

„Official Gazzete of the Republic of Serbia “ no. 101/2005

## **THE POLICE LAW**

### **I GENERAL PROVISIONS**

#### **The police scope of work**

##### **Article 1**

The Police are made of a rounded area of work of the Ministry of Interior (hereinafter referred to as: the Ministry) for which the Police Directorate is established

The police shall perform law enforcement and other duties that are laid down by the law, support the rule of law in democratic society and are responsible for safety in conformity with law.

By performing the law enforcement duties, the police shall protect the rights and freedoms of all. When providing the protection, Police may restrict certain rights and freedoms only under the condition and in the manner laid down by the Constitution and law.

In addition to the law enforcement duties, the Ministry shall perform other duties laid down by law.

#### **Law enforcement measures**

##### **Article 2**

The Police shall take measures under the Ministry's mandate to maintain public safety.

The police shall take urgent measures, which are necessary to remove immediate threats to people and property, when such measures may not be undertaken in a timely manner by other competent authorities, and it shall immediately notify such authorities thereof.

The police shall provide assistance to government authorities and to authorities of territorial autonomy and local self-administration, individuals and legal entities, in case of general threats caused by natural disasters, epidemics or other dangers.

In the discharging duties referred to in Paragraph 2 and 3 of this Article, the police shall participate in rescue and first aid activities and, related to that, shall use prescribed equipment and train police officers performing these duties.

#### **Police assistance in enforcement**

##### **Article 3**

Provided that there are reasonable grounds to expect resistance to enforcement of the acts issued by government authorities and legal entities with public powers, the police shall provide assistance to such authorities and entities upon their written request, in order to ensure the enforcement.

#### **The police officers**

##### **Article 4**

Police officers shall perform law enforcement duties.

The following are considered police officers in the Ministry:

- 1) uniformed and non-uniformed officers who exercise police powers (authorised officers);
- 2) personnel working on special or certain duties, whose task is directly related to the police duties, including fire-fighting, issuance of weapons, special registrations and issuance of licenses and permits, issuance and entrance of confidential identification documents, criminal histories and other special records, as well as other tasks of confidential nature or relating to security and whom the Minister of Interior (hereinafter referred to as: Minister) authorized to perform certain police tasks.

Police officers referred to in Paragraph 2 of this Article are employees engaged in duties, which pose a threat to life and health, or duties which involve great responsibility and difficulty, such that ability to work is considerably affected by the nature of the task and working conditions.

The Minister shall define positions of police officers, by internal organisation act and personnel systematization plan with the Ministry.

In conformity with law, police officers shall be responsible for performance of their duties and failures in their work.

### **Information on police activities**

#### **Article 5**

The police shall be bound to objectively inform the public on their activities, without disclosing confidential information. In dealing with media, the police shall act in conformity with law and according to professional guidelines given as instruction by the Minister.

The police directly shall inform individuals and legal entities on matters under their mandate, when the outcome affects their founded interests.

Head of the competent police directorate or other person authorized by the Minister for such purpose shall provide the information referred to in Paragraph 2 of this Article.

The information referred to in Paragraph 2 hereof shall be withheld or postponed when such information is confidential, or its disclosure may violate one's right to fair trial, or influence the outcome of other court proceedings.

### **The police cooperation**

#### **Article 6**

The police shall cooperate with bodies of territorial autonomy or local self-administration in taking measures for security of life and property.

The police shall cooperate with other bodies and institutions, non-governmental and other organisations, minority and other organized groups and self-organized individuals in order to

develop partnership in preventing or discovering criminal offences and their perpetrators and reaching other security objectives.

The police shall engage in cooperation in conformity with the law and other regulations and according to professional guidelines issued as instruction by the Minister.

### **The Ministry Article 7**

The Ministry, in order to create conditions for the work of the police, shall:

- 1) set developmental, organisational, personnel and other fundamental guidelines for the operation of the police and shall make police strategic plan;
- 2) prepare annual financial plans of the police requirements, supervise their implementation and oversees financial activities of the police;
- 3) organize and perform internal audit of the budget utilization method and review of the management of the state-owned assets, in conformity with the law;
- 4) carry out investment activities and investment maintenance of the assets used by the police and make procurement plans;
- 5) adopt and implement plans to develop and utilize informatics system;
- 6) adopt and implement plans to establish and utilize radio and telecommunications systems, as well as security -cryptology system;
- 7) direct and supervise police performance;
- 8) set standards for equipment and material- technical tools and assets;
- 9) set requirements and procurement of technical equipment;
- 10) support local cooperation and accountability;
- 11) organize international cooperation;
- 12) carry out defined tasks related to safety-police and educational-scientific activity;
- 13) organize and carry out internal oversight of the police, with regard to public opinion on the police;
- 14) ensure conditions to prevent torture, inhuman or humiliating treatment and monitor treatment of persons deprived from freedom;
- 15) ensure cooperation with other authorities and bodies that are authorized by law to external oversight of the police;
- 16) provide healthcare protection, in conformity with law;
- 17) perform other activities, in conformity with law.

For performance of particular duties as referred to in Paragraph 1 hereof, the Ministry shall establish administrative Sectors, led by duly appointed assistants to the Minister, in conformity with law. The Ministry shall ensure organisational preconditions for operational independence of the police from other governmental authorities, in performing police duties and other duties envisaged by law, for which the police is responsible.

The Ministry shall provide other organisational preconditions for law enforcement operation, and shall strive to increase confidence in the police as a public service, and for development of professionalism in police work, as well as for prevention and combat corruption within the police.

**Minister**

**Article 8**

The Minister may request reports, data and other documents relating to the police activities. Representative of the police shall report to the Minister, on a regular basis and upon special request, on police activities and all individual issues falling under mandate of the police.

The Minister shall give the police guidelines and binding instructions for police work, with full observance of the police operational independence. The Minister may order the police to perform certain tasks within their authorities, to take certain measures and report to the Minister thereon.

Mandate of the Minister for the police conduct referred to in Paragraph 2 hereof, shall be effective until the Public Prosecutor is notified of a criminal offence and assumes direction of police activities in pre-trial proceedings.

## **Reports to the National Parliament**

### **Article 9**

The Minister shall report the National Parliament once a year, upon request by the National Parliament, or more often if needed, on work of the Ministry and security situation in the Republic of Serbia. The Minister shall submit to the working body of the National Parliament responsible for security, upon its request, report on issues under his/her mandate.

## **II LAW ENFORCEMENT DUTIES**

### **Definition and types of police duties**

#### **Article 10**

The police duties in terms of this law, includes:

- 1) protection of life, rights, freedoms and personal integrity of citizens, and support to the rule of law;
- 2) protection of property;
- 3) prevention, detection and investigation of criminal offences, misdemeanors or other violations (hereinafter referred to as: criminal offences and misdemeanors) other forms of combating organized crime and other forms of crime;
- 4) finding and apprehending perpetrators of criminal offences and misdemeanors and of other wanted persons and bringing them before the competent authorities;
- 5) maintaining public order, assisting in case of emergency and providing protective assistance to those in need;
- 6) regulating, control, assistance and monitoring road traffic;
- 7) providing security for certain public gatherings, persons, government bodies, facilities and locations;
- 8) monitoring and protection of national state borders, performing border-crossing control, enforcement of border area regime and to identification and resolving border incidents and other violations of the state borders;
- 9) performing or other tasks laid down by the regulations on foreign nationals;
- 10) performing other tasks laid down by law and bylaws deriving from the law.

The Minister shall prescribe manner of performing police duties and shall provide guidelines and binding instructions for their performance. Regulations must be in accordance with law, and the guidelines and binding instructions must conform to the regulations.

### **Objective, manner and principles of law enforcement performance**

#### **Article 11**

The law enforcement duties shall be performed with an objective and in manner that provides equal protection of safety, rights and freedoms, to enforce law and to support rule of law.

Performance of the law enforcement duties shall be founded on principles of professionalism, cooperation, legality in work and proportionality in exercising police powers, as well as on the principle of subsidiarity, i.e. working to achieve the least harm.

In performing police duties, police officers may apply only those measures of coercion, i.e. instruments of restraint, which are envisaged by law and reaching the most professional result without unnecessary harm or delay.

### **National and international standards of police procedure**

#### **Article 12**

When performing their duties, the police shall comply with national standards of law enforcement procedure, requirements laid down by laws and other regulations and acts of the Republic of Serbia, as well as international treaties and conventions adopted by the Republic of Serbia.

When performing police duties, in accordance with Paragraph 1 of this Article, the police shall observe international standards of the police conduct, especially requests laid down by international acts related to: duty to serve people, observance of legality and suppression of illegality; respect of human rights, to proceed without discrimination in the performance of police duties; to restrict and refrain in use of coercive instruments; to prohibit torture and application of inhuman and humiliating treatment; to provide assistance to affected persons; duty to protect confidential data; duty to disobey unlawful orders, and to resist bribery and corruption.

The police shall take measures in order to achieve the highest standards referred to in Paragraphs 1 and 2 of this Article.

The police shall ensure that performance of police officers in does not violate or fall short of European standards of police procedure.

The Police shall have its Code of Ethics, passed by the Government.

### **Duties of police officers**

#### **Article 13**

Police officers shall at all time act as necessary to protect live and safety of persons and property.

In the performance of their duties Police officers shall serve the community and protect all persons from illegal actions, and shall always act in professional, responsible and humane manner, and respect human dignity, reputation and honour of all persons and their rights and freedoms.

Police officers shall make known to their immediate superior, in writing, all information obtained in the course performing police duties, or exercising police powers, or in any other manner.

### **Preparing for state of emergency or war**

#### **Article 14**

The police, in accordance with its mandate defined by law, shall prepare to act in state of emergency or war.

During the state of emergency or state of war, the police shall adapt their working organisation, techniques and methods to the changed circumstances, in accordance with law and any other regulations which are adopted to end the state of emergency or war.

The police shall plan the use of material and technical instruments, infrastructure, land and police facilities in state of emergency or war

For the performance of certain tasks in a state of emergency or war, the police may deploy assets and equipment which have been requisitioned.

The police shall coordinate their preparations and tasks in the event of war with the Ministry of Defense.

### **Special measures to ensure public order**

#### **Article 15**

Provided that the Government of the Republic of Serbia (hereinafter referred to as: Government) assesses that it is otherwise impossible to ensure public order or to protect people's lives and health, it may instruct the Minister to issue an order:

- 1) restricting or prohibiting movement in particular areas, on particular locations or in public places;
- 2) prohibiting taking residence in or departure from a specific location;
- 3) requiring evacuation – leave of specific location or facility.

The measures referred to in Paragraph 1 of this Article must be of set duration, and may remain in effect until their causes cease.

### **Procedure of providing assistance in enforcement**

#### **Article 16**

The police shall provide assistance in enforcement as referred to in Article 3 hereof, upon written request of competent organ or public authorities, which is to be submitted to the competent organisational unit of the police, three days prior to the date determined for enforcement, at the latest. Request for the assistance, must contain listed reasons for which the police assistance is

required. Copy of the act to be enforced, with certificate of enforceability must be attached to the request.

In urgent cases, the request referred to in Paragraph 1 of this Article may be submitted verbally, provided that the written request is submitted within 48 hours.

Head of the police directorate, i.e. police station commander shall decide on engagement of the police and range and manner of assistance in executing the order, and shall timely notify the requesting party in a timely manner.

Prior to execution of the order, the police shall warn the parties or other persons present that enforcement measures will be used against them, if they obstruct execution of the order.

### **Cooperation with bodies of territorial autonomy and local self-administration**

#### **Article 17**

In conformity with Article 6 of this Law, the assembly, i.e. executive body of territorial autonomy and local self-administration shall:

- 1) consider safety situation in province, town or municipality;
- 2) establish priorities in respect of safety of people and property in province, town or municipality, and related to that, shall submit proposals to the head of the competent organisational unit of the police;

Head of the competent police organisational unit, in cooperation with the bodies referred to in Paragraph 1 of this Article, shall provide information on the security situation considering the extent to which national minorities and ethnic, cultural and religious groups are represented in working with law-enforcement.

When making decisions, head of the police competent organisational unit shall be bound to consider and take into account security priorities which have been established by the bodies referred to in Paragraph 1 of this Article.

### **Improving conditions of the work of the police**

#### **Article 18**

The bodies referred to in Article 7 hereof and other non-governmental authorities and legal entities with their assets, through competent organisational unit of the Ministry, may participate in improvement of work conditions of the police and in realization of particular programmes that are significant for safety of people and property in particular area, in conformity with law.

### **International cooperation and engagement**

#### **Article 19**

The Ministry implements international cooperation through its Ministers and appointed representatives and organizes international cooperation for the needs of the police.

The police level shall cooperate at operational level with foreign and international police forces, in conformity with international treaties and the principle of reciprocity.

Within the cooperation referred to in Paragraph 2 hereof, the police may, in defined manner, exchange data and information, take commonly defined measures against terrorism, organized crime, illegal migrations and other forms or international crime and infringement of the border safety, as well as to perform certain police tasks abroad, in cooperation with the police of other states.

Upon request by international organisations or based on international conventions which the Republic of Serbia, or Serbia and Montenegro, is a member or signatory, the police may participate in carrying out police or other non-military tasks.

The Government, upon proposal by the Minister, shall decide on use of the police in carrying out the tasks referred to in Paragraph 4 of this Article.

### **III ORGANISATION OF THE POLICE**

#### **The Police Directorate**

##### **Article 20**

Within the Police Directorate shall be organisational units in headquarters, City of Belgrade Police Directorate and regional police directorates (hereinafter referred to as: regional police directorates) and police stations.

Departments for performance of law enforcement activities are established within the Police Directorate headquarters; in the head office of City of Belgrade Police Directorate shall be established departments and police stations in municipalities, in headquarters of the regional police directorate there shall be established departments; and outside headquarters – police stations in municipalities.

For work of organisational units they command with, and for their own work, the following shall be responsible to:

- 1) heads of departments within the Police Directorate, heads of the City of Belgrade Police Directorate and of regional police directorates shall be responsible to the Police Director General;
- 2) heads of departments within the City of Belgrade Police Directorate and commanders of police stations in municipalities shall be responsible to the Head of City of Belgrade Police Directorate
- 3) heads of the departments in regional police directorate headquarters and commanders of police stations in municipalities shall be responsible to director of regional police directorate.

Organisational units within headquarters are structured so that they are operationally connected on the linear principle with relevant organisational units and activities of regional police directorates and stations, or so to perform duties under their mandate throughout an entire area for which the Ministry is responsible.



The Police Directorate shall be headed by the Director General of Police.

Organisational units within the headquarters and in regional police directorates shall be led by heads, and police stations shall be led by commanders.

Special police units for special security tasks may be engaged only with prior approval by the Minister.

Proposal for such engagement shall contain plan and assessment.

## **Tasks of the Police Directorate, appointment and dismissal of the Director General of the Police**

### **Article 21**

Within the territory of the Republic of Serbia, the Police Directorate shall:

- 1) monitor and analyse security situation, especially factors which foster criminal activity;
- 2) coordinate, direct and control the work of regional police directorates;
- 3) directly participate in carrying out certain complex tasks within mandate of the regional police directorates;
- 4) ensure implementation of international agreements relating to police cooperation and other international acts for which it is competent;
- 5) organize and conducts crime investigation expert testimony;
- 6) create necessary conditions for maintaining and improving capability and readiness to respond in a state of emergency;
- 7) In police affairs, it shall contribute to educational activities regarding police and security matters.

Certain tasks referred to in Paragraph 1 of this Article shall be performed by internal organisational units in headquarters, in accordance with its purview defined by the act referred to in Article 4, Paragraph 4 hereof.

The Government shall appoint Director General of the Police for a term of five years, on proposal by the Minister, after the vacancy notice procedure completed, in a manner prescribed by labour regulations applied to the Ministry.

The Director General of Police must satisfy general requirements provided by law for government employment and the special requirements for police employment as referred to in Article 110, Paragraph 1, section 2) to 6) of this Law; must have university degree, minimum 15 years of effective work experience in law enforcement; and meet the special requirements for the position of Director General. Provided that several candidates are eligible, the priority shall have a candidate demonstrating the best results in performing police duties.

## **Establishment of regional police directorates and police stations**

### **Article 22**

The Government shall issue a decree stating the principles of internal organisation of the Ministry and establishing regional police directorates, police stations and their territorial jurisdictions and headquarters.

### **Internal organisational units for coordination of the work**

#### **Article 23**

For performing police tasks in accordance with specific characteristics of certain regions, the decree referred to in Article 22 hereof may also establish internal organisational units for coordinating the work of police directorates and police stations in these regions. The decree shall define regions and headquarters of the internal organisation units for coordination of the work.

The purview and organisation of internal organisation units referred to in Paragraph 1 of this Article shall be determined by the Minister.

The Minister, after obtaining the opinion of the Director General of Police, shall appoint and dismiss police officer – head of the internal organisational unit work referred to in Paragraphs 1 and 2 of this Article.

### **Regional police directorate**

#### **Article 24**

The tasks of a regional police directorate shall be as follows:

- 1) to directly perform law-enforcement and other tasks and to establish local cooperation in the area of the municipality of its headquarters;
- 2) to monitor and analyse security situation and to coordinate, direct and control the work of police stations, to provide local cooperation and ensure accountability in the region for which it has been established;
- 3) to participate when necessary in tasks from the purview of police stations;
- 4) to take security measures to protect particular persons and objects;
- 5) to perform other tasks laid down by special regulations and other acts.

The Minister, after obtaining the opinion of the Director General of Police, shall appoint and dismiss police officer – director of a regional police directorate.

### **Police station**

#### **Article 25**

The tasks of a police station shall be to directly carry out police and other tasks and to cooperate locally with the region for which it has been established within a regional police directorate.

The Director General of Police, under authorization from the Minister and upon the opinion of the director of a regional police directorate, shall appoint and dismiss police officer – police station commander.

## **Opportunity to assume and to temporarily carry out a task**

### **Article 26**

The Directorate of Police may assume command from a regional police department, and the regional police department may assume command from a police station, in order to accomplish certain tasks directly when it finds such action necessary.

The Director General of the police directorate may establish appropriate task group to temporarily carry out a certain task or series of tasks and shall define their tasks, powers and method of operation.

## **Police vehicles, vessels, weapons and equipment**

### **Article 27**

In order to perform the tasks defined in the law, the police shall use vehicles, vessels, weapons and special equipment.

The colour, marking on vehicles and vessels and weapons shall be determined by the Government.

## **Police facilities**

### **Article 28**

Upon recommendation of the Director General of Police, the Minister shall determine the facilities and their surroundings that shall be used by the police and which shall be of special importance for performance of the police tasks. The Minister shall also prescribe the measures to secure such facilities.

The surroundings referred to in Paragraph 1 hereof shall be functionally adapted or non-adapted land surrounding the police facility of special importance for performance of the police task and which is needed for use of the facility.

## **Special measures for protection of manpower, assets and equipment of the police**

### **Article 29**

The Police shall take special measures in order to protect police officers, technical instruments and equipment.

Types of the measures referred to in Paragraph 1 hereof and manner of their implementation shall be prescribed by the Minister, at the recommendation of the Director General of the Police.

## **IV POLICE POWERS**

### **1. Types, principles and general conditions for exercising police powers**

#### ***Types of police powers***

### **Article 30**

In the performance of police duties, authorized officers shall be granted police powers defined by this law and other laws.

Police powers laid down by this law shall be:

- 1) warning and order;
- 2) check and establishment of identity of a person and identity of object;
- 3) summons /invitation;
- 4) apprehension
- 5) detention of a person and temporary restriction of freedom of movement;
- 6) requesting information;
- 7) temporary seizure of object(s);
- 8) search of premises, facilities, objects, inspection of documents and anti-terrorist search;
- 9) stopping and searching persons, objects and means of transportation;
- 10) securing and searching crime scenes;
- 11) use of other's means of transportation and communication;
- 12) receiving reports on criminal offence committed;
- 13) issuing public announcement of rewards;
- 14) audio and video recording and photographing in public places;
- 15) polygraph testing;
- 16) police observation-surveillance;
- 17) searching for persons and objects;
- 18) protection of victims and other persons;
- 19) collecting, processing and using personal data;
- 20) targeted search measures;
- 21) use of instruments of restraint.

### ***Conditions to exercise police powers***

### **Article 31**

Police powers shall be exercised by authorized officers, in conformity with the act referred to in Article 4, Paragraph 4 of this Law.

Prior to exercise of police power, authorized officers shall establish that all conditions to exercise such powers have been met as provided by law, and shall be held accountable for such assessment.

Authorized officer shall exercise police powers on his/her own initiative, upon order by superior officer and on order by competent authority issued in accordance with other laws.

When superior officer is present, police powers shall be exercised only on his/her order, unless there is no time to wait for such order in which case the officer must act on his/her own initiative without delay.

In exercising police powers, authorized officer shall act in conformity with law and other regulations and shall respect standards set by the European Convention on Human Rights and Fundamental

Freedoms, the Basic Principles of UN on Use of Force and Firearms by Law Enforcement Officials, European Code of Police Ethics and other international acts relating to the police.

In a manner laid down by law, whenever possible and provided it shall not jeopardize the law-enforcement action, a person subject to police powers shall be entitled to be informed of the grounds for the exercise of such powers; to be allowed to explain circumstances the person considers relevant; to be informed of the identity of authorized officer who shall show identification and to request presence of a trusted third party.

### ***Official badge, identification, uniform and rank insignia***

#### **Article 32**

For performance of police duties, the Ministry shall issue an official badge and official ID card to authorized officers, and it shall issue an official ID card to police officers referred to in Article 4, Paragraph 2, Point 2) of this Law.

Uniformed police officers shall wear in prescribed manner their uniform with rank insignia when they maintain public order, regulate and control traffic, supervise and secure the state borders or perform other duties pursuant to the regulations governing method of police conduct.

Police officers may also perform tasks referred to in Paragraph 2 of this Article without the uniform on orders from a superior police officer.

Retired police officers may wear police uniform in an appropriate manner, at state events and ceremonies, expert and veterans' associations and at the funerals of serving and retired police officers.

### ***Official firearms and instruments of restraint***

#### **Article 33**

Authorized officers shall have the right and duty to carry firearms with ammunition, and police officer referred to in Article 4, Paragraph 2. Point 2) hereof may carry firearms if this is indicated on their official identity cards.

Authorized officer may use firearms and ammunition, as well as other instruments of restraint, under conditions laid down by this Law.

### ***Identifying prior to exercise of powers***

#### **Article 34**

Authorized officers shall, prior to exercise of the police power, identify themselves by presenting their official badge and official ID card to the person subject to such powers.

Exceptionally, authorized officer shall not identify themselves in a manner referred to in Paragraph 1 of this Article, if circumstances in particular case imply that this would jeopardize the achievement of a lawful aim. In such case, authorized officer shall, while exercising police powers, issue a warning of their official capacity by using by word: "Police".

When the circumstances referred to in Paragraph 2 of this Article cease, authorized officers shall identify themselves in a manner referred to in Paragraph 1 of this Article.

***Impartiality, non-discrimination, humane treatment, respect of human rights and ensuring medical aid***

**Article 35**

In exercising police powers, authorized officers shall act impartially, providing to everyone equal protection under the law and acting without discrimination on any grounds..

In exercising police powers, authorized officers shall proceed humanly, respecting human dignity, reputation and honour of all and other fundamental rights and freedoms, giving priority to the rights of endangered person over those of the person violating such rights, and considering the rights of third party.

In exercising police powers, an authorized officer shall enable medical assistance by a healthcare institution, upon request of a person subject to such powers.

***Principle of proportionality***

**Article 36**

Exercise of police power must be proportionate to the need.

Exercise of police power must not cause greater harm than would have occurred had such powers not been applied.

Among a number of police powers, the one able to achieve the aim with the least harm and delay shall be chosen.

In applying instruments of restraint, police officer shall strive to use such instruments gradually, i.e. from less to more severe, and always with the least possible force.

***Exercise of powers against military personnel***

**Article 37**

An authorized officer shall exercise the powers laid down by this Law against military personnel, unless separate regulations stipulate that such powers be applied differently or not at all.

Authorized police officers shall immediately notify military police of any action pursuant to Paragraph 1 of this Article.

***Exercise of powers against minors and young adults***

**Article 38**

The powers towards minors and young adults and in cases of criminal protection of children and minors, which are laid down by this Law, shall be exercised by authorized officers who have undergone appropriate special training.

Exceptionally, other authorized officer may exercise police powers against minors and young adults if, due to circumstances of the case, the specially trained officers are unable to act.

The police powers towards minors shall be exercised in presence of parents or guardian of the minor, or if these are unavailable, in presence of guardian authority's representatives (social service), except when this is impossible due to particular circumstances or urgent need.

Representatives from social service may be present if possible, in case where presence of the parents would be harmful for a minor, in cases of family violence or similar, or when parental presence causes a serious disturbance likely to interfere with police work.

If representatives from social services cannot be present pursuant to paragraphs 3 and 4 of this Article, another legally responsible person, who is neither a member of the police nor involved in the case, shall be present.

## **2. Conditions and method of exercise of certain police powers**

### **2.1 Warning and order**

#### ***Conditions to apply warning***

##### **Article 39**

An authorized officer shall warn a person, whose actions or failure to act may pose a threat to its personal or third-party, may disturb public order or endanger traffic on roads or when there are reasonable grounds to expect that a person may commit, or induce another to commit, a criminal offense or misdemeanor.

#### ***Conditions to apply order***

##### **Article 40**

An order may be given only with respect to conduct or actions which directly affect the successful performance of police activities.

Order shall be given in order to:

- 1) avert threats life and personal safety of people;
- 2) avert threats to property;
- 3) prevent criminal offences and misdemeanors, apprehend their perpetrators, and detect and secure traces of the criminal acts which may serve as evidence;
- 4) maintain public order and to restore violated public order;
- 5) insure traffic safety of roads;
- 6) prevent access to or stay in the prohibited area or object;
- 7) prevent and avert consequences in case of general danger caused by natural disasters, epidemics or other forms of general danger to the public;

- 8) prevent threats to persons or property in other cases laid down by the law.

Orders may be issued only with respect to conduct or actions which directly affect the successful performance of police activities.

### ***Manner of giving warning and order***

#### **Article 41**

Warning and order shall be issued verbally, in writing or in other appropriate manner, by light or sound signals, by hand signals or similar, provided that it's meaning is clearly expressed.

## **2.2 Checking and establishing identity of persons and identifying objects**

### ***Conditions to identify persons***

#### **Article 42**

Police officer may establish the identity of a person who:

- 1) has to be apprehended, brought in, detained or sent before competent state authority;
- 2) who presents a threat that requires police action;
- 3) is subject to search or check, or to other measures and actions laid down by law;
- 4) is in another person's apartment, facility or other premises or in transportation means which is searched or checked, provided that identity check is necessary;
- 5) is found in an area, place or facility where freedom of movement is temporarily prohibited, provided that identity check is necessary;
- 6) reports a criminal offence or misdemeanour committed, or perpetrators of such offences, i.e. provides information of interest to the police ;
- 7) by his/her behavior gives grounds for suspicion that he/she has committed or might commit a criminal offence or misdemeanour, or who resembles a person authorities;
- 8) is found on the scene where the criminal offence or misdemeanour was committed;
- 9) is found on the location where, for security reason, an identity check is require of all or most persons;
- 10) upon reasonable request by officials of the government authorities, legal entities or natural persons.

As reasonable request referred to in Paragraph 1 point 10) of this Article means that information is clearly necessary for officials to proceed in accordance with law, or that individual rights have been violated.

Authorized officer shall be bound to inform such person of the grounds for performing an identity check.

### ***Method of identity check performance***

#### **Article 43**

Identity checks shall be performed by inspecting identity cards or other public document with photograph.



As an exception to Paragraph 1 of this Article, one's identity may be established by statement of persons whose identity has been checked.

Identity cards shall be issued by established procedure to persons without them, after the identity of such persons and their right to have an identity card has been established.

### ***Establishment of person's identity***

#### **Article 44**

Establishment of identity shall be applied to person who has no document referred to in Article 43, Paragraph 1 of this law, or if authenticity of such document is suspicious.

Identity shall be established by use of data from the records, by applying methods and instruments of crime-investigation tactic and technology, by medical or other appropriate expert testimony.

In order to establish person's identity, the police shall be entitled to publish in the public a photo-robot, drawing, video or photo record or description of his/her face.

When identity cannot be established otherwise, the police shall be entitled to publish photograph of a person who cannot provide his/her personal data, i.e. a photograph of an unidentified body.

### ***.Identification of objects***

#### **Article 45**

The identity of an object shall be established when proceedings require knowledge of its features and characteristics, as well as the relationship between the object and a person or event.

The Directorate of Police is authorized to publish a photograph, drawing, video or photo record or description of an object if this necessary to successfully identify it.

## **2. 3 Summons**

### ***Conditions and method of issuing a summon for an interview***

#### **Article 46**

A person may be summoned for an interview when there are reasonable grounds to believe that he/she has information necessary for the police to fulfill their duties as referred to in Article 10, Paragraph 1, point 1), -4) of this Law.

The summons must contain name, place and address of organisational unit of the Ministry, reason for the summons, place and time to appear.

The summons shall be made in writing, in Serbian and other language and script used by such person, which is in official use, if such information is known prior to issuing the summons. If this was not known upon request of a person who appeared upon the invitation, the content of the invitation shall be communicated to the person in such other language.

A person who refuses to provide information, must not be receive another summons for the same reason.

A record of delivery shall be prepared when the summons is served

***Time when a person may be summoned to appear***

**Article 47**

A person may be summoned from his or her residence between 06:00 and 22:00 hours. Exceptionally, if there is a risk of delay, a person who is required information may be summoned by authorized officer outside of the period envisaged in Paragraph 1 of this Article.

***Special summons***

**Article 48**

Authorized officer shall be exceptionally entitled to verbally summon a person, or by appropriate telecommunication devices, and shall be bound to state the reason for which he/she is being summoned, and if the person being summoned agrees, the officer may transport the person to official premises.

Persons may be exceptionally be summoned through the media when there is a risk of delay, for security reasons, or when a greater number of persons are being summoned

A minor shall be summoned in writing through his/her parent or guardian.

**2. 4 Apprehension**

***Apprehension pursuant to written order***

**Article 49**

A person may be apprehended in virtue of written order issued by a court, i.e. by order based on inferences on apprehension rendered in administrative proceedings (hereinafter referred to as: order).

With respect to Paragraph 1 of this Article, a person may be brought in the premises of the Ministry, other competent organ of the state administration or to the premises defined in the order.

Authorized officer shall serve the order referred to in Paragraph 1 of this Article to a person who is to be apprehended before the person is apprehended.

An authorized officer may serve the order referred to in Paragraph 1 of this Article after the person has been apprehended only when there is probable cause to believe that the person will resist.

A person may be brought in between 06:00 and 22:00 hours.

Exceptionally, when apprehension is necessary in order to perform police tasks which must not be delayed, a person may be brought in time other than as defined in Paragraph 5 of this Article.

A person may be apprehended six hours prior to the period defined for apprehension at earliest, provided that it has to be done in the area of the police directorate where the person was found.

When apprehension must be done outside of the area of police directorate where the person was found, it may not exceed 24 hours.

### ***Cases of apprehension without written order***

#### **Article 50**

A person who may be apprehended without written order, if:

- 1) the person's identity is to be established;
- 2) a warrant has been issued for the person;
- 3) the person is to be detained according to Articles 53 and 53 of this Law.

### ***Persons to who provisions governing apprehension are not applied***

#### **Article 51**

Provisions on apprehension shall not apply to a person whose movement is impeded due to illness, exhaustion or pregnancy or when there are reasonable grounds to believe that apprehension would significantly harm his/her health.

The authority that issued order to apprehension shall be informed on the facts referred to in Paragraph 1 of this Article.

The provisions on apprehension shall not apply to a person performing such job which must not be interrupted, until an appropriate replacement is provided.

Immediate superior of an authorized officer executing apprehension shall decide on the apprehension referred to in Article 50 hereof, i.e. on the reasons referred to in Paragraphs 2 and 3 of this Article not to apply the provisions on apprehension. Provided that the reasons were found on the spot, then authorized officer shall decide him/herself, and shall notify his/her immediate superior without delay.

### ***Rights of the person apprehended***

#### **Article 52**

Prior to the execution of apprehension, authorized officer shall inform the person of the reasons for having done so, the person's right to inform family or other persons and the right to defence counsel.

## **2.5 Detention and temporary restriction of freedom of movement**

### ***Conditions for detention***

#### **Article 53**

Authorized officer shall detain a person who disrupts or threatens public order when it cannot be restored otherwise and/or if disruption cannot be prevented otherwise. Detention may last up to a maximum of 24 hours.

The detention of a person extradited by foreign law enforcement authorities or who is to be delivered to a competent authority may not exceed 48 hours

Detention shall be instructed with an order which must be issued and served to the detainee within 6 hours following his/her transfer to official police premises. During the detention period the detainee is entitled to file an appeal against the order. Competent district court must rule on the appeal within 48 hours.

The appeal shall not suspend the execution of detention order.

Detention shall end when the grounds for it cease to exist, i.e. by the order by competent court.

If a member of the armed forces is detained, the military police must be notified immediately.

### ***Additional guarantees in case of detention***

#### **Article 54**

When individuals are detained pursuant to this Law or laws pertaining to national borders or traffic safety, they must be informed in their native language or a language they understand why they have been detained; that they are not required to make any statements; that they have right to the appropriate legal assistance of a defence counsel of their choosing; and that their family will be informed of their detention

If the persons referred to in Paragraph 1 of this Article are foreign nationals, they must be advised in their native language or a language they understand that the diplomatic mission or consular post of their country of nationality will be informed of their detention at their request.

Authorised officer must defer all further proceedings until the arrival of a defence counsel, for a maximum of two hours from the time the detainee was given the possibility to notify a defence counsel. Authorised officer may detain a person or take other actions prescribed by the law if the delay might prevent or obstruct the performance of a task.

### ***Transit center for foreigners***

#### **Article 55**

Foreign nationals who have been refused to enter the country or for whom deportation and/or removal from the country has been ordered, but who cannot be removed from the country in such manner, may be ordered to stay – in compliance with the law - under strict police supervision in a facility designated for this purpose for a period necessary for their removal from the country.

### ***Conditions for temporary restriction of freedom of movement***

#### **Article 56**

In conformity with the law, a person may be temporarily restricted or prohibited movement in particular areas, on particular locations or in public places, in order to:

- 1) prevent commission of criminal offences and misdemeanours;
- 2) find and apprehend perpetrators of criminal offences and misdemeanours;
- 3) find and apprehend persons wanted by the authorities;
- 4) discover traces and objects that may serve as an evidence that the criminal offence or misdemeanour was committed.

Temporary restriction of freedom of movement may not exceed the time needed to achieve the aim for which the power was exercised. The restriction exceeding eight hours shall require approval by competent district court.

### ***Special conditions for restriction of freedom of movement***

#### **Article 57**

Authorized officer shall be entitled to temporarily restrict freedom of movement and stay in particular area or facility and in case of threat to safety caused by natural disasters or epidemics and other threats to personal safety and property (safety inspection), as long as the reasons for such threat exist.

In order to achieve objectives referred to in Paragraph 1 of this Article, authorized officer shall be entitled to evacuate people.

### ***Investigative and tactical activities***

#### **Article 58**

Police power to temporarily restrict freedom of movement referred in Article 56 hereof, and powers to search for persons and objects referred in Article 72 hereof shall be executed by investigative and tactical activities, consisting of: pursuit, search of particular facilities and areas, ambush, raid and blockage of traffic and other areas.

## **2.6 Requesting information**

### ***Objectives and limitations in requesting information***

#### **Article 59**

Authorized officer may request information from individuals, in order to prevent and identify criminal offence or misdemeanour, or their perpetrators.

An individual is not bound to give information, unless this would constitute criminal offence, and the authorized officer shall be bound to warn him/her on this.

An individual who refuses to provide the information required must not be summoned again to a police interview for the same reason referred to in Article 46 hereof.

## **2.7 Temporary seizure of objects**

### ***Conditions for temporary seizure of objects, receipt and data keeping*** **Article 60**

Authorized officer shall temporarily seize an object if:

- 1) the circumstances imply that the particular object is intended to commission of criminal offence or misdemeanour;
- 2) seizure of an object is necessary for protection of public safety;
- 3) the object which is in possession of a person who is deprived from freedom or whose freedom is restricted and who may use it for self-infliction, assault or escape.

Authorized officer shall be bound to issue a receipt on temporarily seized objects. The receipt must contain distinguishing characteristics to identify the object, as well as information on the person from whom it was seized.

Data on temporarily seized objects shall be kept in special records.

### ***Safekeeping and returning of temporarily seized objects***

#### **Article 61**

When due to characteristics of temporarily seized objects, its keeping at the police premises is not possible or is linked with significant difficulties, temporarily seized objects may be placed or secured in an appropriate manner, until the competent court renders a decision.

When the reason for temporary seizure of objects cease to exist, such object shall be returned to a person from whom it was seized, unless other law or decision provides otherwise; if the object has depreciated significantly, the person shall be entitled to compensation

A person referred to in Paragraph 2 hereof shall be invited to take over the object within a period of minimum one month.

### ***Sale of temporarily seized object***

#### **Article 62**

The police shall be entitled to sell temporarily seized objects if a court or other administrative body is not competent for further proceeding, provided that:

- 1) the objects are exposed to a risk of damage or significant depreciation;
- 2) keeping and maintaining the objects would entail disproportionate costs or difficulties.

A temporarily seized object may be sold if a person summoned to claim the object fails to take it over within the set period of time of minimum one month, and if a person was informed that failure to claim the object would result in its sale.

Temporarily seized objects shall be sold at public auction.

Provided that a temporarily seized object cannot be sold at public auction, or it is obvious that the auction costs shall be disproportionate to the amount gained by sale, or that there risk of irreparable damage to the object, the temporarily seized object shall be sold directly.

If a purchaser cannot be found within a year, the temporarily seized object may be used as common property, or destroyed.

Proceeds acquired by sale of the temporarily seized object shall be considered revenue of the budget of the Republic of Serbia.

## **2.8 Search of premises, facilities, inspection of documents and anti- terrorism search**

### ***Conditions and method of search conduct***

#### **Article 63**

Authorized officer shall be entitled to enter a business premises and search the premises and documents on order to:

- 1) find perpetrators of criminal offences and misdemeanours;
- 2) take action in case of tip on explosive device or other dangers

Authorized officer shall conduct a preventive anti-terrorism search of premises, buildings, facilities, devices and other objects in and areas aimed at protecting persons and property in traffic, public gatherings, and other locations.

An anti-terrorism search shall comprise of an anti-subversive, a chemical-bacteriological-radiological search and other search. If it is likely to expect that the general safety of the public or property on particular premises or in a building, facility, area or in traffic will be threatened with highly dangerous means or devices, or if such an event has already occurred, police officers may empty particular premises or a building, area or vehicle, search it directly or with technical instruments and ban anyone from approaching it. In these instances, police officers may also conduct a security check.

In the exercise of the anti-terrorism search, authorized officers may also request a competent inspection authority to perform inspection and supervision.

## **Halting and search of person, object or means of transportation**

### ***Conditions and method of halting and search***

#### **Article 64**

Authorized officers shall be entitled to halt and execute search of persons, objects in possession of such persons, and means of transportation when necessary for finding the objects intended for assault or self-injury.

While halting, authorized officer, Before proceeding with a search referred to in Paragraph 1 of this Article, shall notify the person that he/she has been halted for preventive control, for his/her of another's misdemeanour or criminal offence or for any other safety reason.

Searching a person pursuant to Paragraph 1 of this article means inspecting the individual's clothing and footwear

Searching means of transportation shall be deemed search of all open and closed spaces of the means and objects transported.

Searching objects in possession of such persons shall be include search of objects in the person's possession or in his/her immediate vicinity or objects physically possessed by another person who accompanies the target of a search and who carries objects at the target person's direction

Authorized officers shall only search persons of the same sex, except when an immediate search is required in order to seize weapons of objects intended for assault or self-injury.

When conducting a search, authorized officers shall be entitled to use law-enforcement technology and service dog.

While executing the measures referred to in Paragraph 1 of this Article, authorized officer shall be entitled to forcibly open closed vehicles or items in a person's possession.

If there is reasonable suspicion that a person has with him/her, in means of transportation or in the object he/she carries, the objects that may serve as evidence in criminal or misdemeanour proceedings, authorized officer shall be entitled to detain such person until search order is obtained, no longer than six hours.

## **2.10 Securing and searching crime scenes**

### ***Method of conduct by authorized officer***

#### **Article 65**

When authorized officers learn of a the criminal offence or misdemeanour committed or any other event which requires necessity to establish or clarify facts by immediate observation, such officer shall be entitled to secure the scene until authorized person of appropriate organ arrives, to examine the scene in order to find and secure traces and objects that may serve as evidence, to identify the perpetrator, and collect information related to criminal offence or other event.

Authorized officer shall be entitled to, until search is completed and maximum for six hours, to retain a person, if assessed that such person may provide information of importance for clarification of event or for undertaking salvation activities, if it is likely that the information cannot be obtained later, or if the presence of person that may undertake salvation activities cannot be ensured.

For protection of victims of criminal offence, persons who suffered damage due to misdemeanour or other event, in order to safeguard proceedings authorized officer shall be entitled to prohibit audio- vide recording and photographing of the scene.

## **2.11 Requisitioning vehicles and communications equipment**

### ***Conditions to use property of others and rights of owner***

#### **Article 66**



Authorized officer shall have the right to use vehicles or communications equipment belonging to a legal entity or individual, if otherwise unable to travel or communicate as necessary in order to apprehend a perpetrator being directly pursued or to transport a injured victim of a criminal offense, traffic accident, natural disaster or other hazard to the nearest medical attention.

In exercising powers referred to in Paragraph 1 of this Article, authorized officers shall be bound to identify themselves by showing their official badge and official identity card.

The owner of the vehicle or communications equipment shall be entitled to compensation of costs and damages incurred through the officer's use.

## **2.12 Reception of report on criminal offence committed**

### ***Duties of authorized officer***

#### **Article 67**

Authorized officer must receive a report on criminal offence committed, which is prosecuted ex officio.

If it is determined after a report has been made, or during investigation, that the event in question is an offense subject only to private prosecution, or that the event is not a criminal offense, the officers shall inform the complaining party and indicate the proper remedial act.

Provided that authorized officers receive written or oral crime report on criminal offence involving known perpetrator, who is privately prosecuted, they shall notify the injured party thereof.

At the written request of injured parties or other persons empowered to file private charges, authorized officers shall take any lawful steps which the parties are unable to take by themselves, in order to determine the identity of the perpetrator of offenses pursuant to Paragraphs 2 and 3 of this Article.

The obligations referred to in Paragraphs 2, 3 and 4 of this Article are not related to a case when there are grounds for suspicion that the criminal offence against honour and reputation has been committed.

## **2.13 Public announcement of reward**

### ***Conditions for announcement, method of publishing and right to reward***

#### **Article 68**

The police shall be entitled to announce a reward for information in order to:

- 1) identify and apprehend a person who committed a grave criminal offence;
- 2) find a missing person;
- 3) solve other cases when information is necessary in performing the tasks referred in Article 10 hereof.

Public announcement of reward may be published in media or in other appropriate manner.

A person who provides information for which the reward was announced shall not be entitled to the reward, if the police has already obtained such information.

Members of the police and their family members shall also not be entitled to reward.

## **2.14 Audio and video recording and photographing in public places**

### ***Types and manner of recording***

#### **Article 69**

Recording in public places means permanent audio or video surveillance in public places where criminal offences or misdemeanours recur, aimed to prevent them.

When there is danger to human health and safety or to property during a public gathering, authorized officers may videotape or photograph the gathering.

The police must publicly announce their intent to act pursuant Paragraph 1 and 2 of this Article.

## **2. 15 Polygraph testing**

### ***Procedure and limitations for testing***

#### **Article 70**

Authorized officers may conduct polygraph testing on a person who requests or agrees to the test, after explaining how the equipment works and obtaining the person's consent in writing.

Authorized officers shall stop the polygraph test, if the subject withdraws consent

Polygraph testing may not be performed on the following:

- 1) a person under the influence of alcohol, narcotics, or other mind-altering substances;
- 2) a person with a serious heart condition;
- 3) a person under stress;
- 4) a person taking tranquilizer medication;
- 5) a person showing visible signs of mental disorder or illness;
- 6) a person suffering intense physical pain;
- 7) a pregnant or parturient woman.

## **2.16 Police surveillance, observation**

### **Conditions for police surveillance and method**

#### **Article 71**

Authorized officers may collect information through open observation and covert surveillance before having reasonable grounds to suspect a criminal offense or misdemeanour was committed, if the observation or surveillance serve to verify information from the public or to formulate proposals to appropriate authorities pursuant to police duties; such observation and surveillance may be used to establish reasonable grounds for suspecting a criminal offense or misdemeanour was committed.

Observation shall be done in public and other accessible places, without violating person's right to privacy.

## **2.17 Searching for persons and objects**

### ***Conditions and method of searching***

#### **Article 72**

The police shall be entitled to execute measures of searching for persons and objects.

The search shall be announced by arrest warrant, by call for information or poster. Arrest warrant shall be issued in conformity in conformity with special law.

Call for information shall be issued in order to:

- 1) identify permanent or temporary residence of a person, in conformity with special law;
- 2) establish identity of person unable to give personal data or to establish identity of the body for which data cannot be established otherwise;
- 3) find objects relating to criminal offence or misdemeanour, in accordance with special regulations, or objects that were found or missing;
- 4) seize objects of documents by virtue of a decision rendered by court or administrative authority.

Poster shall be issued for:

- 1) a missing person;
- 2) a person under reasonable suspicion of having committed a criminal offence prosecuted ex officio;
- 3) a person able to give information on criminal offence or its perpetrator;
- 4) upon request by competent authority, i.e. institution, which has been submitted in conformity with special law;
- 5) upon request by parents, i.e. guardian of a person escaped from home and in other cases, in conformity with special regulations;

## **2.18 Protection of crime victims and other persons**

### ***Protection when perpetrator of criminal offence or other persons pose a threat***

#### **Article 73**

If and as long as there are reasonable grounds, the police shall take appropriate measures to protect victims or others who gave or may information of importance for criminal proceedings, or person connected the said persons, if they are in danger coming from perpetrator of criminal offence or other persons.

### **Protection of confidential information on identity**

#### **Article 74**

The police shall protect confidential information, which disclosure would pose a threat to physical integrity of a person.

When filing written reports on content of the information they are authorized to collect in conformity with law, authorized officer may deny data on identity of person who gave information, if assessed that the disclosure of the person's identity would endanger his/her life, health, physical integrity, or endanger the person's freedom or property.

Data on identity of a person who give information shall be considered confidential and shall be handled in conformity with law.

## **2.19 Collecting, processing and using personal data**

### ***Purpose and method of data collection***

#### **Article 75**

The police shall collect, process and use personal and other data, protect and keep records on such information they are authorized to collect by this Law, in order to prevent and discover criminal offences and misdemeanours and to identify their perpetrators.

The police may collect, process and use other data on person only if they are authorized to do so by other law and if ensure other protection of such information laid down by law.

Authorized officers shall keep all personal information acquired in the course of duty, as confidential, and shall use and handle them in accordance with law.

### **Records on personal information and other data**

#### **Article 76**

The police shall keep and maintain the following records of:

- 1) person who has been deprived of freedom in whole or part at any grounds (apprehension, detention, prohibition of movement, arrest, in custody or other.)
- 2) person under reasonable suspicion of having committed criminal offence or misdemeanour;
- 3) criminal offences committed, which are prosecuted ex officio, misdemeanours and on persons damaged/injured by such offences;
- 4) criminal offences committed by unknown perpetrator which are subject to private prosecution;
- 5) persons wanted by the authorities, and objects and persons banned from entering the country;
- 6) identity check of persons;
- 7) persons who have undergone identity checks, fingerprinting, police photographing or DNA analysis;
- 8) operational reports, operational sources of information and persons under special police protection;
- 9) operational and operational-technical means and methods applied;
- 10) events;
- 11) instruments of restraint applied;
- 12) complaints

## **Method of use and communication of data**

### **Article 77**

Numerical data on criminal offences, persons reported to the police, and victims, as well and other numerical data may be used for statistics and analysis with the Ministry. Data referred to in Paragraph 1 of this Article may be communicated to competent expert and scientific institutions for purpose of scientific-research work.

Personal data may be communicated to other authorities, under condition that the authority requesting such data is empowered by law or other regulations to request and receive such data; that such data are necessary for the requesting authority to carry out tasks within its scope of responsibility; and such data cannot be obtained otherwise or without disproportionately high costs.

Personal data may be communicated to foreign law enforcement authorities and certain international organisations at their request, in accordance with set regulations governing international police cooperation.

## **Protection of personal data**

### **Article 78**

Personal data may not be used contrary to the purpose envisaged by this law, or other regulations governing protection of personal data.

The police shall notify a person whose personal data are kept thereof within 60 days as of the day the person's request was received, except information the person gave about him/her on the grounds of the law.

The police may in its ruling decline to disclose the information referred to in Paragraph 2 of this Article hereof, if the disclosure would inhibit discharge of their tasks, or conduct of legally prescribed proceedings, or jeopardize safety of persons and property or if this could damages interests of third parties. The ruling shall be reasoned and be verbally communicated to the requesting party.

When the reasons referred to in Paragraph 3 of this Article cease, the police shall proceed in accordance with Paragraph 2 hereof.

## **Correction and deletion of personal data from the records**

### **Article 79**

The police shall be bound to correct personal data, if established they are incorrect, or if the person specified in Article 78 states that it is incorrect.

Personal data collected into the records must be immediately deleted if established they are incorrect, or when the reasons because of which the personal data were entered in appropriate records, cease to exist.

## **Data handling**

## **Article 80**

Data contained in the records referred to in Article 76 hereof may be disclosed only to person to whom they refer, from the time of their entry into the records until they are deleted from the records.

Exceptionally, a person may get information on the data contained in the records referred to in Article 76 point 8) of this Law after the need for such data has ceased.

Data referred to in Article 76 point 9) of this Law shall be handled in conformity with special law and acts passed on the ground of that law.

Police officer responsible for disclosing the data referred to in Paragraph 1 of this Article must always protect identity of a person who provided information.

### ***Time limits for keeping records of personal information and other data***

## **Article 81**

Information and data contained in the records referred to in Article 76 hereof shall be kept in official records:

- 1) in the records under point 1) for three years as of the decision rendered on further proceedings against the person whose freedom has been restricted, i.e. as of the date when such person released from the restriction;
- 2) in the records under point 2) for five years after expiry of a period when rehabilitation is in force ex lege, under condition that person is not reported again.
- 3) in the records under point 3) for five years as of obsolescence of prosecution for the criminal offence committed;
- 4) in the records under point 4) for one year as of obsolescence of prosecution for the criminal offence committed;
- 5) in the records under point 5) until person is found or is established that further tracing is not necessary;
- 6) in the records under point 6) for two years after the identity check conducted;
- 7) in the records under point 7), 8), 9) and 10) permanently;
- 8) in the records under point 11) for ten years after the use of instrument of restraint;
- 9) in the records under point 12) for ten years after receipt of the complaint.

### **Supervision by authority responsible for protection of personal data**

## **Article 82**

The informatics system, which contains the records referred to in Article 76 of this Law, shall be supervised by the organ competent for protecting personal data, according to the law governing the protection of personal data.

## **2.2 Measures of targeted search**

### **Conditions, competence, decision-making and method of targeted search conduct**

## **Article 83**

In order to arrest or bind over to competent authority a person who is under reasonable suspicion of having committed a criminal offence for which law prescribes imprisonment sentence of 4 or more years and against whom the international arrest warrant has been issued, and when police officers cannot apprehend nor produce such person by exercising other measures, i.e. if other means would involve disproportionate difficulties, search measures may be exercised to the person by applying special investigative technique laid down by law governing criminal procedure (hereinafter referred to as: targeted search measures)

The targeted search measures, on proposal by Director General of Police, shall be approved by decision of President of Supreme Court of Serbia, or, in the absence of the President, by another judge of this Court appointed to decide on such proposals (hereinafter referred to as: authorized judge) within 72 hours as of the proposal's submission.

The proposal and decision referred to in Paragraph 2 of this Article shall be in writing. The proposal shall contain data and facts relevant for deciding whether to apply targeted search measures.

The measures approved may be applied up to maximum six months, pursuant to new proposal they may be prolonged one more time for six months maximum.

Provided that the proposal is not accepted, the President of Supreme Court of Serbia i.e. authorized judge shall state reasons for dismissal in reasoning the ruling.

When reasons of urgency require so, Director General of Police may order the measures of targeted search, with prior written approval by the President of Supreme Court of Serbia i.e. authorized judge, to commence implementing the appropriate measures. In this case, written proposal for implementation of the appropriate measures shall be submitted within 24 hours as of obtaining the approval.

The decision to continue implementing the appropriate measures, i.e. on their termination shall be made within 72 hours as of submission of the proposal. The decision on termination of the appropriate measures must be reasoned in writing.

The information collected through targeted search measures may not be used as evidence in criminal proceedings. After termination of targeted search, the information shall be sent to the President of Supreme Court of Serbia i.e. authorized judge, who shall be bound to destroy them and make minutes on that.

### **3. Instruments of restraint and their use**

#### **3.1 Common provisions on the instruments of restraint**

##### ***Types of instruments of restrain and conditions for their use***

##### **Article 84**

Instruments of restraint, with respect to this Law, are:

- 1) physical force;
- 2) police baton;
- 3) means for constraint;
- 4) special vehicles;
- 5) service dogs;

- 6) service horses;
- 7) means of obstructing passage;
- 8) water cannon;
- 9) chemical agents;
- 10) special weapons and explosive devices;
- 11) firearms.

Authorized officers may use instruments of restraint only when otherwise unable to carry out their tasks, with due restraint, and in proportion to the danger threatening the protected goods or their value, i.e. to the gravity of the offence which is being averted or suppressed.

Authorized officers shall always use the most lenient instrument of restraint guaranteeing success, in proportion to the reason for its use and in a manner in which the task is achieved without undue harm.

Authorized officers shall, prior to use of the instrument of restraint, warn a person against which he/she intends to use the instrument, if this is possible in such situation, and without jeopardizing their duty.

While using such instruments of restraint, authorized officers must protect human life, cause the least possible injury and material damage, and ensure that any injured parties receive aid and that their relatives are notified without delay.

### ***Use of instruments of restraint against a group of people***

#### **Article 85**

Authorized officer shall be entitled to issue an order to a group of people to disperse provided that the group was unlawfully gathered, unlawfully behaves or may instigate violence.

If the group fails to disperse, only the following instruments of restraint may be used:

- 1) physical force;
- 2) police baton;
- 3) special motor vehicles;
- 5) service dogs;
- 6) service horses;
- 7) water cannons;
- 8) chemical agents;

Instruments of restraint referred to in Paragraph 2 of this Article may be used only on order of head of regional police directorate, i.e. police officer empowered by the head.

### ***Reporting, control and accountability relating to the use of instruments of restraint***

#### **Article 86**

Authorized officer shall submit a written report to superior police officer after each use of instruments of restraint, as soon as possible, or 24 hours as of the use of the instruments of restraint at latest.



The report referred to in Paragraph 1 of this Article shall contain information on instruments of restraint used, the person against whom they were used, the reasons and grounds for the use and on other data and circumstances relevant for assessing appropriateness and justifiability of use of the instruments of restraint.

Appropriateness and justifiability of the instruments of restraint used shall be assessed by authorized officer empowered to do so by the Minister.

Authorized officer referred to in Paragraph 3 of this Article shall recommend to Director General to apply the measures laid down by the law in case of inappropriate or unjustified use of the instrument of restraint. Data on number of cases when instruments of restraint were used are classified according to type of individual instruments of restraint, and data on number of cases of inappropriate or unjustified use of the instrument of restraint and measures taken due to that, shall make an integral part of the report referred to in Article 9 of this Law and shall be available to the public.

### ***Legal assistance relating to use of instruments of restraint***

#### **Article 87**

Provided that instruments of restraint are used within the power limits laid down by the law, authorized officer who used them shall bear no responsibility.

The Ministry shall provide free legal assistance to authorized officers in criminal proceedings arising from the use of the instruments of restraint referred to in Paragraph 1 of this Article, or for other actions performed in the course of duty

The Ministry shall also provide free legal assistance to individuals in criminal proceedings arising from assistance they have rendered to authorized officers

### **3.2 Provisions governing use of particular instruments of restraint**

#### ***3.2.1 Physical force***

#### **Article 88**

With respect to this Law, use of physical force shall mean the use of various martial arts movements or similar techniques applied to the body of another person, in order to fend off assault or subdue resisting subject and to achieve the least harm.

An assault shall mean each action taken in order to injure or kill a person, to forcible enter the restricted building or area; or to hinder or prevent authorized officers in discharging their duties.

Resistance shall mean any opposition to lawful official measures and actions, and may be done by failure to obey orders, or by passive resistance in knelling, sitting, laying or similar position, hiding behind or refusing to let go of a person or object, struggling, demonstrating intent to attack, or other similar active resistance.

Physical force shall be applied in accordance with rules of self-defence arts, and cease immediately when the subject has ceased to attack or resist.

### **3.2.2 Police baton**

#### **Article 89**

Police baton shall be used if lenient forms of physical force are unsuccessful or do not guarantee success.

A police baton shall not be used in the area of head, neck, spinal column, chest, abdomen, genitals and elbows, unless in the last resort. PA police baton may be used against persons under 14 years of age, visibly ill, infirm, and seriously disabled persons and pregnant women only if such persons endanger life with firearms or other weapons or dangerous implements.

### **3.2.3 Instruments of constraint**

#### **Article 90**

Instruments of constraint may be used to:

- 1) prevent resistance or fend off an attack on authorized officers;
- 2) prevent person to escape;
- 3) prevent injury to self or others.

Instruments of constraint shall mean handcuffs, plastic ties and other appropriate means.

When using constraints, the limitations set by Article 89, Paragraph 3 of this Law shall apply.

### **3.2.4 Special vehicles**

#### **Article 91**

Special vehicles may be used in order to restore public order, block passage and chemical agents and firearms incorporated into such vehicles.

Use of the special vehicles shall mean use of incorporated firearms or devices to eject pressurized water, with or without chemical agents, to clear obstacles or to block passage. When in use, special vehicles and their crews shall be guarded by the necessary number of authorized officers.

Special vehicles are vehicles fitted with devices for ejecting pressurized water, armored vehicles with or without barricading equipment, helicopters, obstacle-clearing vehicles and other special-purpose vehicles..

Chemical devices and firearms incorporated in vehicles may only be used under the conditions laid down by this Law.

### **3.2.5. Service dog**

#### **Article 92**

Service dog may be used as an instrument of restraint if:

- 1) conditions are met for use of physical force or police baton;

- 2) conditions are met for use of firearms;
- 3) public order is being restored.

In cases referred to in Paragraph 1 point 2) of this Article, service dog may be used with or without a muzzle, and in cases referred to in points 1) and 3) only muzzled dog may be used

### **326 Service horse**

#### **Article 93**

Service horse may be used as an instrument of restraint to restore public order or to block passage.

Use of service horse shall mean riding towards persons to disperse or drive them back, or to block passage.

#### **3.2.7. Means of blocking passage**

#### **Article 94**

Blocking passage means forcibly stopping vehicles or obstructing the route of persons.

When in use, means for blocking passage shall be protected by an appropriate number of police officers, as determined by their immediate superior.

#### **Stopping vehicles**

#### **Article 95**

Means for stopping vehicles by force may be used in order to:

- 1) prevent escape by vehicle of a person apprehended while committing a criminal offence that is prosecuted *ex officio*;
- 2) prevent escape by vehicle of a person deprived of freedom against whom an arrest warrant has been issued;
- 3) prevent the illegal crossing of the state border by vehicle;
- 4) prevent unauthorized access by vehicle to premises or an area where a person protected by authorized officer.

Means for halting vehicles by force are devices intended for such purposes, including barbed-wire strips and other implements designed to forcibly stop a moving vehicle.

Traffic signs prohibiting overtaking and indicating mandatory stopping shall be placed, in accordance with traffic safety regulations, at an appropriate distance ahead of the means for forcibly stopping vehicles, if so allowed by circumstances

#### **Blockage of passage of people**

#### **Article 96**

Means for blockage of passage of people may be used for splitting and division of an area when maintaining public order and securing public gatherings, for blockage of particular area or facility, or

for restriction, ban or directing movement of people on public places, particular areas and directions.

Means for blockage of passage of people shall mean blockades, special vehicles, service dogs, service horse and other means that may block passing of people.

### **3.2.8. Water cannons**

#### **Article 97**

Water cannons may be used only under condition and in a manner laid down by this Law for use of instruments of restraint against a gathered group behaving in a manner that may instigate violence.

### **3.2.9. Chemical agents**

#### **Article 98**

Chemical means may be used in order to fend off assault or to subdue resistance if this cannot be achieved by physical force or police baton, in order to restore public order, to expel people from closed areas, in resolving hostage situations and in when conditions have been met for use of special weapons or explosive devices, or for use of firearms laid down by this Law.

Chemical agents means short-term effect teargas, without lasting effects on psychophysical and general health, as well as chemical substances with effect lenient than teargas.

Special protective measures shall be taken when using chemical agents in vicinity of children's institutions and nursing homes, primary schools, busy traffic routes or inflammable substances.

Chemical means shall not be used against persons near inflammable substances, at great heights, or in similar locations where human life could be endangered.

### **3.2.10 Special weapons and explosive devices**

#### **Article 99**

Special types of weapons and explosive devices may be used only if the conditions laid down by this Law for using firearms are met, and if other types of weapons prove unsuccessful or do not guarantee success.

Special weapons and explosive devices are forbidden in preventing a person to escape.

Explosive devices may not be used against crowds

Decision to use special weapons and explosive devices shall be made by Director General of Police, with consent by Minister.

### **3.2.11 Firearms**

#### **Article 100**

In the course of duty, authorized officer may use firearms only if other restraint measures would fail and it is absolutely necessary to:

- 1) protect human life;
- 2) prevent a person who has been caught while committing a criminal offence for which the law prescribes a sentence of ten years or over ten years of imprisonment from escaping, if there is a direct threat to life;
- 3) prevent escape of a person lawfully deprived of freedom, or a person against whom an arrest warrant has been issued for a criminal offence referred to in point 2) of this Article if there is a direct threat to life;
- 4) fend off a life-threatening attack against the officers;
- 5) fend off an attack directed against a facility or person under officer protection, if there is a direct threat to life;

### ***Protection of human life***

#### **Article 101**

Use of firearms with respect to Article 100, point 1) of this Law, shall mean the use of firearms for protection of life of one or several persons, attacked by one or more other persons, provided that there is immediate danger to life or the attacked or attacker.

#### **Preventing escape of a person who has been apprehended in committing a criminal offence**

#### **Article 102**

Use of firearms with respect to Article 100, point 2) of this Law, shall mean their use during or immediately after a criminal offence, in order to prevent the escape of a person apprehended at or near the scene where the offense was committed or its consequences occurred, and to prevent the escape of a person in possession of objects used to commit the offense, or resulting from it.

#### **Preventing escape of a person who has been lawfully deprived of liberty or against whom arrest warrant is issued**

#### **Article 103**

Use of firearms with respect to Article 100, point 3) of this Law, shall mean wielding them to prevent the escape of a person named in an arrest warrant or order to transport, when the warrant or order expressly states that officers may use firearms in order to prevent escape.

Before a police officer acts in accordance with arrest warrant, or order referred to in Paragraph 1 of this Article, authorized officers shall warn the person against whom the weapon is to be used if the person attempts to escape.

#### ***Fending off direct attack against authorized officers***

#### **Article 104**

Using firearms to fend off a direct life-threatening attack on authorized officers shall mean wielding firearms to repel an attack by firearms, other weapons or dangerous implements, an attack by two or more persons, or an attack when the officers cannot expect assistance.

Drawing a firearm or attempting to draw a firearm shall also constitute an attack against authorized officers in respect to Paragraph 1 of this Article.

Drawing a firearm pursuant to Paragraph 2 of this Article shall mean positioning or readying a firearm for use, and attempting to draw a firearm means moving towards a firearm.

### ***Fending off attack on facility or persons under protection***

#### **Article 105**

Using firearms pursuant to Article 100, Point 5) of this Law shall mean use of firearms to fend off a direct attack on a facility or person under police protection.

Direct attack on a facility under protection means acting to damage any part of the protected facility, or impairing the functioning of the facility through damage or destruction or otherwise.

Direct attack on a person under protection means an attack by firearm, other weapons or dangerous implements, or an attack by two or more persons.

### **Warning prior to use of firearms**

#### **Article 106**

Before authorized officers use firearms, when circumstances allow they must, warn the person against whom the firearm is to be used by shouting: "Stop, police, I will shoot" and firing a warning shot.

### **Special limitations on use of firearms**

#### **Article 107**

Use of firearms is prohibited when it would endanger the lives of others, except when use of firearms is the only instrument of performing duties as referred to in Article 100 hereof.

Use of firearms is prohibited against minors, except in case when this is the only way to avert direct attack or danger.

### **Use of firearms in pursuing vessels**

#### **Article 108**

Where it is necessary to stop a vessel which is pursued on international waterways, police may use firearms against such vessel in order to disable, stop or prevent it from escape, or to escort the vessel to competent organ only if other available means prove unsuccessful.

Other means referred to in Paragraph 1 hereof may include verbal warnings or warning shot fired across the bow of the vessel, providing this does not endanger others.

When firing as a last resort at such a vessel, officers must protect the lives of those on board the pursued vessel and in the line of fire. Firearms shall not be used when they would endanger life or when they are not essential to save or protect life.

## ***Use of firearms against animals***

### **Article 109**

Firearms may be used against animals only if they present a direct threat to life and body of persons, or if they endanger human health and safety (contagious disease or similar).

Weapons may be also used against sick or seriously injured animals when a veterinarian or other person is unable to take appropriate measures.

## **V LABOUR RELATIONSHIPS**

### **1 Conditions for employment**

#### ***Special conditions***

### **Article 110**

A person entering employment with the Ministry, in addition to general conditions for employment in a governmental authority must meet special conditions as follows:

- 1) be a citizen of Serbia and Montenegro with permanent or temporary residence in the Republic of Serbia;
- 2) have completed minimum secondary education;
- 3) be younger than 27 if applying for a position requiring only secondary education, or younger than 30 if possessing less than 5 years of work experience and applying for a position requiring university education;
- 4) demonstrate the physical and mental abilities necessary to carry out the post duties, defined by the decree pursuant to Article 4, Paragraph 3 of this Law, and to prove this with a medical certificate issued by the Health Care Institute of the Ministry of the Interior;
- 5) have completed military service, or may be exempted from military service by working in the police, in accordance with law, if the candidate is male;
- 6) not hold dual citizenship;
- 7) went through security check and be found not to pose a security threat. The conditions referred to in Paragraph 2, Points 2) to 6) of this Article shall apply only to employment of police officers in positions defined by the decree mentioned in Article 4, Paragraph 4 of this Law.

Employment in the Ministry of the Interior is prohibited for persons convicted of any offense prosecuted ex officio; for persons against whom criminal proceedings for such criminal offence is pending; or for person sentenced to a non-suspended imprisonment over three months, or whose employment with a government authority or public authority was terminated due to a binding decision on grave dereliction of duty, rendered by competent authority.

The Ministry shall maintain an unified human resources record of police staff and other Ministry employees, containing information and maintained as directed by the Minister.

#### ***Collection of information on candidate***

### **Article 111**

The police may collect information about a person seeking employment with the Ministry, with the applicant's written consent, and may collect information to determine security impediments for the performance of police duties.

The security check referred to in Paragraph 1 of this Article shall include verifying information pursuant to regulations for obtaining a firearms license, as well as information provided by the applicant.

### ***Employment procedures***

#### **Article 112**

Employment within the Ministry shall be established by public vacancy notice.

Public vacancy notice is not mandatory for police officers positions.

The Government may determine by decree other job positions within the Ministry to be filled without public vacancy notice

### ***Statement on duties and rights and taking of oath***

#### **Article 113**

On commencement of duty, police officers must accept and sign a statement on the duties and rights of police officers.

On Police Day, police officers accepted into service shall take the following oath:

"I swear to dedicate all my efforts to public safety, to dedicatedly protect human rights and civic freedoms and to conscientiously and responsibly serve the citizens of the Republic of Serbia and consistently comply with laws and accepted standards in the discharge of police duties".

### ***Obligation to submit information on conviction***

#### **Article 114**

If an employee of the Ministry has been convicted of a criminal offense pursuant to Article 110, Paragraph 3 of this Law, the Court must submit legally binding judgment to the Ministry, in order to terminate his/her employment with the Ministry.

### ***Probationers***

#### **Article 115**

A probationer shall attain the status of police officer after the completion of the probation period, by passing the probationary exam and acquiring an official rank.

Employment of a police officer probationer shall cease if he/she fails to pass the probationary exam at the end of the probation period.



In case referred to in Paragraph 2 of this Article, the probationer shall reimburse the actual cost of schooling, unless the Director General of Police, or the official in charge of special tasks determines that failure was for justifiable reasons and not for unsatisfactory effort.

## **2 Types, conditions and manner of losing rank**

### ***Ranks of authorized officers and police personnel discharging fire brigade duties***

#### **Article 116**

Authorized officers and police staff who discharge fire brigade duties shall hold the following ranks and grades:

- 1) with a secondary school education – junior police officer, junior police officer 1<sup>st</sup> class, police officer, police officer 1<sup>st</sup> class, senior police officer, independent police officer;
- 2) with associate college degrees – junior police sergeant, junior police sergeant 1<sup>st</sup> class, police sergeant, police sergeant 1<sup>st</sup> class, senior police sergeant and independent police sergeant;
- 3) with full university degrees – police inspector, senior police inspector, independent police inspector, chief police inspector, police adviser and senior police adviser.

Police officers with appropriate education qualifications specified in Paragraph 1 of this Article shall acquire the initial grade of junior police officer, junior police sergeant or police inspector, following the completion of the probation period and after successfully passing the probationary exam.

For certain categories of uniformed police officers the Minister, in the decree mentioned in Article 4, Paragraph 4 of this Law, may establish ranks or grades with names different from those defined in Paragraph 1 of this Article, if more suitable to the work performed.

### ***Grades of other police personnel and other employees***

#### **Article 117**

Other police staff and other employees shall hold the following grades:

- 1) with a secondary school education – junior assistant, junior assistant 1<sup>st</sup> class, assistant, assistant 1<sup>st</sup> class, senior assistant and independent assistant;
- 2) with associate college degrees – junior specialist associate, junior specialist associate 1<sup>st</sup> class, specialist associate, specialist associate 1<sup>st</sup> class, senior specialist associate, independent specialist associate;
- 3) with full university degrees – inspector, senior inspector, independent inspector, chief inspector, adviser and chief adviser.

Police employees with appropriate education qualifications referred to in Paragraph 1 of this Article shall acquire the initial grade of junior assistant, junior specialist associate or inspector, following the completion of the trainee period and after successfully passing the trainee exam.

### ***Conditions for acquiring or losing grade***

#### **Article 118**

A police officer or other law enforcement employee shall acquire the next higher grade if:

- 1) he/she possesses the required educational qualifications;
- 2) the grade is determined for the job position to which the employee is appointed;
- 3) he/she served in a lower grade for the required period of time;
- 4) he/she received positive evaluations for the previous two years;
- 5) he/she has not been convicted of a criminal offense, with unsuspended sentence of imprisonment, or received a disciplinary measure for grave dereliction of duty in the previous two years;
- 6) the employee is not subject to criminal proceedings for criminal offence that is prosecuted ex officio, or disciplinary proceedings for grave dereliction of duty.

It shall be deemed that no impediment exists for acquiring the grade envisaged by Paragraph 1, Point 5) of this Article, if proceedings are discontinued during re-trial or on due Request for review of legality, or if an acquittal is rendered, or if the charges are rejected for reason other than for non-jurisdiction of the court, i.e. it shall be deemed that no impediment exists referred to in Paragraph 1, Point 6) of this Article if the proceedings are discontinued, or an acquittal is rendered or if charges are dismissed, other than for non-jurisdiction of the court.

In cases referred to in Paragraph 2 of this Article, a police officer or other law enforcement employee who is eligible under this Law shall acquire the grade upon satisfying all conditions.

An employee shall lose grade upon termination of employment with the Ministry.

***Time requirement for acquiring grade of authorized officers and law enforcement personnel discharging fire brigade duties***

**Article 119**

The required time spent in previous grade in terms of Article 118, Paragraph 1, Point 3 of this Law shall be:

- 1) for police officers with secondary school qualifications – five years of service as each of the following: junior police officer, junior police officer 1<sup>st</sup> class, police officer, police officer 1<sup>st</sup> class and senior police officer;
- 2) for police officers with associate college degrees – five years of service as junior police sergeant, junior police sergeant 1<sup>st</sup> class, police sergeant, senior police sergeant 1<sup>st</sup> class and senior police sergeant;
- 3) for police officers with university degree – two years of service as each of the following: police inspector, four years of service as senior police inspector and independent police inspector, and five years of service as chief police inspector and adviser.

***Time requirement for acquiring other personnel grades***

**Article 120**

The required time period spent in previous position in terms of Article 118, Paragraph 1, Point 3 of this Act shall be:

- 1) for police officers with secondary school qualifications – five years of service as each of the following: junior assistant, junior assistant 1<sup>st</sup> class, assistant, assistant 1<sup>st</sup> class and senior assistant;

2) for police officers with associate college degrees – five years of service as each of the following: specialist associate, senior specialist associate, independent specialist associate, inspector and senior inspector;

3) for police officers with full university degrees – two years of service as inspector, four years of service as senior inspector and independent inspector, and five years of service as chief inspector and adviser.

### ***Performance evaluation***

#### **Article 121**

In order to determine conditions for promotion and acquiring or losing a grade, the job performance of police officers and other law enforcement employees shall be reviewed once a year. Job performance shall receive a positive or a negative evaluation

Positive evaluations are adequate (2), satisfactory (3), very good (4), and outstanding (5), and the negative evaluation is inadequate (1).

### ***Negative evaluation or absence from work***

#### **Article 122**

The calendar year in which an employee received a negative evaluation or was absent from work for more than six months shall not be deemed time spent in previous grade pursuant to Article 119 and 120, unless due to work-related illness or injury in the line of duty.

### ***Authority for performance evaluations***

#### **Article 123**

Employees shall be evaluated by the head of unit, while heads of units shall be evaluated by the Director General of Police or the official in charge of special tasks, or a police officer appointed by them.

Job performance shall be evaluated once a year, for the previous year, no later than 1 March of the current year.

### ***Evaluation procedure***

#### **Article 124**

The head of unit defined referred to in Article 123, Paragraph 1 of this Law, or an immediate supervisor of the employee appointed by the head of unit, shall inform the employee of the evaluation result within 15 days as of the evaluation completed; the employee shall read the evaluation in full and sign the appropriate Ministry form.

### ***Complaint and re-evaluation***

#### **Article 125**

An employee who believes that he/she was evaluated by an unauthorized superior officer or that the evaluation was not performed in accordance with this Law, may file a complaint to the evaluating officer within 15 days of statement of the evaluation.

Within eight days of receiving the complaint, the evaluating officer referred to in Paragraph 1 of this Article must submit the complaint, the evaluation form and his/her opinion on whether the complaint is justified to the senior officer appointed by the Minister of the Interior to settle complaints, whose evaluation shall be final.

The evaluation made after the complaint shall be recorded on the appropriate form as a single evaluation for all elements reviewed and the employee shall be notified thereof in the manner and deadline referred to in to Article 124 of this Law.

***Non-evaluation and special evaluations***  
**Article 126**

Performance of employees who were absent from work for more than six months during a calendar year shall not be evaluated for this year.

Employees who were absent from work for more than six months during a calendar year due to job-related illness or injury in the line of duty, shall retain the evaluation awarded for the previous year. If this evaluation was negative, the employee shall be awarded the last positive evaluation received.

***Early and special acquiring of grade (promotion)***

**Article 127**

A police officer whose performance for the preceding two years was evaluated with the highest mark, and holding the current grade for a minimum of one half of the time stipulated for promotion to the next higher grade, and who meets other conditions defined in Article 118 of this Law, may receive early promotion to the next higher grade.

A police officer who achieved exceptional work results and so made a special contribution to the performance of police duties, or a police officer who fulfills requirements for old age retirement, may receive a special promotion to the next higher grade. Special promotion may be awarded only once. Decision on early and extraordinary promotion to the next higher grade, pursuant to Paragraphs 1 and 2 of this Article, shall be made by the Minister, or the senior officer appointed by the Minister.

***Decisions on grades***

**Article 128**

Requests to re-examine a decision on assignment and acquiring of grade, special and early promotions may be filed with the issuing authority within 15 days as of issuance of the decision.

Requests for the re-examination of such decisions do not suspend execution. Requests for the re-examination of adopted decisions may not be the subject of administrative lawsuits.

***Elements and method of evaluation and specified conditions and manner of promotion and demotion***  
**Article 129**

The Government shall establish the elements for performance evaluation and manner of evaluation of police staff and other employees and shall specify the conditions for promotion and demotion of grades in the Ministry, by a decree on internal organisational structure of the Ministry.

### **3 . Duties and rights of police officers**

#### ***Obeying orders***

##### **Article 130**

In performing law enforcement duties, police officers shall obey all orders issued by a superior officer, in order to discharge their duties, except those which constitute a criminal offense.

If a police officer considers an order to be unlawful for other reasons, he/she is entitled to indicate writing to the superior who issued the order. If the order is repeated, the police officer may refer the matter to the next superior officer.

#### ***Overtime***

##### **Article 131**

Following an order from a superior, a police officer shall work for a period longer than a full working day, if it is necessary for the efficient and timely performance of duty.

#### ***Postponement or interruption of annual leave***

##### **Article 132**

The Minister or authorized person authorized by the Minister may postpone or interrupt annual leave of a police officer in order to carry out police duties that cannot be postponed.

In case specified in Paragraph 1 of this Article, a police officer shall be entitled to compensation of actual costs caused by postponement or interruption of annual leave.

#### ***Activities incompatible with police employment***

##### **Article 133**

Police officer and other persons employed with the police may not engage in private business or professional activities.

#### ***Union, professional and other associations and other activities***

##### **Article 134**

Police officers shall be entitled to organize in trade unions, professional and other associations in accordance with law.

Police officers shall not organize in political parties or be politically active within the Ministry.

Police officers shall not attend party meetings or other political gatherings in uniform, unless on duty.

## ***The right to strike***

### **Article 135**

General regulations governing strike shall apply in appropriate manner to the organizing and carrying out of strikes.

Authorized officers shall be bound to apply police powers when participating in strike, if this is necessary, in order to:

- 1) protect human life and safety;
- 2) arrest and bring before competent authority persons apprehended while committing a criminal offense which is prosecuted ex officio;
- 3) prevent criminal offenses and identify perpetrators of criminal offenses which is prosecuted ex officio

Police officers shall not be entitled to strike in case of:

- 1) war, imminent threat of war or state of emergency;
- 2) armed rebellion, insurrection or other forms of violent disturbance of the democratic and constitutional system of the Republic of Serbia, or threats made against fundamental human rights and freedoms;
- 3) declared natural disaster or immediate threat of natural disaster in the area of responsibility of two or more regional directorates of the Ministry or the entire territory of the Republic of Serbia;
- 4) other disasters endangering normal life and the safety of life and property;
- 5) large-scale threats to public order.

## ***Duty to safeguard official information***

### **Article 136**

Police officers shall be bound to safeguard official information obtained during or in connection with the performance of police duty, if disclosure of such information would adversely affect the performance of police tasks or rights of third parties protected by law. In terms of this Law official information is:

- 1) all information defined by law or regulations enacted on the basis of law as confidential;
- 2) information and documents defined by general statutory provisions as confidential;
- 3) information and documents defined as confidential by other bodies or legal entities;
- 4) measures, actions, information and sources of information whose disclosure would endanger the interests of the individuals or legal entities concerned, or the efficient performance of duties.

Obligation to safeguard official information shall last even after termination of employment with the Ministry.

## ***Augmented time of service***

### **Article 137**

Due to difficult working conditions, the nature of the work and the responsibility of required tasks, time of service of police officers shall be augmented in such manner that every 12 months of effective police service shall be counted as 16 months, in accordance with special law.

In respect of this Law, the following shall constitute difficult conditions:

- 1) greater risk to life and health;
- 2) work in excess of set hours due to unpredictable tasks;
- 3) irregular working hours, i.e. work in irregular cycles, etc;
- 4) working on public holidays and weekends;
- 5) increased level of alert (at workplace or other place or at home, following the order of a superior police officer) and similar forms of active and passive watch-duty.

Positions covered by an early retirement plan shall be determined by the decree specified in Article 4, Paragraph 4. This decree may designate other job positions in the Ministry to which the early retirement plan applies, in accordance with special regulations.

### ***Compensation for temporary disability***

#### **Article 138**

In case of temporary disability, a police officer shall be entitled to remuneration equal to the salary he/she would have received during the period of temporary disability, if such disability was caused by an injury sustained at work or occupational disease, or equal to 85 percent of the salary if such disability was caused by an injury or illness unrelated to work.

### ***Termination of employment with entitlement to old age retirement***

#### **Article 139**

Employment of a police officer may also terminate before meeting the conditions for retirement, if the officer meets the special age requirement as provided by the regulations on retirement and disability insurance, and has completed at least 20 years of service, of which at least 10 years must be effectively spent in positions covered by the early retirement plan, and in accordance with pension and disability insurance regulations.

### ***Termination of employment with entitlement to disability pension***

#### **Article 140**

A police officer, whose physical, mental or general health has changed and rendered him/her unable to perform police duties, shall be terminated from Ministry employment.

Disability in respect of Paragraph 1 of this Article is established by the Healthcare Institution of the Ministry Employees, which members are appointed by the Minister in cooperation with the expert panel of the Pension and Disability Insurance Fund.

Loss of working ability in accordance with regulations governing pension and disability insurance shall be deemed as changes of physical, mental and general health as defined in Paragraph 1 of this Article. A police officer whose employment is terminated on these grounds shall be entitled to a disability pension.

## **Severance pay**

### **Article 141**

A police officer who becomes eligible for retirement shall receive severance pay equal to the amount of his/her salary for the previous five months.

## ***Burial costs and one-time cash assistance***

### **Article 142**

A police officer killed in the line of duty or as a result of performing his or her duty shall be buried in the place determined by the family at Ministry expense.

The following shall be considered expenses within the meaning of Paragraph 1 of this Article:

- 1) costs of transporting the remains to the place of burial;
- 2) travel expenses for two escorts;
- 3) costs of providing a burial plot, if not provided by the family;
- 4) other usual costs, the amount of which shall be determined by the Minister.

Pursuant to Paragraph 1 of this Article, the dependants of the deceased police officer shall be entitled to a one-time cash assistance equal to the officer's salary for the previous 24 months, less taxes and contributions.

## ***Financial and other appropriate assistance***

### **Article 143**

The Minister may, in commemorating dates of significance to the police, administer financial aid and other appropriate assistance to the families of police officers deceased or seriously injured in the performance of duty.

## ***Types and giving of awards and honors***

### **Article 144**

Police officers and other employees of the Ministry shall receive awards and honors for achievements in police duty, maintaining and improving security, for other contributions to police work and safety, and for other work-related contributions.

Awards and honours of the Ministry are: annual awards, appropriate awards, merit awards and other honors and they are established by decree of the Minister.

In accordance with Article 6 of this Law, the Minister may present awards and honors to authorities of territorial autonomy, other organs and institutions, non-governmental organisations and other organisations and individuals.

## ***Specific health care***

### **Article 145**



Healthcare Institution of the Ministry Employees was established and acts in accordance with law to provide specific health care for the Ministry's employees, related to enrollment in education through Ministry institutions, regular medical exams, special medical exams for certifying general physical and mental health for law performing law enforcement duties, and by providing expert, technical and employee assistance to police units in performing their tasks and duties.

The specific healthcare program for Ministry employees, as implemented by Healthcare Institution of the Ministry of Interior's Employees, shall be approved by the Minister.

The Ministry shall bear the costs of the Employee Specific Health Care Plan, referred to in paragraph 1 of this Article.

#### **4. Salary**

##### ***Determination of salaries***

##### **Article 146**

Police officers and other employees of the Ministry shall be entitled to salary comprising a basic component determined by the Government and a basic and supplementary coefficient relating to grade, special work conditions, danger, responsibility and complexity of work.

The salary referred to in paragraph 1 of this Article shall be increased by 0.4% for every completed year of service. The amount of the coefficient specified in this Article shall be determined by the Minister by a decree on salaries of employees of the Ministry, upon approval of the Government.

##### ***Coefficients for salary calculation***

##### **Article 147**

Due to special working conditions, risks to life and health, responsibilities, difficulties, the specific nature of duties, working during public holidays, working at night, working in shifts and overtime work, duty work, state of alert and other forms of irregularity of work, coefficients for calculation of salaries may be determined for Ministry employees that are 30 to 50 percent nominally higher than for other public servants, and within the overall funds required for payment of additional coefficients referred to in Article 146, paragraph 1 of this Law.

With the Government's consent, coefficients for particular categories of employees that, pursuant to Paragraph 1 of this Article, may be determined over 50 percent.

Provisions of general labour regulations on increased salary shall not apply to the rights and duties, arising out of aforesaid special working conditions.

#### **5. Transfer and assignment**

##### ***Conditions for transfer***

##### **Article 148**

In accordance with operational needs, a police officer may be transferred to another position appropriate to his/her qualifications and working experience, within the same or another

organisational unit, in the same or different locality, in accordance with labor regulations and regulations on civil servants.

### ***Conditions for assignment to another unit***

#### **Article 149**

A police officer may be assigned to perform official duties at a position in another Ministry unit more than 50 kilometers distant from place of residence, for a continuous period from 30 days to one year.

### ***Rights in case of assignment***

#### **Article 150**

A police officer who has been assigned to perform official duties pursuant to Article 149 of this Law shall be entitled to reimbursement of transportation, board and lodging, as defined by an act issued by the Minister, in accordance with law.

### ***Assignment to work abroad***

#### **Article 151**

A police officer may be assigned to work abroad in accordance with regulations governing international police cooperation and Article 19 of this Law.

## **6. Education, vocational and advanced training**

### ***Professional education***

#### **Article 152**

Professional education for the needs of the police, in order to acquire relevant education shall be implemented in accordance with special regulations.

### ***Professional development and advanced training***

#### **Article 153**

Pursuant to this Law, professional development and advanced training means acquiring and improving professional knowledge, skills, attitudes and behavior, and increasing efficiency and effectiveness in performing police tasks.

The Minister shall specify:

- 1) the program for professional development, including approach and training methods, and professional exams for trainees;
- 2) content and form of professional development and advanced training pursuant to Point 1) of this article;
- 3) rights, duties and responsibilities of trainees in professional development and advanced training;

- 4) criteria for selection of candidates for attending professional development courses, pursuant to published notice;
- 5) other issues related to professional development and advanced training.

Professional development and advanced training pursuant to paragraph 1 of this Article are implemented in the Ministry's in-house educational institutions and other units, and particular forms in other in-house organisational units.

During professional development training trainees shall be provided with board and lodging, as well as other rights as determined by the Minister in the decision specified in Paragraph 2, Point 3) of this Article.

Trainees who successfully complete the professional development training are required to remain for a minimum of three years in the Ministry or to repay a proportional amount of costs for training and education.

### ***Professional development and advanced training***

#### **Article 154**

The Minister shall issue programs for professional development and advanced training.

In accordance with the programmes referred to in Paragraph 1 of this Article, the Director General of Police shall make plans for particular forms of professional development and advanced training within available funds in the budget.

Police officers may participate in other forms of professional development and advanced training in programmes conducted by national and foreign institutions, in accordance with special programmes and plans. Foreign participants may participate in implementing professional development and advanced training specified in paragraph 1 of this Law, according to agreement executed.

## **7. Disciplinary responsibility**

### ***Responsibility for violation of official duty***

#### **Article 155**

In cases of misconduct and serious violations of duty, the Ministry of Interior shall take disciplinary action against police officers and other employees of the Ministry.

### ***Misconduct***

#### **Article 156**

The following shall constitute misconduct:

- 1) being late for work or leaving work before the end of working hours;
- 2) uncivil treatment of clients and co-workers during working hours,
- 3) improper use of work equipment;
- 4) unconscientious and careless keeping of official documents and information;
- 5) unjustified absence from work up to two days in one calendar year;

- 6) failure to wear uniform or weapon, or keeping an untidy uniform or weapon;
- 7) disregard of a work direction or instruction, which caused or could have caused minor consequences.

### ***Serious violation of duty***

#### **Article 157**

The following shall constitute serious violation of duty:

- 1) refusal or failure to follow an order, or slighting an order issued by a superior in or connected with the performance of duty;
- 2) unauthorized withdrawal from the place of work, patrol area or place of securing a facility or person, unit or place of alert;
- 3) use of authority for purposes other than allowed, or use of official police status for unofficial purposes;
- 4) issuing or executing an order that threatens the safety of people and property;
- 5) failure to take measures, or taking insufficient measures to protect people, property and entrusted objects;
- 6) each action or failure to act that prevents, disturbs or makes discharging of duties more difficult;
- 7) behavior harmful to the reputation of the police or affecting relations between employees;
- 8) loss of or damage to technical and other equipment;
- 9) incorrect and improper use of issued equipment;
- 10) public appearance at one's own initiative
- 11) disclosure of confidential information determined by law, other regulation or acts;
- 12) disclosure of information to unauthorized persons;
- 13) giving false statements about the Ministry;
- 14) failure to take proper measures or provide necessary assistance within official police powers to police employees or other government authorities;
- 15) illicit gain of profit and property for oneself or another, in performance of duty;
- 16) engaging in activities incompatible with official police duty;
- 17) refusal, unjustified failure to respond or evasion of mandatory medical examination or abuse of the right to absence from work in case of illness;
- 18) refusal, unjustified failure to respond or evasion of vocational, specialized or other training;
- 19) any action constituting a criminal offense committed at work or in connection with work;
- 20) issuing an order which execution would constitute a criminal offence;
- 21) a superior officer's attempt to conceal violation of duty for which an employee may be dismissed.

### ***Disciplinary measures for misconduct***

#### **Article 158**

For misconduct, a fine shall be imposed in the amount of 10 to 30 percent of the monthly salary for the month the disciplinary measure was issued.

### ***Disciplinary measures for serious violations of duty***

#### **Article 159**

For serious violation of duty, one of the following disciplinary measures shall be pronounced:

- 1) fine of 30 to 50 percent of the salary for the period of one to three months;
- 2) suspension of promotion to a higher position for the period of six months to two years;
- 3) transfer to another job position for the period of six months to two years;
- 4) termination of employment.

The suspension of promotion to a higher position defined in Paragraph 1, Point 2) of this Article shall commence on the day the disciplinary measure went in force.

The transfer to another position defined in Paragraph 2, Point 3 of this Article shall be to a less challenging position requiring the either the same qualifications as the previous one, or immediately lower qualifications.

### ***Publicity and exclusion of the public***

#### **Article 160**

The disciplinary proceedings shall be public.

The organ running the proceeding may conduct a closed disciplinary proceeding in cases when facts presented during the proceeding are of a confidential nature.

### ***Jurisdiction of first instance for decision-making***

#### **Article 161**

In the first instance, disciplinary responsibility of police officials shall be assessed by:

- 1) the Director General of Police or the official in charge of special tasks, or a police officer appointed by them, or person authorized by them – in cases of alleged violation by police officials of the Police Directorate and others employed at the head office of the Ministry;
- 2) head of the regional police directorate, or person authorized - for police officials from regional police directorate, police stations or other employees in the related area.

### ***Jurisdiction on deciding on appeals***

#### **Article 162**

Police officer shall be entitled to appeal against the decisions referred to in Article 161 of this Law to the disciplinary commission within eight days after receipt of the decision.

### ***Disciplinary Commission***

#### **Article 163**

The Disciplinary Commission shall have 30 members appointed by the Minister.

The Disciplinary Commission shall decide in a panel composed of three members, of whom one must be from outside the Ministry.

### ***Specifying disciplinary responsibility***

#### **Article 164**

The Government shall specify disciplinary responsibilities within the Ministry by its decree.

#### ***Reasons and procedure for suspension from duty***

#### **Article 165**

A Ministry employee may be temporarily suspended, if criminal proceedings are initiated against him/her for a criminal offense which is prosecuted ex officio, or if a request is filed to establish the employee's disciplinary responsibility for serious violation of police duty.

Suspension from duty referred to in Paragraph 1 of this Article may last until completion of disciplinary proceedings, and may not exceed six months.

During suspension, the employee has shall be entitled to compensation amounting to a half salary.

The Director General of Police or the official charge of specific tasks shall decide on the suspension.

The police officer concerned shall have the right to appeal the decision to the Minister, within eight days of service of the decision. The appeal does not postpone the execution of the decision, and the appeal shall be decided within 15 days.

The police officer suspended from service must surrender the police badge, official identity papers, weapons and other assigned equipment.

#### ***Liability for damage to third parties***

#### **Article 166**

The Republic of Serbia shall be liable for damages inflicted by a police officer to third parties, except when established that the police officer did not act in compliance with regulations governing performance of police functions.

A police officer shall bear responsibility for damages inflicted to the Ministry or third parties, if it is established that the officer acted in compliance with regulations governing the performance of police functions.

### **8. Special cases of termination of employment**

#### ***Termination of employment ex lege***

#### **Article 167**

In addition to mandatory termination of employment by force of law as stipulated by other regulations, employment of a police officer or other employee of the Ministry shall cease:

1) when it is established that information related to requirements for admission to service pursuant to Article 110, Paragraph 1, Points 1, 4, 5 and 6 is false, effective immediately;

2) when the court renders a legally binding decision convicting the employee of a criminal offense referred to in Article 110, Paragraph 3, effective the day of the decision to terminate employment;

3) when it is learned that the officer has acted contrary to Article 133 of this Law, effective immediately.

4) when a competent authority determines the right to retirement in accordance with law, effective the day the decision is issued.

### ***Termination of employment on security grounds***

#### **Article 168**

Employment of a police officer or other employee shall be terminated if security impediments referred to in Article 111 of this Law arise during the employment with the Ministry, due to which the officer would not have been offered employment.

In case of the security impediment referred to in Paragraph 1 of this Article, the decision to terminate a police officer or other employee of the Ministry shall be issued by the Minister, following reasoned proposal by the Police Director General or official in charge of specific tasks. The report on the security check referred to in Article 111, Paragraph 2 of this law shall be submitted with the proposal, as its integral part

Appeal on the decision referred to in Paragraph 2 of this Article is not allowed, but an administrative proceeding may be initiated.

### ***Application of other regulations***

#### **Article 169**

Regulations on employment relations in government authorities shall apply to the status, duties, rights and responsibilities of employees of the Ministry, unless otherwise specified by this Law and regulations enacted pursuant to it.

## **VI OVERSIGHT OF POLICE WORK**

### **1. External oversight of the police**

#### ***Types of external oversight***

#### **Article 170**

External oversight of the work of the police shall be performed by the National Parliament, in accordance with Article 9 of this Law, other laws and regulations.

External oversight of the work of the police shall also be performed by the Government, competent judicial bodies, bodies of the state administration with authority to perform particular oversight and other legally authorized bodies.

Authorities of the bodies referred to in Paragraph 2 of this Article shall mean authorities laid down by special law relating to access to relevant information, contact with relevant police officers, the right to receive answers to questions and other rights defined by law.

## **2. Internal oversight of the police**

### ***Sector of Internal Oversight***

#### **Article 171**

Internal police oversight shall be performed by the Sector of Internal Oversight.

The Sector of Internal Oversight shall be managed by the head of the Sector.

The head of the Sector of Internal Oversight shall regularly and periodically report to the Minister on the work of the Sector.

### ***Forms and methods of internal oversight performance***

#### **Article 172**

The Sector of Internal Oversight shall monitor the legality of police work, especially with regards to respect and protection of human rights while performing police tasks and applying police powers.

The Minister shall prescribe forms and methods of internal oversight of the police.

### ***Personnel in the Sector of Internal Oversight***

#### **Article 173**

Authorized officers employed in the Sector of Internal Oversight shall have full police powers in carrying out internal monitoring, and regarding both their rights and duties shall be equal to other authorized officers.

### ***Procedure by the Sector of Internal Oversight***

#### **Article 174**

The Sector of Internal Oversight shall act on suggestions, complaints and grievances of individuals and legal entities, on written requests by members of police and on self-initiative or on information and other intelligence

The head of the Sector of Internal Oversight shall inform the Minister in a timely manner, in writing, on all cases of police action or failure to act, which the Sector head deems contrary to law, and shall duly take necessary actions.

A police member may not be liable for approaching the Sector of Internal Oversight.

### ***Duties and powers in conducting internal oversight of the police***



## **Article 175**

Members of the police shall be bound to enable officers of the Sector of Internal Oversight to conduct oversight and provide necessary expert assistance.

While conducting oversight, officers of the Sector of Internal Oversight shall be authorized to:

- 1) examine papers, documents, and data that the police collect or issue in accordance with their authority;
- 2) take statements from members of police, victims and witnesses;
- 3) require access from the police and law enforcement employees to other data and information pertaining to their authority which are needed for successful internal oversight.
- 4) have access to any premises used by the police in their work;
- 5) demand certificates and technical and other data about means and equipment used by the police, as well as to demand proof of capability of police personnel to use the equipment and other means in their work;

When monitoring, authorized officers of the Sector of Internal Oversight shall not interfere with certain police actions or otherwise hinder the work or jeopardize the secrecy of police actions.

Documents related to the use of authority defined in Paragraph 2 of this Article and classified as confidential, can be reviewed by officers responsible for internal oversight only in the presence of an authorized person who has established the degree of confidentiality of the document, or this person's delegate.

The Minister may assign other authorized law enforcement employees of the Ministry, in addition to officers of the Sector of Internal Oversight, to perform certain individual monitoring tasks.

### ***Duties of the Sector of Internal Oversight***

## **Article 176**

The Sector of Internal Oversight, its authorized officers and other law enforcement officers in the Ministry are responsible for taking necessary action, determining facts, and collecting evidence in order to conduct internal oversight of the work of the police.

The head of the Sector of Internal Oversight shall inform the Minister and the Director General of the result of investigations, and shall make recommendations to the Minister on rectifying any irregularities, as well as taking action to determine accountability.

### ***Monitoring the Sector of Internal Oversight***

## **Article 177**

The Minister shall oversee the work of the employees and head of the Sector of Internal Oversight, as well as of Ministry employees responsible for police monitoring in a manner defined in Article 172, Paragraph 2 of this Law.

If there is a credible danger that internal oversight of the police and use of powers, pursuant to this Law or other laws, would impede or significantly hinder police performance, or jeopardize officer

life, health and safety, a police officer may temporarily refuse access to documents, inspection of premises and availability of certain data and information, pending a decision by the Minister.

If the subject to internal oversight exceeds the mandate of the Sector of Internal Oversight, or is connected to other actions or is a case of great importance, the Minister may decide to hand over the case to another internal unit authorized to initiate proceedings.

### ***Authorities of the Minister and duties of the Sector of Internal Oversight towards the Minister***

#### **Article 178**

The Minister shall issue guidelines, mandatory work instructions, directives, as well as orders to the Sector of Internal Oversight to perform certain tasks and take certain measures falling within its authority.

At the request of the Minister, authorized officers and other employees of the Sector of Internal Oversight must submit information, documents and reports regarding individual issues under its purview.

### ***Reporting to the Government and the National Assembly on the work of the Sector of Internal Oversight***

#### **Article 179**

At the request of the Government and the working group of the National Parliament in charge of security and policing, the Minister shall submit report on the work of the Sector of Internal Oversight.

### **3. Police oversight through complaint procedures**

#### **Article 180**

Any person shall have the right to file a complaint against a police officer, if the person believes that the officer has violated his/her rights or freedoms by unlawful or improper action.

The complainant, from Paragraph 1 of this Article, may file the complaint with the police or with the Ministry within 30 days as of the alleged violation.

Every complaint against a police employee, as well as related circumstances, must be considered first by the head of the unit in which the implicated officer is employed, or by a person authorized by the head (hereinafter referred to as: the head of unit). If the head of unit agrees with the complainant, the procedure may be considered concluded. Minutes must be made of the complaint procedure, to be signed by the complainant. The procedure must be concluded within 15 days as of the receipt of the complaint.

If the complainant fails to respond to a request for interview, or responds but disagrees with the findings of the head of unit, or when the complaint provides grounds to suspect a criminal act which is prosecuted ex officio, the head of unit must hand over all documents to a Commission which then conducts further proceedings to resolve the complaint.

Complaints filed with the Ministry shall be handled by a three-member commission, composed as follows: the head of the Sector of Internal Oversight or another Sector's Affairs officer who is authorized by the head of the Sector of Internal Oversight, a representative of the police authorized by the Minister, and a civilian representative. The civilian representative who takes part in complaint procedures related to police management shall be appointed and dismissed by the Minister upon suggestion from local self-government. The civilian representative who takes part in complaint procedures related to the work of law enforcement employees at the headquarters of the Directorate shall be appointed and relieved by the Minister upon suggestion from expert groups and non-governmental organisations. The civilian representative shall be appointed to a four-year term with the possibility of renewed mandate.

The complaint procedure at the Ministry shall end by providing the complainant with a response within 30 days of final proceedings by the head of unit. By response to the complainant the complaint proceedings shall be concluded, and the complainant shall still have the right to use all legal remedies and other legal redress in order to protect its rights and freedoms.

Further details of the complaint procedure shall be determined by the Minister.

### ***Duty to protect confidential data***

#### **Article 181**

Persons who participate in oversight of police work shall be required to safeguard the confidentiality of information they obtain in performing the oversight, including after their work is completed.

## **VII FINANCING**

### ***Funds for work***

#### **Article 182**

Funds for the work of the Ministry shall be provided in the budget of the Republic of Serbia

The Ministry may acquire additional assets by providing services related to the main activity of the Ministry, in accordance with work relating to security and data records within the authority, which are considered own revenues.

Amounts of fees charged for the services defined in Paragraph 2 of this Law shall be determined by the Government, at the recommendation of the Minister.

### ***Assets for special purposes***

#### **Article 183**

The Ministry shall use the assets that are considered state property.

A part of the assets used by the Ministry are for special purposes of confidential nature.

Real property estates for special purposes are land, buildings and other facilities, which are of confidential nature, and are used for security purposes.

Access to special purpose real property, outside of regular use, shall be allowed only by prior consent of the Minister.

Movable property for special purpose are weapons, equipment, transport and other vehicles, which are of confidential nature, and are used for security purposes.

The assets for special purposes shall be defined by separate act.

### ***Funds for special operational needs***

#### **Article 184**

Funds shall be allocated, within the budget and in compliance with the police financial plan, for the purpose of covering expenses and paying awards to persons who acted upon or took part in measures permitted by this Law and the Law on criminal proceedings, as well as for paying for useful information related to criminal acts and their perpetrators (hereinafter referred to as: assets for special operational needs). Records of such payments shall be kept separately and in accordance with the regulations governing certain fields. The manner of managing of the funds for special operational needs shall be determined by instructions from the Minister.

The funds referred to in Paragraph 1 of this Article shall be free from taxes or other duties defined by regulations.

### ***The Fund for monetary assistance to families of killed or wounded police officers***

#### **Article 185**

The Fund for monetary assistance to families of police officers killed or injured while performing their duties is established as a budgetary fund for this purpose, in accordance with special regulations.

The budgetary fund specified in paragraph 1 of this Article shall be established for an indefinite period of time and shall be managed by the Ministry.

Assets of the budgetary fund specified in paragraph 1 may comprise:

- 1) budgetary funds;
- 2) donations;
- 3) other funds in accordance with law and other regulations.

The beneficiary of the resources of the Fund referred to in Paragraph 1 of this Article may not claim compensation for damages arising from the same event.

## **VIII FORMS OF COOPERATION WITH OTHER SUBJECTS**

### ***Inter-police cooperation***

#### **Article 186**

The Ministry shall directly cooperate with other internal affairs bodies, with police and police organisations, as well as with security services in Serbia and Montenegro.

The cooperation referred to in Paragraph 1 of this Article shall be based on the rights and duties defined by law, on mutual sharing of information and on accomplishing joint tasks.

The manner and form of such cooperation shall be determined by special regulations of the bodies and services referred to in Paragraph 1 of this Article, and shall be jointly adopted by the heads of the bodies and services, in accordance with law.

### ***Cooperation with the Security and Information Agency***

#### **Article 187**

In accordance with this Law, the law governing the work of the Security and Information Agency (hereinafter referred to as: "the Agency"), the Criminal Procedure Law and other laws enforced by the Ministry and the Agency, the Minister and Director of the Security and Information Agency of the Republic of Serbia shall jointly define the mandatory forms and manner of cooperation between the Ministry and the Agency on issues of interest for the security of people and property and for the security and constitutional order of the Republic of Serbia, particularly:

- 1) mutual notification, sharing of information and intelligence of importance for carrying out tasks from the purview of the Ministry or the Agency;
- 2) providing direct physical, expert, technical and other mutual assistance, in accordance with the scope set forth by law and pursuant to prior agreement between the Minister and the Director of the Agency or persons authorized by them;
- 3) undertaking joint measures and activities of interest for concurrent protection and safeguarding life and property and the security of the Republic of Serbia.

### ***Cooperation with other government organs and non-governmental entities***

#### **Article 188**

The Ministry shall cooperate with other government bodies and non-governmental entities referred to in Article 6 of this Law, in accordance with this Law and other laws.

In order to develop cooperation or partnership, the Minister may, in agreement with the bodies and entities specified in Paragraph 1 of this Article, issue particular acts on cooperation and set up coordinating groups with a mandate to prevent and detect criminal offenses and their perpetrators and achieve other security-related goals.

### ***Cooperation, protection of rights and providing legal assistance to individuals***

#### **Article 189**

In performing law enforcement duties, the police shall provide information and advice to individuals relevant to their personal safety and property, as well as other related information obtained by the police, unless doing so would constitute a violation of law.

An individual whose private rights are endangered may address to the police for the protection of the rights if, in the particular case, there is no other legal protection for the rights and if infringement of the rights is related to the individual's personal safety or property.

The police shall be bound to provide assistance to an individual upon request pursuant to Paragraph 2 of this Article, if the request is in accordance with police purview; otherwise, the police must forward the request to competent authorities and inform the individual thereof.

### ***Cooperation with individuals assisting the police***

#### **Article 190**

In addition to the cooperation referred to in Articles 188 and 189 of this Law, the Ministry shall cooperate directly with individuals who provide assistance in performing police functions.

An individual who, in providing assistance mentioned in Paragraph 1 of this Article, is injured or falls ill, resulting in absence from work, or should become unfit for work, shall be entitled to the rights pertaining to health, pension and disability benefits under the conditions set for police employees.

If the individual is killed while providing assistance, the family shall be entitled to all rights pertaining to pension insurance for police officers who are killed in the line of duty.

An individual suffering damage while providing assistance shall be entitled, in accordance with law, to compensation of the material damages suffered because of the assistance.

If criminal proceedings or misdemeanour proceedings are initiated against the citizen because of assistance provided to the police, the Ministry shall provide the individual with legal and other necessary assistance in connection with the proceedings.

The Ministry shall be held responsible for damage that a citizen inflicts upon a third party while providing assistance to the police.

## **IX THE AUXILIARY POLICE**

### ***Members of the auxiliary police***

#### **Article 191**

The Ministry may establish auxiliary police for performing police tasks in cases when it is necessary to engage a large number of police officers for: carrying out high-security tasks; in natural and other disasters; for securing the national borders; in other cases when internal security is seriously threatened and in cases referred to in Article 14 hereof.

Candidates for auxiliary police must meet the requirements specified in Article 110. Retired police officers until the age of 60 may be engaged as auxiliary police.

The Minister shall decide on use of auxiliary police for law enforcement duties, upon recommendation by the Director General of Police.

### ***Rights and duties during training and carrying out tasks in auxiliary police***

#### **Article 192**

The Ministry shall contract an agreement with the interested candidate for volunteer service in the auxiliary police.

Members of the auxiliary police shall receive basic and advanced training for carrying out police tasks. Upon completion of training an auxiliary police officer may apply all police powers during engagement on police duties.

An auxiliary police officer may be engaged for a period of up to one month during a calendar year. During the period of engagement the auxiliary officer shall have the rights and duties determined by Government regulations, in accordance with relevant rights and duties of police officers pursuant to this Law.

An employer may not terminate an auxiliary police officer during active engagement in the auxiliary police, nor condition contractual relations pursuant to Paragraph 1 of this Article; the auxiliary police officer shall return to work at the contract position not later than two days after active engagement in the auxiliary police ends.

The police shall keep records of candidates and auxiliary police officers.

## **X POWER TO PASS REGULATIONS**

### ***Powers of the Government and the Minister***

#### **Article 193**

The Government shall by decree:

- 1) prescribe the design of uniforms and insignia for police officers referred to in Article 32, Paragraph 2 of this Law;
- 2) determine types of weapons and equipment for police officers referred to in Article 33 of this Law;
- 3) determine the manner of procurement of special-purpose equipment without public announcement of tender referred to in Article 183 of this Law;
- 4) determine requirements for contracting agreements for volunteer service in auxiliary police, manner of carrying out of tasks, criteria for selection of candidates, rights to remuneration, costs, leave and other rights and duties of auxiliary police officers and reasons for termination and revocation of contract referred to in Article 192, Paragraph 1 of this Law.

The Minister shall issue regulations on:

- 1) the manner of ensuring medical care referred to in Article 7, Paragraph 1, Point 16) of this Law;
- 2) the design of the official badge and official identity papers for police officers referred to in Article 32, Paragraph 1 of this Law and the use of uniforms defined in Article 312 Paragraphs 2 and 4 of this Law;
- 3) carrying of weapons and ammunition pursuant to Article 33 of this Law;
- 4) the manner of exercising police powers in issuing warnings and orders referred to in Articles 39, 40 and 41 of this Law;
- 5) the manner of checking and establishing identity of persons and objects referred to in Articles 42 and 45 of this Law;
- 6) the contents and forms of summoning referred to in Article 46 of this Law;
- 7) the manner of exercising the power to transport persons, referred to in Articles. 49, 50, 51 and 52 of this Law;

- 8) the manner of exercising the power to temporarily restrict freedom of movement referred to in Articles, 53, 54, 55, 56, 57 and 58 of this Law;
- 9) the manner of exercising the power to search premises, buildings and documents during an anti-terrorism search referred to in Article 63 of this Law;
- 10) the manner of exercising the power to halt and search persons, buildings and vehicles referred to in Article 64 of this Law;
- 11) the manner of exercising the power of securing and investigating scenes of events referred to in Article 65 of this Law;
- 12) the criteria to determine amounts of award pursuant to Article 68 of this Law;
- 13) the manner of performing polygraph tests and the content of written consent referred to in Article 70 of this Law;
- 14) the manner of searching for persons and objects referred to in Article 72 of this Law;
- 15) the types of measures and procedure in protecting victims of criminal offenses and other persons referred to in Article 73 of this Law;
- 16) the form, content and manner in which records defined in Article 76 of this Law are maintained and kept;
- 17) technical characteristics and detailed forms of using instruments of restraint referred to in Articles 89, 90, 91, 94, 97, 98, 99 and 100 of this Law;
- 18) the criteria and manner of examining special mental and physical ability referred to in Article 110, Paragraph 1, Point 4) of this Law;
- 19) the content of the statement of duties and rights of police officers defined in Article 113, Paragraph 1 of this Law and on the manner of taking the oath referred to in Article 113, Paragraph 2;
- 20) classification of type and degree of confidentiality of information, treatment of confidential information, special measures to protect confidential and official data referred to in Article 136 of this Law;
- 21) detailed conditions and procedures of granting awards and honours referred to in Article 144 of this Law
- 22) conditions and method of selection of police officers assigned to duties abroad, as well as their duties, rights and responsibilities for the period on duty abroad, referred to in Article 151 of this Law;
- 23) types of services through which the Ministry can acquire additional assets, and forms and content of records of the additional assets obtained, as defined in Article 182, Paragraph 2 of this Law;
- 24) specification of requirements and manner of using assets from the budgetary fund pursuant to Article 185;
- 25) program and conditions for implementing professional and advanced training of members of the auxiliary police referred to in Article 192, Paragraph 2;
- 26) appearance, content and manner of keeping records of candidates and auxiliary police officers referred to in Article 192, Paragraph 5.

The Government and the Minister shall issue regulations pursuant to Paragraphs 1 and 2 of this Article within six months of the day of the entry into force of this Law.

Regulations specified in Paragraph 2 of this Article issued by the Minister shall be published in the "Official Gazette of the Republic of Serbia".

## **XI TRANSITIONAL AND FINAL PROVISIONS**



## ***Act on internal organisation and job classification***

### **Article 194**

Until the adoption of acts on internal organisation and job classification in the Ministry in accordance with this Law, and until decisions on decisions of appointment to the post or other decisions are passed in accordance with such acts, or until other decisions on appointments are passed in accordance with law, employees in the Ministry at the date when this Law enters in force, shall continue working in their existing posts and with existing ranks, grades and salaries in accordance with current regulations and other acts.

### ***Deadlines for issuing regulations on internal organisation and job classification***

### **Article 195**

The act on internal organisation and job classification defined in Article 194 of this Law shall be adopted within one year as of the date of the entry into force of this Law.

### **Information on legislative changes**

### **Article 196**

In order to inform the general public on legislative changes and the relations between this Law and other laws in the field of internal affairs, laws governing administration, criminal procedure, misdemeanours, labor relations and other laws relevant for the police or enforced by the police, the Ministry shall bi-annually publish information for the general public with a List of laws and explanation of legislative changes.

The Ministry shall publish the first information specified in paragraph 1 of this Article within six months of the entry into force of this Law.

### ***Effectiveness of regulations until passing of new regulations pursuant to this Law***

### **Article 197**

The regulations passed pursuant to the Internal Affairs Law (Official Gazette of the Republic of Serbia, no. 44/91, 79/91, 54/96, 25/2000, 8/2001 and 106/2003) and the Law on Ranks of the Ministry of the Interior (Official Gazette of the Republic of Serbia, no. 53/95) shall remain in force until the regulations passed by the Government and the Minister in accordance with this Law enter in force, unless they are in collision with provisions of this Law.

### ***Repealing of particular laws***

### **Article 198**

With the entry into force of this Law, the following Laws shall be repealed:

1) Internal Affairs Law (Official Gazette of the RS no. 44/91, 79/91, 54/96, 25/2000, 8/2001 and 106/2003); except the provisions of the Articles from 59 to 65 and Article 69, that shall apply until passing of regulations that shall govern the scope and status of the police educational institution and/or until completion of schooling of the generation of students of the Secondary School for Internal Affairs enrolled for the 2005/2006 school year;

2) Law on Ranks of Members of the Ministry of Interior (Official Gazette of the RS no. 53/95 and 66/2003); except the provisions of Articles 1,5,9 and 14 in the part that relates to students of Police Secondary School and students of Police Academy, that shall apply until passing of new regulations that shall govern the scope and status of the police educational institution and/or until completion of schooling of the generation of students of the Secondary School for Internal Affairs enrolled for the 2005/2006 school year.

***Entry into force of this Law***

**Article 199**

This Law shall take effect eight days after its publication in the Official Gazette of the Republic of Serbia.