uniform as well, if demanded by person towards whom special assignment is carrying out.

Article 28.

When carrying out their jobs and tasks on means of public transportation, authorized officials shall have right to travel free of charge and safety guaranteed to passengers when traveling by those means.

Authorized officials may travel free of charge, as provided by the previous paragraph, if they have a written warrant to carry out jobs and tasks on the respective means of transportation.

Article 29.

The Police Commissioner and other Official appointed by him, as well as other authorized officials appointed for emergency situations, while carrying out jobs and tasks on protection of lives and personal safety of the citizens, protection of property from destruction, damage or theft, maintenance of public peace and order, safety of road traffic, and in cases of general danger caused by natural disasters and epidemics, may give necessary orders to the citizens, firms and other legal persons.

Article 30.

Authorized officials, while carrying out official jobs and tasks, shall be entitled to identify persons when it is necessary for detection of a criminal act or in order to protect lives and personal safety of citizens.

Authorized officials shall be entitled, in accordance with the Law, to detain and hold persons in custody if there is a responsible doubt that a person committed or intended to commit a

criminal act. Detention and keeping in custody shall be performed in accordance with the international standards on human rights as established by the BiH and FBiH Consultations.

Article 31.

In accordance with the Law on Criminal Procedure, police may keep a person in custody in order to bring the person before an official body when there exists a suspicion the person committed a criminal act for which may be kept in custody according to the Law on Criminal Procedure. Detaining individuals shall be performed in accordance with the international standards on human rights that are established by the BiH and Federal Constitutions.

An authorized official persons are obliged to have person detained according to the Articles 30 and 31, paragraph 1 of Law, immediately and not later than 24 hours to bring to competent court or other body. If detainee has not been brought to the competent court, police will release detainee.

Article 32.

If a person has been put in custody according to Article 30 and 31 paragraph 1. of this Law, the following action shall be undertaken:

1. At the moment of making decision on custody, in accordance to Article 31 paragraph 1., of the law, an authorized official shall fill in a form "Certificate on detention" which contains the following details:

- detainee's personal data
- period of time, no longer than 24 hours, which detainee will spend in custody in the premises of police HQ,
- time when detainee was put in custody,
- detainee's data on current situation .

2. An authorized official, immediately upon filling in the form, shall give a copy to the detainee.

While in custody the detainee has right to say everything necessary to be released, except in cases when he is not able to do so because of his/her state or behavior. Detainee has right and obligation to be aware about guidelines on acting with detainee.

Article 33.

When a person is kept in custody without legal grounds, the person shall have a right to be reimbursed for a damage suffered.

The request for reimbursement of damage shall be submitted to the Ministry not later than 6 months after the person's release.

The Ministry, in agreement with the requesting person, shall decide about the request for reimbursement of damage. If the request for reimbursement of damage is not resolved in agreement within 60 days from the day of its submittance, the person who was kept in custody may file an appeal to the competent court in order for damage to be reimbursed.

Article 34.

At the request of a person kept in custody, pursuant to Articles 30 and 31 of this Law, the Ministry shall be obliged to notify the person's family or other relevant person not later than 24 hours from the day of being put in custody. Upon the decision made by investigative judge, the mentioned dead line may be extended.

Article 35.

Authorized officials shall be entitled to use somebody else's and available means of transportation and communication in order to catch criminal acts perpetrators, as well as to transport victims of crime, natural disaster or accident to the nearest health institution. Authorized officials shall use a certificate on use of the transportation or communication means to their owners or users.

The owner or user from paragraph 1 shall have right to reimbursement of material damage done to his transportation or communication means.

Article 36.

Officials may, respecting international standards on human rights established by the BiH and FBiH Constitution, interrogate convicts who are kept in custody in prisons, juvenile prisons and juvenile penal and reformatory institutions, at the time agreed with warden or other authorized person from that institution and head of the responsible organizational unit of the Ministry.

Article 37.

The Police Commissioner, pursuant to the international standards on human rights established in the BiH and FBiH Constitutions, shall be entitled to impose, for a define period of time, a ban on access to specific rooms and premises, if it is necessary to apply such a measure in a democratic society in order to prevent criminal acts, arrest specific persons, find appropriated goods, preserve* criminal act evidence and protect life and property.

The Police Commissioner shall suspend the ban on access to specific rooms and premises, in accordance with paragraph 1 of this Article, as soon as it is not necessary to apply such a measure in a democratic society, for which the ban was imposed, any more.

The Minister shall notify the President of the Canton right after Police Commissioner imposes the ban from paragraph 1.

Article 38.

The Minister, i.e. authorized officials, shall be entitled to use appropriate coercive measures, such as: physical force, night-sticks, hand-cuffs, chemicals, physical means for restraining

persons and barriers for vehicles, police dogs, police cavalry and water cannons, in order to repulse an attack on themselves, other person and a person they secure, to subdue resistance of one or more persons who violate public peace and order and jeopardize safety of traffic and persons who shall be detained, kept in custody or arrested, and to reestablish public peace and order and to prevent escape of a person who is being escorted or is to be detained, kept in custody or arrested if there is a suspicion that the person will try to escape.

Besides the measures from paragraph 1 of this Article, an authorized official shall be entitled to use hand-cuffs in other occasions when a person has to be detained, escorted, kept in custody and arrested.

Article 39.

Protection of life shall be the highest priority of the Ministry and police. Any measure undertaken in regard to carrying out police activities shall be in keeping with this priority. Coercive measures shall be applied only when the other means of control prove to be inefficient. In all circumstances the lowest stage of coercion, necessary for control enforcement, shall be applied. Lethal force shall be applied only as an uttermost solution when necessary to protect lives.

Lethal force is the one which may be expected to cause death or aggravated bodily injury. Unloading fire arms, when pointed at a person or vehicle in motion, shall represent use of lethal force.

Authorized officials while carrying out jobs and tasks from their domain may use fire arms:

1. to protect human lives;
 2. to protect their lives, i.e. to repeal direct attack which endangers their lives;
 3. to prevent escape of a person caught while committing criminal act, if escape of that person directly endangers somebody's life;
 4. to prevent the escape of a prisoner or a person after whom an arrest warrant has been issued, if the escape of that person directly endangers somebody's life.
- Exceptionally, an authorized official may also use fire arms unless there is no other way to prevent the escape of a suspect, if his behavior and other relevant circumstances show his intention to attack person secured by police.

Police officers shall carry only defensive weapons, not bigger than a pistol, except when required by extraordinary, specific and clearly defined circumstances. The Ministry shall pass regulations, in accordance with this Law and Constitution, which will clearly indicate situations that allow carrying weapons bigger than guns. In no other occasion any other but special units trained for that, shall carry long barreled weapons.

Article 40.

Authorized officials shall use fire arms from Article 39, in cases when they are not able to perform their jobs and tasks using physical force, night-sticks or other coercive means.

Authorized officials, if given circumstances allow, shall be obliged to warn a person they will shoot at before using fire arms.

Authorized officials, who perform jobs and tasks within a unit or group, may use fire arms only if ordered by the unit or group commander.

The order to use fire arms may be given only in cases and under conditions provided by the law.

Article 41.

An authorized official shall be obliged to inform an immediate supervisor if fire arms or other coercive means were used. The immediate supervisor shall be obliged to collect, not later than 2 days from the day he learned that an authorized official used fire arms or other coercive means from Article 39 of this Law, all information and facts necessary for assessment of legality and correctness of use of coercive means or fire arms.

The Police Commissioner shall assess, no later than 7 days from the day of learning about the use of coercive means or fire arms, the legality and correctness of use of fire arms or coercive means by an authorized official.

The Police Commissioner shall be obliged to undertake appropriate measures to determine the responsibility of an authorized official, if he establishes that an authorized official illegally or incorrectly used fire arms or other coercive means.

Article 42.

If, because of use of the fire arms or other coercive means during performance of jobs and tasks, a criminal, offence or civil procedure are initiated and conducted against an authorized official, the Ministry shall provide defense and other appropriate assistance to that person.

The legal assistance shall be provided to an authorized official as a damaged party in the procedure for compensation, if the damage was caused in connection to carrying out his jobs and tasks.

The provisions from the previous paragraph shall be also applied after the termination of employment of an authorized official with the Ministry.

The Ministry shall not render legal assistance, according to provisions from the previous paragraphs, to an authorized official whose employment was terminated because of deliberate breach of authority, i.e. breach in carrying out jobs and tasks, and when the Ministry pressed criminal charges against an authorized official.

Provisions from paragraphs 1 and 2 shall be applied to persons who rendered their assistance to the Ministry, i.e. authorized official, in carrying out jobs and tasks.

Article 43.

The Ministry shall bare the expenses of rendering legal assistance according to the provisions from the previous Article.

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