



**Parliament of Montenegro
Parliamentary Institute
Research Centre**

Research paper:

**Conditions and Manner of Election of the Director of Police, police powers and conditions
for promotion in the service**

Podgorica, December 2014

Number: 11/2014

Classification No.: 00-52/14-

Date: December 2014

Prepared by: Research Centre – Parliamentary Institute

**The contents of this document do not reflect the official views of the Parliament of Montenegro.*

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FOREWORD

The police is the most visible manifestation of government authority responsible for public security. Their fundamental duties consist of maintenance of public peace and order, protection of fundamental rights and freedoms of individuals, preventing and combating crime as well as providing assistance and service to the public. Police officers will improve the legitimacy of the state, if they demonstrate in their daily work that they are responsive to public needs and use the authority of state in people's interest. Democratic police implements its activities according to the needs of the public and the state, while emphasising assistance to those community members in need of immediate help. The police must be responsive to the community as a whole, and through its activities, it should be part of society's common efforts to promote legal protection and a sense of security. When performing its tasks, the police must act in accordance with national and international legislation and respect the fundamental human rights.¹

An appropriate legal framework represents the precondition for an effective, efficient and accountable management of the security sector, since it defines the role and mission of different security organisations, defines the preconditions and sets the limits to security organisations' authority and the authority of its members. It also defines the role and authority of the institutions in charge of control and oversight of security organisations, provides the basis for responsibility, sets out clear boundaries between the legal and illegal behavior and improves public trust and strengthens legitimacy of government and its security forces. Taking into account all the abovementioned, the reform of the security sector usually starts by entirely questioning and researching national legislation in the security sector. When it comes to the role and mandate of different institutions, it is crucial to identify and respond to contradictions and ambiguities.

Passing legislation in the security sector is a very complex and difficult task. Therefore, many lawmakers are facing temptation to copy legislation from other countries. This approach accelerates the drafting process, particularly when the legal texts are available in the language of the lawmaker, however, this commonly results in bad legislation. Even after being amended, copied laws are often out of date before entering into force.²

Therefore, legislation and written policies governing the work and conduct of the police should be clear, precise and also accessible to the public. These policies and guidelines should define the functional roles of the police, as well as its values, missions, goals and priorities. They should also provide for clear rules, regulations and best practices for the execution of specific police tasks as well as . legal regulation of police powers and precise definitions of criminal offences.³

¹ Vodič za demokratski rad policije, OSCE, 2007, <http://www.osce.org/sr/secretariat/23808>

² *Priručnik – Razumevanje nadzora obaveštajnih službi*, Ženevski centar za demokratsku kontrolu oružanih snaga (DCAF), 2011, <http://www.dcaf.ch/Publications/Guidebook-Understanding-Intelligence-Oversight> (Accessed on 22 December 2014)

³ Vodič za demokratski rad policije, op.cit

In Montenegro, internal affairs, authority and responsibilities of employees of the Ministry of Interior, as well as other issues relevant for internal affairs are governed by the Law on Internal Affairs⁴. For the purpose of improving the legal framework for its functioning, and within the overall activities undertaken for the implementation of the action plan for the realization of reform activities of the Ministry of Interior, respectively Police Administration in the process of European and Euro-Atlantic integration and observing of the recommendations with regard to NATO membership, respectively accession to the European Union, the Government of Montenegro determined Draft Law on Amendments to the Law on Internal Affairs.⁵

In order to prepare a comparative overview related to certain provisions of fundamental legal regulations governing the police work, the Research Centre collected, systematised and presented available data on the manner and conditions for the election of Police Director, police authority, and the conditions for service promotion in countries in the region and certain EU countries.

The complete document in Montenegrin language can be found at: <http://www.skupstina.me/images/dokumenti/biblioteka-i-istrazivanje/dokument1.pdf>

⁴ Zakonom o unutrašnjim poslovima, Službeni list Crne Gore, br. 44/12 od 09.08.2012, 36/13 od 26.07.2013

⁵ Obrazloženje Predloga Zakona o izmjenama i dopunama Zakona o unutrašnjim poslovima