

Pursuant to Article 2, paragraph 2, of the Law on the Parliamentary Military Commissioner of BiH (*Official Gazette of BiH*, number 51/09), at the 69th session of the House of Representatives held on 30 December 2009 and on 12 January 2010 and the 40th session of the House of Peoples held on 30 December 2009, the BiH Parliamentary Assembly adopted the following Rules of Procedure:

RULES OF PROCEDURE
governing the work of the Parliamentary Military Commissioner
of Bosnia and Herzegovina

CHAPTER I – GENERAL PROVISIONS

Article 1
(Subject of the Rules of Procedure)

These Rules of Procedure govern the procedure on complaint, the methods of work and other issues of importance for the work of the Military Commissioner of Bosnia and Herzegovina (hereinafter: Military Commissioner).

Article 2
(Definition)

- (1) The position of the Military Commissioner has been established with the aim of the strengthening of the rule of law and the protection of human rights and freedoms of military personnel and cadets in the Armed Forces of Bosnia and Herzegovina (hereinafter: BiH) and the BiH Ministry of Defence as guaranteed by the BiH Constitution and the international agreements which make its supplement.
- (2) The Military Commissioner is an autonomous commissioner of the BiH Parliamentary Assembly.
- (3) In his work the Military Commissioner shall be fully professional and shall not promote, protect or undermine the interests of any political party, registered organisation or association or any of the peoples in BiH.

Article 3 (Competencies)

In doing the parliamentary oversight of the work and other issues in the area of human rights and freedoms relating to military personnel and cadets in the Armed Forces of BiH and the BiH Ministry of Defence, the Military Commissioner shall have the authority to:

- a) Investigate specific issues in keeping with the instruction of the BiH Parliamentary Assembly and the Joint Defence and Security Committee of BiH (hereinafter: the Joint Committee). Instructions may be issued only if an issue is considered within the scope of work of the Joint Committee, while the Military Commissioner may, on his own initiative, put forward a request that the Joint Committee issue instructions for the investigation of specific issues;
- b) Carry out activities at his own discretion when in exercising his authority he gets information from the members of the BiH Parliamentary Assembly or if, while considering complaints of military personnel and cadets or in any other way, he notices circumstances that indicate a violation of human rights and freedoms of military personnel and cadets.

Article 4 (Actions)

In exercising his authority and competencies in individual complaints or *ex officio*, the Military Commissioner shall act in keeping with the instruction set forth in Article 3, subparagraph a) of the Rules of Procedure.

Article 5 (Seat of the Military Commissioner and stamp)

- (1) The seat of the Office of the BiH Military Commissioner (hereinafter: the Office) is in Sarajevo, in the building of the BiH Parliamentary Assembly.
- (2) The Military Commissioner shall use the memorandum and the official stamp of the BiH Parliamentary Assembly.

Article 6 (Administrative and technical support)

The Joint Service of the Secretariat of the BiH Parliamentary Assembly shall provide administrative and technical support to the Military Commissioner.

Article 7
(Funds for work)

- (1) Fund for the work of the Military Commissioner and his Office shall be provided in the budget of the BiH Parliamentary Assembly and shall be indicated in a separate chapter in accordance with Article 12, paragraph 2, of the Law on the Parliamentary Military Commissioner of BiH (hereinafter: the Law).
- (2) The Military Commissioner shall autonomously allocate funds approved in the budget set forth in paragraph 1 of this Article in accordance with his annual plan and shall have an obligation to submit a report on expenditures to the Joint Committee and the Joint Committee for Administrative Affairs of the BiH Parliamentary Assembly no later than 31 March of the current year for the pervious year.

Article 8
(Internal organisation)

The Military Commissioner shall issue a Book of Rules on Internal Organisation of the Office in keeping with the positive laws and by-law regulations.

Article 9
(Cooperation)

In his work, the Military Commissioner shall cooperate with governmental, non-governmental, national and international organisations.

Article 10
(Use of languages and alphabets in the Office)

In his work, the Military Commissioner shall ensure that the languages and alphabets that are in official use in Bosnia and Herzegovina have equal status as to their use.

Article 11
(Public nature of work of the Military Commissioner)

The work of the Military Commissioner shall be public except in cases when it is in contravention of the Law, the Law on Protection of Secret Data and the Law on Protection of Personal Data.

CHAPTER II – PARTICIPANTS IN THE PROCEDURE AND THE COMPLAINT

Article 12 (Participants in the procedure)

The participants in the procedure are as follows:

- a) The complainant who filed the complaint in accordance with the Law;
- b) The legal representative or the agent, if they are designated;
- c) The Armed Forces of BiH and the BiH Ministry of Defence, i.e. the persons that the complaint relates to, i.e. the persons whose actions and work are the subject of the complaint or the subject of actions taken by the Military Commissioner *ex officio*.
- d) Other participants that, in a case at hand, are determined in the instruction set forth in Article 3, sub-paragraph a) of the Rules of Procedure, or those designated by the Military Commissioner.

Article 13 (Complaint)

- (1) Each member of the military personnel or cadet in the Armed Forces of BiH shall have the right to directly contact the Military Commissioner and file the complaint.
- (2) The complaint shall contain the following elements:
 - a) Name and surname of the complainant;
 - b) Contact information of the complainant;
 - c) Name of the person or body against whom/which the complaint is filed;
 - d) Grounds for filing the complaint including the description of relevant facts and events;
 - e) Information on appeals, if any, filed to other bodies or institutions;
- (3) Attached to the appeal may be copies of relevant documents that the complainant has available and that are relevant to the complaint.

Article 14 (Format and submission of the complaint)

- (1) The complaint shall be filed with the Military Commissioner in writing by submitting it directly to the Registry Office of the BiH Parliamentary Assembly, by mail, fax or verbally for the record.
- (2) The complainant shall personally sign the complaint. Exceptionally, in the stead of the complainant, the complaint may be signed by his spouse, one of his parents, his son or daughter, i.e. his legal representative or agent, if designated. The person that signed the complaint on behalf of the complainant shall have the obligation to sign his own name and state his address.
- (3) When filing the complaint, the complainant may, but does not have to, use the format of the complaint determined by the Military Commissioner which shall be made available on the website of the BiH Parliamentary Assembly.

- (4) The complaint shall be considered to be received on the day when it is received in the Registry Office of the BiH Parliamentary Assembly.
- (5) If the complaint is given verbally for the record, the entry in the record shall be read out for the complainant whereupon the complainant shall sign it as well as the person that made the entry in the records.
- (6) In case of filing the complaint verbally for the record, the complaint shall be considered filed as on the day of signing the record.

Article 15

(Lack of authority to act upon a complaint)

- (1) If the Military Commissioner has no authority to receive a complaint, he shall warn the applicant accordingly and refer him to the body authorised to receive the complaint. If the complainant still demands that his complaint be received, the Military Commissioner shall receive such a complaint. If the Military Commissioner establishes that he is not authorised to act upon such a complaint, he shall issue a decision, within 8 days, by which he shall reject the complaint on the grounds of the lack of authority and shall deliver it to the party.
- (2) If the Military Commissioner receives a complaint by mail for which he has no authority and if he knows which body is authorised to receive it, he will forward the complaint to the authorised body without delay and shall inform the complainant accordingly. If the Military Commissioner cannot establish which body is responsible to act upon the complaint, he shall, without delay, issue a Decision by which he shall reject the complaint on the grounds of the lack of authority and deliver it to the complainant.

Article 16

(Filing of the complaint through a third person)

- (1) The complaint may be filed to the Military Commissioner through third persons, i.e. a legal representative or agent, in accordance with the Law.
- (2) The power of attorney may be given in writing or verbally to be recorded for the record which is done by the authorised person in the Office with due authorisation from the Military Commissioner.
- (3) The power of attorney may be given for the whole proceeding before the Military Commissioner or only for certain activities and it may also be limited in terms of time.

Article 17

(Joint complaint)

The complaint may also be filed by a group of military personnel members or cadets if the

matter concerns a violation of rights and freedoms based on the same grounds, under the condition that the complaint is to name all the complainants and point out as to who from among them shall act as their joint representative, i.e. their joint agent, if designated.

Article 18
(Joinder of complaints in a single proceeding)

If several complaints are related to the same factual status or to the same reason for the alleged violation of human rights and freedoms, the Military Commissioner may make a decision to join such complaints in one single case.

Article 19
(Formal defects in the complaint)

- (1) If the complaint has a kind of formal flaw which prevents the conducting of the proceeding upon the complaint or if the complaint is incomprehensible, incomplete or does not contain information necessary for conducting the proceeding, the complainant shall be required to remove such flaws within 15 days.
- (2) If the complainant removes all the flaws within the set deadline, it shall be considered that the complaint was properly written from the very outset. If the complainant does not remove the flaws, and no action can be taken upon complaint as a result, the Military Commissioner shall issue a Decision to reject the complaint as incomplete and shall immediately deliver it to the complainant. The complainant shall be specifically warned about this consequence on the occasion of filing a request for the supplement of the complaint.

Article 20
(Abandoning the complaint and termination of the proceeding)

- (1) The complainant may abandon his complaint any time during the proceeding.
- (2) When the proceeding has been initiated upon a complaint and the complainant abandoned the complaint, the Military Commissioner shall issue a Decision on the termination of the proceeding and all the participants in the proceeding shall be informed accordingly.
- (3) The complainant shall abandon the complaint by a statement submitted to the Military Commissioner in writing or verbally for the record.

CHAPTER III – THE PROCEDURE FOR ACTING UPON COMPLAINTS

Article 21 (Preliminary examination)

- (1) The Military Commissioner shall maintain the records of every complaint received and shall confirm its reception in writing irrespective as to whether it is complete, incomplete, admissible or inadmissible and shall thereupon commence the process of its preliminary examination whereby formal requirements for a complaint to be considered shall be checked in accordance with the Law and these Rules of Procedure.
- (2) Within the preliminary examination, the Military Commissioner may:
 - (a) Reject the complaint due to the lack of authority;
 - (b) Forward the complaint to the competent body to act upon it and inform the complainant thereof;
 - (c) Require from the complainant to supplement the complaint within 15 days of the day of its filing;
 - (d) Reject the complaint on the grounds of its being incomplete;
 - (e) Reject the complaint on the grounds of its being unfounded *prima facie*;
 - (f) Reject the complaint on the grounds of its being untimely;
 - (g) Open an investigation.

Article 22 (Reasons for not considering a complaint)

- (1) The Military Commissioner shall not consider a complaint if it is:
 - (a) Anonymous;
 - (b) *Prima facie* unfounded;
 - (c) Submitted after the elapse of one year after the date of facts, events or decisions which the complaint concerns;
 - (d) Incomplete or incomprehensible and the complainant failed to supplement it, i.e. failed to correct it upon the request of the Military Commissioner, or the complainant abandoned the complaint.

Article 23 (Order of considering complaints)

- (1) The received complaints shall be considered in the order of the dates of their receipt.
- (2) Notwithstanding the provision of paragraph 1 of this Article, in view of the nature of a given case especially in case of allegations pertaining to particularly grave or systematic violations of human rights and freedoms, i.e. the allegations based on alleged discrimination on unlawful grounds, the Military Commissioner may decide that a proceeding in a particular case should be given priority.

Article 24
(Confidentiality of the proceeding)

In his work, the Military Commissioner shall act in accordance with the provisions of the Law on the Protection of Secret Data and the law on the Protection of Personal Data.

Article 25
(Response to allegations from the complaint)

- (1) In the investigative procedure which is conducted in accordance with the Law and these Rules of Procedure, the Armed Forces of BiH and the BiH Ministry of Defence shall be informed about the allegations from the complaint in order to submit their response in writing within 15 days.
- (2) The response of the authorised representatives of the body set forth in paragraph 1 of this Article shall be submitted to the complainant within 8 days of the day of the receipt of the response.
- (3) Failure on the part of the authorised representatives of the body set forth in paragraph 1 to submit the response within the set deadline shall not affect the right of the Military Commissioner to continue the consideration of the complaint.

Article 26
(Resolution of the case by agreement)

The Military Commissioner may mediate between the parties during the proceeding and encourage the resolution of the case by agreement.

Article 27
(Termination of the proceeding)

The Military Commissioner shall issue a Decision on the termination of the proceedings in a case at issue if:

- a) The complainant has not participated in the proceeding with no justified reason in spite of the summons received from the Military Commissioner;
- b) The complainant has abandoned the complaint and the Military Commissioner is of the opinion that conducting investigation on his initiative is not necessary;
- c) The parties have reached a solution by agreement;
- d) If the complaint is unfounded;
- e) If it has been established that the case does not concern a violation of rights and freedoms which are protected by the Military Commissioner.

Article 28
(Decisions of the Military Commissioner)

Acting upon complaints, the Military Commissioner shall issue the following decisions:

- a) The Decision on the initiation of investigation in the case at issue;
- b) The Decision on the rejection of a complaint due to the lack of authority or due to its being *prima facie* unfounded, incomplete or untimely;
- c) The Decision on the termination of the proceeding;

- d) Recommendations;
- e) Conclusions.

Article 29
(Appeals against the decisions of the Military Commissioner)

No appeal can be filed against decisions of the Military Commissioner, but this shall not exclude the right to initiate a proceeding before other bodies, a court proceeding included.

Article 30
(Reasons for not to consider a complaint)

- (1) When the investigation in a case at issue is finalised, the Military Commissioner may give recommendations to the Armed Forces of BiH, the BiH Ministry of Defence or other relevant institutions for the purpose of eliminating the established deficiencies, i.e. violations of human rights and freedoms. The bodies which receive such recommendations shall have an obligation, within 30 days, to provide a written response and inform the Military Commissioner about the implementation of the recommendations.
- (2) If, once the recommendations have been given, the body set forth in paragraph 1 of this Article fails to take appropriate measures within the set deadline or if it fails to inform the Military Commissioner about the reasons for the failure to implement them, the Military Commissioner may advise the BiH Presidency, the BiH Parliamentary Assembly and the Joint Commission about the developments in the case and the recommendations given.
- (3) The annual and individual reports of the Military Commissioner must include the names of responsible persons in the Armed Forces of BiH and the BiH Ministry of Defence that failed to act in accordance with the recommendation of the Military Commissioner.

Article 31
(Reports)

- (1) The Military Commissioner shall submit to the BiH Parliamentary Assembly a written report for the calendar year (the annual report).
- (2) The Military Commissioner may, at any given moment, submit an individual report to the BiH Parliamentary Assembly or the Joint Committee.

Article 32
(Communication)

- (1) Communication between the Military Commissioner and the participants in the proceeding shall be done in writing, by way of facsimile or by electronic mail.
- (2) The Military Commissioner may render decision that communication in a given case be done by phone or direct conversation for the sake of the efficiency and cost-effectiveness of the proceeding and especially in case there is urgency to act upon a case.

CHAPTER IV – TRANSITIONAL AND FINAL PROVISIONS

Article 33 (Other rules of procedure)

In the form of a Conclusion, the Military Commission shall regulate issues and rules of procedure which are not defined by these Rules of Procedure.

Article 34 (Office management)

Office management shall be done in accordance with the Book or Rules of Office management in the BiH Parliamentary Assembly.

Article 35 (Amendments to the Rules of Procedure)

Amendments to these Rules of Procedure shall be done in the way envisaged for their adoption.

Article 36 (Entry into force)

These Rules of Procedure shall enter into force on the day of their publication in the *Official Gazette of BiH*.

SPEAKER OF THE HOUSE
OF THE REPRESENTATIVES
Dr. Milorad Živković

SPEAKER OF THE HOUSE
OF PEOPLES
Sulejman Tihić