



The Sarajevo Code of Conduct for Private Security Companies



SEESAC

South Eastern and Eastern Europe Clearinghouse
for the Control of Small Arms and Light Weapons



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The 'Sarajevo Code of Conduct' for Private Security Companies, SEESAC, 2006

The Centre for Security Studies (CSS) (Bosnia and Herzegovina) and Saferworld (United Kingdom) initiated the Sarajevo Process for the development of this Code of Conduct. Project management support was provided by SEESAC. Cover photographs are courtesy of Zvonimir Security, Justar S.R.L., BGS Security and Saferworld (UK).

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ISBN: 86-7728-020-0

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Acronyms

CSS	Centre for Security Studies (Bosnia and Herzegovina)
CoESS	Confederation of European Security Services
CoC	Code of Conduct
EC	European Commission
EU	European Union
Mol	Ministry of Interior
MoS	Ministry of Security
NGO	Non Governmental Organisation
OECD DAC	Organisation for Economic Cooperation and Development, Development Assistance Committee
OHR	Office of the High Representative
OSCE	Organisation for Security and Cooperation in Europe
PMC	Private Military Company (ies)
PSC	Private Security Company (ies)
SALW	Small Arms and Light Weapons
SEESAC	South Eastern and Eastern Europe Clearinghouse for the Control of SALW
SOP	Standard Operating Procedure (s)
UN	United Nations
UNI	Union Network International Europa
UNDP	United Nations Development Programme





Introduction to the Sarajevo Process

A range of writers and observers have monitored the increase in private security provision across the world during the last decade.¹ Increasingly, the private security industry is taking on roles that have traditionally been the preserve of state security providers, including: escorting and transporting high-risk commodities; providing rapid response services attached to alarm systems; stewarding large public events; operating prisons; securing courts; providing surveillance services; risk analysis; and providing protective security to a wide range of facilities such as banks, ports and embassies.

In 1999 the Confederation of European Security Services (CoESS) estimated that there were more than 500,000 guards working for 10,000 Private Security Companies that specialise in the surveillance of industrial sites, offices, public buildings, stores and airports, in the transportation of money, and in the protection of individuals and homes in member states of the EU.² Today, with the eastern expansion of the EU, that number may well have doubled, without taking into consideration illicit PSCs and their employees. Within South Eastern Europe (SEE), the industry has grown rapidly from very small beginnings in the early 1990s with the move away from communism. The countries of the region, most of which remain in transition, have often found it difficult to provide effective security for their citizens, not least following periods of violent conflict. Factors such as weak state institutions, ineffective or authoritarian policing, corrupt government practice and high crime rates have often combined to create a demand for private security provision. Coupled with the withdrawal of state security protection from newly privatised property, these factors have created the conditions for the substantial growth of the private security sector across the region. As a result, the SEE region has probably seen one of the most rapid privatisations of security worldwide.

A study commissioned in 2005 and researched by the non-governmental organisation Saferworld (UK) in collaboration with local civil society partners found that there are now around 200,000 private security guards working in the region.³ In general terms the private security sector was found to be providing a welcome additional layer of security to that offered by state law enforcement agencies: one that client organisations clearly found valuable. Yet despite this fact, the professionalism of companies was found to vary widely across the region, with many dubious operators undermining the gradual improvements being made

¹ For example Peter Singer, *Corporate Warriors: The Rise of the Privatized Military Industry*, Ithaca: Cornell University Press, 2003.

² 'Joint Declaration on the Mutual Recognition of CoESS and UNI-Europe and the Social Dialogue,' Report of Berlin Conference, 10 June 1999, p. 8.

³ *SALW and Private Security Companies in South Eastern Europe*, International Alert-Saferworld-SEESAC, 2005. The report provided a comparative study of the conduct and regulation of companies in Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Moldova, Serbia and Montenegro (including Kosovo) and Romania.



elsewhere. In too many cases companies were found to have inappropriate affiliations (for example with political parties or criminal groups), to employ untrained staff, or to engage in bad practice. Formal regulation of the sector was also found to diverge widely: although most countries in the region now have specific legislation to regulate the industry, problems with the effective implementation of these laws and with the broader oversight of the sector were numerous. In those cases where companies had chosen to self-regulate by forming trade associations and agreeing codes of conduct this was seen to have helped in raising standards. For their part client organisations could probably do more: the limited amount of information available on the procurement practices of commercial and public sector clients suggested that contracts are often awarded on an informal basis, or on grounds of cost alone.



'Conference about the protection of person and property in BiH'
20 December 2005

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in Bosnia and Herzegovina

The key conclusion of the study was that the regulatory authorities of each country, together with the most progressive members of the industry, should collaborate to develop and implement comprehensive but workable regulations and voluntary guidelines to ensure that the highest standards are maintained within the sector. In summer 2006, with financial and technical support from SEESAC, Saferworld and the Centre for Security Studies (Bosnia and Herzegovina) initiated the *Sarajevo Process* in which stakeholders from the Bosnian Government, client groups and international organisations came together for this purpose. As the first step in a longer process designed to improve industry standards across SEE, two documents (a draft code of conduct for members of the industry and a set of procurement guidelines to guide the work of client organisations) were discussed and reviewed at a roundtable event in Sarajevo on 29 June 2006. Following extensive revisions during a month-long consultation period, the resulting *Sarajevo Code of Conduct* and *Sarajevo Client Guidelines* for the Procurement of Private Security Companies were agreed and launched in September 2006.

The *Sarajevo Code of Conduct* contains a set of basic standards of professionalism and service delivery for application by all employers and employees in the private security industry. It covers a wide range of areas, including the selection and recruitment of workers, vocational training, health and safety at work, non-discrimination, and relations with clients, the police and other security companies. The *Sarajevo Client Guidelines* outline a three-



stage voluntary procurement procedure that client organisations are advised to follow when contracting private security providers. According to the *Sarajevo Client Guidelines*, clients should not employ security contractors on cost alone, but should also take into account a range of other factors when making procurement decisions, such as standards of internal governance, quality of service, levels of training and adherence to national legislation and a voluntary code of conduct.

The *Sarajevo Code of Conduct* and *Sarajevo Client Guidelines* are mutually reinforcing documents. It is important to recognise that neither document is intended as a substitute for national legislation in this area, the effective implementation of which is the single most important guarantee of good practice. Rather, the purpose of the *Sarajevo Process* is to support the development and enforcement of formal regulation by engaging all relevant actors in a drive towards improved standards. At the same time, both documents are based on European and international best practice in this area and draw on documents such as the *Voluntary Principles on Security and Human Rights*;⁴ *United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*;⁵ and *United Nations Code of Conduct for Law Enforcement Officials*.⁶ Further, having been developed in response to baseline research and agreed through an open consultation process with industry members, regulatory bodies, client organisations and specialist civil society representatives, the *Sarajevo Code of Conduct* and *Sarajevo Client Guidelines* can be seen as locally owned documents designed to respond to real concerns. Their uptake is therefore recommended both in Bosnia and Herzegovina and elsewhere as appropriate, particularly within the SEE region.

⁴ Available at www.voluntaryprinciples.org/principles/index.php.

⁵ Annex A.

⁶ Annex B.





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The Sarajevo Code of Conduct for Private Security Companies

1 Note for users

The *Sarajevo Code of Conduct* for Private Security Companies (hereafter 'the Code') contains a set of basic principles of professional behaviour and service delivery for application by all employers and employees in the private security sector. The Code was developed by a diverse group of client organisations and private security providers from across Bosnia and Herzegovina in June – July 2006 as part of the *Sarajevo Process* to enhance the conduct and regulation of the industry across South Eastern Europe.¹ It covers a wide range of areas, including the selection and recruitment of workers, vocational training, health and safety at work, non-discrimination, and relations with clients, the police and other security companies.

The Code is based on both European² and wider international best practice in this area, and draws on the *Voluntary Principles on Security and Human Rights*. As such the Code is recommended for use by any provider of private security services regardless of origin or location. The Code is intended to complement national legislation and adherents to it are also expected to meet the basic conditions imposed by national law. Additionally, where national regulation is absent or lacking, employers and employees agree under the principles of the Code to work towards the adoption or improvement of national instruments or mechanisms as appropriate.

2 Principles of the Code of Conduct

2.1 Compliance with the law

Private security companies (hereafter 'Companies') will not act in a manner that would violate the letter or spirit of international laws, or the national laws of the country in which they operate. Consequently, Companies will not accept contracts that violate national or international law.

2.2 Licensing and authorisation

Companies will support the application of a transparent and fair licensing system throughout the sector, regardless of the size of the individual Companies concerned. Where national legal frameworks do not provide for this, Companies will seek to federate and self-regulate in order to ensure the maintenance of the highest possible standards within the industry.

¹ The convenors of the *Sarajevo Process* were the non-governmental organisations (NGOs), the Centre for Security Studies (Bosnia and Herzegovina) and Saferworld (United Kingdom), with additional support provided by the Office of the High Representative (OHR) and the BiH Ministry of Security (MoS). SEESAC provided financial backing for the initiative.

² *Code of Conduct and Ethics for the Private Security Sector*, CoESS and Uni-Europa, 2003. Available at, http://www.coess.org/documents/code_of_conduct.pdf.



2.3 Selection and recruitment

Employee selection and recruitment will be carried out according to objective criteria that will be applied to all candidates. Companies will ensure that new employees have the necessary skills to enable them to carry out their tasks. Background checks will be carried out prior to licences being awarded to ensure that personnel: 1) have no criminal record; 2) have no past responsibility for human rights violations or violations of international humanitarian law; and 3) have not been dishonourably discharged from the police or armed forces. Each company will maintain accurate employee records, ideally in the form of a database, to support effective inspection by state oversight bodies and information sharing with others. The database will include information on bad conduct and dismissals.

2.4 Training and professionalism³

The Code acknowledges the importance of training at all levels, underlining that basic training for new employees is crucial to the maintenance of professional standards. Where state institutions do not provide such training, Companies undertake to provide it themselves, meeting national and international regulations and standards where appropriate. Once employees have mastered basic skills, employers will seek to provide training on a continuous basis, allowing employees to update their competencies and develop their careers. This should include utilisation of the opportunities provided by new technology. Employee representatives will be consulted on the development and assessment of continuing training programmes where possible.

Internal training systems will provide personnel with: 1) a good grounding in relevant international and national law; 2) issues of cultural sensitivity; 3) first aid; and 4) gender issues. All personnel authorised to use force or carry weapons (lethal and non-lethal), will be properly trained to respect the best international standards and practices relevant to the field (see 2.6 below). The graduated and proportional use of force will form a central component of any training curriculum. Licensing of company personnel will be conditional on the successful completion of approved training.

2.5 Cultural and political sensitivity

Companies will ensure that employees understand and tolerate different points of view, cultural patterns and work habits. They should ensure that employees also work without prejudice or bias, regardless of the nationality, sex, religion or culture of individuals. In complying with this requirement, employees are not expected to express personal or political views, or behave in an overtly nationalistic manner. Employees are to exercise restraint in

³ For more information on basic training see: Spaninks, L. (1999) *European Vocational Training Manual for Basic Guarding*, European Commission DG Education and Culture. Available at, http://www.coess.org/documents/training_manual_en.pdf.



the expression of views both in private and public and are to adopt as low a profile as allowed by their work.

2.6 Use of force and firearms

Companies will develop strict and detailed guidelines for employees on the use of minimal force in accordance with best international practice, (in particular the *United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* and the *United Nations Code of Conduct for Law Enforcement Officials*). These guidelines should cover all permitted weapon-types, whether firearms or less-lethal weapons systems such as chemical sprays, shock equipment and batons. Standard Operating Procedures (SOPs) relating to weapons and ammunition will be developed to cover: a) the use, storage, accounting, maintenance, ownership and registration of weapons; b) the safe loading and unloading of firearms; c) accurate record-keeping; and d) incident reporting. Staff will be provided with training that is appropriate and adequate to ensure their compliance with such guidelines and SOPs. The use of less-lethal weapons will be monitored on the same basis as the discharge of a firearm and regulated similarly.

2.7 Human rights and security

Companies will support the *Universal Declaration of Human Rights*⁴ and the *European Declaration of Human Rights*⁵ and employees will not be complicit in human rights abuses. Services provided by Companies will consequently be examined for their potential impact on human rights and security.

2.8 Bribes and conflicts of interest

Employees will not accept anything of value that could be described or perceived as an inducement or bribe during the course of their work. Similarly, employees undertake not to offer or provide inducements of any kind when seeking contracts from potential clients. Employees will not use confidential information gained in the execution of their services for personal gain and will not enter into any activity which may result in a conflict of interest for their company.

2.9 Working conditions

The Code acknowledges the crucial importance of maintaining good, safe and humane working conditions. Employers will operate according to national laws and regulatory standards, and recognise that improvements to working conditions may be negotiated at both the national and the company level.

⁴ Available at, <http://www.un.org/Overview/rights.html>.

⁵ Available at, <http://www.echr.coe.int/echr>.



2.10 Pay and remuneration

Companies will provide all employees with a contract of employment setting out the terms and conditions of their employment. Good standards of work will be remunerated appropriately and in a timely fashion. Good standards of pay attract good workers, contributing in turn to increased productivity and high standards of service. Rates of pay should, however, also allow the company to maintain competitiveness. Companies will also make provision for insuring staff (e.g. through the provision of employee life insurance schemes) against the risks associated with their work.

2.11 Health and safety

Some tasks within the sector bring with them a degree of risk. All Companies will, however, ensure that minimum national standards of health and safety are maintained, or even surpassed, and that risk assessment and prevention is at the highest possible level. Norms and regulations in this area will be adhered to and regularly reviewed by the authorities and the industry.

2.12 Equal opportunities and non-discrimination

Companies will support the principles of equality and non-discrimination. Companies in the sector will apply these principles and guarantee that each employee is fully integrated and not subject to discrimination on the grounds of ethnicity or social background, skin colour, union affiliation, sex, religion, political opinion, nationality, sexual orientation or any other distinctive characteristic. Steps will be taken to discourage Companies of exclusive ethnicity operating over the longer term.

2.13 Organisation of work

Companies recognise that the right balance needs to be found between two key areas: security of employment and ensuring the quality of the employee's private life; and meeting the needs of the client. Thus, at the enterprise level, the parties should cooperate to optimise the organisation of work, in particular regarding overtime, night work and weekend work.

2.14 Relationships with the police

Companies will cooperate with national law enforcement authorities, providing any information necessary for law enforcement or crime prevention while remaining within the law and respecting client confidentiality. This will include the pro-active reporting of crimes when witnessed by company employees. Where Companies cooperate closely with the police during their work (e.g. provision of crowd control at public events), joint working agreements will be sought to clarify the mutual roles and responsibilities of both sides.



2.15 Relationships with clients

Companies, and employers' organisations representing them, will encourage their clients to use private security providers that have agreed to respect the principles laid down in the Code.⁶ Companies will not pay bribes or provide inducements for services or information. In addition, the Code recognises that security officers are employees of the client and not the contractor. When issuing a security contract the client is hiring a contractor and not individual officers. As a result, the contractor is responsible for training, supervision, discipline and benefit packages. Benefits will not be provided to individual officers by clients, but by the contracting company.

2.16 Relationships with contractors

The probity and professionalism of Companies, and their compatibility with the Code, will be primary considerations when hiring sub-contractors. Applicants falling below acceptable standards as defined in the Code will not be appointed.

2.17 Relationships with competitors

Companies will operate fairly in relation to competitors within the sector and will not compete against each other by means of unfair cost-cutting practices or by a reduction in professional standards. Companies will seek to build links with other private security providers in order to promote good standards within the industry, particularly through self-federation.

2.18 Other affiliations

Companies and employees will not affiliate themselves with political movements or parties, paramilitary or criminal groups, or national justice and security agencies in any manner that contravenes national law or the spirit of the Code. As such, Companies and their employees will neither support nor contribute to the funds of political parties or groups whose activities are calculated to promote political interests.

2.19 Disclosure of information and confidentiality

Companies will ensure that all client information is effectively protected. However, Companies also recognise the right of employees to divulge information to regulatory authorities concerning genuinely illegal or bad practice.

2.20 Transparency and accountability

Companies will develop internal systems of governance that include, but are not restricted to:

⁶ The *Sarajevo Client Guidelines* for the Procurement of Private Security Companies, also agreed within the *Sarajevo Process*, provide a good basis for this.



- a) Agreement of a Code of Conduct/Code of Ethics;
- b) Rulebooks;
- c) Clear definition of the responsibilities of boards of governors regarding policy and enforcement;
- d) Staff recruitment policy;
- e) Training policy;
- f) Registration of employees that include records of background checks;
- g) Financial and contractual policy (e.g. duties of public disclosure, company structures, issues of ownership and interest);
- h) Establishment of an Ethics Committee;
- i) Employee tribunals; and
- j) Register of security incidents (e.g. use of force/firearms).

Transparency over the operations of Companies is essential and internal systems of governance will be open to public scrutiny at all times.

2.21 Oversight

Complaints of inappropriate or illegal behaviour by staff will be investigated promptly and thoroughly within Companies (e.g. by an Ethics Committee), and the police will be informed of these actions when appropriate. The oversight process itself will be monitored and reviewed on an ongoing basis. Where a trade association or other industry body exists, members will cooperate to allow additional oversight at this level.

2.22 Social dialogue

Companies will work with other members of the private security sector as well as with other relevant bodies, including civil society, to promote adherence to the Code and professionalism more generally across the private security sector. Regular meetings on standards within the industry, reports and analyses on standards and transparent investigations into accusations of inappropriate behaviour by Companies and their employees will all be supported where they further this end.



Annex A - UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials⁷

Whereas the work of law enforcement officials * is a social service of great importance and there is, therefore, a need to maintain and, whenever necessary, to improve the working conditions and status of these officials,

Whereas a threat to the life and safety of law enforcement officials must be seen as a threat to the stability of society as a whole,

Whereas law enforcement officials have a vital role in the protection of the right to life, liberty and security of the person, as guaranteed in the Universal Declaration of Human Rights and reaffirmed in the International Covenant on Civil and Political Rights,

Whereas the Standard Minimum Rules for the Treatment of Prisoners provide for the circumstances in which prison officials may use force in the course of their duties,

Whereas article 3 of the Code of Conduct for Law Enforcement Officials provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty,

Whereas the preparatory meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Varenna, Italy, agreed on elements to be considered in the course of further work on restraints on the use of force and firearms by law enforcement officials,

Whereas the Seventh Congress, in its resolution 14, inter alia, emphasizes that the use of force and firearms by law enforcement officials should be commensurate with due respect for human rights,

Whereas the Economic and Social Council, in its resolution 1986/10, section IX, of 21 May 1986, invited Member States to pay particular attention in the implementation of the Code to the use of force and firearms by law enforcement officials, and the General Assembly, in its resolution 41/149 of 4 December 1986, inter alia, welcomed this recommendation made by the Council,

Whereas it is appropriate that, with due regard to their personal safety, consideration be given to the role of law enforcement officials in relation to the administration of justice, to the protection of the right to life, liberty and security of the person, to their responsibility to maintain public safety and social peace and to the importance of their qualifications, training and conduct,

⁷ Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 07 September 1990.



The basic principles set forth below, which have been formulated to assist Member States in their task of ensuring and promoting the proper role of law enforcement officials, should be taken into account and respected by Governments within the framework of their national legislation and practice, and be brought to the attention of law enforcement officials as well as other persons, such as judges, prosecutors, lawyers, members of the executive branch and the legislature, and the public.

General provisions

1. Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials. In developing such rules and regulations, Governments and law enforcement agencies shall keep the ethical issues associated with the use of force and firearms constantly under review.
2. Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons. For the same purpose, it should also be possible for law enforcement officials to be equipped with self-defensive equipment such as shields, helmets, bulletproof vests and bulletproof means of transportation, in order to decrease the need to use weapons of any kind.
3. The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled.
4. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.
5. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:
 - a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
 - b) Minimize damage and injury, and respect and preserve human life;
 - c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;



d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.

6. Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors, in accordance with principle 22.

7. Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.

8. Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

Special provisions

9. Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

10. In the circumstances provided for under principle 9, law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.

11. Rules and regulations on the use of firearms by law enforcement officials should include guidelines that:

- a) Specify the circumstances under which law enforcement officials are authorized to carry firearms and prescribe the types of firearms and ammunition permitted;
- b) Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm;
- c) Prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk;
- d) Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;



- e) Provide for warnings to be given, if appropriate, when firearms are to be discharged;
- f) Provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty.

Policing unlawful assemblies

12. As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14.

13. In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.

14. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9.

Policing persons in custody or detention

15. Law enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.

16. Law enforcement officials, in their relations with persons in custody or detention, shall not use firearms, except in self-defence or in the defence of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger referred to in principle 9.

17. The preceding principles are without prejudice to the rights, duties and responsibilities of prison officials, as set out in the Standard Minimum Rules for the Treatment of Prisoners, particularly rules 33, 34 and 54.

Qualifications, training and counseling

18. Governments and law enforcement agencies shall ensure that all law enforcement officials are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions and receive continuous and thorough professional training. Their continued fitness to perform these functions should be subject to periodic review.



19. Governments and law enforcement agencies shall ensure that all law enforcement officials are provided with training and are tested in accordance with appropriate proficiency standards in the use of force. Those law enforcement officials who are required to carry firearms should be authorized to do so only upon completion of special training in their use.

20. In the training of law enforcement officials, Governments and law enforcement agencies shall give special attention to issues of police ethics and human rights, especially in the investigative process, to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crowd behaviour, and the methods of persuasion, negotiation and mediation, as well as to technical means, with a view to limiting the use of force and firearms. Law enforcement agencies should review their training programmes and operational procedures in the light of particular incidents.

21. Governments and law enforcement agencies shall make stress counseling available to law enforcement officials who are involved in situations where force and firearms are used.

Reporting and review procedures

22. Governments and law enforcement agencies shall establish effective reporting and review procedures for all incidents referred to in principles 6 and 11 (f). For incidents reported pursuant to these principles, Governments and law enforcement agencies shall ensure that an effective review process is available and that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control.

23. Persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process. In the event of the death of such persons, this provision shall apply to their dependants accordingly.

24. Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.

25. Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who, in compliance with the Code of Conduct for Law Enforcement Officials and these basic principles, refuse to carry out an order to use force and firearms, or who report such use by other officials.

26. Obedience to superior orders shall be no defence if law enforcement officials knew that an order to use force and firearms resulting in the death or serious injury of a person was



manifestly unlawful and had a reasonable opportunity to refuse to follow it. In any case, responsibility also rests on the superiors who gave the unlawful orders.

Note:

* In accordance with the commentary to article 1 of the Code of Conduct for Law Enforcement Officials, the term “law enforcement officials” includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention. In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.



Annex B - UN Code of Conduct for Law Enforcement Officials⁸

Article 1

Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Commentary:

- a) The term “law enforcement officials’, includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention.
- b) In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.
- c) Service to the community is intended to include particularly the rendition of services of assistance to those members of the community who by reason of personal, economic, social or other emergencies are in need of immediate aid.
- d) This provision is intended to cover not only all violent, predatory and harmful acts, but extends to the full range of prohibitions under penal statutes. It extends to conduct by persons not capable of incurring criminal liability.

Article 2

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Commentary:

- a) The human rights in question are identified and protected by national and international law. Among the relevant international instruments are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Prevention

⁸ Adopted by General Assembly (GA) Resolution 34/169 of 17 December 1979.



and Punishment of the Crime of Genocide, the Standard Minimum Rules for the Treatment of Prisoners and the Vienna Convention on Consular Relations.

- b) National commentaries to this provision should indicate regional or national provisions identifying and protecting these rights.

Article 3

Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

Commentary:

- a) This provision emphasizes that the use of force by law enforcement officials should be exceptional; while it implies that law enforcement officials may be authorized to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.
- b) National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorize the use of force which is disproportionate to the legitimate objective to be achieved.
- c) The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.

Article 4

Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

Commentary:

By the nature of their duties, law enforcement officials obtain information which may relate to private lives or be potentially harmful to the interests, and especially the reputation, of others. Great care should be exercised in safeguarding and using such information, which



should be disclosed only in the performance of duty or to serve the needs of justice. Any disclosure of such information for other purposes is wholly improper.

Article 5

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Commentary:

- a) This prohibition derives from the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly, according to which: “[Such an act is] an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights [and other international human rights instruments].”
- b) The Declaration defines torture as follows: “. . . torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners.”
- c) The term “cruel, inhuman or degrading treatment or punishment” has not been defined by the General Assembly but should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental.

Article 6

Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

Commentary:

- a) “Medical attention”, which refers to services rendered by any medical personnel, including certified medical practitioners and paramedics, shall be secured when needed or requested.



- b) While the medical personnel are likely to be attached to the law enforcement operation, law enforcement officials must take into account the judgement of such personnel when they recommend providing the person in custody with appropriate treatment through, or in consultation with, medical personnel from outside the law enforcement operation.
- c) It is understood that law enforcement officials shall also secure medical attention for victims of violations of law or of accidents occurring in the course of violations of law.

Article 7

Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts.

Commentary:

- a) Any act of corruption, in the same way as any other abuse of authority, is incompatible with the profession of law enforcement officials. The law must be enforced fully with respect to any law enforcement official who commits an act of corruption, as Governments cannot expect to enforce the law among their citizens if they cannot, or will not, enforce the law against their own agents and within their agencies.
- b) While the definition of corruption must be subject to national law, it should be understood to encompass the commission or omission of an act in the performance of or in connection with one's duties, in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted.
- c) The expression "act of corruption" referred to above should be understood to encompass attempted corruption.

Article 8

Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them.

Law enforcement officials who have reason to believe that a violation of the present Code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.



Commentary:

- a) This Code shall be observed whenever it has been incorporated into national legislation or practice. If legislation or practice contains stricter provisions than those of the present Code, those stricter provisions shall be observed.
- b) The article seeks to preserve the balance between the need for internal discipline of the agency on which public safety is largely dependent, on the one hand, and the need for dealing with violations of basic human rights, on the other. Law enforcement officials shall report violations within the chain of command and take other lawful action outside the chain of command only when no other remedies are available or effective. It is understood that law enforcement officials shall not suffer administrative or other penalties because they have reported that a violation of this Code has occurred or is about to occur.
- c) The term “appropriate authorities or organs vested with reviewing or remedial power” refers to any authority or organ existing under national law, whether internal to the law enforcement agency or independent thereof, with statutory, customary or other power to review grievances and complaints arising out of violations within the purview of this Code.
- d) In some countries, the mass media may be regarded as performing complaint review functions similar to those described in subparagraph (c) above. Law enforcement officials may, therefore, be justified if, as a last resort and in accordance with the laws and customs of their own countries and with the provisions of article 4 of the present Code, they bring violations to the attention of public opinion through the mass media.
- e) Law enforcement officials who comply with the provisions of this Code deserve the respect, the full support and the co-operation of the community and of the law enforcement agency in which they serve, as well as the law enforcement profession.



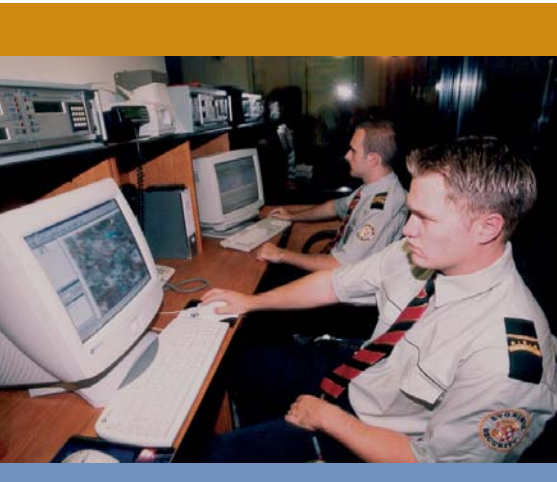
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ISBN 86-7728-020-0



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