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LAW AMENDING THE LAW ON POLICE OFFICIALS OF BOSNIA AND HERZEGOVINA

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LAW
AMENDING THE LAW ON POLICE OFFICIALS
OF BOSNIA AND HERZEGOVINA

Article 1

In the Law on Police Officials of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”, no. 27/04, 63/04, 5/06, 33/06 and 58/06), in Article 27, paragraph (2) after the words: “special vehicles” the words “service dogs” shall be added.

Article 2

Article 33 shall be amended to read as follows:

“Article 33
Processing of personal data

(1) In accordance with the responsibilities and powers provided by this Law, as well as pursuant to special regulations, a police official shall process information, including also personal data.

(2) When processing the personal data, the police official shall comply with the provisions of the Law on Protection of Personal Data (“Official Gazette of Bosnia and Herzegovina”, no. 49/06), unless otherwise provided in this Law.”

Article 3

After Article 33, new Articles 33a, 33b, 33c, 33d, and 33e shall be added to read as follows:

“Article 33a
Processing of personal data for police purposes

(1) Processing of personal data for police purposes shall include processing of personal data carried out by a police body in order to prevent and suppress crime and to maintain public order.

(2) When processing personal data for police purposes, a police body shall:

- a) have the duty to keep records on all of personal data collection and report such collection to the Agency for Protection of personal data in accordance with Article 13, 14, and 15 of the Law on Protection of Personal Data.
- b) have the duty to maintain new data separate from other information;
- c) be authorized, where necessary for police purposes, to combine personal data processed for other purposes;
- d) have the duty to restrict collection of personal data relating to racial origin of the data subject, his or her religious belief, sexual orientation, political opinion or affiliation with certain movements or organizations that are not prohibited by law. Collection of such personal data may be carried out only if so is required for purposes of specific investigations;
- e) have the duty to label the personal data from the point of view of their accuracy and reliability, and primarily to distinguish evidence-based personal data from data based on personal opinion and assessments;
- f) have the duty to make permanent checks, but no less than once in three years, as to whether the personal data are necessary for certain purposes and to delete redundant data;
- g) checks referred to in item f) of paragraph (2) of this Article shall not be run in the event of processing personal data for purposes of basic identification of perpetrators of punishable offenses (fingerprint records, DNA, etc) when deletion of data is performed upon expiry of five years after death of the perpetrator;
- h) checks and deletion shall not be carried out in the event that personal data is stored in the documentation that is not maintained in an automated way and where the rules of archiving service are followed;
- i) not be allowed to carry out the processing of personal data through data processor.

(3) For purposes of fulfilling the obligation referred to in paragraph (2) of this Article, the authorities taking part in the criminal proceedings shall provide timely information about final decisions and obsolescence of a criminal offense due to the statute of limitations.

Article 33b **Use of personal data**

(1) Personal data processed in accordance with the provisions of Article 33a of this Law shall be used, provided that such use is:

- a) necessary in order to complete the tasks of a policy body;

- b) necessary in order to fulfill the obligations from an international agreement concluded by Bosnia and Herzegovina, and fulfill the obligations within the international organization of INTERPOL.
- c) determined by law;
- d) in the interest of the data subject, where the data subject has provided his/her consent and where such consent may be anticipated;
- e) necessary in order to avoid any serious and imminent danger.

(2) Personal data shall be delivered based on the request that should indicate the data about the applicant reason and purpose for which the data should be delivered.

(3) The data may be delivered even without the request if such delivery is required by law, international agreements, or the delivery is carried out to serve the needs of the international organization of INTERPOL, as well as in the event referred to in paragraph (1), item e) of this Article.

(4) Where possible, over the course of each personal data delivery the police body shall also deliver information about final and binding decisions of the body, relating to criminal proceedings.

(5) False and incorrect personal data may not be delivered, unverified personal data must be labeled as such during delivery and the measure of their reliability must be clearly indicated.

(6) A beneficiary of such data shall not be authorized to process the personal data for purposes other than those for which they have been delivered.

(7) Notwithstanding paragraph (6) of this Article, the data beneficiary may also process the personal data for other purposes, provided that one of the requirements referred to in paragraph (1) of this Article have been met.

Article 33c **Rights of the data subject**

(1) Pursuant to the provisions of Chapter III of the Law on Protection of Personal Data, the police body shall not deliver information to the data subject if such delivery could result in:

- a) undermining fulfillment of a task of the police body in the context of criminal proceedings
- b) undermining authorized interests of a third party;

(2) In the event that the conditions referred to in paragraph (1) have not been met or in the event of deletion of personal data, the police body shall take a decision and explain it in writing.

(3) If the police body does not process the personal data relating to the applicant or if the explanation of the decision rejecting the request could undermine the fulfillment of a task of the police body, the applicant shall be notified of the fact that the police body does not process the personal data of the applicant.

(4) If the police body has received the personal data without knowledge of the data subject, which data the body shall further process, it shall be required to inform the data subject thereof and in the event that this may not undermine the completion of a police task or interests of third parties.

Article 33d **Processing of personal data of the deceased persons**

(1) Personal data shall also include the data relating to the deceased.

(2) Rights of the data subjects who have deceased shall be exercised through their legal successors.

Article 33e **Publication of personal data**

(1) A policy body shall have authority to publish personal data in the required volume and scope, where such publication is necessary for purposes of securing personal identity and pursuit for wanted persons and objects.

(2) Personal data processing under the provisions of this Law shall not be subject to liabilities prescribed by the Law on Freedom of Access to Information (“Official Gazette of Bosnia and Herzegovina”, no. 28/00 and 45/06). ”

Article 4

Article 44 shall be amended to read as follows:

“Article 44 **Vacancies at the rank of Junior Inspector**

The method of filling the vacancies at the rank of Junior Inspector shall be regulated by

the Minister at the proposal of the Head and that regulation shall govern the number of vacant positions to be filled with the rank of Junior Inspector by recruitment of new police officials and the number of vacant positions to be filled by promoting lower ranked police officials.”

Article 5

In Article 46, sub-paragraph d), after the word: “physically” the words ”and mentally” shall be added, whereas sub-paragraph e) shall be deleted.

The current sub-paragraphs f), g, h), and i) shall now become sub-paragraphs e), f), g) and h).

Article 6

Article 48 shall be amended to read as follows:

“Article 48 Selection Commission

(1) The Head shall appoint a Selection Commission for each individual candidates selection process, in order to ensure fairness, transparency and quality in the recruitment process.

(2) The Selection Commission shall be composed of the following five members:

- three police officials with the minimum rank of Senior Inspector and;
- two civil servants employed in the Ministry with the minimum position of Senior Advisor in the Ministry, appointed by the Minister.

(3) The most senior ranking police official shall chair the Selection Commission.

(4) The Selection Commission shall operate by the rules, criteria and methods prescribed under the Rules of Procedure of the Selection Commission enacted by the Head.

Article 7

Article 63 shall be amended to read as follows:

“Article 63 Probation period

(1) Upon taking office, a cadet deployed to a police official position at the rank as Police Officer or Junior Inspector shall undergo a probation period. The probation period shall

include both an induction and a performance period and shall have an overall duration of twelve months.

(2) The immediate superior of the police official referred to in paragraph (1) of this Article shall be designated as a supervisor and shall be responsible for carrying out a performance evaluation at the end of the probation period. The probation period shall include the performance of regular police duties and responsibilities.

(3) Should the performance evaluation of the police officer referred to in paragraph (1) be:

- a) "Satisfactory" or higher - the police body shall confirm the appointment of that police official;
- b) "Unsatisfactory" - the police body shall dismiss the police official, who shall in consequence lose his/her status without receiving any dismissal due compensation. A dismissed police official may lodge a complaint to the Police Board referred to in Article 121 of this Law within eight days after the receipt of the decision on dismissal.

Article 8

In Article 87, after paragraph (4), new paragraph (5) shall be added to read as follows:

"(5) The special work conditions increment shall be paid to the police official during the entire period of paid leave of absence or sick leave."

Article 9

In Article 88, paragraph (2) shall be amended to read as follows:

"(2) The increment for outstanding working results referred to in paragraph (1) of this Article may be paid to the same police official no more than twice a year, and so in two different months."

Article 10

Article 89 shall be amended to read as follows:

"Article 89 Paid absence

The police official shall be entitled to salary compensation up to the amount of a full salary, including the special work conditions increment, and so over the period of annual leave and paid leave of absence as well as for the period of absence from work due to

sickness or disability, which according to the Health Insurance regulations has to be paid by the police body.”

Article 11

After Article 129, new Article 129a. shall be added to read as follows:

“Article 129a. Regulations

All bylaws enacted on the basis of the Law on Police Officials of Bosnia and Herzegovina shall be harmonized with the provisions of this Law, within the period of one month after its entry into force. ”

Article 12

In Article 132, paragraph (1), the words: “legislation (i.e. legislative provisions)” shall be replaced with the word “regulations”, whereas after the word “body” a comma and the following words shall be added: “as well as other regulations”.

Article 13 Entry into force

This Law shall enter into force on the eight day after its publication in the “Official Gazette of Bosnia and Herzegovina”.

Parliamentary Assembly, no. 158/08
31 January 2008
Sarajevo

Chair
of the House of Representatives
of the BiH Parliamentary Assembly
Dr. Milorad Zivkovic, *manu proprio*

Chair
of the House of Peoples
of the BiH Parliamentary Assembly
Sulejman Tihic, *manu proprio*