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LAW ON AMENDMENTS TO THE LAW ON THE BORDER POLICE OF BOSNIA AND HERZEGOVINA

“Official Gazette of Bosnia and Herzegovina”, 59/09

NOTE: The Law on the State Border Service was published in the “Official Gazette of Bosnia and Herzegovina”, 50/04.

Pursuant to Article IV 4 a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina at the 57th session of the House of Representatives held on 8th July 2009 and at the session of the House of Peoples held on 13th July 2009, has adopted the

LAW ON AMENDMENTS TO THE LAW ON THE BORDER POLICE OF BOSNIA AND HERZEGOVINA

Article 1

In the Law on the Border Police of Bosnia and Herzegovina (“Official Gazette of BiH”, nos. 50/04 and 27/07), Article 1 shall be amended to read:

“Article 1 Scope of Regulation

- (1) This Law regulates the competence, organization and management of the Border Police of Bosnia and Herzegovina of Bosnia and Herzegovina (hereinafter: BP) as a police body of Bosnia and Herzegovina (hereinafter: Bosnia and Herzegovina), as well as other issues relevant to the functioning of the BP.
- (2) For all other issues relevant to the functioning of the BP as a police body, to the extent not prescribed by this Law, the Law on Police Officials of Bosnia and Herzegovina, the Law on Directorate for Coordination of Police Bodies and on Agencies for Support to Police Structure of Bosnia and Herzegovina, the Law on Independent and Supervisory Bodies of Police Structure of Bosnia and Herzegovina (“Official Gazette of BiH”, No. 36/08) and other corresponding laws that the BP applies in its operation shall apply.
- (3) For all issues pertaining to the organisation and management and other issues relevant to the functioning of the BP as an administrative organization, such as enactment of the Book of Rules on Internal Organization (hereinafter: Book of Rules) and other by-laws, administrative supervision, relations between the institutions of Bosnia and Herzegovina and relations towards legal and natural persons, to the extent not prescribed by this Law, the Law on Ministries and Other Bodies of Administration of Bosnia and Herzegovina (“Official Gazette of BiH”, nos. 5/03, 42/03, 26/04, 42/04, 45/06, 88/07 and 35/09) and the Law on Administration of Bosnia and Herzegovina (“Official Gazette of BiH”, No. 32/02) shall apply.”

Article 2

In Article 2, the title shall be amended to read: “Seat and Budget of BP”.

Paragraph 3 shall be deleted.

Article 3

In Article 4, the title shall be amended to read: “Working Relations in the BP”.

Paragraphs (1), (4) and (5) shall be amended to read:

“(1) The staff of the BP shall consist of police officials, civil servants, employees and other employees in accordance with the Book of Rules.

(4) The working relations of employees in the BP are regulated by the Law on Labour in Bosnia and Herzegovina Institutions (“Official Gazette of BiH”, nos. 26/04, 7/05 and 48/05).

(5) The positions of police officials and civil servants, employees and other employees, shall be defined by the Book of Rules.”

Article 4

In Article 6, in the title, after the word “representation”, the words: “in the BP” shall be added.

In paragraph (1), after words: “civil servants”, comma punctuation mark and the word “employees” shall be added.

Article 5

In Article 10, paragraph (2), item 6 shall be deleted.

Current item 7 shall become item 6, and shall be amended to read:

“6. Other organizational units as defined in the Book of Rules.”

Paragraph (5) shall be amended to read:

“(5) The structure of the BP shall be further defined in the Book of Rules in accordance with this Law.”

Article 6

In Article 11, the title shall be amended to read: “Management in BP”.

In paragraph (1), after words: “Director of the BP”, the words “(hereinafter: Director)” shall be added.

Paragraphs (2) and (3) shall be amended to read:

“(2) The Director shall have one deputy (hereinafter: Deputy Director) and one Assistant Director for Organization and Operations (hereinafter: Assistant Director) who shall be responsible for their work to Director.

(3) The Director shall be responsible for his/her work and the work of the BP to the Minister of Security and the Council of Ministers.”

After paragraph (4), new paragraph (5) shall be added to read:

(5) Director, Deputy Director and Assistant Director shall not be from among the same constituent people.”

Article 7

Article 12 shall be amended to read:

“Article 12 Deputy Director

(1) The Deputy Director shall assist the Director in execution of his/her duties, replace the Director during his/her absence, perform tasks that are delegated to him/her by the Director, and shall execute the duties assigned, as need may arise, to him/her by the Director with objective of efficient and right execution of duties of the BP.

(2) Duties and responsibilities of the Deputy Director shall be further defined in the Book of Rules.”

Article 8

Article 13 shall be amended to read:

“Article 13 Assistant Director and Managerial Servants of the Organizational Units

(1) Assistant Director shall manage the Headquarters.

(2) Assistant Director and other Managerial Servants of the Organizational Units shall be appointed, nominated, and their employment shall cease in accordance with the Law on Police Officials of Bosnia and Herzegovina and the Law on Civil Service in the Institutions of Bosnia and Herzegovina.

(3) Duties and responsibilities of the Assistant Director and other Managerial Servants of the Organizational Units shall be further defined in the Book of Rules.

(4) Upon the termination of the term of office of the Assistant Director, the police official who had occupied such a position shall be assigned to a position that requires the rank of Chief Inspector.”

Article 9

Article 14 shall be amended to read:

“Article 14 Appointment and Dismissal of the Director and Deputy Director

(1) The Director and the Deputy Director shall be appointed by the Council of Ministers at the proposal of the Minister, from the list of candidates forwarded by the Independent Committee for the four-year term, with possibility of reappointment for a second consecutive term.

(2) The Council of Ministers shall dismiss the Director or Deputy Director according to the conditions and procedures carried out by the Independent Committee.

(3) Director and Deputy Director may be dismissed before the expiry of the term of office:

- a) At personal request;
- b) If a disciplinary measure has been pronounced against him/her for committing serious violation of a work duty;
- c) If he/she was convicted for a criminal offence, except the criminal offence from area of traffic safety;
- d) If it is established that he/she is member of a political party;
- e) If it is established, on the basis of the opinion of a competent medical institution, that he/she is permanently disenabled to carry out duties.”

Article 10

Article 15 shall be amended to read:

“Article 15 Duties and Responsibilities of the Director

(1) The Director shall:

- a) represent the BP;
- b) create annual working plan according to the directives and policies established by the Chair and Deputy Chairs of the Council of Ministers, as well as the draft annual budget for the BP and propose them to the Minister, who shall forward them for adoption to the Council of Ministers;
- c) manage and direct carrying out of the tasks that come under the competence of the BP;
- d) participate in elaboration of the action plans that define measures to be taken for combating illegal migration as well as criminal and minor offences that come under the competence of the BP;
- e) define operational strategies for effective border surveillance and control;
- f) ensure proper implementation of the guidelines and directives of the Prosecutor concerning the activities of police officials in relation to criminal proceedings;
- g) ensure co-operation with law enforcement agencies and other appropriate bodies in Bosnia and Herzegovina;
- h) Ensure co-operation with law enforcement agencies and other competent agencies of foreign states and ensure the implementation of other international agreements in the area of surveillance and control of crossing of the state border, as well as other international instruments pertaining to matters that come under the competence of the BP;
- i) propose to the competent authority the initiation of negotiations related to the conclusion of international agreements concerning border related matters, including (re)admission agreements;
- j) conduct permanent analyses to determine rational allocation of personnel and technical resources;
- k) ensure the implementation of and compliance with established standards of professional skills and training for personnel;
- l) Ensure that the BP successfully implements provisions of the Law on Movement and Stay of Aliens and Asylum, and that all BP staff is adequately trained in the application of the said law.

- (2) In addition to the duties and responsibilities referred to in Paragraph (1) of this Article, the Director shall also carry out other tasks, such as:
- a) Enactment of the Book of Rules, with the consent of the Council of Ministers, as well as of other regulations envisaged by law that are needed for enabling carrying out of the duties that come under the competence of the BP;
 - b) Assigning Assistant Director and heads of organizational units to duties in accordance with the law, Book of Rules and other regulations;
 - c) Issuing decisions on employment, deployment and termination of employment of the employees within the BP, in accordance with the Law on Police Officials of Bosnia and Herzegovina and other laws and regulations,
 - d) Carrying out the procurement of weapons and ammunition, in co-operation with the Agency for Support to Police, in agreement with the Minister;
 - e) Carrying out the procurement of material and technical means, in co-operation with the Agency for Support to Police, in agreement with the Minister;
 - f) Carrying out the activities concerning the programs for education and professional improvement of the employees within the BP, in accordance with the Law on Directorate for Coordination of Police Bodies and Law on Police Officials of Bosnia and Herzegovina;
 - g) Submitting annual report on activities of the BP to the Minister, who shall forward it to the Council of Ministers, and submitting special reports as circumstances require or upon the request of the Minister;
 - h) Submitting reports to the Parliamentary Assembly of Bosnia and Herzegovina, the Council of Ministers and the Presidency of Bosnia and Herzegovina upon their request;
 - i) Performing other duties as prescribed by law or other regulations.
- (3) The Director shall be responsible for the lawful work of the BP and for the lawful expenditure of funds allocated to the BP from the “Budget of the Institutions of Bosnia and Herzegovina and International Obligations of Bosnia and Herzegovina”.”

Article 11

Article 16 shall be amended to read:

“Article 16 Event of Director’s Inability

- (1) In the event of Director’s inability to carry out his/her duties and responsibilities, Deputy Director shall carry them out, for as long as the Director is again able to take them over or until the appointment of a new Director.
- (2) If the Director cannot resume his/her duties and responsibilities, the Council of Ministers shall appoint a new Director in accordance with Article 12 of this Law.”

Article 12

Article 17 shall be deleted.

Article 13

In Article 18, paragraph (1), the word “authorities” shall be replaced with word “services”, words: “Interpol liaison bodies” shall be replaced with words: “international operational police co-operation” and the word “non-public” shall be deleted.

Paragraph (2) shall be amended to read:

“(2) The BP shall cooperate and render assistance to bodies referred to in Paragraph (1) of this Article, at their request.”

Article 14

Article 20 shall be amended to read:

“Article 20 International Co-operation of the BP

- (1) The BP shall co-operate with foreign law enforcement agencies, other bodies for international operational cooperation, for the purpose of execution of duties that come under its competence according to this Law. Such a co-operation may include the exchange of data and joint execution of activities that come under the competence of the BP.
- (2) The BP may provide foreign law enforcement agencies and other bodies referred to in paragraph (1) of this Article with data on citizens of Bosnia and Herzegovina if it receives information that the citizen represents danger to the security of Bosnia and Herzegovina, the receiving State or broader danger to regional or global security.
- (3) In criminal matters, the cooperation with foreign law enforcement agencies shall be conducted through the Directorate for Coordination of Police Bodies of BiH and other competent bodies and institutions of BiH.
- (4) The BP shall not provide data on citizens of Bosnia and Herzegovina unless it has reasonable assurances that the recipient will ensure the same level of protection of data as provided in Bosnia and Herzegovina
- (5) If data relates to an ongoing criminal proceeding in Bosnia and Herzegovina, the exchange of data referred to in this Article shall be carried out in accordance with the Criminal Procedure Codes, Law on the Protection of Personal Data (“Official Gazette of BiH”, No. 49/06) and the Law on Protection of Secret Data “Official Gazette of BiH”, No. 54/05).
- (6) International cooperation related to matters falling within the responsibilities of the BP shall be determined through written bilateral or multilateral agreements or protocols and may cover all aspects of cross border cooperation, including mutual risk analyses, exchange of experience and cooperation concerning the investigations.
- (7) Police officials of the BP may act outside the territory of Bosnia and Herzegovina if authorised to do so by bilateral or multilateral international agreements.
- (8) The BP may participate in international meetings and appoint Liaison Officers.”

Article 15

After Article 22, new Article 22a shall be added to read:

“Article 22a Term of Office of the Appointed Persons

(1) Term of offices of the persons who, on the day this Law enters into force, execute the duties of the Director and Deputy Director shall not last longer than the period specified in Article 14, paragraph (1) of the Law that had been in force before this Law entered into force.

(2) Term of office of the person who, on the day this Law enters into force, execute the duties of the Assistant Director, shall last until the expiry of the term to which he/she had been appointed.

(3) Duration of the term of offices for the persons referred to in paragraphs (1) and (2) of this Article shall be counted from the day when the Director, Deputy Director and Assistant Director assumed their duties.”

Article 16

After Article 23, new Article 23a shall be added to read:

“Article 23a

Enactment of the Book of Rules and Application of Regulations

(1) The Book of Rules on the Amendments to the Book of Rules shall be enacted within 60 days from the day this Law entered into force.

(2) Selection, education and professional improvement of the cadets commenced before this Law entered into force shall be carried out in accordance with the corresponding regulations of the BP that had been in force before this Law entered into force.

(3) Until the adoption of the corresponding regulations, the BP shall apply the regulations enacted pursuant to the Law on the Border Police in the extent in which they are not contrary to this Law and Law on Police Officials of Bosnia and Herzegovina.”

Article 17

Article 23 shall be deleted.

Article 18

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