

Pursuant to Article IV.4.a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina adopted at the 55<sup>th</sup> session of the House of Representatives, held on 10 June 2009 and 31<sup>st</sup> session of the House of Peoples, held on 18 June 2009, the

**LAW**  
**ON THE PARLIAMENTARY MILITARY COMMISSIONER OF BOSNIA AND**  
**HERZEGOVINA**

**SECTION I**

**CHAPTER I. GENERAL PROVISIONS**

**Article 1**  
**(Subject)**

(1) This Law shall regulate the procedure of selection, appointment and dismissal of the parliamentary military commissioner of Bosnia and Herzegovina (hereinafter: Military Commissioner), competencies and methodology of work, and other issues relevant for his/her work and administrative support.

(2) The position of Military Commissioner is established in order to strengthen the rule of law, 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 stipulated in the BiH Constitution and attached international agreements.

(3) Unless stipulated by this Law, the Law on Ministries and other Administration Bodies of BiH and the Law on Administration shall apply to all issues related to organisation and management, and other issues relevant to the work of the Military Commissioner whose position is established by this Law and relations with BiH institutions, legal and physical entities.

**CHAPTER II. MILITARY COMMISSIONER**

**Article 2**  
**(Definition)**

(1) The Military Commissioner shall be an independent commissioner of the BiH Parliamentary Assembly with competencies stipulated in Article 3 of this Law.

(2) Unless stipulated by this Law, procedure and methodology of the work of the Military Commissioner shall be regulated by by-laws to be adopted by the BiH Parliamentary Assembly, upon Military Commissioner's proposal.

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

(4) Funds for the work of the Military Commissioner and his/her office shall be ensured through the budget of the BiH Parliamentary Assembly.

(5) The Military Commissioner shall work on professional basis only and shall not advocate, protect or undermine interests of any political party, registered organisation or association, or any people in BiH.

### **CHAPTER III. COMPETENCIES AND AUTHORITIES**

#### **Article 3 (Competencies)**

In performing parliamentary oversight of the work and other issues in the area of the protection of human rights and freedoms related to military personnel and cadets in the Armed Forces of BiH and the BiH Ministry of Defence, the Military Commissioner shall have the following competencies:

- a) Investigation of specific issues under the directions of the BiH Parliamentary Assembly and BiH Joint Committee on Defence and Security (hereinafter: the Joint Committee). The directions may be issued only in case that the issue is not already considered by the Joint Committee, and the Military Commissioner may request the Joint Committee to issue the directions for investigation of specific issues;
- b) Activities performed based on his/her personal assessment, following information received by the members of the BiH Parliamentary Assembly, or consideration of complaints by military personnel and cadets, or in any other circumstances indicating a violation of human rights and freedoms of military personnel and cadets.

#### **Article 4 (Authorities)**

In performing duties under his/her competencies, the Military Commissioner shall have the following authorities:

- a) To request information and access to the records from the BiH Minister of Defence and personnel subordinated to the Minister. This right may be denied only in case of important reasons for protecting the confidentiality. In such cases, denial shall be made by the Minister of Defence and reasons for denial shall be explained to the Joint Committee by the Minister;

- b) Based on directions issued in accordance with Article 3, paragraph (1), subparagraph a) of this Law and in case of the appeal of a complainant, he/she will have the authority to conduct a hearing of the complainant, as well as witnesses and experts. An individual, who prohibits subordinates in his /her office to appear at a hearing as a witnesses or expert in regard to a specific complaint, he/she will provide written notice to the Military Commissioner with a detailed explanation. In that case, the Military Commissioner will address this issue to the Inspector General and to the BiH Minister of Defense;
- c) To give an opportunity to the relevant institution to resolve the issue, and in that regard establishes cooperation with the Institution of the BiH Ombudsmen for Human Rights during the investigations related to the appeals on the violations of human rights and freedoms of the military personnel and cadets;
- d) To issue appropriate recommendations to competent institution;
- e) To forward the issue to the bodies responsible for criminal or disciplinary proceedings;
- f) To visit units and commands of the Armed Forces of BiH and organisational units of the BiH Ministry of Defence at any time and without prior notice. This right is related only to the Military Commissioner;
- g) To attend sessions of the BiH Parliamentary Assembly or the Joint Committee;
- h) To request, within his/her scope of competency, reports from the BiH Minister of Defence;
- i) To attend disciplinary proceeding events and to access records related to the case.

## **CHAPTER IV. DUTIES AND RESPONSIBILITIES**

### **Article 5 (Duties and responsibilities)**

(1) The Military Commissioner shall submit written reports to the BiH Parliamentary Assembly for each calendar year (annual report).

(2) Military Commissioner may submit a separate report at any time to the BiH Parliamentary Assembly or to the Joint Committee.

(3) When acting based on the directions issued in accordance with Article 3, subparagraph a) of this Law, the Military Commissioner shall submit a separate report on results of investigation upon request.

(4) The BiH Parliamentary Assembly and the Joint Committee may request the presence of Military Commissioner at any time.

**Article 6**  
**(Obligation to keep the confidentiality)**

(1) The Military Commissioner shall have the obligation to keep the confidentiality of data, made available to him/her on official basis, even after the end of his/her mandate, in accordance with the Law on the Protection of Secret Data. This shall not apply to the official correspondence or issues generally known to the public or those that due to their significance clearly do not require to be classified as confidential.

(2) Even if not on duty any more, Military Commissioner may not make statements, without approval, on official issues related to his/her duties before the court or outside the court. This approval shall be given by the Joint Collegium of both houses of the BiH Parliamentary Assembly, in consultation with the Joint Committee.

**SECTION II**

**CHAPTER I. RELATIONS WITH OTHER INSTITUTIONS AND BODIES**

**Article 7**  
**(Co-operation with other institutions)**

(1) In performing duties under his/her competencies, the Military Commissioner shall cooperate with the following institutions:

- a) BiH Ministry of Defence,
- b) Office of the Inspector General of the BiH Ministry of Defence,
- c) Armed Forces of BiH,
- d) Institution of the BiH Ombudsmen for Human Rights.

(2) Institutions and bodies referred to in paragraph (1) of this Article shall be obligated to inform the Military Commissioner on the proceedings initiated in accordance with his/her request or request made by other bodies, as well as on the outcome of the proceedings.

(3) Judicial bodies and administration bodies shall be obligated to inform the Military Commissioner on commencement of the proceeding, indictment and outcome of the proceeding initiated by his/her proposal.

(4) The institution of the BiH Ombudsmen for Human Rights may, with prior consent of the complainant, make the case available to the Military Commissioner for further action. The Military Commissioner shall be obligated to inform the Institution of the BiH Ombudsmen for Human Rights on implementation and outcome of the proceeding.

## **CHAPTER II. RIGHT TO FILE COMPLAINT**

### **Article 8 (Right to file complaint)**

(1) Any military person or cadet in the Armed Forces of BiH shall have the right to directly contact the Military Commissioner, without the mediation of official bodies, and to file a complaint. A complainant shall not be subject to disciplinary procedure or discrimination because of a filed complaint.

(2) Anonymous complaints shall not be considered.

(3) When acting on the filed complaint, Military Commissioner shall not reveal this information publically, if so requested by the complainant and if his/her request is not in conflict with the legal provisions.

(4) The Ministry of Defence and Armed Forces of BiH are obligated to ensure access to information on competencies of the Military Commissioner to all military personnel and cadets. This obligation shall include the information on procedure to file a complaint as well as on the protection of the complainant from any disciplinary measures or discrimination.

## **CHAPTER III. SELECTION, APPOINTMENT, MANDATE AND OTHER STATUS ISSUES**

### **Article 9 (Selection)**

(1) The Military Commissioner shall be selected by the BiH Parliamentary Assembly upon proposal made by the Joint Committee.

(2) Candidates for the Military Commissioner shall be proposed by the members of the Joint Committee, caucuses in the House of Representatives and caucuses in the House of Peoples of the BiH Parliamentary Assembly.

### **Article 10 (Selection requirements)**

(1) In addition to general requirements, a candidate for the Military Commissioner may not:

- a) Be a member of a political party and may not follow the instructions of political parties;
  - b) Be convicted for a criminal offence;
  - c) Obtain another activity that would provide him/her additional remuneration.
- (2) The Military Commissioner is required to be a person with extensive parliamentary experience, high moral reputation and good knowledge of defence related matters.

**Article 11**  
**(Appointment and mandate)**

- (1) The BiH Parliamentary Assembly shall appoint the Military Commissioner.
- (2) The mandate of the Military Commissioner shall last for five years with the possibility of one reappointment.
- (3) The mandate of the Military Commissioner shall begin with taking an oath before the House of Representatives of the BiH Parliamentary Assembly.
- (4) Except in a case referred to in a paragraph (2) of this Article, or in a case of death, the mandate of the Military Commissioner shall end in a case of:
- a) Dismissal;
  - b) Resignation.
- (5) In a case of request made by the Joint Committee for dismissal of the Military Commissioner, the final decision shall be made by the BiH Parliamentary Assembly.
- (6) The Military Commissioner may resign at any moment. In such case, a decision on the dismissal shall be made by the Joint Collegium of both houses of the BiH Parliamentary Assembly.

**Article 12**  
**(Status and allowances)**

- (1) The Military Commissioner shall have the right to receive the same salary and allowances as deputy ministers in the BiH Council of Ministers.
- (2) Required staff and equipment to perform the functions of the Military Commissioner shall be specified in a separate chapter of the BiH Parliamentary Assembly budget.

### **SECTION III**

#### **CHAPTER I. TRANSITIONAL AND FINAL PROVISIONS**

##### **Article 13 (Selection of the first Military Commissioner)**

(1) The selection and appointment of the first Military Commissioner shall be made by the Joint Committee, upon proposal by the members of the Joint Committee, caucuses in the House of Representatives and caucuses in the House of Peoples of the BiH Parliamentary Assembly.

(2) The mandate of the first Military Commissioner shall begin by taking an oath before the House of Representatives of the BiH Parliamentary Assembly and shall last until 30 June 2012.

(3) The procedure for the selection and appointment of the first Military Commissioner shall be initiated by the Joint Committee within 30 days from the day of enforcement of this Law and shall be completed within 90 days.

##### **Article 14 (By-laws)**

(1) The Joint Collegium of both houses of the BiH Parliamentary Assembly verifies by-laws that are issued by the Military Commissioner. By-laws shall regulate his/her relations with the BiH Ministry of Defence, Office of the Inspector General of the BiH Ministry of Defence, the Armed Forces of BiH and the Institution of the BiH Ombudsmen for Human Rights.

(2) Upon proposal by the Office of the Inspector General, the BiH Minister of Defence shall issue by-laws required for implementation of this Law in the BiH Ministry of Defence and the Armed Forces of BiH.

(3) By-laws referred to in paragraphs (1) and (2) of this Article shall be issued within six months from the day of enforcement of this Law.

**Article 15**  
**(Entry into force)**

This Law shall enter into force on the eighth day of its publication in the “BiH Official Gazette”.

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PABiH number 363/09  
June 18, 2009  
Sarajevo

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Speaker  
House of Representatives  
BiH Parliamentary Assembly  
**Beriz Belkić**

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Speaker  
House of Peoples  
BiH Parliamentary Assembly  
**Ilija Filipović**

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