

**24 Annex - Justice, freedom and security**

**168. LAW ON POLICE**

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Pursuant to Article 88 item 2 of the Constitution of Montenegro, I hereby issue the

**Decree Promulgating the Law on Police**

I hereby promulgate the Law on Police passed by the Parliament of the Republic of Montenegro at the second sitting of the first ordinary session in 2005 on 26 April 2005.

No 01-458/2

Podgorica, 27 April 2005

President of Montenegro

Filip Vujanović

**LAW ON POLICE**

**(Official Gazette of the Republic of Montenegro 28/05 of 5 May 2005)**

**I BASIC PROVISIONS**

**Article 1**

This Law regulates police affairs, police powers and duties, status of police officers and control over the work of the police.

**Article 2**

Within the meaning of this Law, police affairs shall include:

- 1) protection of security of citizens and constitutionally established rights and freedoms;
- 2) protection of property;
- 3) prevention and detection of criminal offences and misdemeanours;
- 4) detection and capture of perpetrators and their bringing to authorities;
- 5) maintenance of public peace and order;
- 6) securing public assemblies and other gatherings of citizens;
- 7) securing certain persons and objects;
- 8) supervision and control of traffic safety;
- 9) supervision of state borders and exercise of border control;
- 10) control of movement and stay of foreigners;
- 11) provision of conditions for unhindered work of courts, maintenance of order, protection of people and property;
- 12) other affairs as determined by the law.

Police affairs referred to paragraph 1 of this Article shall be performed according to the law and in compliance with international standards and regulations relating to the protection of the dignity of person, freedoms and rights of citizens.

### **Article 3**

Police affairs and other duties prescribed by this Law shall be performed by administration body competent for police matters (hereinafter referred to as the "Police").

Police affairs shall be performed by authorised police officers (hereinafter referred to as the "police officers").

Police officers shall apply police powers and perform duties in conformity with the Constitution, law, other regulations and Code of Police Ethics.

### **Article 4**

General regulations on labour relations and civil servants and employees shall apply to police officers, other servants and employees in the Police in respect to those rights, duties and responsibilities which are not specially regulated by this Law.

### **Article 5**

Chief of Police shall govern the work of Police.

Chief of Police shall be appointed and dismissed by the Government of the Republic of Montenegro (hereinafter referred to as the "Government"), at the proposal of the Minister of Interior (hereinafter referred to as the "Minister").

Government shall submit the proposal for appointment of the Chief of Police to the Parliament of the Republic of Montenegro (hereinafter referred to as the "Parliament") for the purpose of obtaining its opinion.

Following the debate in the competent working body, the Parliament shall provide its opinion on proposed candidate.

Chief of Police may not be a member of a political party and may not be politically active.

### **Article 6**

Police shall undertake measures necessary for protection of life and health of people and elimination of immediate danger to people and property, should such measures not be undertaken in due time by other competent authorities.

Police shall provide assistance to state administration bodies, local self-government units, legal and physical persons, in the case of general danger caused by natural disasters and epidemics.

### **Article 7**

Police shall provide assistance to state bodies, local administration and legal persons in the procedure of enforcement of their decisions, if during the procedure a physical resistance is expected or exercised.

Conditions and manner for providing assistance as referred to in paragraph 1 of this Article shall be regulated by the administration body, competent for internal affairs (hereinafter referred to as the "Ministry").

### **Article 8**

Police shall inform the public on performance of tasks from its scope of work and submit reports on its work through media or other appropriate way.

Police shall inform the municipal assembly on events and phenomena of relevance for the security of that area.

Information from Paragraph 1 of this Article shall be provided in conformity with the law.

### **Article 9**

Person who considers that his or her freedom and rights have been violated or that he/she has suffered damage as the result of performance of police affairs shall be entitled to judicial protection and compensation claim.

### **Article 10**

Police shall have the Code of Police Ethics.

The Code shall represent a set of principles on ethical conduct of police officers, based on provisions of international and national law.

Code from paragraph 1 of this Article shall be adopted by the Ministry, at the proposal of the Chief of Police.

The proposal from Paragraph 3 of this Article shall be approved by the Chief of Police upon prior opinion of civil servants and employees.

## **II POLICE POWERS AND DUTIES**

### **Article 11**

Police officer, apart from powers, measures and duties laid down by the Criminal Procedure Code shall have power to:

- 1) gather, process and use personal data;
- 2) secure and investigate sites;
- 3) issue warnings and orders;
- 4) arrest (deprive of liberty);
- 5) employ means of coercion;
- 6) use other's means of transport and means of communication;
- 7) protect damaged party, witness and other persons;
- 8) apply other powers established by Law;

The Ministry shall regulate the manner of performing certain police affairs and use of powers in performing those affairs.

#### **Article 12**

The Police officer shall, in manner and under the conditions set by this Law, undertake necessary measures in order to protect human lives even in cases when his/her life is could be jeopardised during the exercise of such activities.

#### **Article 13**

Police affairs, whose nature and conditions of performance require so, shall be performed by police officers in uniform.

The police officer may perform certain police affairs even in a civilian suit.

The Government shall adopt regulations on uniform, ranks and rank insignia, arms and equipment of police officers.

#### **Article 14**

Police officer shall, for the purpose of proving his/her capacity of police officer, be issued the official badge and official identification card.

Contents and the form of the identification card shall be regulated by the Ministry.

Police officers shall present official badge or official identification card to citizens to whom the police powers are executed.

Exceptionally, police officer shall not act as described in paragraph 3 of this Article should the actual circumstances in the exercise of a police power indicate that it could imperil the achieving of their goal. In such cases the police officer shall, in the course of exercising his police power, warn citizen by pronouncing the word: "Police!".

Upon termination of circumstances referred to in paragraph 4 of this Article, the Police officer shall act as described in paragraph 3 of this Article.

#### **Article 15**

The exercise of police powers must be proportionate to the need, which caused those powers to be undertaken.

Among a number of police powers, the exercised one shall be the power which shall lead to achievement of the goal with the least harmful consequences.

Powers laid down by this law shall also be enforced onto military personnel by police officer, unless otherwise provided for by special regulation.

Police officer shall execute the order of his/her immediate superiors, i.e., chief of the police and proceed accordingly, if these are within the limits of law, except for orders to perform action representing a criminal offence.

#### **Article 16**

Police powers towards the juveniles, younger adults and in cases of legal protection of children and juveniles under criminal law shall be exercised by police officers specially trained to perform affairs of suppression of juvenile delinquency.

If in cases referred to in paragraph 1 of this Article, the police powers cannot be exercised by a specially trained police officer, police powers towards the juveniles may also be exercised by other police officers when reasons of emergency or other circumstances require so.

In taking actions towards the juveniles, and in particular during the questioning, the police officer shall act with caution, taking into account the state of mind, sensitivity, personal capacities and privacy of juveniles.

Police powers toward the juveniles shall, as a rule, be exercised in the presence of their parents or legal representatives.

Exceptionally from paragraph 4 of this Article, police powers towards juveniles shall be exercised without the presence of their parents, i.e., legal representatives, if:

- 1) it is excluded by reasons for conducting pre-trial proceedings;
- 2) it is required by needs of urgent proceedings or other circumstances.

#### **Article 17**

Police officer, in performing official duties, shall carry firearms and use other means of coercion, under conditions laid down by this Law.

### **1. Collection, processing and usage of personal data**

#### **Article 18**

Police shall collect, process, use and keep records of personal data, as long as such data are required for the purpose of preventing and detecting criminal offences, misdemeanours and detecting perpetrators.

Police officer shall collect personal and other data by using the existing data bases or through direct contacts with the persons to whom those data refer and/or other persons.

#### **Article 19**

With regard to the exercise of its powers, the Police shall keep the appropriate records, in particular on:

- 1) persons deprived of liberty on any grounds;

- 2) committed criminal offences which are prosecuted *ex officio*, misdemeanours and persons whose personal or property right has been jeopardized or violated by the commission of criminal offence or misdemeanour (damaged party);
- 3) wanted persons and items being traced and persons banned from entering the Republic of Montenegro (hereinafter referred to as “Montenegro”);
- 4) persons subjected to the process of identification, persons subjected to [dactylography](#), photographed persons and DNA tests ;
- 5) used means of coercion
- 6) citizens’ petitions;
- 7) missing persons;
- 8) missing items;
- 9) unidentified corpses.

#### **Article 20**

Every person has the right of insight into the records referred to in Article 19 hereof, upon cessation of the reasons that caused its keeping.

In the process of exercising the right of insight into records, the identity of the person who supplied the information shall be protected.

#### **Article 21**

The personal data contained in the records referred to in Article 19 shall be, namely:

- 1) those referred to in item 1, three years following the rendering the decision on police detention;
- 2) those referred to in item 2, five years following the expiry of the statute of limitations against perpetrator;
- 3) those referred to in item 3, until the wanted person has been found or upon the cessation of the reasons which prompted the search;
- 4) those referred to in item 4, permanently
- 5) those referred to in item 5, ten years following the use of the means of coercion;
- 6) those referred to in item 6, ten years following the receipt of citizen’s petition;
- 7) those referred to in item 7, 8 and 9, permanently.

#### **Article 22**

Personal data may not be collected and used contrary to the purpose prescribed by the present Law and other regulations which define the protection of personal data.

#### **Article 23**

Personal data which have been collected and entered into the records shall be deleted following the cessation of the reasons due to which personal data was entered into appropriate files or in cases if the data were collected in manner contrary to the law.

## **2. Securing and searching scene of event**

#### **Article 24**

When a Police officer learns about the commission of a criminal offence or occurrence of another event which requires the establishment or clarification of the facts by direct observation, he/she shall secure the scene of the event until the arrival of the investigating judge, search the scene in order to find and secure traces and articles which might serve as evidence and collect information regarding the criminal offence or event that is the perpetrator.

Police officer shall, until the arrival of the investigating judge or other authorized body, but not longer than six hours, keep in police detention any person thought to be able to offer information relevant for clarification of the criminal offence or the event or for undertaking the rescue activities if it is likely that such information could not be obtained later, or that the presence of the person who should be able to undertake rescue activities could not be provided.

In order to protect the interests of criminal proceedings, police officer is authorized to forbid photographing of the scene of the event.

### **3. Giving Warnings and Issuing Orders**

#### **Article 25**

A Police officer is authorized to warn a person whose behaviour, acting or a failure to act, may pose risk to their own safety or safety of other persons or property, disturb the public peace and order or jeopardize the road traffic safety, or when it is justifiably expected that such person might commit or encourage another person to commit a criminal offence or misdemeanour.

#### **Article 26**

A Police officer shall give orders, for the following purposes:

- 1) eliminating the risk to life and personal safety of citizens;
- 2) eliminating the risk to property;
- 3) preventing the commission of criminal offences, misdemeanours, capturing perpetrators and detecting and securing the traces which may serve as evidence;
- 4) maintaining of public peace and order or re-establishing of violated peace and order;
- 5) the safety of road traffic;
- 6) prohibition of access or stay within the restricted area or building;
- 7) preventing and removing the consequences in case of a general danger caused by natural disasters, epidemics or other forms of threats to general safety.

Warnings and orders shall be given orally, in writing or in other appropriate manner (with light or acoustic signals, hand or similar).

### **4. Deprivation of liberty**

#### **Article 27**

Police officer may exceptionally deprive of liberty a person violating public order and peace or jeopardizing traffic safety, if public order and traffic safety could not be otherwise established.

Deprivation of liberty in the cases referred to in paragraph 1 must not last longer than six hours.

Exceptionally, deprivation of liberty may last up to 12 hours in the following cases:



- 1) if identity of the person needs to be established and it cannot be performed without deprivation of liberty;
- 2) if the person has been extradited by a foreign authority to be surrendered to the competent authority;
- 3) if a person jeopardizes the safety of other person by a serious threat of assault to their life or body.

### **Article 28**

Deprivation of liberty of the person referred to in Article 27 hereof shall be defined by a decision on police detention. The decision shall contain the following: personal data on the person deprived of liberty, the time of deprivation of liberty, the initiation and the grounds for the deprivation of liberty and instruction on right to appeal.

Decision referred to in paragraph 1 of this Article, shall be issued by the head of the organizational unit of the Police.

Decision referred to in paragraph 1 of this Article shall be issued and submitted immediately to the detained person, and not later than two hours following the initiation of detention.

In cases referred to in Article 27 paragraph 1 hereof, person deprived of liberty has the right to lodge the appeal to the Ministry against the decision on police detention, within six hours following the submission of decision, and in cases referred to in Article 27 paragraph 3 hereof within 12 hours following the submission of decision.

The complaint shall not suspend enforcement of the decision.

The Ministry shall decide on the appeal of person deprived of liberty within six hours from the time of the lodging of the appeal in the cases referred to in Article 27 paragraph 1 hereof, and within 12 hours in the cases referred to in Article 74 paragraph 3 hereof.

Administrative dispute may not be conducted against the decision rendered upon appeal.

### **Article 29**

The premises intended for keeping of persons deprived of liberty must satisfy the necessary hygienic-technical conditions, particularly concerning the volume of air (cubature), minimum space, lighting and ventilation.

The conditions, which the premises for keeping of persons deprived of liberty referred to in paragraph 1 of this Article must satisfy, shall be prescribed by an act of the Ministry.

## **5. Employing Means of Coercion**

### *1) Means of Coercion*

### **Article 30**

Means of coercion, within the meaning of this Law, shall be: physical force, truncheon, facial bandage, devices for forcible stopping of motor vehicles, police dogs, chemical agents for temporary incapacitation, special vehicles, special types of weapons, explosive devices and firearms.

The means of coercion may be used in order to:

- 1) prevent escape of a person deprived of freedom or caught committing a criminal offence prosecuted *ex officio*;
- 2) overpower the resistance of a person who disturbs public peace and order or who is to be taken in or deprived of liberty in the cases laid down by the Law, and
- 3) repulse an attack on their own person, on other persons or an object being secured.

Police officer shall apply means of coercion so that the performance of their official duty is proportionate to the danger to be averted and with the minimal adverse consequences for the person against whom the means of coercion is being used.

Prior to the application of means of coercion, police officer shall warn the person against whom the means of coercion is to be used.

The Police officer shall not act in the manner laid down in Paragraph 4 of this Article it could endanger the execution of an official action.

#### *2) Use of Physical Force*

##### **Article 31**

Use of Physical Force shall mean the use of various grips of martial arts or similar actions against the body of other person, aimed at repulsing the attack or overpowering the resistance of another person by inflicting the least harmful consequences.

Physical force shall be used in compliance with the rules of self-defence, and it shall cease to be used immediately upon the termination of the direct attack or the resistance of the person against which it was used.

#### *3) Use of Truncheon*

##### **Article 32**

Use of truncheon shall mean a hit by a truncheon delivered in order to overcome the resistance of person preventing a police officer to exercise his powers as well as to repulse the attack from himself or a person or object being secured.

Use of truncheon shall be allowed if the use of physical force has not been successful or does not guarantee success, and it shall continue only while resistance is offered.

#### *4) Use of Means for Binding*

##### **Article 33**

Means for binding may be used in order to:

- 1) prevent the resistance of person or repel an assault to a police officer;
- 2) prevent escape of a person;
- 3) prevent a person from inflicting an injury onto himself or other persons.

#### *5. Use of Devices for Forced Stopping of Vehicles*

##### **Article 34**

The devices for compulsory stopping of vehicles may be used for the purposes of:

- 1) preventing escape by vehicle of a person caught in the commission of a criminal offence prosecuted *ex officio*;
- 2) preventing escape by vehicle of a person deprived of liberty or for whom the decision on police detention has been issued
- 3) preventing illegal crossing of the state border;
- 4) preventing an unauthorized access by a vehicle to an object or an area where there are persons guarded by a police officer.

#### *6. Use of Police Dogs*

##### **Article 35**

Police dogs may be used with a muzzle provided that:

- 1) the conditions for using physical force or truncheon are met;
- 2) the conditions for using firearms are met;
- 3) the public order and peace, violated to a large extent, is being re-established.

In the cases from paragraph 1, items 1 and 2, police dogs may be used without muzzles.

#### *7. Use of Chemical Agents for Temporary Incapacitation*

##### **Article 36**

Chemical agents for temporary incapacitation may be used in the following cases:

- 1) when public order and peace have been violated to a large extent ;
- 2) when the legal requirements for the use of firearms have been fulfilled;
- 3) when a person who is hiding or is barricaded in an object and threatens or offers resistance by firearms or dangerous tools, is to be deprived of liberty;
- 4) where that is necessary in order to deprive of liberty a person holding other person a hostage.

#### *8) Use of Special Vehicles and Special Weapons and Explosive Devices*

##### **Article 37**

Special vehicles may be used in order to re-establish public peace and order, violated to a large extent, prevent passing of people and use of chemical agents and firearms built-in those vehicles.

The use of special vehicles shall mean the dispersing of water under pressure, with or without chemical agents, use of built-in firearms, removing of obstacles and prevention of passing of people by special vehicles. While used, the crew and special vehicles shall be protected by a necessary number of police officers.

Special vehicles shall mean vehicles for dispersing water under pressure, armoured vehicles with or without barrage fence, helicopters, vehicles for removing obstacles and other vehicles for special purposes.

Chemical means may be used from these special vehicles for dispersing water under pressure, helicopters and armoured vehicles with or without barrage fence only if the conditions for their use, determined by this Law are satisfied.

### **Article 38**

Special types of weapons and explosive devices may be used when the requirements from Article 30 paragraph 2 hereof are fulfilled, provided that the use of other types of weapons has been unsuccessful or does not guarantee success.

Special weapons and explosive devices may not be used to prevent escape of a person.

Explosive devices shall not be use against person in crowd.

### **Article 39**

Decision on use of chemical agents for temporary incapacitation, in cases from Article 36 item 1 hereof, on use of special vehicles and on use of special weapons and explosive devices shall be rendered by the Chief of the Police, with the consent of the Minister.

## *9) Use of Firearms*

### **Article 40**

Firearms may be used only if necessary for:

- 1) protection of human lives;
- 2) prevention of the escape of person caught in the commission of a criminal offence prosecuted *ex officio* and punishable to a sentence of 10- year term;
- 3) prevent the escape of a person deprived of liberty or a person against whom the decision on police detention has been issued for committing the criminal offence referred to in item 2 hereof;
- 4) repulse a direct attack that endangers their own life;
- 5) repulse an attack on object, if it is obvious that life of person securing or other person will be threatened by the attack.

### **Article 41**

Use of firearms for protection of human lives shall mean the use of firearms for protection of lives of persons attacked by one or more persons, where there is the imminent risk to the lives of the person attacked or persons being attacked.

### **Article 42**

Use of firearms to prevent the escape of a person caught committing a criminal offence prosecuted *ex officio* and punishable to a sentence of 10- year term or more severe punishment, shall mean the use of firearms during or immediately after the commission of a criminal offence, aimed at preventing the escape of the person caught at or in the immediate vicinity of the place where the criminal offence was committed or where the consequences of the offence occurred, that is the

prevention of escape of the person holding the objects used in the commission of a criminal offence or objects that are the result of the committed offence, in the case of an imminent threat to life.

#### **Article 43**

Use of firearms for preventing the escape of a person deprived of liberty or a person against whom the decision on deprivation of liberty has been rendered or order issued for bringing in or conveying, shall mean the use of firearms in the situation of imminent threat to life of a police officer or other persons.

Prior to complying with the decision on deprivation of liberty or the order for bringing in or conveying person referred to in paragraph 1, the police officer shall warn the person that he will use firearms should the latter make any attempt at escape.

#### **Article 44**

Use of firearms in order to repel oneself against the direct attack endangering the life of a police officer shall mean the use of firearms for repelling an attack by firearms, dangerous tools or other objects by which life may be endangered, an attack by two or more persons or an attack at a place and time when help cannot be expected.

The attack by a firearm on a police officer, within the meaning of paragraph 1 of this Article shall also mean a mere drawing of a firearm or an attempt to draw it.

The drawing of firearms, within the meaning of paragraph 2 of this Article shall mean a movement of a firearm aimed at bringing or putting it in a position for use, and the move made towards the firearm shall be considered to be an attempt to draw it.

#### **Article 45**

The use of firearms aimed at repelling an attack on an object or a persons being guarded means the use aimed at repelling direct attack and during direct attack on objects or person(s) being guarded, and in the circumstances of imminent threat to the lives of the police officer or the guarded person.

#### **Article 46**

Prior to any use of firearms, a police officer shall be obliged to warn the person if possible in given circumstances.

When using firearms a police officer shall safeguard other persons' lives.

#### **Article 47**

Firearms and other means of coercion shall be used only on order of the police officer in charge of carrying out an official assignment.

#### **Article 48**

Police officer who used, or ordered the use of firearms and other means of coercion from Article 30, paragraph 1 hereof shall be obliged to immediately inform the Chief of t Police on this.

If the Chief of Police estimates that the means of coercion were used in unlawful manner, he/she shall take measures for determining responsibility of the police officer who used or ordered the use of means of coercion, not later than days following the day of information.

#### **Article 49**

Police officer who used or ordered the use of means of coercion shall be personally responsible for illegal usage.

#### **Article 50**

When criminal proceedings are conducted against police officer for use of means of coercion and other actions in performing police duties, the police shall provide free legal aid in the proceedings.

The police shall also provide free legal aid to person who helped the police officer, if criminal proceedings have been taken against him/her for the action undertaken in relation to rendering help.

### **6. Use of Other People's Vehicles and Means of Communication**

#### **Article 51**

A vehicle or a means of communication of other person may be used if transportation cannot be done or communication established, in order to:

- 1) capture the perpetrator directly prosecuted;
- 2) transport of injured person who is a victim of criminal offence, traffic accident, natural disaster or other accidents to the nearest health institution,

In exercising the powers referred to above, the police officer shall show his/her identification documents.

The owner of the vehicle or means of communication shall be entitled to compensation of costs and any real damage caused by their use.

### **7. Protection of the Victim, Witness and other Persons**

#### **Article 52**

Police takes appropriate measures to protect the damaged person, witness and other persons who have given or can give information of importance for criminal proceedings, or any person who is in a relationship with the afore- mentioned persons if they are in danger from the perpetrators or other persons.

#### **Article 53**

When submitting the written report on the content of the information, for the collection of which the Police is authorised in conformity with the law, police officer may refuse to give information on the

identity of the person who has provided the information if he estimates that by revealing the identity this person would be exposed to a serious risk to life or health or jeopardise his/her freedom and propriety.

The data on the identity of the person providing the information are considered an official secret.

## **8. Other powers**

### **Article 54**

Apart from the powers stipulated by regulations on the control and surveillance over the state border, police officers in carrying out their tasks related to the security at sea and inland waters are authorised to check the vessel's flag, stop and search vessels and inspect relevant documents, and pursue, take under police custody and escort to the nearest port or dock a vessel not complying to regulations.

## **III OPERATIONAL – TACTICAL MEASURES AND ACTIONS**

### **Article 55**

Within the meaning of this Law, the operational-tactical measures and actions shall mean:

- 1) public offering of rewards;
- 2) photographing and publishing of photographs;
- 3) polygraph testing;
- 4) filming/recording at public places;
- 5) other measures and actions in line with the law

#### **1. Public Offer of Rewards**

##### **Article 56**

The Police shall be authorized to publicly offer rewards for information in the aim of:

- 1) detecting and capturing a person suspected to have committed a criminal act punishable by five-year term or a more severe punishment;
- 2) finding a missing person;
- 3) other justified reasons when information provided by citizens is needed for the performance of police tasks.

Offer of rewards may be published in the media or in other appropriate manner.

Police shall publicly revoke offered reward after obtaining the necessary information.

The person who supplied the information for reward shall not be entitled to the reward if the Police is already in possession of information from paragraph 1 of this Article.

#### **2. Photographing and publishing of photographs**

##### **Article 57**

Police may photograph a person and publish a photograph of a missing person when this is necessary for determining the identity or in other cases in which the interests of criminal proceedings demands so.

Police can photograph the person against whom the decision on conducting an investigation was issued, with the prior consent of an investigating judge.

### **3. Polygraph Testing**

#### **Article 58**

The person from whom the information is requested may, with his written consent, be subjected to polygraph testing. Prior to initiation of polygraph testing, police officer shall acquaint the person subjected to polygraph testing with functioning of that device.

Polygraph testing shall be terminated should the person from whom the information is requested revoke the written consent.

The State Prosecutor shall be informed about the measures envisaged in paragraph 1 of this article should such measure be undertaken in pre-trial procedure.

#### **Article 59**

The following persons shall not be subjected to polygraph testing:

- 1) any person under the effect of alcohol, narcotic drugs or other psycho-active substances;
- 2) a person with serious hart disease;
- 3) any person in a state of stress;
- 4) a person taking tranquilisers;
- 5) any person who shows obvious signs of mental illness or derangement;
- 6) any person feeling intense physical pain;
- 7) pregnant or [parturient woman](#).

### **1. Filming and Recording in Public Places**

#### **Article 60**

Filming and recording in public places shall mean acoustic or video supervision over public places.

If there is a danger that lives and health of people and property could be endangered at public gathering, police officer is authorized to record or take photographs of the public gathering.

Police may publicly announce the implementation of the measures referred to in paragraphs 1 and 2.

## **IV RESERVE POLICE FORCE**

#### **Article 61**

Persons who satisfy the conditions regulated by the law may be engaged in the reserve police force.

Police shall be reinforced by persons positioned in its reserve force in the following cases:

- 1) immediate war danger, state of war and terrorism;
- 2) preventing violation of public order or re-establishing of violated peace and order to a greater extent
- 3) general danger caused by natural disasters;
- 4) offering help with general danger caused by artificially or naturally caused accidents.



The decision about the reinforcement of reserve force shall be adopted by the Government.

#### **Article 62**

During their engagement in performance of police affairs, persons deployed in reserve police force shall have the same rights and duties as other police officers.

### **V LABOUR RELATIONS**

#### **Article 63**

A person may enter into labour relation within the Police if, apart from the general conditions for employment in the state administration, he/she satisfies the following special conditions:

- 1) distinctive psycho-physical abilities, which is proved by the health certificate;
- 2) worthy of performing the police affairs.

A person not worthy of performing the police affairs shall be: a person against whom a criminal proceedings is conducted for criminal offences pursued ex officio and or who has been sentenced by final judgement for a criminal offence committed with gain as a motive or dishonourable motives; a person sentenced for the criminal act of endangering road traffic under the effect of alcohol, drugs or other psychoactive substances; a person sentenced for offence against public peace and order with elements of violence or for other misdemeanours making him/her unworthy of performing the police affairs; or a person whose previous conduct, habits or inclinations prove them to be unreliable for performing such affairs.

Worthiness for performing police affairs is established by the check performed in accordance to general act adopted by the Ministry, at the proposal of the Police.

Police officer- trainee shall be a person who, apart from the conditions from paragraph 1 of this Article:

- 1) is not older than 28
- 2) has at least finished high school.

#### **Article 64**

A person whose employment in public authority or legal person with public authority has terminated due to serious disciplinary violation may not enter into employment in the Police.

#### **Article 65**

Police officer shall enter into employment, as a rule, on the grounds of open advertisement.

Working positions that are fulfilled without open advertisement shall be regulated by the Act on Internal Organisation and Job Descriptions of the Police.

#### **Article 66**

Following the entry into employment, police officer shall take and sign the ceremonial oath.

The text of the Oath reads as follows:

*I solemnly swear on my honour that I shall perform the Police affairs conscientiously, humanely and responsibly, and that I shall fulfil all my duties in conformity with the Constitution and the Law*

#### **Article 67**

Police officer shall perform duties in certain rank.

Ranks of the officers shall be defined by the Government.

#### **Article 68**

A Police officer's annual leave may be postponed or interrupted for performance of their official duties that cannot be delayed.

In cases referred to in paragraph 1 hereof, police officer is entitled to compensation of the real costs incurred by the postponement or interruption annual leave.

#### **Article 69**

The costs of burial of a police officer who has lost his life during the exercise of his /her duties or in the view of exercising these duties shall be provided from the Budget of the Republic of Montenegro.

The expenses referred to in paragraph 1 hereof shall include the following:

1. the costs of transport of the mortal remains to the place of burial;
2. the travel costs for two convoys; and
3. the costs of funeral equipment and the grave plot if family does not have one.

In the case referred to paragraph 1 hereof, the family having been supported by the deceased police officer shall be entitled to a single money support amounting to 24 net salary of the deceased police officer realised in the last month.

#### **Article 70**

Any person who provides assistance to the Police or police officer and gets hurt, falls ill or becomes disabled to work on this occasion, and is not insured on other grounds, shall enjoy all rights from the health insurance during the treatment, and in the case of disability and bodily damage caused by injury or disease he/she shall be entitled to all rights from the pension insurance as police officers.

The family of the person who has lost his/her life while providing assistance to the Police or police officer shall be entitled to costs defined by Article 69 hereof.

#### **Article 71**

The circumstances under which a police officer or a person who was assisting the Police or police officer has lost his/her life, as well as the circumstances occurred on this occasion shall be determined by the commission appointed by the Chief of the Police.

#### **Article 72**

Police officers shall protect official data determined to be official secret.

Within the meaning of paragraph 1 of this Article, the following shall be considered as official data:

- 1) any data defined by law or regulations as the state, military or official secret;
- 2) data and documents which have been defined by virtue of law, regulations and general acts as professional secret;

- 3) data and documents designated as the official that is professional secret by other authorities or legal persons;
- 4) measures, actions, data and sources of information the disclosure of which would be harmful to the interest of physical and legal persons as well as to the successful performance of official duties.

The obligation of protection of official data shall remain even after the termination of employment in the Police.

Type and level of data secrecy, manner of secret data managing, special protection and measures of safeguarding secret and official data shall be regulated by the Ministry.

#### **Article 73**

Should the needs of the service require so, police officer may be assigned to another position requiring the same professional qualifications as his, within the same or other organizational unit of the Police, in the same or another location. The assignment shall not require the consent of the officer. The officer shall report to the working position within deadline defined by the decision on assignment.

Assignment from one place to another lasting up to one year shall be considered a temporary assignment.

Complaint against the decision shall not delay the enforcement of a decision.

#### **Article 74**

Police officer temporarily assigned to work in another location, which is more than 50 km away from his place of permanent residence, shall be entitled to:

- 1) a single pecuniary compensation to the amount of his average salary realised for the last three months before the transfer;
- 2) the salary realised in previous position if it is more favourable for him/her;
- 3) travel allowance for visits to his family twice a month;
- 4) a monthly allowance for separated living;

#### **Article 75**

Police officer permanently assigned to another place, which is more than 50 km away from his place of residence, is entitled to travel and moving expenses as appearing in the enclosed invoice.

If the family of the police officer from paragraph 1 hereof is not with him, he shall be entitled to a monthly allowance for separate life.

#### **Article 76**

Police officer may be sent to work abroad, on the basis of the rules on international police cooperation.

The conditions and manner of selecting the police officer for work abroad shall be regulated by the Act of the Ministry.

#### **Article 77**

Police officer may not travel abroad without the previous consent of the Chief of the Police or the person whom he empowers.

### **Article 78**

The recognition may be awarded to especially distinguished police officers or officers who significantly contributed to performance of duties in other manner.

The following recognitions shall be awarded:

1. awards-days paid leave;
2. letter of thanks;
3. gifts

The recognitions referred to in paragraph 2 items 2 and 3 may be awarded to the local government units, other bodies, legal persons, non- governmental organizations and citizens.

Types of recognition and manner of their awarding shall be regulated by the act of the Ministry.

### **Article 79**

Police officers that is employees shall be held disciplinary responsible in performance of official duties.

There shall be minor and serious disciplinary violations.

### **Article 80**

Apart from offences stipulated by the law, minor violations of the official duty shall be:

1. improper handling of entrusted police property;
2. uncivil conduct towards citizens and associates at work;
3. not wearing or wearing official uniform, weapons and equipment in untidy manner.
4. untidy personal appearance

Disciplinary measures for minor disciplinary violations shall be imposed by the immediate superior of the organizational unit.

Appeal may be lodged against the decision on imposed disciplinary measure from paragraph 2 hereof to the Chief of the Police within eight days following that of the receipt of the decision.

### **Article 81**

Apart from offences stipulated by the law, serious violation of the official duty shall be:

- 1) disclosure of information to unauthorized persons;
- 2) improper or anallotted use of the entrusted means of work;
- 3) undertaking or failure to undertake any action disabling or impairing the functioning of the service;
- 4) conduct in the service or out of the service contrary to the Code of Police Ethics;
- 5) statement of false facts about the service;
- 6) refusal to exercise official order, failure to exercise official order or belittling the order of the immediate superior issued during or in view of performance of official duty;
- 7) self-willed leaving of the work place, the place of patrol or the site of securing certain objects and persons;
- 8) self-willed leaving of the unit or the place designated for the state of alert;
- 9) unjustified absence from work from 2 to 5 working days during one calendar year;
- 10) giving or execution of orders by which, contrary to the law, the safety of people and property is endangered;

- 11) failure to undertake or insufficient undertaking of safety measures for persons, property and entrusted means ;
- 12) any action or failure to act in order to disable, prevent or impairs the performance of official duties;
- 13) conduct that disrupts the relationship among officers and employees;
- 14) loss of or damage of weapons, technical devices and other equipment entrusted in performance of official duties;
- 15) travelling abroad without necessary consent;
- 16) failure to undertake measures or render assistance, within the scope of official duties, to the employees of the Ministry and other necessary assistance to other bodies of state authorities;
- 17) making of personal and proprietary gains for oneself or for other persons in connection with service contrary to the law ;
- 18) engaging in affairs incompatible with official duty;
- 19) giving orders the execution of which would constitute a criminal offence;
- 20) concealment of serious violation of official duties of the immediate superior
- 21) any form of corruption.

Disciplinary measures for severe violations shall be imposed by the Chief of Police.

Appeal may be lodged against the decision on imposed disciplinary measure from paragraph 2 hereof to the Minister within eight days following that of the receipt of the decision.

#### **Article 82**

In disciplinary proceedings for minor violations, the appropriate provisions of the law regulating the general administrative proceedings shall be applied.

In disciplinary proceedings for serious violations, the appropriate provisions of the law regulating the criminal proceedings shall be applied.

#### **Article 83**

Disciplinary proceedings for determination of disciplinary responsibility shall be regulated in more details in the act from the Ministry.

#### **Article 84**

Police officer who has been temporarily suspended from service shall be deprived of the official badge, official identification card, official weapons and other means entrusted for the exercise of duties and he shall be forbidden to wear uniform.

#### **Article 85**

Apart from the cases of the termination of employment stipulated by general acts on labour relations and civil servants and employees, a police officer shall terminate the employment if he/she:

- 1) provided false data on satisfying the requirements referred to in Article 63 paragraph 1 hereof;
- 2) was finally sentenced for a criminal offence pursued ex officio, except for criminal offences relating to traffic safety - as of the day of when the judgement becomes final;
- 3) refuses a transfer to another place - as of the day he had to report to duty;

- 4) was imposed five disciplinary measures over the period of three years or two disciplinary measures for serious disciplinary measures over the period of two years.

**Article 86**

Professional training of police officers shall be done within the special organisational unit.

**Article 87**

Primary health care of police officers and employees in the Ministry and the Police shall be performed within the special organisational unit.

**VI CONTROL OVER THE POLICE WORK**

**Article 88**

Control over the police work shall be provided through parliamentary, civil and internal control.

**1. Parliamentary control**

**Article 89**

Parliamentary control over the police work shall be performed by the Parliament of the Republic of Montenegro through the competent working body (hereinafter referred to as the "working body")

**Article 90**

The Chief of the Police, at least once a year, submits to the working body the report on police work.

The Chief of Police may submit the report to the working body as appropriate or upon the request of the body.

**Article 91**

The police shall not provide the following information to the working body:

- 1) identity of the police associates
- 2) members of police with hidden identity
- 3) other persons who could be damaged by the disclosure of the information
- 4) safety and intelligence sources
- 5) ongoing operations

**Article 92**

Members of the working body and persons who participate in the work shall be obliged to keep the confidential information that they receive during the work in the body.

The duty of keeping the confidential information shall remain even after the termination of membership that is work in the working body.

The members of the body shall sign a declaration on commitment of keeping state, official, professional and military secret. The obligation shall relate also to all persons who participate in the work of the body.

## **1. Civil Control**

### **Article 93**

Civil Control of Police shall be performed by the Council for Civil Control over the Police Work (hereinafter referred to as the "Council")

The Council shall assess the exercise of police authorities in order to protect human rights and freedoms.

Citizens and police officers may refer to the Council.

The Council shall consist of five members who are appointed by: Bar Association of Montenegro, Chamber of Physicians of Montenegro, Association of Lawyers of Montenegro, University of Montenegro and NGOs dealing with human rights.

President of the Council shall be chosen by the majority of votes of total number of members.

Mandate of the members of the Council shall be five years.

The President of the Parliament shall initiate the procedure of appointing the members of the Council by summoning the persons authorised for appointing referred to in paragraph 4 of this Article.

The Parliament states the conclusion of the procedure of appointment of the members of the Council.

The Council adopts its Rules of Procedures.

The Police shall, at the request of the Council, provide the necessary information and announcements.

Professional work for the Council shall be performed by the Service of the Parliament.

### **Article 94**

The Council shall assess and make recommendations which are submitted to the Chief of the Police.

The Chief of the Police shall inform the Council on the undertaken measures.

## **5) Internal Control**

### **Article 95**

Internal control over the police work shall be performed by the special organizational unit of the Police.

Tasks of the internal control shall be:

- 1) control of legality of performing police affairs and control over the exercise of powers by the police officers;
- 2) financial control
- 3) counter intelligence protection;

4) other controls important for efficient and legal work.

The report on internal control shall be submitted to the Chief of the Police.

#### **Article 96**

All physical and legal persons may lodge appeal if they believe that police officer has, in performance of police affairs, violated some of their rights or inflicted damage to them - not later than 30 days following that of application of powers or other action.

The Police shall respond to allegations to the submitter in writing, within 60 days from that of the receipt of the appeal.

Legal representative of the submitter shall be enabled to take part in the process of control and establishment of facts with regard to the appeal.

If the submitters should not be satisfied with the respond, he/she may refer to the Minister within 15 days following that of the receipt of the answer.

### **VII FINANCING**

#### **Article 97**

For the purchase of special technical equipment, weapons and premises used for the needs of the police, the regulations defining the obligation of public announcement shall not apply.

#### **Article 98**

Due to the special working conditions, difficulty and nature of affairs, police officers shall be provided with at least 30 per cent higher salaries in comparison to the salaries of servants in the other administration bodies.

### **VIII TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 99**

Act on establishing administration body referred to in Article 3 hereof shall be passed within 60 days from the day of entry into force of this Law.

#### **Article 100**

The President of the Parliament shall initiate the appointment of members of the Council for Civil Control over the Police Work, within 60 days from the day of entry into force of this Law.

#### **Article 101**

Secondary legislation for implementation of this Law shall be passed within 6 months from the day of entry into force of this Law.

The legislation adopted on the basis of the Law on Internal Affairs shall apply until the legislation for implementation of this Law is adopted unless it is contrary to this Law.



**Article 102**

Civil servants and employees of the Ministry, in service on the day of the coming of this Law into force, shall continue to work at their former posts and keep their ranks and salaries according to former regulations until the adoption of the decision on assigning the employees in line with the Act on Internal Organization and Job Descriptions of the Ministry, Police that is the National Security Agency.

**Article 103**

Police shall, within 30 days following the day of adoption of the decision on Internal Organization and Job Description, take over the officers of the Ministry who were performing affairs of public safety.

Within the meaning of paragraph 1, state servants and employees who were not taken over shall realise rights in line with the regulations on state servants and employees.

**Article 104**

Police will take over official premises, items, archives, equipment, and other means of work which were, on the day of entry into force of this Law, used by the Public Safety Service of the Ministry, within 30 days following that of passing the regulation referred to in Article 99 hereof.

**Article 105**

The Law on Internal Affairs (Official Gazette of the Republic of Montenegro 24/94) shall be repealed on the day of entry into force of this Law.

**Article 106**

This Law shall enter into force on the eighth day following that of its publication in the Official Gazette of the Republic of Montenegro.