

Law on Police of the Brcko District of Bosnia and Herzegovina

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(excerpts)

I General Provisions

Article 1

This Law shall regulate the police powers within the competence of the Brcko District of Bosnia and Herzegovina (hereinafter: the District), the organization and competence of the Police of the Brcko District (hereinafter: the Police), management of the Police, accountability by Police, obligations and rights of authorized officials, Police employment relations, disciplinary liability, professional and advanced training of employees of the Police, as well as other issues which are necessary for the functioning of law enforcement activity in the District.

(...)

V Rights and Duties of Authorized Officials

(...)

Article 26

(1) Authorized officials, while carrying out official duties and responsibilities, shall be entitled to request persons to identify themselves when the authorized official has reasonable grounds to believe that a crime has been committed or is about to be committed or in order to protect the lives or personal safety.

(2) Authorized officials shall be entitled, in accordance with the law, to detain and arrest persons. Detention and arrest shall be performed in accordance with internationally recognized standards on human rights, the BiH Constitution and laws, the District Statute and District Law on Criminal Procedure.

(...)

Article 29

(1) Protection of life shall be the highest priority of the Police. Any measures undertaken in carrying out police activity shall be in keeping with this priority.

(2) The Chief Of Police, Deputy Chiefs of Police and authorized officials are entitled to use coercive measures only when strictly necessary and when all other means of control prove to be ineffective. In all circumstances the lowest stage of coercion necessary for control or enforcement shall be applied. The amount of force must be commensurate to the seriousness of the offense and the legitimate objective to be achieved. Lethal force shall be applied only as an uttermost solution necessary to protect lives, as specified in Article 32 of this Law.

(3) Authorized officials, shall be entitled, in accordance with the law, to use the following coercive measures: physical force, night-sticks, hand-cuffs, chemicals, physical means for restraining persons, barriers for vehicles, police dogs, water cannons, and other reasonable means under the circumstances.

(4) Coercive means may be used by authorized officials in order to:

1. repulse an attack on themselves, other persons or persons they have secured detained, kept in custody or arrested ;
2. subdue one or more persons who violate the peace and public order;
3. prevent the escape of a person who is being escorted, detained, kept in custody or arrested; and
4. make a lawful arrest when the subject is resisting arrest.

(5) Lethal force is a force which may be expected to cause death or serious bodily injury. The firing of a weapon at a person or vehicle with occupants is considered under all circumstances to be lethal force.

(6) Besides the measures from paragraph 4 of this Article, an authorized official shall be entitled to use hand-cuffs on other occasions when a person has to be detained, escorted, kept in custody or arrested.

Article 30

(1) Authorized officials may only use firearms when it is necessary to protect human life.

(2) Before using a firearm, an authorized officials must identify himself and give a clear warning of his intent to use a firearm, except in cases where doing so would unduly place himself or others at risk of death or serious harm.

(3) Authorized officials who perform responsibilities and duties within a unit or group, may use firearms only if ordered by the unit or group commander. The order to use firearms may be given only when expressly provided by law.

Article 31

(1) An authorized official must immediately inform his supervisor in writing of the circumstances and reasons whenever he fires a firearm or points a firearm at a person. An authorized official shall also report to his immediate supervisor the use of any other coercive means resulting in the injury or death of a person. The supervisor shall immediately notify the Chief of Police or Deputy Chiefs of police. If serious injury or death has resulted from the use of coercive means, the supervisor must also notify the Prosecutor's Office. The supervisor must then begin an investigation. A report containing all information and facts necessary to assess the legality and correctness of the use of coercive means or a fire arm, including a statement from the authorized official concerning all circumstances surrounding the incident, must be completed within 24 hours.

(2) The Chief of Police, on the basis of the evidence gathered, shall prepare a report containing detailed efforts, findings and assessments of the use of firearms or other coercive means by the authorized official, and shall present it to the Mayor no later than 7 days from the day of learning of the use a firearm or other coercive means.

(3) The Chief of Police shall undertake appropriate measures to determine the responsibility of an authorized official. If he establishes that an authorized official illegally used firearms or other coercive means, he shall refer the matter to the Prosecutor for possible criminal prosecution.

Article 32

(1) If as a direct result of the use of firearms or other coercive means during the performance of police tasks, a criminal or civil action is initiated and directed against an authorized official, the Police shall provide legal assistance to the authorized official.

(2) Legal assistance shall be provided to an authorized official who is injured in connection with carrying out an official duty.

(3) The provisions from the previous paragraphs shall also apply after the termination of employment of an authorized official with the Police for actions carried out while the official was employed with the Police.

(4) The Police shall not render legal assistance to an authorized official whose employment was terminated as result of criminal activity.

(5) Provisions from Paragraphs 1 and 2 shall also apply to persons who rendered assistance to the Police in carrying out tasks as authorized officials.

Article 33

(1) The District shall be responsible for damages resulting from irregular or illegal conduct by an authorized official while carrying out his official duties.

(2) The District shall request reimbursement of the paid sum from an authorized official only when the damage is inflicted deliberately or recklessly.

(3) The reimbursement of damage may be requested within 6 (six) months from the day of reimbursement to the third party.

VI Control and Public Disclosure

Article 34

(1) The Chief of Police shall be accountable to the Mayor.

(2) The Chief Police shall, at least once a month, submit a written report on the Police to the District Assembly. The Chief of Police must appear before the District Assembly when requested to provide further clarification on matters raised in the report or any other matter relevant to the Police.

Article 35

In order to ensure the transparency of the work of the Police and in the interest of public safety, the Chief of Police shall provide natural and legal persons with all information necessary for their protection.

Article 36

(1) Whenever gathering and providing information, the Police must respect the individual's rights of privacy and must guarantee protection of personal information in accordance with internationally recognized principles on fundamental freedoms, the Constitution of BiH and District Statute and laws.

(2) All documents created by or in control of the Police are to be considered confidential, and are to be used for Police purposes only. Those documents that are properly authorized for public distribution are public. Documents prepared by the police in processing criminal investigations or persons in the custody of the Police, shall be disclosed in accordance with the law. Documents to be used in court proceedings are to be forwarded to the Prosecutor's Office or the court as required by law. Other access to police documents or documents in control of the Police shall be disclosed by court order.

Article 37

(1) All natural and legal persons have the right to submit petitions, complaints and suggestions concerning the work of the Police. The Police must consider and provide written responses within a reasonable period of time, but no later than 30 days.

(2) All petition and suggestion along with the response of the Chief of Police must be included in the report to the District Assembly as specified in Article 30 paragraph 2 of this Law. A summary of the final conclusion of the Disciplinary Commission resulting from complaints or investigations and names of police employees that have been suspended, shall also be submitted to the District Assembly.

Article 38

The Police shall give expert assistance to companies and other legal persons authorized by law or regulations to maintain public order in special areas, premises, performances or gatherings.

VII Employment Matters

Article 39

Employees of the Police shall be selected on the basis of professional criteria and shall reflect the composition of the population.

Article 40

A person may not be employed with the Police without a public announcement except in those emergency situations contemplated by Article 24 of this law.

Article 41

Besides the general requirements for employment stipulated by law, the Book of Rules shall specify any additional requirements, especially relating to physical and mental health, psychological capabilities and education.

Article 42

Police officers may form professional associations but shall not be members of political parties or endorse political candidates or political party platforms. Authorized officials and other employees of the Police may not carry out other jobs without the written consent of the Chief of Police.

Article 43

(1) A Police employee shall be required to keep official documents and activities confidential as required by law, the Book of Rules or internal directives. This obligation of confidentiality shall also continue after termination of employment.

(2) The Chief of Police shall pass detailed internal directives on maintaining and protecting confidential information. Unauthorized disclosure of confidential documents and activity by police employees shall result in disciplinary measures as specified in the Book of Rules and may further warrant criminal prosecution.

Article 44

The Chief of Police may, when necessary for carrying out important and urgent tasks, discontinue an employee's annual leave. The employee shall be compensated for reasonable travel and related expenses resulting from the discontinuation of annual leave.

Article 45

An authorized official who is declared incapable of performing the duties of an authorized official under a decision of a competent medical commission may be deployed to other duties in accordance with his remaining working capability and his qualifications.

Article 46

(1) The District shall pay reasonable burial expenses to the family of a Police employee killed while carrying out his official duties and responsibilities.

(2) The District shall pay the immediate family of the late employee a lump sum settlement of 6 months salary of the deceased.

Article 47

(1) An authorized official who is disabled up to six months due to injuries suffered while acting in his official capacity, shall be entitled to an amount equal to his salary. If the disability exceeds the period of six months the authorized shall be compensated according to law.

(2) During this six month period, period of temporary disability, the Police shall provide for the difference between the sum paid by the competent health insurance fund and the salary from paragraph 1 of this Article.

Article 48

Laws, other regulations and general acts, which regulate employment issues, salaries, health and pension insurance for employees in administrative bodies of the District shall also apply to Police employees, if not otherwise provided by the law.

VIII Discipline Responsibility

Article 49

(1) The Chief of Police or his designated authorized official shall initiate the procedure for establishing disciplinary measures in accordance with the procedure as described in Book of Rules established in accordance with Article 6 and 10 of this Law.

(2) Except in the cases stipulated by the Law which regulate employment with the

District bodies, the following violations are grounds for cessation of employment of an authorized official:

1. refusal to perform lawfully assigned tasks;
2. refusal to obey legitimate direct orders;
3. performance of non-police jobs which bring discredit on the Police;
4. performance of police tasks in a reckless manner that needlessly endangers others;
5. substantial breach of laws, rules, or internal directives on confidentiality;
6. acquiring personal or material benefits for carrying out or not carrying out police tasks;
7. failure to render proper assistance to other police officials when carrying out official duties;
8. violations of human rights by using coercive means;
9. obstructing other police officials from carrying out their police tasks;
10. acts which seriously damage the reputation of the Police;
11. substantial abuse of sick leave;
12. associating with known members of criminal organizations;

13. repeated infractions of regulations in the Book of Rules or internal directives after warnings;

14. commission of a crime;

Article 50

(1) The Chief of Police may suspend authorized officials and police employees from the Police in accordance with the regulations specified in the Book of Rules.

(2) If an authorized official is suspended by the Chief of Police, his official weapons,

ID, and shield, shall be surrendered, and for that period of time he shall not wear the uniform or represent himself to be acting as an authorized official.

Article 51

The decision suspending an employee shall remain in force during the appeal process.

IX Police Training

Article 52

(1) The Police shall be in charge of organizing, and directing basic, advanced, specialized and other training of its employees and candidates.

(2) Activities from paragraph 1 of this Article may be conducted through the Entity Academies or other officially sanctioned police training institutions or bodies in BiH.

Article 53

In order to perform activities from Article 52, the Police may establish specialized training centers, programs or courses.

Article 54

Police candidates are required to attend one year of basic training comprised of six months theoretical or classroom training and six months practical or field training in an officially recognized Police Academy of BiH. Upon completion of the basic training, the recruit shall pass a proficiency examination, which shall include questions on the Constitution of BiH, District Statute, Law on Criminal Procedure, Criminal Code, Law on Police, and Code of Conduct for Professional Police Officers.

Article 55

(1) The number of cadets recruited for the Police Academies in any given term shall be established according to the personnel needs of the Police, and provided for in the District Budget.

(2) During cadet training, the cadets shall be provided with accommodation, food, summer and winter uniforms, shoes, books, health and disability insurance (if they are not otherwise insured) and monthly wages.

Article 56

A cadet enrolled in the Academy training referenced in Article 55 of this Law who voluntarily leaves the training, is expelled from the training through his own fault, fails to report to work, quits work or through his own fault is dismissed from work with the Police within a two year period from the day of taking employment with the Police, shall reimburse the District the cost of his training.

Article 57

(1) A person who completes the basic training course referenced in Article 54 of this law or who graduates from one of the officially recognized police higher education institutions shall be employed by the Police on a probationary basis for a duration of twelve months.

(2) During the course of probation the probationary authorized official shall perform regular police duties and responsibilities.

(3) Upon successful completion of the probationary period the probationary authorized officials shall become a permanent authorized official with the Police.

Article 58

Authorized officials, whose previous employment within the Police has been terminated by their fault, may not enter