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# CONTINUOUS TRAINING



## Module 2



# **CAPACITY BUILDING OF THE LAW ENFORCEMENT AGENCIES FOR APPROPRIATE TREATMENT OF DETAINED AND SENTENCED PERSONS**

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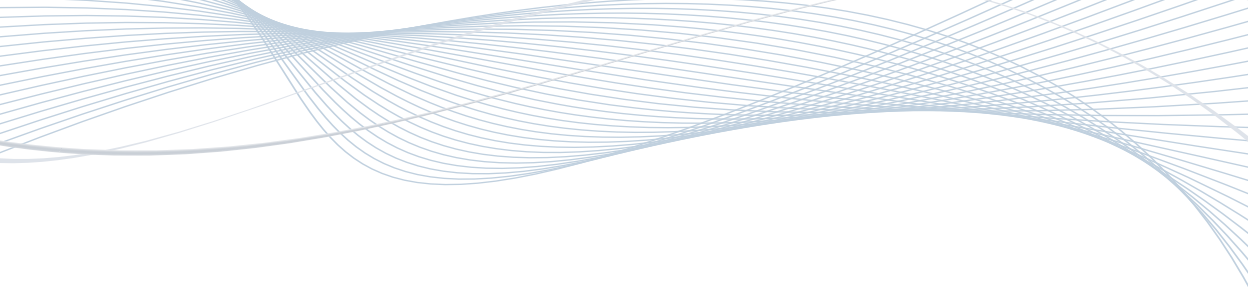
## **Ministry of Internal Affairs Training Centre**

# **CONTINUOUS TRAINING ON HUMAN RIGHTS IN POLICE PROCEEDINGS**

## **Module 2: Apprehension and Use of Police Force**

**OCTOBER, 2014**

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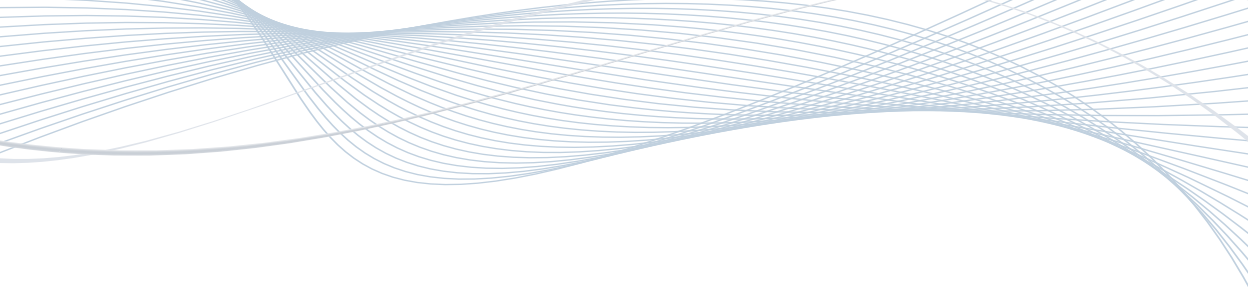


Representatives of the Ministry of Internal Affairs, as well as external experts, were nominated to work in the working group within the project on “Capacity Building of the Law Enforcement Agencies for Appropriate Treatment of Detained and Sentenced Persons”, implemented by the Council of Europe.

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The task group was chaired by Aleksander Krebl - Council of Europe consultant.





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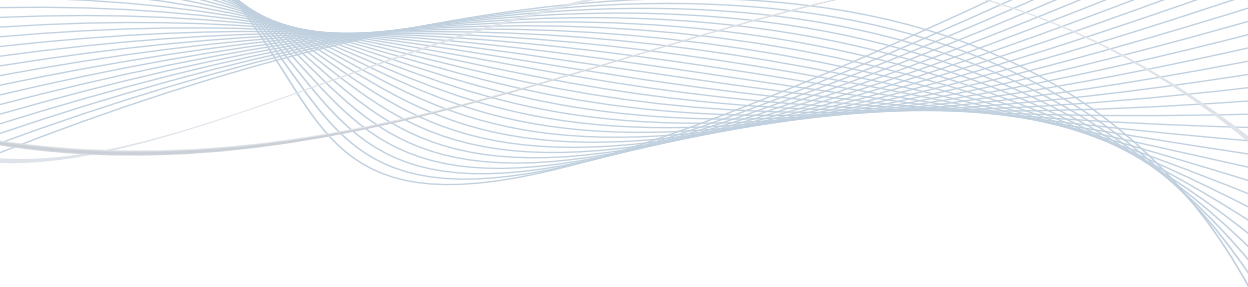
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## ***LIST OF ACRONYMS***

<b>LA</b>	Learning assignment
<b>CCP</b>	Code of Criminal Procedure
<b>PPO</b>	Public Prosecutor's Office
<b>PLO</b>	Public peace (law and order)
<b>CO</b>	Criminal offence
<b>PI</b>	Penitentiary institution
<b>MoIA</b>	Ministry of Internal Affairs
<b>MTR</b>	Material and technical resources
<b>UN</b>	United Nations
<b>PS</b>	Police station
<b>PMV</b>	Passenger motor vehicle
<b>PS-GC</b>	Police station with general competence
<b>UPO</b>	Uniformed police officer
<b>OU in MoIA</b>	Organisational units in the Ministry of Internal Affairs



## MODULE 2: APPREHENSION AND USE OF POLICE FORCE

### *LEARNING ASSIGNMENTS:*

#### *ASSIGNMENT 1: DEPRIVATION OF LIBERTY AND APPREHENSION OF PERSONS – 9 CLASSES*

#### *ASSIGNMENT 2: USE OF MEANS OF COERCION - 25 CLASSES*

### 1. General objectives

- Introducing the legal regulations on apprehension and deprivation of liberty
- Introducing the legal regulations on the use of the means of coercion
- Types of means of coercion

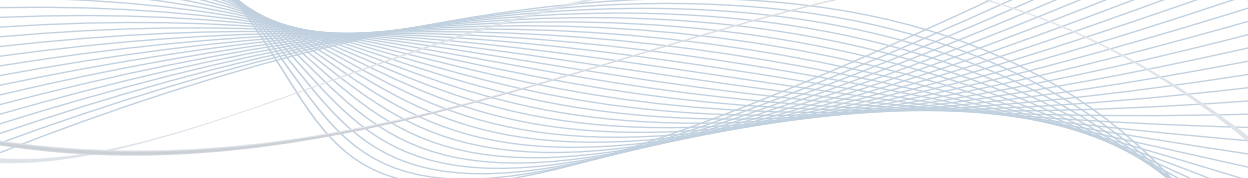
### 2. Specific objectives

- Necessity and proportionality of the use of the means of coercion
- Ability for proper and lawful detention and deprivation of liberty
- Control and supervision of the compliance with the procedure as regards apprehension and deprivation of liberty
- Control and supervision of the lawfulness when using means of coercion

### 3. Operational objectives

#### Information objectives

- To explain the meaning of apprehension and deprivation of liberty
- To explain the meaning of the use of the means of coercion
- To explain the procedure for apprehension and deprivation of liberty
- To explain the procedure for use of the means of coercion



### **Formative objectives**

- Acting in accordance with the law when it comes to deprivation of liberty and apprehension
- Acting in accordance with the law when using means of coercion

## **4. Obligations of learners**

- Number of classes per learner: 34



## **ASSIGNMENT 1: DEPRIVATION OF LIBERTY AND APPREHENSION OF A PERSON**

### **Introduction:**

Deprivation of liberty and apprehension are police authorisations by which the authorised officers acting in accordance with the law restrict and/or limit the freedom of movement from suspects and other persons for a specific period of time, which is limited by law.

The deprivation of liberty and apprehension must always be carried out in accordance with the law, not only with the national, but also with the international law. Regard should be paid not to overstep the authorisations and to observe fundamental human rights.

Deprivation of liberty and apprehension of persons are operative-tactical measures, the implementation of which raises many obligations for the authorised officers.

These police authorisations towards children are applied by police officers specially trained in fighting juvenile delinquency. In exceptional cases, police authorisations may be applied towards juveniles by other police officers if, due to the circumstances of the case, the specially trained police officers in fighting juvenile delinquency are unable to act.

The police authorisations towards children are applied under the conditions stipulated by a special law.

### **Summary**

Two situations for deprivation of liberty without a court order are provided for, i.e. deprivation of liberty **by any citizen** and deprivation of liberty **by the judicial police**.

Persons caught in the act of committing a crime for which they are prosecuted ex officio may be deprived of liberty by any citizen if there is a possibility for that person to escape and the police are immediately informed about this. The person deprived of liberty shall be kept until the arrival of the police, which need to be informed about this immediately.

Within **six hours at the most**, the person deprived of liberty must be brought before the Senior Inspector – shift leader in specifically designated police stations.

The Senior Inspector – shift leader **shall inform the public prosecutor immediately** upon the admission of the person deprived of liberty. The information shall be entered in the minutes on detention.

The persons deprived of liberty are entered in a special registry within the information system of the Ministry of Internal Affairs. The competent

public prosecutor makes regular inspection and control of the registry.

A child can be deprived of liberty only as a last resort measure in the proceedings and only under the conditions and for a duration stipulated by law.

When a child is involved in a criminal offence prosecuted ex officio, and the child is caught in the act of committing a crime, the child may be deprived of liberty by any citizen who should inform the police about this.

**A child**, foreign citizen who is detained or deprived of liberty may file the submissions within the procedure in their own language, and in other circumstances under the reciprocal conditions. A child handed over by a foreign security body for the purpose of bringing them before the competent state authority, may be detained for 12 hours at most.

In accordance with the Law on Police and the Code of Criminal Procedure, police officers are authorised to apprehend a person following an order issued by a competent court or without an order on the basis of legal authorisations.

In accordance with the Law on Police, a person may be apprehended in a period between 6 a.m. to 10 p.m., and in case where the apprehension is necessary for undertaking police works that cannot be delayed, the person may be apprehended beyond the previously specified time.

A written order for apprehension shall be executed by at least two police officers.

As a rule, a person being apprehended is escorted in a police vehicle.

A child being apprehended is escorted by police officers in civilian clothes, in police vehicles without official signs, and in exceptional cases, they may be escorted by uniformed police officers and vehicles with official signs, when the requirements are fulfilled for apprehension without a written order according to the law.

When depriving a person of liberty and their apprehension, the legal bases for undertaking these measures should be observed and human rights should be respected. Police proceedings concerning these persons should be humane and dignified since they enjoy the rights and freedoms guaranteed with the Constitution and international agreements, and in a given moment their rights and freedoms may be limited only if necessary and as long as needed in order to finalise a specific criminal event, and not to punish them with such measures.

### **Main points:**

- Deprivation of liberty of offenders by police officers
- Deprivation of liberty of offenders by citizens
- Apprehension of a person with a court order
- Apprehension of a person without an order
- Ill-treatment when depriving a person of liberty
- Ill-treatment when apprehending a person

### **LA thematic unit:**

- Thematic unit 1: Deprivation of liberty
- Thematic unit 2: Apprehension of a person
- Thematic unit 3: Ill-treatment when depriving of liberty and apprehending a person

<b>Core activity:</b>	<b>Deprivation of liberty, apprehension and use of means of coercion</b>		
<b>Learning assignment:</b>	<b>Deprivation of liberty and apprehension of persons</b>		
<b>Date:</b>	19 Sept. 2014	<b>Implementing the learning assignment - location:</b>	Organisational units in MoIA
<b>Version:</b>	4	<b>No:</b>	2.1
<b>Competences</b>			

<input checked="" type="checkbox"/>	1. acts in accordance with the defined role and duties of the police
<input checked="" type="checkbox"/>	2. implements the authorisations
<input checked="" type="checkbox"/>	3. uses means of coercion
<input checked="" type="checkbox"/>	4. performs various types of controls, checks and court orders
<input type="checkbox"/>	5. provides assistance
<input checked="" type="checkbox"/>	6. uses MTR
<input type="checkbox"/>	7. drives vehicle safely with priority of passage
<input checked="" type="checkbox"/>	8. drafts and writes any type of report
<input checked="" type="checkbox"/>	9. takes initiative in work
<input type="checkbox"/>	10. prioritises
<input checked="" type="checkbox"/>	11. accepts a task from a competent person
<input checked="" type="checkbox"/>	12. carries out the planned activity
<input checked="" type="checkbox"/>	13. communicates, coordinates, and analyses
<input checked="" type="checkbox"/>	14. works in the spirit of democratic processes
<input checked="" type="checkbox"/>	15. enforces the law and respects the rule of law
<input checked="" type="checkbox"/>	16. uses communication skills
<input type="checkbox"/>	17. establishes and builds a close relation with citizens
<input type="checkbox"/>	18. identifies and resolves their problems
<input checked="" type="checkbox"/>	19. is familiar with the social and ethnic structure
<input checked="" type="checkbox"/>	20. respects diversity
<input checked="" type="checkbox"/>	21. provides assistance to anyone
<input checked="" type="checkbox"/>	22. respects the cultural and other values
<input type="checkbox"/>	23. communicates in English
<input checked="" type="checkbox"/>	24. constantly improves himself
<input type="checkbox"/>	25. listens and asks questions
<input checked="" type="checkbox"/>	26. knows how to learn
<input checked="" type="checkbox"/>	27. accepts well-intended criticism and suggestions
<input checked="" type="checkbox"/>	28. notes what is negative and eliminates it

Working pattern		
×	a. introduction into events	
×	b. planning with general and specific assignments	
×	c. monitoring, preventive, and operational work	
×	d. communication with citizens	
×	e. information, use of MTR, radio connection and other	
×	f. provision of assistance - service to the citizens	
×	g. performance of work assignments	
×	h. respect of human rights	
×	i. use of authorisations	
×	j. submission of reports	

		<b>Date:</b> 19 Sept, 2014
<b>Learning assignment: version for listeners</b>		<b>Item: 2.1</b>
<b>Core activity</b>	<b>Deprivation of liberty, apprehension and use of means of coercion</b>	<b>Version:</b> <b>4</b>
<b>Learning assignment</b>	<b>Deprivation of liberty and apprehension of persons</b>	<b>Location:</b> Organisational units in MoIA
		<b>Time needed:</b> 9 classes
<b>Description</b>	<p>A police officer applies police authorisations in their daily work, such as warnings, orders, summoning persons, deprivation of liberty, apprehension and detention of persons, etc. Due to the specifics of the work, the police officer uses these authorisations in order to protect the public peace and order, as well as to prevent further actions by people who can make harm to persons or property, or in order to resolve certain crime.</p> <p>Deprivation of liberty is done to persons who have committed crimes, and according to the Code of Criminal Procedure, not only the police, but also any citizen can deprive of liberty the perpetrator of a crime. Apprehension is a police power that is used after an order has been received by the court, or without an order in certain legal circumstances.</p> <p><b>Example – situation:</b> A police officer caught red-handed a person committing a crime in a shop – burglary, and intending to leave the site with the stolen item. The police officer deprives the person of liberty, secures the site to enable inspection and apprehends the person in the police station for further proceeding.</p>	
<b>Expected results</b>	<p>At the end of this LA, the police officers:</p> <p><b>Will know :</b></p> <ul style="list-style-type: none"> <li>- What is deprivation of liberty and based on what ground can a person be deprived of liberty</li> <li>- What is apprehension and based on what ground can a person be apprehended</li> <li>- What are the rights of the apprehended and detained persons</li> </ul>	

	<b>Will be able:</b> <ul style="list-style-type: none"> <li>- to deprive a person of liberty in accordance with the authorisations</li> <li>- to detain a person with a court order and without a court order</li> <li>- to apply the legal procedure for depriving of liberty and apprehending a person</li> <li>- to respect the fundamental freedoms and rights of citizens and to limit them only in legally specified situations</li> <li>- to use MTR</li> <li>- to draft and write a written report on the undertaken actions</li> </ul>	
<b>Legal frame</b>	Code of Criminal Procedure – Articles 69, 157, 158, 162 Law on Police - Articles 28, 37, 45a, 46, 46a, 46b Law on Juvenile Justice – Articles 3, 4, 10, 14 Rulebook on the Manner of Performing Police Affairs, Articles 14a, 15-24 (with amendments) Operative Criminalistics – Prof. Metodija Angeleski, PhD	
<b>LA questions</b>	What is deprivation of liberty? Who can deprive of liberty a perpetrator of a crime? What are the situations in which a child perpetrator of a crime may be deprived of liberty? When can a person be apprehended with a court order? When can a person be apprehended without a court order? How can a police officer violate the deprivation of liberty procedure? How can a police officer violate the procedure for apprehension of a person?	

		<b>Date</b> <b>19 Sept 2014</b>
<b>Learning assignment: Version for instructors</b>		<b>Item: 2.1</b>
<b>Core activity</b>	<b>Deprivation of liberty, apprehension and use of means of coercion</b>	<b>Version: 4</b>
<b>Learning assignment</b>	<b>Deprivation of liberty and apprehension of persons</b>	<b>Location</b> <b>Organisational units in MoIA</b>
		Time needed: 9 classes
<b>ORIENTATION</b>		
<b>Listeners will be focused on learning the assignment</b>	Police officers are discussing the meaning of deprivation of liberty and of apprehension of a person. What is the aim of these powers of police officers? Has anyone had experience with police officers and did they apply their powers towards you? When reading the task to police officers, they are told that being police officers, they will often find themselves in a situation to deprive persons of liberty and apprehend persons, with or without a court order and at the same time, they have to respect human rights and freedoms and treat the persons legally and professionally, adhering to the procedures.	
<b>Planning the learning activities</b>  <b>- Methods</b> <b>- Time</b> <b>- Schedule</b> <b>-individual/group learning activities</b> <b>- What are the listeners doing?</b> <b>- Results</b>	<p>This LA will be realised through 6 activities and 3 thematic units with:</p> <ul style="list-style-type: none"> <li>- training in a classroom and</li> <li>- practical work in the vicinity of the OU</li> </ul> <p>LA thematic units:</p> <ul style="list-style-type: none"> <li>• <b>Thematic unit 1:</b> Deprivation of liberty</li> <li>• <b>Thematic unit 2:</b> Apprehension</li> <li>• <b>Thematic unit 3:</b> Ill-treatment when depriving of liberty and apprehending a person</li> </ul> <p><b>Activity 1:</b> Thematic unit 1 Deprivation of liberty  Duration - 1 class  Location - classroom  Method of work – self-learning, discussion, work in groups</p> <p><b>Activity 2:</b> Practical exercise and scenario for depriving of liberty  <b>Duration:</b> 2 classes  <b>Location:</b> classroom and adequate location for scenarios  <b>Method of work:</b> practical exercises and scenarios, feedback and reflection, video feedback</p> <p><b>Activity 3:</b> <b>Thematic unit 2:</b> Apprehension of a person  <b>Duration:</b> 1 class  <b>Location:</b> classroom  <b>Method of work:</b> self-learning, discussion, work in groups</p>	

	<p><b>Activity 4:</b> Practical exercise and scenario for apprehending a person  <b>Duration:</b> 2 classes  <b>Location:</b> classroom and an adequate location for scenarios  <b>Method of work:</b> practical exercises and scenarios, feedback and reflection, video feedback</p> <p><b>Activity 5: Thematic unit 3:</b> Ill-treatment when depriving a person of liberty and apprehending a person  <b>Duration:</b> 1 class  <b>Location:</b> classroom  <b>Method of work:</b> self-learning, discussion, work in groups</p> <p><b>Activity 6:</b> Practical exercises and scenarios for ill-treatment when depriving a person of liberty and apprehending a person  <b>Duration:</b> 2 classes  <b>Location:</b> classroom and an adequate location for scenarios  <b>Method of work:</b> practical exercises and scenarios, feedback and reflection, video feedback</p> <p><b>Activities for the participants:</b></p> <ul style="list-style-type: none"> <li>- Discuss</li> <li>- Work in small groups</li> <li>- Play roles in practical exercises and scenarios</li> <li>- Acquire competences for implementation of LA</li> </ul>
<b>PERFORMANCE</b>	
<b>Roles of the instructor – directing the listeners</b> <b>- control of the learning processes</b>	<p><b>The instructor</b></p> <ul style="list-style-type: none"> <li>- directs</li> <li>- clarifies</li> <li>- discusses</li> <li>- facilitates</li> <li>- participates in demonstration</li> <li>- asks and answers questions</li> <li>- monitors the process of learning</li> </ul> <p>The instructor has to monitor this process from aside to be sure that they are moving in the right direction.</p>
<b>EVALUATION</b>	
<b>Evaluation</b> <b>- plenary evaluation with the learners</b> <b>- individual evaluation with learners</b>	<p><b>Evaluation</b></p> <p><b>Plenary</b></p> <ul style="list-style-type: none"> <li>- through participation in discussions</li> <li>- asking questions</li> </ul> <p><b>Individual</b></p> <ul style="list-style-type: none"> <li>- participation in discussions</li> <li>- asking and answering questions</li> <li>- through exercises</li> <li>- self-learning</li> </ul>

## LEARNING RESOURCES AND MATERIALS

<b>Learning - resources - materials - IT</b>	<p>Code of Criminal Procedure – Articles 69, 157, 158, 162          Law on Police - Articles 28, 37, 45a, 46, 46a, 46b          Law on Juvenile Justice – Articles 3, 4, 10, 14          Rulebook on the Manner of Performing Police Affairs - Articles 14a, 15-24          Operative Criminalistics – Prof. Metodija Angeleski, PhD          Flipchart, markers, white paper, blackboard, computer, projector,          police officers' equipment (gun, baton, handcuffs)</p>
<b>PREPARED BY/ AUTHORS</b>	<p><b>Nojko Stojcevski, Senior Adviser Lecturer/Instructor</b>  <b>Suza Trajkovska, MA, Adviser Instructor</b>  <b>Arben Jashari, Adviser Instructor</b></p>
<b>Who is responsible for the learning assignment?</b>	<p>The task group in the project:          Dragana Kirik-Trpovski, Senior Adviser          Aco Kamcev, Senior Adviser          Rozalita Dojcinoska, Police Adviser          Blagoja Stojanovski, Senior Inspector          External members:          Slavica Andreevska, Judge of Preliminary Proceedings          Jovan Ilievski, Public Prosecutor</p>

# LA DEPRIVATION OF LIBERTY AND APPREHENSION OF PERSONS

## DURATION OF THE ASSIGNMENT: 9 CLASSES

### Learning resources and materials:

Code of Criminal Procedure

Law on Police

Law on Juvenile Justice

Rulebook on the Manner of Performing Police Affairs

Operative Criminalistics – Prof. Metodija Angeleski, PhD

Flipchart, markers, white paper, blackboard, computer, projector, police officers' equipment (gun, baton, handcuffs)

### Expected results:

At the end of this LA the police officers:

### Will know:

- What is deprivation of liberty and based on what grounds can a person be deprived of liberty?
- What is apprehension and based on what grounds can a person be apprehended?
- What are the rights of an apprehended and detained person?

### Will be able:

- to deprive a person of liberty in accordance with the authorisations
- to apprehend a person with or without a court order
- to implement a legal procedure for deprivation of liberty and apprehension of a person
- to respect the fundamental freedoms and rights of citizens and to limit them only in legally specified cases
- to use MTR
- to draft and write a written report on the undertaken actions

## LA THEMATIC UNITS:

- **Thematic unit 1:** Deprivation of liberty
- **Thematic unit 2:** Apprehension of a person
- **Thematic unit 3:** Ill-treatment when depriving a person of liberty and apprehending a person

**Activity 1: Thematic unit 1: Depriving a person of liberty****Duration:** 1 class**Location:** classroom**Method of work:** self-learning, discussion, group work**Note for the instructor:**

The instructor divides police officers in four groups, and they prepare presentations for 10 minutes.

FIRST group - CCP Articles 69, 158 and 162

SECOND group - Law on Police Articles 37, 45a, 50, 50a and 50c

THIRD group - Law on Juvenile Justice Articles 3, 4, 10, 19 and 116, and

FOURTH group - Rulebook on the Manner of Performing of Police Affairs Article 14-a.

Then each group selects a member who will present what has been done.

During presentation, be attentive and help them in terminological terms to distinguish clearly the concepts.

Summarise at the end.

Two situations are foreseen as regards the deprivation of a person of liberty without a court order, that is deprivation of liberty **by any citizen** and deprivation of liberty by the **judicial police**.

A person caught in the act of committing a crime for which he is prosecuted ex officio may be deprived of liberty by any citizen if there is a possibility for escape and the police are immediately informed. The person deprived of liberty is kept until the arrival of the police, who should be informed immediately.

A person caught in the act of committing a crime will be:

- a person noticed when committing a crime,
- a person who was caught red-handed immediately after a committed crime, under the circumstances that indicate that the person committed the crime.

The judicial police may deprive of liberty without a court order

- a person caught red-handed in committing a crime
- a person who is reasonably suspected of committing a crime for which he is prosecuted ex officio only if there is a danger for delay
- if there is a reasons for necessary detention
- but they are obliged immediately, and within six hours at the latest

after the deprivation of a person of liberty, to bring the person before the competent judge of preliminary proceedings and to inform the public prosecutor thereof.

In accordance with the Law on Police, a person may be deprived of liberty if there is a warrant against him/her in accordance with the Law.

The judicial police will inform the judge of preliminary proceedings of the reasons and the time of the deprivation of liberty, and will prepare an official note about that. If an official note is not prepared, the judge of preliminary proceedings will put the given notification in the minutes.

When being deprived of liberty, the person will be informed of the reasons for the deprivation of liberty immediately and will be informed on his/her rights immediately or when suitable circumstances are provided.

**By exception**, the judicial police can detain a person deprived of liberty in accordance with the procedure for deprivation of liberty without a court order, if the detention is necessary for the purpose of:

- determining the identity
- checking the alibi
- if it is necessary for other reasons to collect the data needed for conducting the procedure against that person.

The person deprived of liberty must be brought before a custody police officer – shift leader in specifically designated police stations within **six hours** at most, who will decide, in a specifically written and elaborated decision, whether the person will be detained for the reasons, if detention is necessary in order to determine the identity, check the alibi or if for other reasons it is necessary to collect the data needed to conduct the procedure against that person, or he/she will be released. Any delay must be specifically explained.

As regards the persons deprived of liberty, a special registry is kept in the information system of the Ministry of Internal Affairs. Inspection and control of the registry is made by the competent Public Prosecutor. The Ombudsman also makes inspection of the registry.

The custody police officer – shift leader **will inform the public prosecutor immediately** after the person deprived of liberty is brought in. The notification is entered in the minutes on detention.

The custody police officer – shift leader will also enter the items confiscated from the person deprived of liberty in the minutes. A copy of the minutes shall be submitted to the public prosecutor, the person deprived of liberty and the police officer who brought the person in.

The custody police officer – shift leader will order search of the person

deprived of liberty at the time the person is brought in the police station or at another place designated for detention of persons. The objects and traces that can serve as evidence or can threaten the safety of the person deprived of liberty will be temporarily confiscated with a receipt.

If needed, the person deprived of liberty will be checked by a doctor, and the medical examination is obligatory if the person complains that he/she is injured, is suffering pain or illness.

The custody police officer – shift leader always has to ask whether the person is suffering from any disease and whether he/she is medically treated i.e. using medication.

The person deprived of liberty can consult a lawyer by himself/herself at any time, whether by day or during the night. If he/she does not have a lawyer, the person deprived of liberty may request to check the list of lawyers on duty.

The lawyer can visit the person detained in a police station at any time. In the period between 8 p.m. until 8 a.m., the person has the right to be provided a lawyer out of the list of lawyers on duty, compiled by the Bar Association.

The costs for the lawyer on duty as a defence attorney during detention over night shall be borne by the state's budget.

After the identity of the person is verified and search is performed to find items that can be potentially used in assault or for self-injury, items related to crime, traces of crime or items that can serve as evidence in further proceedings, the police officer can deprive of liberty a person without a written order while the person is committing a crime for which he/she is prosecuted ex officio, only if there is a possibility for delay or due to some of the reasons for detention stipulated by law, as well as if there is a warrant for arrest of the person in accordance with the law.

When depriving a person of liberty without a written order, the police officer informs the person about his/her rights stipulated by law immediately or as soon as the circumstances allow it. The police officer prepares an official note on the action, which will include the following data: organisational unit, number, date and place of issuance of the official note; date, time, place and address where the deprivation of liberty happened (name and surname and organisational unit); as regards the person deprived of liberty (name and surname, date and place of birth, unique civic number of the citizen, address, i.e. residing address); the reasons for deprivation of liberty; occurrence/non-occurrence of circumstances that aggravated the deprivation of liberty (if any, the factual situation is described in the note); was the person deprived of liberty informed and taught about his rights; was the person searched during the deprivation of liberty; were items found and confiscated during

the search; time of the deprivation of liberty and name and surname and organisational unit of the police officer to whom the person was handed in; name and surname of the public prosecutor and of the judge of preliminary proceedings, as well as date and hour of their notification and place for signature of the police officer who handed the person in and the police officer who admitted the person deprived of liberty.

In case of handing in a person deprived of liberty, a written receipt is filled that will include the following data: the police officer who handed in the person (name, surname and organisational unit); the person being handed in (name and surname, date and place of birth, address and place of living, i.e. residing, ID card number or passport number on the basis of which the identity and the authority that issued it were checked); place, time and date when the person was handed in; psychological and physical condition of the person at the moment he/she was handed in; objects handed in with the person, as well as the signature of the police officer who admitted the person and signature of the police officer who handed in the person.

## RIGHTS OF THE PERSON DEPRIVED OF LIBERTY

A person summoned to the police, apprehended or deprived of liberty must immediately be informed, in a language he/she understands:

- of the reasons for the summoning to the police, his/her apprehension or deprivation of liberty;
- of any suspicion for a crime perpetrated by the person;
- of his/her rights and the person cannot be requested to make a statement.

At the beginning, the defendant must be informed clearly:

- **of the right to remain silent;**
- **of the right to consult a lawyer in private; and**
- **of the right to choose a defence attorney for the time of the interrogation.**

The person deprived of liberty or the person apprehended will be informed:

- of the right to inform a close family member or someone close to the person;
- of the right to inform a diplomatic and consular office of the country whose national he/she is of the apprehension or deprivation of liberty;
- of the right of the person to be provided with adequate medical help if needed or upon a request by the person.

Immediately or at the latest within 24 hours of the moment of deprivation of liberty, the person must be brought before a court that will

decide without delay on the legality of the deprivation of liberty. Publication of photographs and videos of persons deprived of liberty or apprehended persons shall be done by **covering their face**.

## DEPRIVATION OF LIBERTY OF A CHILD

Deprivation of a child of liberty is applied only as a final resort in the proceedings and only under the conditions and for a duration determined with this law.

Before the interview, the child will be introduced with his/her rights stipulated by law.

The interview with the child is mandatorily carried out in the presence of his/her defence attorney and parents, i.e. legal representatives.

Before the interview, the official person is obliged to inform the child of the reasons for his/her deprivation of liberty and all the facts that relate to the case that is subject of the interview.

The interview with the child is conducted in special rooms adequate for an interview with a child at his/her age and can last four hours at most if the child agrees with the interview. If needed and in agreement with the child, the interview can continue another day or days.

A child is brought in the police station if he/she was caught while committing an action that is defined by law as an offence against public peace and order, if public peace and order cannot be established in another way or if the danger cannot be eliminated in another way or if the child is under the influence of alcohol, drugs or other substances.

Detention of a child in the police station may last 12 hours at most.

Upon detaining a child, under the conditions stipulated by law, the authorised officials of the Ministry of Internal Affairs are obliged to inform the competent public prosecutor, the judge for juveniles, i.e. the judge of preliminary proceedings, the parents, i.e. guardians, his/her defence attorney and the centre immediately. In urgent cases the notification will be done by telephone, and a written notification will be delivered within 24 hours.

While the child is detained, an interview may not be conducted without a defence attorney present. Moreover, when a child is involved in a criminal offence prosecuted ex officio, and the child is caught red-handed committing the crime, the child may be deprived of liberty by any citizen who should inform the police about this.

**A child** who is a foreign citizen, deprived of liberty or detained may file the submissions within the procedure in his/her own language, and in other circumstances under the reciprocal conditions. A child handed over by a foreign security body for the purpose of bringing them before the competent



state authority, may be detained for 12 hours at most.

The action of the court and other institutions when applying and executing the sanctions and other measures should be adapted to the age, personality, needs and interests of the child.

When applying the measures and sanctions in the proceedings stipulated by law, a child of over 14 years of age may have certain rights taken away or restricted only to an extent that corresponds to the development of his/her personality and his/her need for eliminating the conditions that influence the person to commit actions that are defined as crimes or misdemeanours.

## **SCRUTINY OF THE LEGALITY OF THE DEPRIVATION OF LIBERTY**

If a person deprived of liberty is brought before the judge of preliminary proceedings, the judge will check ex officio the legality of the deprivation of liberty and is obliged to determine this in a decision. The person deprived of liberty who is not brought before the judge of preliminary proceedings, may request the preliminary proceedings judge of the competent court to examine the legality of the deprivation of liberty and to determine this in a separate decision within 30 days as of the date of his/her release. A special appeal against this decision is allowed within 48 hours and it should be submitted to the council of the first instance court, which will decide within three days.

**Activity 2:** Practical exercise and scenario for depriving a person of liberty**Duration:** 2 classes**Location:** adequate location for scenarios**Method of work:** practical exercises and scenarios, feedback and reflection, video feedback**Note for the instructor:**

To realise scenarios 1, 2 and 3 with the police officers in a classroom or in the vicinity of the OU and to prepare feedback and reflection

The police officers are presented a video – scenario for professional and for non-professional deprivation of a person of liberty

The participants are presented a video – scenario for professional and for non-professional deprivation of liberty.

**THE SCENARIOS ARE ATTACHED TO LA.**

### Activity 3: Thematic unit 2: Apprehension of a person

**Duration:** 1 class

**Location:** classroom

**Method of work:** self-learning, discussion, group work

#### Note for the instructor:

Discuss with the police officers what deprivation of liberty is and what apprehension is.

Then divide them into 4 groups and give each of the groups an assignment to elaborate on several articles or chapters:

First group on the Code of Criminal Procedure – 157

Second group on the Law on Police - Articles 46, 46a, 46b

Third group on the Rulebook on the Manner of Performing Police Affairs Articles 15-18

Fourth group on the Rulebook on the Manner of Performing Police Affairs Articles 19-24

During the presentations, be attentive and help them in terminological terms to distinguish the concepts that are differently described in CCP and the LP and the Rulebook (deprivation of liberty and apprehension).

## APPREHENSION

In accordance with the Code of Criminal Procedure and the Law on Police, police officers are authorised to apprehend a person upon orders by a competent court for a person against whom criminal charges were brought in the following cases:

- **if there are grounds for detention that is necessary for unobstructed conducting of the criminal procedure,**
- **if a detention decision has already been adopted**
- **if the duly invited defendant does not appear in court, and provides no excuse for his absence or**
- **if it was not possible to deliver the invitation duly, and the circumstances obviously indicate that the defendant avoids to receive the invitation.**

In accordance with the Rulebook on the Manner of Performing Police Affairs, the **apprehension is official action undertaken by police officers**

**on the basis of a written order by the competent court (order), or without a written order, for escorting the person into the premises of the police, another competent state body or to the place specified in the order.**

The court order should contain the name and surname of the person that is to be apprehended, the type of crime the person is charged with by specifying the legal provision, the grounds for which apprehension is ordered, and the official seal and signature by the judge ordering apprehension.

For every apprehension performed on the basis of a written order issued by a competent court, the police officer prepares an official note for the apprehension with a written order issued by the competent court, which includes data as regards: the unit name, number, date and place of issue of the official note; the number and date of issue of the written order by the competent court; the police officer that performed the apprehension (name, surname and organisational unit); the date, time and address where the apprehension occurred; the apprehended person (name, surname, date, country and place of birth, unique civic number of the citizen, address of living i.e. residence, ID card number or passport number on the basis of which the identity was checked and the authority that issued it); existence/non-existence of circumstances that aggravated the apprehension (if any, the factual situation is described in the note); was the apprehended person informed of his/her rights; was the person searched and were items found and confiscated from him/her; the date and time when the apprehended person was handed in, to whom and where the person was handed in and the place for the signature by the police officer/officers.

The person in charge of executing the order hands the document to the defendant and invites him/her to come along voluntarily. If the defendant refuses **to come along voluntarily, the person will be apprehended by use of force**. By exception, when active resistance is expected, apprehension will be conducted without previous presentation of the order.

Example - The person Pero S. is a known perpetrator of crimes with violent elements, and is known for disturbing the public peace and order, thus the police officers apprehend the person on the basis of a court order without previously presenting it to him.

In accordance with the Law on Police, the person may be apprehended in the period between 6:00 a.m. and 10:00 p.m., and in cases when the apprehension is necessary so that police duties that cannot be delayed are undertaken, the person may be apprehended outside the specified time.

Example - The person Mitre N. is to be detained with a court order, but the police looked for him on several occasions and did not find him. When patrolling in the street where Mitre lives, the police officers assigned with the order notice him entering his home around 11:00 p.m. The police officers will

execute the order at this time.

Moreover, provisions for apprehension will not apply to a person for whom it is reasonably assumed that his apprehension will endanger his health and the apprehension provisions will not apply to a person carrying out works that cannot be interrupted until an adequate replacement is provided.

(Example - Mirce S is to be apprehended. He is the main controller of electricity distribution in EVN. The person is found at his workplace, but he will not be apprehended since there would be chaos if he left his working place, and he will be detained once his replacement is provided.)

**The apprehension with a written order issued by the competent court will be performed on the basis of:**

- a court order for bringing in a person in the capacity of defendant or witness;
- a court order for forceful bringing in of a person for serving the imprisonment sentence;
- a warrant for arrest ordering the apprehension; and
- a court order for forceful bringing in a person for whom a detention decision has been issued.

When the police officer checks the identity of the person that is to be apprehended, he hands in a written order to the person and invites him to come with him. The written order for apprehension is executed by at least two police officers.

Before executing the written order, the register kept by the police is checked as regards data and information pointing to possible escape, giving resistance or assault on police officers by the person that is to be apprehended, and in this case the apprehension by police officers is executed on the basis of a previously prepared and approved plan.

Example – The person Stojan K. should be apprehended with a court order, but since he has also committed a serious criminal offence – homicide and is assumed to possess weapons and to be able to give active resistance, a detention plan is prepared for his apprehension.

The police officer searches the apprehended person in order to find and confiscate items that can be used for self-injury or injury of other persons. The confiscated items are handed over by the police officer to the authorised person of the competent institution whereto the person will be escorted.

As a rule, the person who is apprehended is escorted in a police vehicle. By way of derogation, when the person is escorted with means of public transport, if possible, the person will be placed separately from other passengers in order not to endanger their safety. When the person is escorted in an airplane or a vessel, the manner of accommodating police officers

and the person being apprehended is determined in cooperation with the commander of the airplane or the vessel.

**Escorting a child** that is deprived of liberty is done by police officers in civil clothing, with official vehicles without official signs; by way of derogation, escorting may be executed by uniformed police officers and with vehicles that are marked, when the conditions for apprehension without a court order are fulfilled in accordance with the law.

If the person being apprehended refers to a status that gives him/her immunity, the police officer will check the reliability of the documents proving the status.

The police officer confirming the existence of immunity will stop the apprehension, unless the person is caught in the act of committing the crime for which imprisonment of at least five years is stipulated, and will inform immediately the superior police officer.

In case the immunity of the person is not revoked despite the written order for his apprehension, the person will not be apprehended and the competent court will be notified by the police of the reasons why they did not act upon the order.

A person with diplomatic immunity may not be apprehended and a person with consular immunity may be apprehended only with an order by the competent court.

## APPREHENSION WITHOUT A COURT ORDER

In accordance with the Law on Police, the police officer may apprehend a person caught red-handed committing a misdemeanour if he/she cannot check his/her identity, if the person does not have a residence address or if by leaving abroad he/she would avoid the responsibility concerning the misdemeanour, or if he/she continues the misdemeanour or there is a risk that he/she might repeat it.

When the person caught while committing a misdemeanour and apprehended without a court order is handed over to the competent court, the police officer will request a written confirmation from the court.

The police officer prepares an official note on any apprehension executed without a written order, which includes the data on the police officer who performed the apprehension (name, surname and organisational unit); the date, time and address where the person was apprehended; data about the apprehended person (name, surname, date, country and place of birth, unique civic number of the citizen, address of living i.e. residence, ID card number or passport number on the basis of which the identity was checked, and the issuing authority); existence/non-existence of circumstances that

aggravated the apprehension (if any, the factual situation is described in a note); was the apprehended person informed of his/her rights; was he/she searched and were items found and confiscated; date and time when the detained person was handed over, to whom and where; a place for signature of the police officer/officers, and data on the reasons for detaining the person without a written order.

## **RIGHTS OF THE PERSON WHO IS SUMMONED, APPREHENDED, OR DEPRIVED OF LIBERTY**

A person who is summoned, apprehended or deprived of liberty must be informed immediately, in a language he/she understands, of the reasons for the summoning, apprehension or deprivation of liberty, of any suspicion for committed crime, as well as of his/her rights and a statement cannot be requested from him/her.

First of all, the defendant should be clearly informed about the right to remain silent, the right to consult an attorney in private and to have an attorney of his choice present during the interview.

The apprehended person will also be informed of the right to notify a member of his/her family or another close person, i.e. a diplomatic and consular office of the country he/she is a citizen of with respect to his/her apprehension/deprivation of liberty. If needed or if requested by the person who is apprehended, he/she will be provided medical help.

**Activity 4:** Practical exercise and scenario for apprehension**Duration:** 2 classes**Location:** adequate location for scenarios**Method of work:** practical exercises and scenarios, feedback and reflection, video feedback**Note for the instructor:**

To realise scenarios 4 and 5 with the police officers in a classroom or in the vicinity of the OU and to prepare feedback and reflection

To present a video - scenario to the police officers as regards professional apprehension of a person

The participants are presented a video - scenario as regards professional and nonprofessional apprehension of a person.

**SCENARIOS ARE ATTACHED TO LA.**

### Activity 5: Thematic unit 3: Ill-treatment when depriving a person of liberty and apprehending a person

**Duration:** 1 class

**Location:** classroom

**Method of work:** self-learning, discussion, group work

#### Note for the instructor:

The instructor discusses with the police officers the practical examples of inadequate deprivation of liberty and apprehension of persons -10 minutes

The instructor divides police officers in 4 groups, they prepare presentation for 10 minutes:

First group not adhering to the legal frame for deprivation of liberty,  
Second group not adhering to the procedure for deprivation of liberty,

Third group not adhering to the legal frame for apprehension of a person,

Fourth group not adhering the procedure for apprehension of a person

Then a representative of each group makes presentation.

When depriving a person of liberty, police officers may act unprofessionally and unlawfully if they do not adhere to the legal frame for deprivation of liberty or if they do not conduct the procedure for deprivation of liberty.

**The police officers** do not respect the legal frame for deprivation of liberty of a person if:

- the person was not caught red-handed when committing the crime and there are no grounds for suspicion;
- the perpetrated crime is not prosecuted ex officio;
- there is no reason for necessary detention as regards the suspect.

**The police officers** do not respect the procedure for deprivation of liberty of a person if:

- they do not inform him/her of the reason for the deprivation;
- they do not tell the rights to the person deprived of liberty: the right to remain silent, the right to consult a lawyer in private and to have an attorney

at his/her choice during the interrogation;

- immediately, and within 6 hours at most as of the moment of deprivation of liberty, is not brought before the judge of preliminary proceedings, who will decide upon the legality of the deprivation of liberty immediately, or if the person is not handed in to the public prosecutor within 24 hours.

Police officers will not act in accordance with the law and in a professional manner and will not adhere to the procedure for deprivation of liberty of a person if they act in contravention of what is elaborated in Thematic unit 1 of this LA.

**The police officers** do not respect the legal frame for apprehension of a person if:

- without an order by the competent court, they apprehend a person caught when committing a misdemeanour, and the identity of the perpetrator can be determined or if the person does not deny the responsibility for the misdemeanour and will not continue making the misdemeanour, but will follow the orders of the police officer and the misdemeanour can be resolved on the spot.

**The police officers** do not respect the procedure for apprehension of a person if:

- They do not inform the person of the reason for the apprehension;
- They do not search the person;
- The person is apprehended without being told his/her rights.

Police officers will not act in accordance with the law and in a professional manner and will not adhere to the procedure for apprehending a person if they act in contravention of what is elaborated in Thematic unit 2 of this LA.

**Activity 6:** Practical exercise and scenario for ill-treatment when depriving a person of liberty and apprehending a person

**Duration:** 1 classes

**Location:** adequate location for scenarios

**Method of work:** practical exercises and scenarios, feedback and reflection, video feedback

**Note for the instructor:**

To realise scenarios 6 and 7 with the police officers in a classroom or in the vicinity of the OU and to prepare feedback and reflection

1. Scenario for ill-treatment when depriving a person of liberty

2. Scenario for ill-treatment when apprehending a person

To present a video-scenario to the police officers with regard to unprofessional deprivation of liberty.

**SCENARIOS ARE ATTACHED TO THE LA.**



## SUMMARY:

When undertaking official measures and police powers, police officers should act professionally and lawfully, and should respect the fundamental human rights and freedoms. When it comes to limitation of these rights especially when persons are deprived of liberty and apprehended, this should be applied as a final resort for finalising any criminal and legal event and the persons should be treated in a human and ethical way.

When depriving of liberty and apprehending a person, only the necessary means of coercion should be used against those persons and the standard procedures for their treatment should be respected, the persons should be informed of the reasons for the apprehension/detention and their rights.



## QUESTIONS:

What constitutes deprivation of liberty?

Who can deprive of liberty a person who had committed a crime?

In which cases may a child, who had committed a crime, be deprived of liberty?

When is a person apprehended with a court order?

When is a person apprehended without a court order?

How can the police officer violate the procedure for deprivation of liberty?

How can the police officer violate the procedure for apprehending a person?





## **BIBLIOGRAPHY – REFERENCE:**

Code of Criminal Procedure

Law on Police

Law on Juvenile Justice

Rulebook on the Manner of Performing Police Affairs

Operative Criminalistics – Prof. Metodija Angeleski, PhD



## TEMPLATE FOR SCENARIO 1 – Deprivation of a child of liberty by police officers

### Learning assignment: Deprivation of liberty and apprehension of persons

#### Context scenario

Two children, Spiro N. at the age of 16 and Angel P. at the age of 17 commit serious theft early in the morning, in 88 Razloska St., in a kiosk owned by Mite A. from Skopje. At the moment when they want to put the items they want to steal in a sack, they are caught in the act of stealing by police officers.

#### Role description

##### A. Police officers

You are two police officers who catch two persons inside a kiosk searching the shelves and putting the stolen items in a sack while patrolling in your area. You shout “police, stop”, after which they act in accordance with your orders and cooperate with you.

Undertake the necessary measures and actions.

#### Role description

##### B. Civilians’ role

You are two children, age 16 and 17. You break in a kiosk and steal the items that you need. You are caught in the act of stealing by the police officers while you are putting the items in a sack.

Cooperate with the police officers.

#### Expected results

- To effectively communicate with the persons and with the police officer on duty via a radio system
- To determine the identity of the persons
- To tell them their rights
- To search the persons
- To confiscate the stolen items
- To inform the parent or guardian and the juvenile delinquency inspector
- To deprive them of liberty and apprehend them to the PS
- To secure the site
- Upon return in the PS, prepare an adequate official documentation

## TEMPLATE FOR SCENARIO 2 – Deprivation of a person of liberty by a police officer

### Learning assignment: Deprivation of liberty and apprehension of persons

**Names: Petre Kirov, Ilija Tasev, Trajko Jovanov**

#### Context scenario

On 1 August 2014, a murder happened in the centre of the town. At 1.30 p.m., Ilija Tasev runs into Petre Kirov who is walking home, shoots him with two bullets in the head, after which he escapes.

Trajko Jovanov, a person passing by witnesses the act and reports it to the PS.

They are all inhabitants of the town and they know each other.

#### Role description

A. Police officers

1. You are Dobre, a patrolling police officer and you receive information about the event from the police officer on duty in the PS through the radio system, you are told the description of the suspect etc. You manage to find the person Ilija Tasev in your patrolling area.

Deal with the situation.

#### Role description

B. Civilian role - suspect

You are Ilija Tasev, a suspect for committed murder of the person Petre Kirov. When you try to escape, a police officer finds you, approaches you and you cooperate with him.

#### Expected results

- To receive information and to go to the scene of the crime
- To determine the identity of the person
- To deprive a person of liberty and to hand it in the PS
- To prepare adequate official documentation for the deprivation of liberty.

## TEMPLATE FOR SCENARIO 3 – Deprivation of liberty of a person who is the perpetrator of a crime by a citizen

### Learning assignment: Deprivation of liberty and apprehension of persons

#### Context scenario

Two unknown persons, Petre and Ace, enter a small grocery shop “Maja” and after looking around for a short time, Petre goes out and stops at the exit of the market, while Ace approaches the cash desk and demands from the shop assistant Mara to give them the money from the cash register threatening her with a knife. At the moment when Ace takes the money, Tome, who is in the grocery to do some shopping, deprives Ace of liberty. The shop assistant calls the police and reports the event. Upon the arrival, the police officers act in view of resolving the event.

#### Role description

##### A. Role of the shop assistant

You are Mara, an employee of the “Maja” grocery shop entered by two unknown persons. Having looked around for a short while, one of the persons, Petre, goes out and stops at the door of the shop, and the other person, Ace approaches the cash desk and threatening you with a knife, requests from you to give him the money from the cash register. While you give him the money, Tome, who is in the grocery doing some shopping, deprives Ace of liberty. You call the police. When the police arrive on the spot, you cooperate with them.

#### Role description

B. Tome, customer in the shop –You are in the shop where the event happens, but you are behind a shelf, so the assaulter does not notice you. You monitor the situation and decide to approach the person who is threatening the employee and you manage to overpower him and deprive him of liberty. You call the police and when the police arrive on the spot, you cooperate with them and give them all the information you have.

## Role description

### C. Perpetrator Petre

You enter the “Maja” shop together with Ace with the intention to commit burglary. Having looked around for a short while, you go out and stop at the exit of the shop. You notice that Ace is deprived of liberty by a citizen and you run away.

### Perpetrator Ace

You enter the “Maja” shop together with Petre with the intention to commit burglary. Having looked around for a short while, you approach the cash desk, take out a knife and you threaten the shop assistant Mara and ask her to give you the money from the cash register.

Cooperate with the police officers.

## Role description

### D. Police officers

Two police officers patrol in the Karpos district. You are told through the radio system to go at 333 Ruzveltova St. in the “Maja” shop, since a citizen deprived of liberty a person in the shop. You go to the spot and deal with the situation.

## Expected results

- To receive information and to visit the crime scene
- To determine the identity of the person
- To deprive him of liberty and to hand him in the PS
- To prepare adequate official documentation for depriving a person of liberty

## TEMPLATE FOR SCENARIO 4 – Apprehension of a person without a court order

### Learning assignment: Deprivation of liberty and apprehension of persons

Names: Trajce, Toni, Marjan

#### Context scenario

On 1 August 2014, a concert is held in the centre of the town and the police are securing the event. You notice a person obviously under the influence of alcohol who disrupts the public peace and order with his indecent behaviour and upsets other people present.

#### Role description

##### A. Police officers

1. You are Trajce, a police officer securing the event together with your colleague Toni. You notice the person named Marjan who disrupts the public peace and order with his indecent behaviour.
2. You are Toni, a police officer at the event and together with your colleague Trajce, you notice the person Marjan, who disrupts the public peace and order with his behaviour. Deal with the situation.

#### Role description

##### B. Civilian role – perpetrator

You are Marjan and you are under the influence of alcohol and behave indecently, swear and physically upset the other people present. When the police arrive, you will not cooperate with them and will continue the previously mentioned behaviour.

#### Expected results

- To determine the identity of the person
- To apprehend him in the PS
- To prepare adequate official documentation for apprehending a person
- To use the radio-system connection.

## TEMPLATE FOR SCENARIO 5 – Apprehension of a person with a court order

### Learning assignment: Deprivation of liberty and apprehension of persons

Names: Petre Kirov, Ilija Tasev, Trajko Jovanov

#### Context scenario

You are Dejan, a police officer in PS Aerodrom and you receive an order to detain a person, Toni Temelkov, born on 4 June 1990 in Skopje, residing at Blvd. ASNOM No. 32, who is assumed to be very aggressive and violent. The person is convicted with a final ruling and sentenced with 5 years imprisonment and is wanted with a warrant.

You are headed to execute the order together with your colleague Antonio. You go to the previously mentioned address on several occasions, but obviously, the person you are looking for is hiding from you and does not open the door. You notice the person you are looking for on his way home and you detain him.

#### Role description

##### A. Police officers

1. You are Dejan, a police officer in PS Aerodrom and you receive an order to detain a person, Toni Temelkov, born on 4 June 1990 in Skopje, residing at Blvd. ASNOM No. 32.

2. You are Antonio, a police officer in PS Aerodrom and together with your colleague you find and detain the person.

Deal with the situation.

#### Role description

##### B. Civilian role –perpetrator

You are Toni Temelkov, born on 4 June 1990 in Skopje, residing at Blvd. ASNOM No. 32 for whose apprehension there is a court order since there is a final court ruling for a sentence of 5 years imprisonment. You know this and for that reason you hide from the police officers.

When the police officers find you and approach you, you cooperate with them.

#### Expected results

- To receive a court order and to act upon the order
- To determine the identity of the person
- To apprehend him and take him to a PS
- To prepare appropriate official documentation for apprehending the person
- To use the radio system connection.

## TEMPLATE FOR SCENARIO 6 – Unprofessional deprivation of a person of liberty

### Learning assignment: Deprivation of liberty and apprehension of persons

Practical exercises and scenarios for depriving a person of liberty

#### Context scenario

When patrolling, the police officer Mile runs into Ile A. in front of the “Giro” sandwich shop. Mile tells Ile that he has to talk to him in order to obtain information as regards a perpetrated crime in the area where he is patrolling. To prevent the person from escaping, the police officer puts handcuffs on him and closes him in the storage area of the sandwich shop with the excuse that he will return in half an hour to talk to him, since now he has to do some official work.

#### Role description

A. Police officer

1. You are Mile, a patrolling police officer. You run into Ile A. who is known for burglaries in apartments. You want to talk to Ile about a theft committed in the area you are patrolling. Since you have to do some official work, you put handcuffs on Ile and you leave him in the storage area of the “Giro” sandwich shop in order to prevent him from escaping.

#### Role description

B. Civilian role

You are Ile A. and you often commit burglaries in apartments. The police officer Mile runs into you and tells you that you need to talk about a theft committed in the area he is patrolling. You have no information in that regard, but the police officer, who is in a hurry to do some official work, puts handcuffs on you, tells you to wait for half an hour and closes you in the storage area of the “Giro” sandwich shop.

You cooperate with the police officer and execute his orders.

#### Expected results

- To check the identity of the person
- To inform him of the reasons for deprivation of liberty
- To act upon the procedure for deprivation of a person of liberty
- To make an interview with a suspect
- To prepare official material as regards the undertaken measures and actions.

## TEMPLATE FOR SCENARIO 7 – Unprofessional apprehension of a person

### Learning assignment: Deprivation of liberty and apprehension of persons

Practical exercises and scenarios for apprehension of a person

**Names: Petre and Riste**

#### Context scenario

Petre and Riste, childhood friends at the age of twenty are walking in the park. They are stopped by the police officer Ace who has the intention to check their identity. Petre has an ID card and he presents it so that his identity is determined. Since Riste forgot his ID card and does not have any other identification documents, Petre confirms and guarantees the accuracy of the data of Riste.

The police officer Ace refers to Riste in a rude manner: “Come on thief, let’s go to the station to see who you are” and puts handcuffs on his hands; since the police station is nearby, he walks with Riste to the PS, telling Petre in the meantime that he can leave.

#### Role description

##### A. Police officer

1. You are Ace, a patrolling police officer. You run into Petre and Riste and when checking their identity, you notice that Riste is not in possession of identification documents. Although Petre confirms and guarantees Riste’s data, you decide to apprehend and detain Riste in the PS since this month you do not have enough official activities, and you talk to him in a rude manner: “Come on thief, let’s go to the station to see who you are”, you put handcuffs on his hands; you walk to the PS that is nearby, and you tell Petre to leave.

#### Role description

##### B. Civilian role

You are Petre and together with your friend Riste you are taking a walk in the park. You are stopped by a police officer who wants to check your identity and you give him your ID card. Riste is not in possession of any identification documents at the moment, you confirm and guarantee the data about Riste, but the police officer puts handcuffs on him anyway and apprehends him taking him to the PS.

## Role description

### B. Civilian role

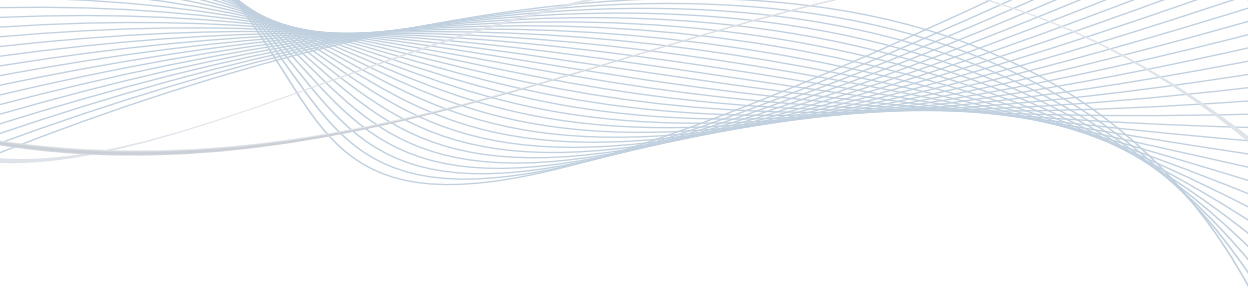
You are Riste and together with your friend Petre you are taking a walk in the park. You are stopped by a police officer who wants to check your identity, but you do not have any identification documents with you.

The police officer tells you “Come on thief, let’s go to the station to see who you are”, puts handcuffs on your hands, apprehends you and takes you to the PS, without telling you the reason.

Cooperate with the police officer and respect his orders.

## Expected results

- To check the identity of the person with identification document
- To check the identity of the person who does not have identification document.



## **LEARNING ASSIGNMENT: 2.2 USE OF THE MEANS OF COERCION**

### **Introduction**

Being an authority in a country, the police have features specific to them and to a small limited number of state bodies because the police and the functions they have impact the fundamental and inalienable human rights and freedoms.

This position of the police arises from the police authorities, regulated by law, which are necessary for fulfilling their basic function, namely to maintain the internal security of a country and the functioning of the social order.

Among the police authorisations, the authority to use police force (physical force, baton, firearms, etc.) stands out due to its seriousness since when applying police powers, the fundamental human rights and freedoms, especially the right to life, the right to freedom of movement, to bodily integrity, etc., are limited, and in serious cases they are violated. These rights are guaranteed with the Constitution and are protected by law.

The use of the means of coercion by the police should be observed as an exception in the police proceedings and not as a rule when conducting the police duties.

Therefore, it is necessary for any national legislation to regulate precisely the matter on the police authorisations, in general, and especially as regards the authorisations for use of the means of coercion, by determining the grounds, conditions, manners, and restriction of their use.

This is necessary for a simple reason, not to allow the use of physical force and other means of coercion by the police to be misused for aims and in the scope outside the needs for accomplishment of the basic police functions.

### **Summary**

By doing this assignment, police officers will be introduced with the most significant international acts that regulate the matter regarding the use of the means of coercion by the police, that are important for building the national legal regulation in view of the use of the means of coercion.

The assignment will encompass the basic principles for use of the means of coercion by the police officer, as well as the necessity for consistent compliance with them, as a requirement for their proper application and as a basis for excluding the personal responsibility of the police officer who uses the means of coercion.

We will refer to the national laws and by-laws that are obligatory for police officers when using the means of coercion, and will elaborate the stipulated means of coercion as regards the grounds for their application, the conditions, manner, specifics and limitations in their application.

We will also elaborate the part regarding the documentation of the use of the means of coercion, their contents, as well as the assessment of the grounds, justification, and the proper manner of using the means of coercion.

## MAIN POINTS:

- International and national regulations that govern the use of the means of coercion
- General Rules and Principles for Use of the Means of Coercion
- The concept of coercion and types of means of coercion
- Preparation of official documentation
- Responsibility of the police officer

## LA THEMATIC UNIT:

- **Thematic unit 1:** International and national regulations that govern the matter as regards the means of coercion and General Rules and Principles for the Use of the Means of Coercion
- **Thematic unit 2:** Concept and type of means of coercion
- **Thematic unit 3:** Preparation of an official material and responsibility of the police officer.

<b>Core activity:</b>	<b>Deprivation of liberty, apprehension and use of means of coercion</b>		
<b>Learning assignment:</b>	<b>Use of means of coercion</b>		
		<b>Implementing the learning assignment-Location:</b>	Organisational units in MoIA
<b>Version:</b>	4	<b>Item:</b>	2.2
	<b>Competences</b>		

x	1. acts in accordance with the defined role and duties of the police
x	2. implements the authorisations
x	3. uses the means of coercion
x	4. conducts different types of controls, checks and court orders
	5. provides assistance
x	6. uses MTR
	7. drives vehicle safely with priority of passage
x	8. drafts and writes any type of report
x	9. takes initiative in the work
	10. prioritises
x	11. accepts a task from a competent person
x	12. carries out the planned activity
x	13. communicates, coordinates and analyses
x	14. works in the sense of democratic processes
x	15. enforces the law and respects the rule of law
x	16. uses communication skills
	17. establishes and builds close relations with citizens
	18. recognises and resolves their problems
x	19. knows the social and ethnic structure
x	20. respects diversity
x	21. provides assistance to everyone
	22. respects cultural and other values
	23. communicates in English language
x	24. constantly improves himself/herself
	25. listens and asks questions
x	26. knows how to learn
x	27. accepts well-intended criticism and suggestions
x	28. notes what is negative and eliminates it
x	29. respects diversity

Pattern of work	
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x	a. introduction into events
x	b. planning general and specific assignments
x	c. monitoring, preventive, and operational work
x	d. communication with citizens
x	e. information, use of MTR, radio connection and other
x	f. provision of assistance - service to the citizens
x	g. performance of work assignments
x	h. respect of human rights
x	i. use of authorisations
x	j. submission of reports

		<b>Date:</b> 19 September 2014
<b>Learning assignment: Version for listeners</b>		<b>Item: 2.2</b>
<b>Core activity</b>	<b>Deprivation of liberty, apprehension, and use of means of coercion</b>	<b>Version:</b> <b>4</b>
<b>Learning assignment</b>	<b>Use of means of coercion</b>	<b>Location:</b> OU in the MoIA
		<b>Time needed</b> 25 classes
<b>Description</b>	<p>Police officers apply police authorisations, such as issuing warnings, orders, summoning persons, depriving persons of liberty, apprehending and detaining persons in their daily work. Due to the specifics of the work, police officers use these authorisations in order to protect the public peace and order, as well as to prevent further actions by people who can make harm to persons or property, or in order to resolve certain crimes. Coercion means the use of legitimate, adequate and proportional physical or mechanical pressure, by use of means and in a manner stipulated by law, directed towards a specific person by the police officer, only when the police duties cannot be done in another manner.</p> <p><b>Example – situation:</b> A police officer caught a person in the act of committing burglary in a shop and intending to leave the site with the stolen item. The police officer deprives the person of liberty for the committed crime and since the person shows resistance, means of coercion are used in order for the person to obey and do what he is told. The police officer uses a baton and submits a report as regards the undertaken measures and the use of the means of coercion.</p>	

<b>Expected results</b>	<p>At the end of this LA, the police officer:</p> <p><b>Will know :</b></p> <ul style="list-style-type: none"> <li>- Which are the means of coercion</li> <li>- When are they used</li> <li>- How are they used</li> <li>- How to prepare the written material</li> </ul> <p><b>Will be able to:</b></p> <ul style="list-style-type: none"> <li>- use the means of coercion properly</li> <li>- implement the legal procedure as regards the use of the means of coercion</li> <li>- respect the fundamental human rights and freedoms and limit them only in legally stipulated situations</li> <li>- use the means of coercion and police equipment</li> <li>- draft and write a report on the undertaken actions</li> </ul>	
<b>Legal frame</b>	<p>Law on Police – Articles: 28, 80-93</p> <p>Rulebook on the Manner of Performing Police Affairs - Articles: 65, 65a</p>	
<b>LA questions</b>	<p>What are the basic principles that should be respected when using the means of coercion?</p> <p>What is understood by means of coercion?</p> <p>Which are the types of means of coercion?</p> <p>Which acts are prepared when using the means of coercion?</p>	

		<b>Date:</b> 19 September 2014
<b>Learning assignment: Version for instructors</b>		<b>Item: 2.2</b>
<b>Core activity</b>	<b>Deprivation of liberty, apprehension, and use of means of coercion</b>	<b>Version:</b> <b>4</b>
<b>Learning assignment</b>	<b>Use of the means of coercion</b>	<b>Location</b> OU in the MoIA
		Time needed: 25 classes
<b>ORIENTATION</b>		
<b>Listeners will be focused on learning the assignment</b>	Police officers discuss what are the means of coercion? What is the aim of using these authorisations of the police officers? Has anyone had experience with police officers and were these authorisations used on them? By reading the assignment to the police officers, the instructor tells them that as police officers they will very often be in a situation to use the means of coercion. At the same time, they have to respect the human rights and freedoms and treat citizens in a legal and professional manner and follow the procedures.	
<b>Planning the learning activities</b>  <b>- Methods</b> <b>- Time</b> <b>- Schedule</b> <b>- individual/ group learning activities</b> <b>- What are the listeners doing?</b> <b>- Results</b>	<p>This LA will be realised through 5 activities and 3 thematic units including:</p> <ul style="list-style-type: none"> <li>- training in a classroom and</li> <li>- practical work in the vicinity of the organisational unit</li> </ul> <p>LA thematic units:</p> <ul style="list-style-type: none"> <li>• <b>Thematic unit 1:</b> International and national regulations that govern the matter of the use of the means of coercion and General Rules and Principles for the Use of the Means of Coercion</li> <li>• <b>Thematic unit 2:</b> Concept and types of means of coercion</li> <li>• <b>Thematic unit 3:</b> Preparing official material and responsibility of the police officer</li> </ul> <p><b>Activity 1: Thematic unit 1:</b> International and national regulations that govern the matter of the use of the means of coercion and General Rules and Principles for Use of the Means of Coercion  Duration: 1 class  Location: classroom  Method of work: self-learning, discussion, group works</p>	

**Activity 2: Thematic unit 2: Concept and types of means of coercion****Duration:** 1 class**Location:** classroom and adequate location for scenarios**Method of work:** self-learning, discussion, group work**Activity 3: Video-scenarios for proper and improper use of the means of coercion****Duration:** 1 class**Location:** classroom**Method of work:** Video presentation and video feedback**Activity 4: Practical exercises and scenarios for use of physical force (different moves, wrestling skills or similar actions against the body of another person)****Duration:** 10 classes**Location:** adequate location**Method of work:** Practical exercises and scenarios, feedback and reflection**Activity 5: Practical exercises and scenarios for the use of baton****Duration:** 5 classes**Location:** adequate location**Method of work:** Practical exercises and scenarios, feedback and reflection**Activity 6: Practical exercises and scenarios for the use of restraining means****Duration:** 5 classes**Location:** adequate location**Method of work:** Practical exercises and scenarios, feedback and reflection**Activity 7: Thematic unit 3: Preparation of official material and responsibility of the police officer****Duration:** 1 class**Location:** classroom**Method of work:** Practical exercises and scenarios, feedback and reflection**Activity 8: Practical exercise: preparation of official material****Duration:** 1 class**Location:** classroom and adequate location for scenarios**Method of work:** Practical exercises and scenarios, feedback and reflection**Activities of the participants:**

- Discuss
- Work in small groups
- Play roles in practical exercises and scenarios
- Acquire skills for implementation of LA

PERFORMANCE	
<b>Roles of the instructor</b> - guiding the listeners - controlling the learning processes	- directs - clarifies - discusses - facilitates - participates in demonstrations - asks and answers questions - monitors the learning process The instructor has to monitor this process from aside to be sure that they are moving in the right direction.
EVALUATION	
<b>Evaluation</b> - plenary evaluation with the listeners - individual evaluation with a listener	Evaluation Plenary - through participation - asking questions Individual - participation in discussions - ask and answer questions - performing a task - self-learning
LEARNING RESOURCES AND MATERIALS	
<b>Learning</b> - resources - materials - IT	Law on Police Rulebook on the Manner of Performing Police Affairs Flipchart, highlighters, white paper, blackboard, computer, projector, uniformed police officers equipment (gun, baton, handcuffs), equipment needed for simulating the scenario
<b>PREPARED BY/ AUTHORS</b>	Aco Kamcev, Senior Adviser Blagoja Stojanovski, Senior Inspector
<b>Who is responsible for the learning assignments?</b>	Task group in the Council of Europe project composed of: Nojko Stojcevski, Senior Advisor Instructor Dragana Kirik-Trpovski, Senior Adviser Rozalita Dojcinoska, Police Adviser Suza Trajkovska, Adviser Instructor Arben Jashari, Adviser Instructor External members: Slavica Andreevska, Judge of Preliminary Proceedings Jovan Ilievski, Public Prosecutor

# MANUAL FOR INSTRUCTORS

## LA: USE OF THE MEANS OF COERCION

### DURATION OF THE ASSIGNMENT: 25 CLASSES

Materials for learning:

- Law on Police
- Law on the Manner of Performing Police Affairs
- Flipchart, highlighters, white paper, blackboard, computer, projector, equipment for police officers (gun, baton, handcuffs) equipment needed for simulating the scenario

#### Expected results

At the end of this LA the police officer:

#### Will know:

- Which are the means of coercion
- When are means of coercion used
- How are means of coercion used
- How to prepare the written material

#### Will be able:

- to use the means of coercion properly
- to implement the legal procedure for the use of the means of coercion
- to respect the basic human rights and freedoms and limit them only in legally specified cases
- to use the means of coercion and the police equipment
- to draft written reports on the undertaken actions

### LA THEMATIC UNITS:

- **Thematic unit 1:** International and national regulations that govern the matter on the use of the means of coercion and General Rules and Principles for Use of the Means of Coercion
- **Thematic unit 2:** Concept and types of means of coercion
- **Thematic unit 3:** Preparing official material and responsibility of the police officer

**Activity 1: Thematic unit 1:** International and national regulations that govern the matter for the use of the means of coercion and General Rules and Principles for Use of the Means of Coercion

**Duration:** 1 class

**Location:** classroom

**Method of work:** self-learning, discussion, group work

**Note for the instructor:**

The instructor divides police officers in two groups; they prepare presentations for 10 minutes.

The first group elaborates on the international and national regulations that govern the matter on the use of the means of coercion

The second group elaborates on the General Rules and Principles on Use of the Means of Coercion

Then each group selects a member to present what has been done.

## INTERNATIONAL AND NATIONAL REGULATIONS THAT GOVERN THE MATTER ON THE USE OF THE MEANS OF COERCION

The existence of special authorisations of the police, including the authorisation to use the means of coercion is justified, and even necessary, in any organised society, given the functions the police have, but there is always the question for reaching a compromise between the freedom and safety as a frame in which the freedom exists, i.e. the balance between the crime and the disrupted public peace and order, on the one hand, and the respect of human rights and freedoms that implies the question as regards the limitation of the police authorisations, on the other hand.

The use of the means of coercion, as one of the most complex and certainly the most serious police authorisation limiting the universal human rights and freedoms, in a police action, must appear only **as an exception**, not a rule, and is applied only when there is a legal basis for that, in a manner and under the conditions previously established, with international and national regulations.

International rules that deal with the use of the means of coercion include the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (BPUFF) adopted on the Eight United Nations Congress on the Prevention of Crime and Treatment of Offenders, held in Havana, Cuba in 1990.

This international agreement that is not obligatory, however, has the objective to offer the UN member countries authority roadmap on the use of force and other means by the law enforcement officers, presenting a string of rules on the use of force and firearms.

The national positive legal regulations, we can say, fully incorporate the rules of the Basic principles, through the provisions in the Law on Police, which is at the moment the only legal act that regulates the matter on the use of the means of coercion by the police.

## GENERAL RULES AND PRINCIPLES ON THE USE OF THE MEANS OF COERCION

According to the Law on Police, the means of coercion are used by order of the responsible police officer, senior officer, especially in cases where the disrupted public peace and order is re-established or another planned official action is undertaken, led by a police senior officer, and it is realised by a larger number of police officers.

However, very often the police officer decides alone as regards the use of the means of coercion, and the type of means of coercion chosen depends on the specific situation. However, it is essential to point out that the obligation of the police officer is to use the easiest means of coercion, in order to overpower the resistance, i.e. to stop the assault and to use the authorisations rightfully.

In order to use the means of coercion successfully, the police officer needs to be tactical, i.e. to undertake the following steps:

- Step one: To collect enough data and information on the event and what happened, the location, if objects were used, how did it happen, why and how it happened and who is the accomplice, are there are injured persons and victims, is the public present (citizens, media, etc.), are there any obstructions and danger, or in general to foresee and determine the level of danger;
- Step two: To make an assessment, i.e. the used means of coercion needs to be stipulated by law, to use necessary and proportional force, i.e. to make an operative plan for action;
- Step three: To start using the means of coercion and to concentrate when acting (to be self-confident and to control his/her actions), to identify himself/herself, not to be provoked and lose the attention, to make a clear warning and to use the planned means of coercion in order to make the person follow what is told.

What is said is not easy at all in a real-life situation, when the decision needs to be taken immediately, and it is conditioned with the existence of many factors, such as:

- The type of resistance i.e. assault;
- The conditions to do that;
- The psychological and physical preparedness and training of the police officer.

Although there is no generally accepted rule as to what means of coercion should be used, when making the choice, our law implies adherence to some General Rules as follows:

- Force can be used only for overpowering resistance i.e. stopping an assault that is contrary to the law when fulfilling the official tasks;
- As regards the use of force, only means stipulated by law can be used;
- Force is used only when there is no other way to overpower resistance i.e. stop an assault that cannot be overpowered in another way;
- The means of coercion can be used only in the manner and under the conditions stipulated by law;
- It is prohibited to use the means of coercion in order to obtain a confession or a statement;
- Before any use of the means of coercion, the police officer is obliged to present his/her identity and to warn the person upon which official actions are taken;
- Use of force can last as long as there are the reasons due to which the police intervened;
- Medical assistance must be provided as soon as possible for the person upon which means of coercion was used;
- The police officers who used the means of coercion will without delay inform their chiefs on the use of the means of coercion;
- The members of the family of the person against whom the means of coercion were used and who was physically injured or is dead as a consequence, must be given accurate and timely information.

These General Rules on the use of the means of coercion should ensure their proper application that arise from the basic principles on the use of the means of force and firearms, amounting to the principle of legality, necessity and the principle of proportionality.

**The principle of legality (legitimacy)** is the initial principle and it authorises and obliges the police to use the means of coercion only for legal aims in accordance with the rules stipulated by law.

It is forbidden to use force for the purpose of using torture, intended murder, as well as to accomplish any other objective, which is not permissible

by law, and if this is the case, then it represents crossing the line, i.e. misuse of the means of coercion and it is a crime that is adequately sanctioned.

The means of coercion must not be used outside the conditions and legal procedures in that regard. The means of coercion that are not stipulated in the law must not be used.

Before using any means of coercion, the police officer, i.e. his/her superior giving the order to use the means of coercion, must assess the legality of the application of their decision.

**The principle of necessity** basically means that the means of coercion can be used by the police only when the legal aim cannot be achieved with non-violent methods. Any use of force is something exceptional and is used only when necessary, when it is the final resort used and there are absolutely no other possibilities to accomplish a legal aim, when the aim cannot be achieved through communication, through the major attributes of the law “arbitration”, “convincing”, and “dispute resolution”.

**The principle of proportionality** presupposes finding a balance between the used force or other means of coercion and the accomplishment of the legal aim due to which force was applied. The principle of proportionality seeks to express the relation between the two values, two protected goods (human life, freedom, health and physical integrity), on the one hand, and the safety of people, on the other hand. This is a dynamic relationship that cannot be always determined precisely.

Society cannot accept the use of force in cases when in order to protect smaller values, values of bigger importance are violated (e.g. health, life, environment, etc.), and if this happens, then there is overstepping of the use of the means of coercion, and that is a ground for asking responsibility (criminal and disciplinary) of the police officer that used them or ordered their use.

In order for the use of means of coercion to be regarded as fair, the above mentioned principles must be observed fully in any specific case.

## Activity 2: Thematic unit 2: Concept and types of means of coercion

**Duration:** 1 class

**Location:** classroom and adequate location for scenarios

**Method of work:** self-learning, discussion, working in groups

### Note for the instructor:

Discuss with police officers the use of the means of coercion  
Introduce them with the types of means of coercion  
Then divide them into 6 groups and give assignment to each of the groups to elaborate some of the articles or chapters:  
First group: Use of physical force  
Second group: Use of baton  
Third group: Use of restraining means  
Fourth group: Use of firearms and legal grounds for using firearms  
Fifth group: Conditions and procedure for using firearms  
Sixth group: Other types of means of coercion  
Groups work for 10 minutes on preparing the presentation and then a representative of each group presents.

## CONCEPT AND TYPES OF MEANS OF COERCION

The police officer is authorised by the means of coercion to use force when performing police works. Police force should be applied for reasons and in a manner prescribed by the legal provisions, in an adequate way depending on the objective and subjective conditions that caused the use of force and the person upon which it is applied and it has to be proportional to the challenge and danger that needs to be eliminated or overpowered.

In accordance with the Law on Police **“coercion/force shall presuppose the use of legitimate, adequate and proportional, physical or mental pressure, by using means and in a manner stipulated by law, directed at a specific person by the police officer, only when police works cannot be done in another manner”**.

By defining the concept of force in this way, our law officialises the general principles on the use of force and the means of coercion: legality, necessity and proportionality, thus not leaving space for different understanding and interpretation of force, at the same time accepting the internationally established and recognised rules when using force through specific use of a certain type of means of coercion.

The Law on Police stipulates the following types of means of coercion:

- Physical force;
- Baton;
- Restraining means;
- Tool for forcing vehicles to stop;
- Police dog;
- Chemical agents;
- Firearms; and
- Special types of weapon and explosives.

Outside the above mentioned means of coercion, determined with the Law on Police and further specified in the bylaws, the police are not allowed to use other items as such.

It is common for all means of coercion that the police officer cannot be held responsible for using them if he/she uses them in a manner and under the conditions prescribed by law in order to reach a legitimate aim.

## PHYSICAL FORCE

The use of physical force is one of the most widely applied means of coercion by the police officers when accomplishing a legitimate aim and it is always used alongside other police authorisations (deprivation of liberty, apprehension, etc.), but also combined with other means of coercion.

According to the Law on Police **use of physical force shall be the use of different moves, wrestling skills, or similar actions against the body of another person, with the aim to stop an assault, prevent escape or overpower resistance given by that person, in order to make the person obey what he/she is told.**

Physical force is mostly used in establishing the disturbed peace and order by a person, in order to stop an assault against oneself or against another person or an object being secured, in cases when the police officer cannot perform the official task by using other means or authorisations.

The applied physical force is the move, strike, throwing, suffocating and other skills for defence and assault, which is used to coerce the person into obedience.

If the person resists then there is a necessary assumption for using physical force by the police officer, although the resistance as an element is also related to other means of coercion.

Resistance presupposes any opposition to the orders of the police officer, or conduct of a person that disrupts the performance of an official action, in particular:

- When maintaining or establishing public peace and order;
- When securing the crime scene or other event where official action is undertaken (e.g. traffic accident);
- When apprehending, depriving of liberty, escorting a person, etc.

## TYPES OF RESISTANCE

Resistance can occur in the following types:

1. Passive resistance
2. Active resistance

Passive resistance is the resistance given by a person who does not react when called or when given clear and unambiguous order by the police officer, does not act in accordance with the order, as well as the resistance when the person toward whom an official action is undertaken, makes a move with his/her body (lays down, sits, stands, grabs huge and non-movable items, etc.), whereby the person hinders the police officer to perform his/her official duties. For passive resistance, only physical force is applied, with the baton used only in exceptional cases, and this is only in cases when the intensity of the given passive resistance by the person oversteps the physical characteristics of the police officer, and then the police officer acts with moderate striking on the face, legs, or hands.

Active resistance is the resistance when the person toward whom an official action is undertaken clearly and obviously opposes the police officer by using a specific physical force (pushes, draws, runs, punches, hides behind items etc.) or acts with an item that can inflict injuries, with cold weapons or firearms.

Regardless of the type of resistance, the use of physical force by the police officer will last as long as there is the reason for using the force and must stop when the resistance has stopped or when the resistance is neutralised, after which restraining may follow as means of coercion.

When using physical force, the police officer must take into account the intensity of the used force, which means that the police officer must assess the physical capabilities of the person, and if he knows the person, his skills and abilities (e.g. knowing some wrestling skill).

Usually before any force is used, the person has to be warned about the possibility of the use of force, but in highly tensed and risky situations, the

warning does not have to be given.

The police officer should also, if possible, tell and order the person to stop giving resistance.

Before, during, and after the use of physical force, the police officer must not offend the person verbally and behave contrary to the Code of Police Ethics.

When using physical force or any other means of coercion, the police officer must be aware of the presence of the public and that his/her action may have negative effect on him/her, as a police officer, the police and the Ministry of Internal Affairs as a whole. It should be noted that the public, regardless of how well they know the rules of the police actions, know precisely when the use of force is proper.

Force is not used on children, visibly pregnant women, ill, feeble persons and disabled persons, but in certain situations when these persons threaten the life and health of the police officer or another person with firearms or other dangerous items, the use of physical force as means of coercion is not excluded.

Upon every use of force, the police officer is obliged to submit a Report on the use of the means of coercion or firearms.

## BATON

The baton is applied when there are legal grounds for the use of physical force, but it is used when a person gives active resistance, i.e. when he/she opposes with firearms or an item that can inflict injuries, punches, hits or tries to escape and sometimes when the person makes other persons give active resistance to the police officer.

By way of exception and when giving passive resistance, there is a possibility for limited use of the baton, only in cases when a person cannot be overpowered with the use of physical force, usually because the person is physically stronger than the police officer, and there is no other way to perform the official duty (e.g. the police officer is alone).

The use of this means of coercion is very delicate and unpredictable because when using a baton, even if its use is moderate, the health of the person can be endangered on a long term, and there is also the possibility for death of the person.

Due to the above, when using these means, the mental and physical preparation of the police officer and his/her training to use baton is very important and in no way can this be transformed into the means for “beating” and intended inflicting physical injuries.

Due to the above, the use of the baton must be directed and will be considered adequate only if directed at parts of the body where injuries cannot occur or small injuries can occur, like hands and legs.

## TACTICS ON THE USE OF THE BATON

Usually the baton is used in cases when the public peace and order has been disturbed and needs to be re-established. Before using the baton, as a rule, the police officer is obliged to undertake other measures or to warn the person (persons) on the use of the baton. For example, if the public peace and order was disrupted in a public place with a fight between two or more persons, accompanied with throwing of bottles, chairs or other items, the police officer will order the persons to stop that immediately or, otherwise, he/she will use baton. In cases when the police officer is suddenly or directly attacked, i.e. when there is no time and possibility to give a warning, the baton will be used immediately.

Hitting with the baton (with the longer part of the baton) is done on places where there is the smallest risk for injuries: extremities (hands and legs), on the fatter parts (back), further from the sensitive internal parts and soft tissue. The aim of this action is to stop the assault and make the assaulter obey the orders. These means are used when a mass of people (disrupters of public peace and order) needs to be suppressed to go in certain direction (wanted direction) or when entering a crowd in order to get out the persons who are of safety interest (disorder instigators, persons with weapons etc.)

Baton is used as long as the assault or resistance is present. Any extended use of baton once the assault ends represents overstepping of official authorisation that results in adequate responsibility.

When the use of the baton is ordered by the superior police officer, he/she is responsible for the grounds and justification of the used means of coercion, and the police officers are responsible for the proper use of the baton.

The use of the baton will last as long as there is a reason for applying it, and when the reason no longer exists, the use of the baton must stop and other, less serious means of coercion can be employed.

The baton cannot be used on vulnerable categories of citizens (children, visibly pregnant women, feeble and elderly persons and disabled persons), but there are exceptions that justify their use, and that is when the life and health of the police officer is endangered due to the use of firearms, i.e. dangerous weapons.

## MEANS FOR RESTRAINING A PERSON

The use of restraining means is one of the police forces applied when performing more complex official authorisations and actions - apprehension, deprivation of liberty, detention.

According to the Law on Police, the previously mentioned restraining means are used in order to:

1. Prevent resistance of persons or stopping an assault directed towards a police officer;
2. Prevent escape of a person; and
3. Prevent self-injury or inflicting injury on other persons.

The law in general does not stipulate mandatory restraining of a person in these situations, but it leaves to the police officer to decide and to objectively assess all the existing circumstances, primarily the conduct of the person, the reasons for the police intervention, the time and place of the event, etc.

Usually the restraining means come following other means of coercion, often the use of physical force, but this is not always the case and it can be undertaken independently.

In certain cases restraining can be ordered, usually when official actions are undertaken with a competent court order.

As a rule, restraining is done with handcuffs, which are part of the mandatory equipment of a police officer, and if he/she does not have handcuffs due to any reason or if several persons are to be tied, other assisting means can be used including a belt, rope, chain, plastic roll, etc.

As a rule, the restraining is done with hands behind the back, but also frontally, and this depends on the assessment of the police officer, who evaluates all the circumstances in the specific case, primarily establishing the level of danger for the person and the police officer.

While being restrained, the person is given verbal orders on how to behave in order to be brought in with fewer difficulties, at the same time pointing out that otherwise physical force will be used, and the person will be clearly and unambiguously told his/her rights.

Restrained persons must be searched, and this is done before or after the restraining, depending on the circumstances of the restraining.

While performing the restraining, police officers must preserve the dignity of the restrained person, and if possible, this should be done without interferences to the public. If the restrained person needs to walk, the person should go in front of or in parallel with the police officer who will be on his left side.

As a rule, children (persons under the age of 18), visibly pregnant women, feeble and ill persons and disabled persons are not restrained, however, in

certain situations they can also be restrained.

When the restrained apprehended person, i.e. person deprived of liberty is brought in the premises of the police station, the person shall be untied, but if there is an obvious danger of escape, assault, self-injury or aggressive acts, the person can stay restrained or can be put into handcuffs additionally.

The police officer writes a Report on the use of means of coercion or firearms regarding the applied restraining with handcuffs.

## FIREARMS

One of the most radical and most controversial authorisations available to the police officer for successful performance of police duties is the authorisation to use firearms against a person. That means that the police officer can endanger the health or can kill the person against whom firearms are used. For these reasons, firearms are used only when it is absolutely necessary and when definitely all the other possibilities and other means of coercion, such as physical force and baton, police dog, chemical agents and forcing a vehicle to stop have been exhausted.

The established international standards recommend to the countries and the national law enforcement agencies to commit to developing the capability of police officers to use unforceful means in performing their official duties, by stressing their ability to initiate effective communication with the citizens, elevate the standards of police equipment in order that physical force and firearms are used as less as possible by the police.

According to the existing international standards, there are no conditions for the use of firearms by the police in order to protect any other value (e.g. people's property), except in cases when there is direct and serious death risk.

However, the circumstances in which the police work and act urge in some extreme and dangerous situations the use of the means of coercion – firearms by the police officers.

The use of these means interferes with one of the most significant human rights – the right to life. Therefore, it is especially important to define in the law the conditions for the legally allowed use of firearms narrowing the margin of appreciation for the use, at the same time excluding the illegitimacy and criminal responsibility of police officers who act in accordance with the law.

The Law on Police moves towards providing the legal frame in view of the use of firearms, which is part of the equipment the police officer has, and it specifies when and how they should use firearms.

According to the law, there are legal grounds for the use of firearms when there is no other way and other means:

- 1) To protect their lives or the life of other people;
- 2) To prevent the committing of a crime which is sanctioned with at least four years of imprisonment;
- 3) To prevent the escape of a person who is caught in the act of committing a crime which is sanctioned with ten years imprisonment or with more serious sanctions, or a person against whom a warrant has been issued for his/her committing such a crime;
- 4) To prevent the escape of a person deprived of liberty for committed crime as referred to in item 3 of this paragraph, or a person for whom a warrant has been issued due to his/her escape from prison where he/she is serving a sentence for such crimes, and
- 5) To prevent assault on a facility or a person being secured.

## LEGAL GROUNDS FOR USING FIREARMS

### - To protect one's life and the life of other people

In the specific case in order to use these means of coercion, there needs to exist a direct danger for the police officer as an assault contrary to the law that will seriously, unambiguously and realistically endanger the life of the police officer or other person or persons, and the assailant uses firearms, cold weapon or dangerous weapon (object), uses special skills when attacking, when the assault comes from a larger group of people that manifest particular aggressiveness and insistence, by which it is clear that they will endanger the life of the attacked (police officer or citizen). In this situation, there is a priority for acting and using firearms to prevent the assaulter from achieving his intention, to wound, but not to kill him. The assault needs to be contrary to the law, i.e. there should not be legal ground for the assault, it should be direct, obvious, real and in a manner and with means that can objectively endanger the life and health of the police officer and other people. In this case firearms are used only to prevent, i.e. dissuade the perpetrator to continue with the assault, but not to cause death of the assaulter or to seriously endanger his health.

### - To prevent committing a crime that can be sanctioned with 4 years of imprisonment at the least

This legal ground for use of firearms necessitates previous good knowledge of the positive legal regulations, in particular the Criminal Code and separately stipulated crimes in the sanctions section that constitute an

important condition for use of firearms and that is a stipulated imprisonment in duration of at least four years. This is a sanction that is linked to a small number of crimes, defined in the section crimes against the life and body and crimes against property in the Criminal Code. The first group of crimes include the crime “homicide”, where at least five years of imprisonment are foreseen for the basic form of this crime, as well as the crime within the group of crimes against property “robbery”, which foresees an imprisonment of at least 5 years for the basic form of the crime. The Criminal Code defines several other crimes for which at least four years of imprisonment are foreseen, within the group of crimes against country and crimes against humanity and international law. When this ground for use of firearms exists, it is necessary that the committing of the crime is imminent or ongoing so as order to produce consequences that are contrary to the law.

- **To prevent the escape of the person caught while committing a crime that is sanctioned with 10 years’ imprisonment or more serious sanction or to prevent the escape of persons for whom there is a search warrant for committing such a crime**

This legal ground on the use of firearms by a police officer is a continuation of the previously mentioned legal ground, i.e. we have a situation when the perpetrator is caught in the act while committing the previously mentioned crimes and tries to leave (escape) the crime scene. This is when the perpetrator is caught while committing the crime and possesses weapons or items for which there is a suspicion that the perpetrator may use them against the police officer or other person while escaping.

- **To prevent the escape of the person deprived of liberty for committing a crime that is sanctioned with 10 years’ imprisonment or more serious sanction or to prevent the escape of a person for whom there is a search warrant for escaping the imprisonment imposed for committing such a crime**

The abovementioned refers to the situation when the person is previously deprived of liberty for serious crimes and is still in a police procedure, there is no “in flagrante” situation, in the period between the deprivation of liberty to his bringing in the police station or other institution (PPO, court), as well as the situation when the person escaped from a penitentiary or other institution, upon a previously issued order by the competent body for the deprivation of liberty and on the basis of the same search warrant, for serious crimes for which imprisonment of ten years or a more serious sanction is foreseen. In this case firearms are used by the police officer only when this is absolutely necessary.

### - To prevent an attack on an object or person being secured

The use of firearms on this ground is conditioned by the necessity to stop an imminent and serious attack on an object being secured on the basis of issued order or adequate act for their security. In the specific case it does not matter what kind of object, or person, is in question, but rather it is important that their security is an official duty of the police officer. The secured object might have a political meaning (Government, Assembly), another state institution (Court, PPO, PI) or object of economic importance (water tank, dam etc.), and the persons secured might be politicians, scientists, people from the show business etc., but also citizens under police and court protection, including persons deprived of liberty suspected for having committed a crime. The attack on secured objects may happen with the aim to destroy the object, put on fire, damage in part or wholly, in order to hinder its use, but also the attack might be organised to endanger the life of some person inside the object.

The use of firearms by the police officer is certainly one of the most complex official authorisations given the possible consequences of the use of firearms.

For that reason, the use of firearms must be put in certain precise frames stipulating the legal grounds and the conditions under which they are used, thus fulfilling the basic principles for use of the means of coercion.

## CONDITIONS FOR USING FIREARMS

Taking into consideration the above stated, firearms can be used only under the following conditions:

- Firearms may be used only if there is one of the several legal grounds for that (five legal grounds),
- Firearms may be used only if an active physical assault needs to be overpowered by several persons or by a person who can seriously endanger the life of the police officer or of another person, judging by his/her physical characteristics or wrestling skills and if the person cannot be overpowered in another way
- Firearms may be used only when all other means of coercion are exhausted or when their use is inadequate or impossible,
- Firearms may be used by the police officer only when the other person possesses and uses or intends to use weapons or other item that can endanger the life of the police officer or of other persons,
- Firearms may be used only to prevent the perpetrator to commit an action contrary to law, but not to intentionally deprive of liberty or inflict physical injuries,
- The police officer should be adequately trained for the use of firearms.

## PROCEDURE WHEN TO USE FIREARMS

If the use of firearms endangers the life of other persons, then it is not allowed, except in cases when due to the direct danger this is the only means necessary to protect the life of the police officer or the life of those persons.

In case all the previously written assumptions on the use of firearms are fulfilled, the police officer must undertake certain activities before, during and after the use of the firearms:

- Before any use of firearms the police officer identifies himself/herself that he/she is a police officer (this is especially important if he/she is in civilian clothes), except in cases implied by the circumstances, and in particular if this seriously endangers the life and health of the police officer.
- The police officer must give clear and unambiguous warning that weapons will be used, but there are exceptions that have been previously mentioned,
- The warning (order) is made by giving voice orders in a clear, unambiguous and understandable way with the words **“stop, police”**, and if the person does not react, then a second order will follow with the words **“stop, I'll shoot”**, after which the use of firearms follows,
- If the circumstances allow it, immediately before the use of firearms, a warning bullet needs to be shot at the person in direction where there will be no consequences to anyone,
- Firearms are primarily used towards some body parts, by rule the extremities, in order to avoid serious, deadly consequences on the person towards which they are used,
- The primary task of the police officer that used the firearms is to give initial medical help to the injured person and to call an ambulance,
- To inform the relatives or close people of the injured person of the event,
- After each use of firearms the police officer should immediately inform the superior police officer and prepare a report on the use of the means of coercion and firearms,
- The police officer is obliged after each use of firearms to be checked the use of firearms by the services of MoIA or other competent state institutions (courts, PPO).

The use of firearms by the police officer under the abovementioned conditions and procedure, excludes the responsibility of the police officer.

In accordance with the Law on Police, shooting in the air for signalisation purpose, requesting help and threatening, as well as shooting in animals when they threaten the life of people, is not regarded as firearms, and therefore, a Report on the use of the means of coercion or firearms is not drafted by the police officer in this case and it is not a subject to evaluation by the superior officer, but an official note must be written where the circumstances are presented.

## TOOLS FOR FORCING A VEHICLE TO STOP

It is used in cases when the person upon whom the police officer takes action uses vehicles as tools to run away when caught committing a crime persecuted ex officio, or for stopping a person deprived of liberty or when there is an order for deprivation of liberty.

These means are used when there is an intention for illegal crossing of the state border, or when there is a danger of violent disallowed access to the premises where police works are done.

## POLICE DOG

It is always allowed to use a dog when there are conditions for the use of physical force, baton or use of firearms, as well as when there is a need of police intervention if the public peace and order is disturbed. It is allowed to use a dog only if it is wearing a protective dog muzzle.

Only in cases when the conditions for use of firearms are fulfilled, the police dog can be used without a protective dog muzzle.

## CHEMICAL AGENTS AND SPECIAL TYPES OF WEAPONS AND EXPLOSIVES

When performing their tasks and duties, the authorised officials may use chemicals and gas (tear gas) in order to establish the public peace and order on a large scale (violent demonstrations, massive fights), to forcefully remove barricaded persons or objects, vehicles and other premises. Chemical agents are used for temporary disabling (primarily people) in different situations.

In view of the police tactics, chemical agents will be used in the following cases:

- when the public peace and order is disrupted on a larger scale (in demonstrations, massive fights etc.);
- when the perpetrator/s of serious crimes is/are barricaded (robbery, homicide, burglary, rape, hijack etc.) in buildings, vehicles and other objects;
- when a resistance needs to be overpowered or a person needs to be deprived of liberty, apprehended or detained.

The use of chemical agents can have serious consequences on elderly and feeble persons, pregnant women, children and persons suffering from lung and heart diseases.

The chemical agents for temporary disabling under the condition of

lowest concentration of chemical substances cause fast and short inability. Thus, because of the toxic effects expressed through tearing, pain in the chest, suffocating feeling, pain etc., the person must stop the planned physical and psychological activity and to leave the contaminated area. Due to the character of the chemical gas and their features (physical and psychological) i.e. the consequences that may arise from them, an order for their use may be given only by the responsible superior or the authorised police officer.

A report is written as regards the use of chemical agents and gas.

## MEANS OF COERCION TOWARDS A GROUP

These means of coercion are used in special situations when the police officers act in cases when the public peace and order is threatened by several persons, a group or a crowd, in street protests and hostage situations, but every time they are used it should be noted that the health and life of people must not be endangered.

When establishing the public peace and order of a larger scope, the police officer is authorised to order the citizens to leave in a peaceful manner. If the citizens or part of them do not follow the order, i.e. do not leave, use of the means of coercion is allowed: physical force, baton, chemical means, water cannons and a police dog.

The use of the means of coercion towards groups is applied following an order by the authorised person in charge of the police action, and the use of special types of weapons and explosives is allowed by the director of the Public Safety Bureau.

## USE OF FIREARMS AGAINST ANIMALS

In situations when the attack by an animal directly threatens the life and body of people or if there is a danger for threatening the life or health of people because of a contagious disease, transmitted by the animal, use of firearms is allowed by the police officer in order to eliminate the danger.

Moreover, firearms may be used towards ill and seriously injured animals, when there is no possibility for adequate veterinary help or there is no other person to undertake adequate measures to help those animals.

**Activity 3:** Video scenarios on proper and improper use of the means of coercion

**Duration:** 1 class

**Location:** classroom

**Method of work:** Video presentation and feedback

**Note for the instructor:**

The police officers need to realise 6 scenarios in a classroom and in the vicinity of the OU, and to prepare a feedback and reflection. The police officers will be shown a video scenario on the use of the means of coercion: police move, baton and restraining means (handcuffs).

**SCENARIOS ARE ATTACHED TO THIS MANUAL.**

**Activity 4:** Practical exercises and scenarios on the use of physical force (different moves, wrestling skills or similar actions against another person)

**Duration:** 10 classes

**Location:** adequate location

**Method of work:** Practical exercises and scenarios, feedback and reflection

**Note for the instructor:**

The police officers are trained defence techniques in a gym by an instructor.

They practice different moves, wrestling skills or similar actions against the body of another person.

The technique is shown, they exercise in couples, feedback is prepared and the technique is learnt.

**Activity 5:** Practical exercises and scenarios on the use of the police baton

**Duration:** 5 classes

**Location:** adequate location

**Method of work:** Practical exercises and scenarios, feedback and reflection

**Note for the instructor:**

The police officers are trained defence techniques in a gym by an instructor.

They try out different techniques on the use of the baton.

The technique is shown, they exercise in couples, feedback is prepared and the technique is learnt.

**Activity 6:** Practical exercises and scenarios on the use of restraining means

**Duration:** 5 classes

**Location:** adequate location

**Method of work:** Practical exercises and scenarios, feedback and reflection

**Note for the instructor:**

The police officers are trained defence techniques in a gym by an instructor.

They try out different techniques for restraining (using handcuffs).

The technique is shown, they exercise in couples, feedback is prepared and the technique is learnt.



## Activity 7: Thematic unit 3: Preparing official materials and responsibility of the police officer

**Duration:** 1 class

**Location:** classroom

**Method of work:** self-learning, discussion, working in groups, practical exercises

### Note for the instructor:

The instructor divides police officers in 2 groups and they prepare presentations for 10 minutes:

First group: Prepares official documentation for the use of one type of means of coercion

Second group: Responsibility of the police officer

The instructor initiates a discussion on the improper action by the police officer and the possible consequences.

## PREPARING OFFICIAL DOCUMENTATION

When using the means of coercion the police officer must prepare a “Report on the use of the means of coercion”.

The police officer who will use the means of coercion is bound to write a report and to submit it to the commander of the police station. If the means of coercion were used upon an order by the superior officer, the report will be prepared by the superior officer and he/she will submit it to his/her superior.

The report on the use of means of coercion should include:

- a) Identification data of the police officer submitting the report (organisational unit, number of the organisational unit and name and surname);
- b) Date, time and place of the event;
- c) Name and surname, address and other personal data of the person against whom the means of coercion were used;
- d) Type of resistance made;
- e) Type of means of coercion used by the police officer;
- f) Manner and order of the use of the means of coercion;
- g) Type and degree of all injuries caused as a result of the use of the means of coercion on the person against whom they were used;
- h) Name and surname, date of birth and residing address of the witnesses of the event when using the means of coercion;
- i) Detailed description of the event;

j) Signature of the person who submits the report.

The assessment will be justified if the police officer during the use of the means of coercion stayed within the limits of official authorisations regardless of the consequences that usually include body injuries, severe body injuries or death of the person police force was used against. In this case the consequence occurred following a legally allowed action regardless of the fact that the previously mentioned consequences are systematised as crimes in the Criminal Code.

If when using the means of coercion the police officer oversteps his authority, the assessment regarding the gravity of the overstepping will be made by the superior officer after a previous analysis of all circumstances causing the situation. Any report on the use of the means of coercion will be registered in the track register of the local police station on the territory of which they were used.

## RESPONSIBILITY OF THE POLICE OFFICER

When the means of coercion are used within the limits of the police authorisations, the responsibility of the police officer using police force, as well as of the responsible superior police officer who ordered the use of force is excluded. The grounds, justification and lawfulness of the use of the means of coercion in any specific case are evaluated by the superior police officer. The line officer who is in charge informs the competent public prosecutor on any use of firearms.

In case of inflicting severe body injuries or if death occurs or in cases when the means of coercion are used towards several persons, the grounds, justification and lawfulness of the use of firearms and the use of the means of coercion are assessed by the organisational unit of the Ministry in charge of performing the internal control and professional standards, taking into consideration the circumstances within which the means of coercion were used and this body prepares a report with opinions on the grounds, justification and rightfulness of the use of the means of coercion and submits it to the Minister.

If a criminal, misdemeanour or litigation procedure is initiated or conducted against a police officer, due to his/her use of the means of coercion or for participating in a traffic accident with a motor vehicle while performing police works, the Ministry will provide free legal assistance. The Ministry will also provide free legal assistance to the citizen who helped the police officer in conducting police works, if a criminal, misdemeanour or litigation procedure is initiated against him/her for actions done in relation to the given help.

**Activity 8:** Practical exercise for preparing official material**Duration:** 1 class**Location:** classroom and adequate location for a scenario**Method of work:** practical exercises and scenarios, feedback and reflection**Note for the instructor:**

The instructor divides police officers in 4 groups; they prepare presentations for 10 minutes.

First group: preparing official documentation as regards the use of physical force

Second group: preparing official documentation as regards the use of baton

Third group: preparing official documentation as regards the use of restraining means

Fourth group: preparing official documentation as regards the use of firearms

The instructor initiates a discussion on the responsibility of the police officer.

**THE TEMPLATE IS ATTACHED TO THE LA**

## SUMMARY:

In significant part of their work, police officers use their authorisations during police interventions in cases when there are grounds of suspicion that a crime is perpetrated or when the public peace and order is disrupted and it happens very often to use the means of coercion in the interventions. Those police interventions must be objective and legal, when undertaking them the principle for presumption of innocence must be respected, they must be ethical, i.e. to take into consideration the specific needs of the vulnerable categories of citizens, such as children, minors, women, elderly and feeble persons, persons with health problems and disabled persons.

The lawful and professional application of the principles of legitimacy, necessity and proportionality when using the means of coercion will not lead to violation of basic human rights and freedoms.

For that reason, the basic police training is of great importance, whereby the daily police actions should point to the shortcomings that should be included in the basic police training.

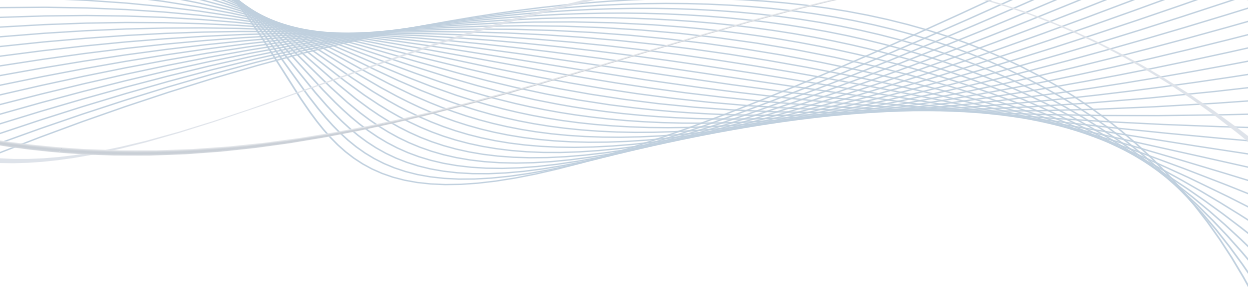
The respect for the abovementioned will lead to gaining confidence in the police by the citizens and upgrading the personal values of police officers in the community and in the MoIA.

## QUESTIONS:

1. Which regulations (international and national) govern the matter on the use of the means of coercion?
2. What is needed for a successful use of the means of coercion?
3. Which conditions influence the use of the means of coercion?
4. What are the basic rules for the use of the means of coercion?
5. What is understood under the concept force?
6. Which types of means of coercion are there in the Law on Police?
7. What is physical force?
8. What is active resistance?
9. What is passive resistance?
10. When is the baton used?
11. How and when is the baton used?
12. What are restraining means?
13. What is the use of firearms?
14. What are the legal grounds for the use of firearms?
15. What are the conditions for the use of firearms?
16. How to act when using firearms?
17. What should the report on use of the means of coercion include?
18. When and why may the police officer be held responsible?

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## TEMPLATE FOR SCENARIO 1 – Use of the means of coercion, police moves, baton, handcuffs and detention in a PS

### Learning assignment: Use of the means of coercion

Names: Mile, Petre, Dame and Filip

#### Context scenario

Police officers Damjan and Robert perform official tasks on the square in the period between 8 p.m. and 2 a.m. Around 11.30 p.m., Robert tells Damjan that he needs to go to the toilet and must enter a restaurant in the area. 4 young people Mile, Petre, Dame and Philip celebrate euphorically. Robert goes into the toilet, and Damjan approaches the bar and asks the bartender if there are any problems with the guests. The bartender looks towards the group that celebrates and does not make any comments. Damjan approaches the group of young people and looks for their IDs. Three of them give their IDs, and one of them—Philip stands up, refuses to give his ID and asks Damjan to tell him the reason for checking their IDs. At the moment Robert comes out of the toilet and notices the situation and approaches his colleague and the group of young people. When approaching the table Philip says to Robert “What do YOU want”, Robert approaches him, grabs his left arm, moves him closer. At the moment the friends get up and ask why is their friend detained, after which Mile tries to release his friend by grabbing Damjan on his left shoulder, then Robert takes out the baton and hits the person on his hand. Roberts puts handcuffs on Philip with his arms behind the back, and Damjan orders Mile to come along with him and when he comes, the officer puts handcuffs on him with his arms in the front. Afterwards, the persons are detained in the police stations. They are handed in to the shift leader in the police station, and Robert and Damjan prepare a report on the use of the means of coercion.

#### Role description

##### Police officers

Police officers Damjan and Robert perform official tasks on the square in the period between 8 p.m. and 2 a.m. Around 11 p.m., you enter a restaurant because you need a toilet. Inside the restaurant you want to check the identity of the guests, but they do not cooperate with you. Undertake the necessary measures and actions.

## Role description

### B. Civilian role

You are Philip – a loud and noisy guest in the restaurant. When the police officers come to check your identity, you argue with them, you do not present your ID card and you say to one of them: “What do YOU want”. The police officer puts handcuffs on you and then you follow his orders.

## Role description

### C. Civilian role

You are Mile – a joyful and loud guest in the restaurant. When the police come to check your identity, you argue with them. When the police officer apprehends Philip, you try to release your friend by grabbing the police officer Damjan on his left shoulder, after which Robert takes out the baton and hits you. The police officer restrains Philip with handcuffs with his hand behind his back, and the other police officer orders you to come along with him and puts handcuffs on your hands in front of your body. When you start obeying what you are told, you are apprehended in the police station.

## Expected results

- to communicate effectively
- to check the identity of the person
- to use the means of coercion
- to apprehend a person in the police station
- to file an adequate submission.

## TEMPLATE FOR SCENARIO 2 – Use of the means of coercion - restraining with handcuffs and apprehension in the PS

### Learning assignment: Use of the means of coercion

Names: Zdravko, Igor

#### Context scenario

The police officers of the traffic police Ljupco and Faruk are controlling drivers and vehicles in the street at 2.30 a.m. They stop a PMV “Golf-3” with the lights switched off in order to make control. The driver Zdravko presents the requested documents and he is given a fine for the misdemeanour. Since there is a smell of alcohol in the vehicle, the police officer requests to perform an alcotest. The co-driver Igor comes out of the PMV, obviously under the influence of alcohol and he argues with the police officer, requesting that he is given an alcotest.

When the police officer Faruk tells him to go back in the vehicle in order for the procedure with the driver to be lead to the end, Igor comes closer to him and starts pushing him. Then the police officer Faruk twists his right arm and puts the handcuffs on it. Since Igor continues the bad behaviour, he is apprehended and taken to the PS.

In the police station, they hand in Igor to the shift leader who asks them to prepare the official documentation.

#### Role description

Police officers

1. You are the traffic police officer Ljupco and you are controlling drivers and vehicles in the street at 2.30 a.m. You stop a PMV “Golf-3” with the lights switched off. The driver Zdravko hands you the requested documents and you give him a fine for the misdemeanour. Since you notice the smell of alcohol coming from the vehicle, you want to give an alcotest to the driver. The co-driver Igor comes out of the vehicle, obviously under the influence of alcohol and argues with you asking to be given an alcotest.
2. The traffic police officer Faruk. The co-driver of the stopped vehicle behaves badly and aggressively. When ordered by you to go back into the vehicle so that you can finish the procedure with the driver, he comes closer and starts pushing you. Then, you twist his right arm and put on handcuffs. Since Igor continues with his bad behaviour, you apprehend him and take him to the PS.

Undertake the necessary measures and activities.

## Role description

### B. Civilian role

You are Zdravko, the driver of a PMV“Golf-3” with the lights switched off. You are stopped by the traffic police and you are issued a fine for the misdemeanour. You respect the orders of the police officers.

Igor is together with you in the vehicle, obviously under the influence of alcohol and he argues with the police officers during the control.

## Role description

### C. Civilian role

You are Igor, the co-driver in the PMV Golf. While the police officers are controlling the driver Zdravko, you are angry because he is given a fine. You go out of the vehicle and say to the police officer: “He is not drunk, I am drunk, I will take the test”. You push the police officer on his shoulder and you behave badly.

## Expected results

- to effectively communicate
- to impose a fine for misdemeanour
- to have the situation under control
- to use the means of coercion
- to apprehend a person in the PS
- to submit adequate submission.

## TEMPLATE FOR SCENARIO 3 – Use of the means of coercion - firearms

### Learning assignment: Use of the means of coercion

Names: Ile A, Goran, Idriz

#### Context scenario

While patrolling, police officers Idriz Ramadani and Goran Trajcev notice a person with a phantom mask and a backpack running away from the post office towards the park. Idriz enters the post office to check what is happening, and Goran follows the person saying “stop, police”.

The person turns around and shoots towards Goran. Goran uses firearms and with one bullet shoots the person in his right leg. The person falls down and is then overpowered, his identity is checked; he is given medical help and is apprehended and detained in the police station for further procedure.

#### Role description

Police officers

1. You are Idriz Ramadani and together with Goran you are patrolling. You notice a person with a phantom mask coming out of the post office and running towards the park.

You go into the post office and talk with the employee, who reports a robbery.

2. You are police officer Goran and when you notice the person running, you follow him. You order him to stop: “stop, police,” the person turns around and shoots at you. You use firearms and with one bullet you shoot him in the right leg.

Undertake the further necessary measures and activities.

#### Role description

B. Civilian role

You are Ile A., you are armed and wear a phantom mask on your head as you have just robbed the post office. You take the money from the employee, put it in the backpack and run away towards the park. The police officer comes, he warns you with the words “stop, police”, you turn around, shoot at him and you continue to run. He also shoots and you are hit in the back part of your right leg and you fall down.

#### Expected results

- to effectively communicate
- to make a clear warning and order
- to use firearms
- to file an adequate submission.

## TEMPLATE FOR SCENARIO 4 – Use of the means of coercion - restraining with handcuffs and detaining in a PS

### Learning assignment: Use of the means of coercion

Names: Ace, Goran

#### Context scenario

The police officer Goran is patrolling a security area in which a manufacturing company operates. The fleet manager of the company informed him that when filling fuel in the forklift, every Monday he noticed that more fuel than usual was filled so he suspects that someone is stealing his fuel. In order to find out the perpetrator, police officer Goran observes the place more often. On Saturday afternoon he notices an unknown male person with two plastic containers coming out of the yard of the company.

#### Role description

B. Civilian role – fleet manager

You are the fleet manager in a manufacturing company. You inform the police officer who is patrolling in the area that every Monday, when filling fuel in the forklift, you notice that more fuel is filled than usual and you suspect that someone is stealing the fuel.

#### Role description

A. Police officers

1. You are Goran, a police officer patrolling in a location where a manufacturing company operates. The fleet manager of the company informs you that when filling fuel in the forklift, he notices every Monday that more fuel is filled than usual and suspects that someone is stealing the fuel. You stop by and observe the place more frequently than usual, and on Saturday afternoon you notice an unknown male person with two plastic containers coming out of the yard of the company. You run towards the unknown person and order him to stop, but he does not respect the order and continues to run. You come closer to the person, overpower him, and put handcuffs on him.  
Undertake further measures and actions.

## Role description

C. Civilian role – perpetrator

You are Ace and you come out in the yard of the company with two plastic containers when you are noticed by a police officer and start to run leaving the containers behind. The police officer Goran orders you to stop, but you do not respect the order and continue running.

## Expected results

- to effectively communicate
- to have the situation under control
- to use means of coercion
- to apprehend a person and take him to a PS
- to file an adequate submission.

## TEMPLATE FOR SCENARIO 5 – Use of the means of coercion – police baton, handcuffs, restraining and apprehension to a PS

### Learning assignment: Use of means of coercion

Names: Kiril, Dragan

#### Context scenario

The police officer Dragan is sent for an intervention to an apartment in a building at Emil Zola Str. No. 2/7 following a notification that there is a fight between a man and a woman and that glass is being broken.

The police officer Dragan goes to the address, comes to the entrance door, rings the bell and Kiril opens the door. He is under the influence of alcohol. Dragan asks Kiril to show him his ID card. Kiril shows him the ID card and invites him to enter. The police officer enters the apartment, but he does not see any problem, he tells Kiril the reason for the intervention and asks for a report on the event. Kiril says that there is no problem, that he is home alone and tells Dragan to leave the apartment. Dragan writes down Kiril's data and leaves the apartment. He rings the bell of the next apartment to confirm the information obtained by Kiril and while he is waiting for the door to be opened, he hears breaking of glass and a female voice asking for help, the sound coming from Kiril's apartment. He rings the bell for several times, nobody opens, and the fight in the apartment continues. Since the door is not locked, he enters and sees Kiril pulling his wife's hair and slapping her. The police officer Dragan orders Kiril to stop, but he refuses and continues to pull his wife's hair. The police officer Dragan approaches Kiril, grabs his right hand that he uses to pull his wife's hair and as soon as she is released, he pulls Kiril towards himself. Kiril releases himself from Dragan and grabs the heating pipe. Dragan tries to make him let the pipe, but he does not succeed, and using the baton Dragan hits him twice on the hands, releases his hands, puts handcuffs and apprehends him in the PS.

## Role description

### A. Police officer

You are police officer Dragan who is told to go to a certain address; you come to the entrance door of the apartment, ring the bell and a person under the influence of alcohol opens. You ask him to give you his ID card. After you have checked his ID card, Kiril invites you to enter; you enter and do not notice any problems. You tell Kiril the reason for the intervention and you want a report on the event. Since Kiril says that there is no problem and you do not see any other people, you leave the apartment. You ring the neighbouring apartment in order to confirm the information given by Kiril, but while waiting for the door to be opened you hear breaking of glass and a female voice crying and asking for help, this coming from Kiril's apartment. You ring the bell of Kiril's apartment again, but nobody opens the door, and the fight in the apartment continues. Since the entrance door is not locked, you enter inside, you see Kiril pulling his wife's hair and slapping her. You order Kiril to stop, but he continues to pull his wife's hair. You come closer to Kiril, grab him on the right hand which he uses to pull his wife's hair and as soon as she is released, you pull Kiril towards you. He releases himself and grabs the pipe of the heating. You try to make him let the pipe, but you do not succeed, so you use the baton and hit him twice on the hands, you release him and put handcuffs, apprehend him and take him to the PS.  
Undertake further measures and actions.

## Role description

### B. Civilian role – perpetrator Kiril

You are Kiril and you are under the influence of alcohol. After the bell rings, you open the door. You present your ID card to the police officer and invite him to enter. You say there is no problem, that you are home alone and ask the police officer to leave the apartment. After he leaves, you enter the other room, pull your wife's hair and offend her. When you notice the police officer entering the apartment you continue to pull her hair and slap her. The police officer tells you to stop, but you refuse and continue to do the same thing. When he tries to pull you away, you grab the pipes of the central heating.

## Role description

C. Civilian role –Kiril's wife

Your husband Kiril pulls your hair and slaps you. When the police officer arrives, you hide in the other room. When your husband continues the action, you cry for help.

Cooperate with the police officer.

## Expected results

- to effectively communicate
- to have the situation under control
- to use the means of coercion
- to apprehend a person in the PS
- to file an adequate submission.

(Name of the organisational unit)

No. \_\_\_\_\_

\_\_\_\_\_20\_\_\_\_\_

\_\_\_\_\_

Pursuant to Article 65a of the Rulebook on the Manner of Performing Police Affairs, the following report is prepared

**REPORT  
ON THE USE OF THE MEANS OF COERCION**

The police officer \_\_\_\_\_, from \_\_\_\_\_ used means of coercion: \_\_\_\_\_ on \_\_\_\_\_20\_\_\_\_\_, at \_\_\_\_\_, in \_\_\_\_\_ against the person \_\_\_\_\_  
(Name and surname) (Name of the organisational unit)  
(type of means of coercion)  
(Place, street and number, place nearby, object nearby etc.)

\_\_\_\_\_, born on \_\_\_\_\_, in \_\_\_\_\_  
(Name, father's name and surname)

state \_\_\_\_\_, residing in \_\_\_\_\_, Str. \_\_\_\_\_, No. \_\_\_\_\_, employed in

\_\_\_\_\_ because of \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(The reasons why the means of coercion have been used shall be mentioned)

The manner of use (parts of the body where the means of coercion were used, with the number of strikes, by filling an order or warning, etc.)

\_\_\_\_\_

\_\_\_\_\_

The use of the means of coercion caused consequences ☐ did not cause consequences ☐

\_\_\_\_\_

\_\_\_\_\_

(Types of consequences)

Witnesses present at the time of the use of the means of coercion:

1. \_\_\_\_\_, address \_\_\_\_\_

(Name and surname)

(Place, street and number)

2. \_\_\_\_\_, address \_\_\_\_\_

**POLICE OFFICER**

\_\_\_\_\_

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