



MAGYAR HELSINKI BIZOTTSÁG

1054 Budapest, Bajcsy-Zsilinszky út 36-38. I/12.

1242 Budapest, Pf 317.

Tel/fax: + 36 1 321 4323, 321 4141, 321 4327

helsinki@helsinki.hu

www.helsinki.hu

The Rules and the Practice of ID Checks and their Role in the Training of Police Officers

Overview

The concept of ID checks or stop and search is used in at least two meanings in the Hungarian language. In its narrow sense it refers to the police measure regulated in Article 29 of Act XXXIV of 1994 on Police (hereinafter: Police Act), i.e. the identification of personal data and the credible verification thereof. In its broader sense the concept also covers close check, search of clothing, luggage and vehicle. The close check means coordinated and focused police activity in course which the territory of administrative competence of the given police organ or part of it shall be closed down by the police and those being there shall be instructed to provide identity documents.



AGIS 2006

Analysis of legal norms relating to ID checks

1. Which are the relevant legal norms related to ID checks?

- a) Act XXXIV of 1994 on police
- b) Decree 3/1995. (III.1.) of the Minister of the Interior on the service regulations of the police (hereinafter: Service Regulation)
- c) Instruction 11/2004. (VII.1.) of the NPHQ on the rules of data protection and data security of the police
- d) Instruction 22/2006. (XII.29.) of the NPHQ on the rules of handling of files
- e) Act XXXII of 1997 on border security and border guards
- f) The following laws are also relevant in the field of ID checks as they regulate the actions of those also entitled to check identity:
 - Act XCII of 2003 on taxes
 - Act CLIX of 1997 on armed security guards
 - Act LXIII of 1999 on public domain inspectorates
 - Act CXXXIII of 2005 on the rules of person and property protection

2. Does the policy state the purpose(s) of ID checks, stops and stop/searches??

a) The aim of ID checks

According to the wording of the Police Act the police officer may require the documents of the person whose identity has to be ascertained. Besides ascertaining of someone's personal identity the law does not contain anything more as to the aim of the ID checks. Thus there are no legal restrictions upon the ID checks regarding the aim of this police measure; it can be applied for any possible purpose.

b) Search of clothing, luggage and vehicle

As per Police Act¹ in order to apprehend and take the perpetrator of a criminal offence to the police station or to prevent an act endangering public security, in a public place determined by the head of the Police organ or in a designated public area the Police may check the identity of persons entering or present. In order to achieve the objectives mentioned, the Police may search buildings, structures, sites, luggage and vehicles. (As it can be seen, here the law provides for a concrete objective of ID checks.)

Besides for the sake of the above purposes the Police may search the clothing and the vehicle of persons in order to prevent or obstruct an unlawful act jeopardizing the security of an event or road traffic, or the order of public places.²

Finally, according to a general norm, the clothing of a person against whom a measure restricting personal freedom is effected may be searched after preliminary warning by the police officer to seize objects suitable for attack or causing danger to him/herself.³ Taking into consideration the fact that the aim of measures restricting personal freedom is specified by the law, this provision does not confer unlimited authority upon police officers to carry out ID checks.

3. Does the law include a threshold of suspicion??

¹ Article 30

² Article 30 Paragraph (3)

³ Paragraph (1) Article 31

The minimal level of suspicion is not determined by law. According to the Hungarian laws the existence of so-called "simple suspicion", a theoretical concept not defined in details, is enough for any police measure to be applied. The concept practically means obtaining any information on the basis of which the police can reasonably assume that a measure falling under the competence of the police may be necessary.

The Police Act provides among the general provisions that the police officer shall take or initiate measures upon finding, or being notified of, a fact or circumstance which requires Police intervention.⁴ The Service Regulation adds to this rule that in the event of discovering a crime or a misdemeanour and also in a situation, in which public order or citizens' person or property is threatened, a police officer shall be under an obligation to act.⁵

Furthermore the Police Act contains the requirement of proportionality as per which a Police measure shall not cause a detriment which is manifestly disproportionate compared to the lawful objective of the measure; of several possible and suitable options for Police measures or means of coercion, the one which is effective and causes the least restriction, injury or damage to the affected person shall be chosen. However, regarding that ID check is a measure causing the least restriction, this principle does not make unjustifiable any ID check if taking a police measure seems to be necessary on the basis of the above-mentioned rules.⁶

Search of clothing, luggage and vehicle most times shall be applied simultaneously with other measures. The Service Regulation mentions some examples for the necessity of application of this measure.⁷ According to the law a search of clothing, baggage and vehicles could take place especially during identity checks, in the course of a close check or when arresting or detaining a person. In these cases the person concerned may be forced to subject to search of his/her vehicle or luggage.

4. Does the law set out key areas of responsibility for the different police ranks??

The Police Act puts forth among the general rules that the Police Officer shall perform his/her tasks specified in the service assignment in accordance with the lawful regulations and he/she shall follow the instructions of his/her superior. With regard to the internal structure of the police the law provides that the internal organisation of the Police shall be determined in a way which always permits the identification of individual responsibility for issuing and for executing instructions.⁸ Also, in performing a task, the Police Officer shall execute the instructions of his service superior. The fulfilment of the instructions however must be denied if the fulfillment would constitute a criminal offence.⁹

Close check may be ordered anywhere in the whole country by the National Police Commissioner (within their area of competence, his deputies), within the area of control of a regional authority by the Police Commissioner (his deputies, Senior Duty Officer), within the area of control of a county

⁴ Paragraph (1) Article 13

⁵ Paragraph (1) Article 6

⁶ This (i.e. ID check is one of the least restrictive measures) certainly does not mean that its unjustified applicant is not detrimental. The reason for that is that when checking someone's identity the police officer restricts the personal freedom of the person subject to the measure – although typically for a very short period of time. Secondly, as a result of the measures the police officer comes to know personal data, and these affects taken as a whole can result in harassment. And if the practice is discriminatory it can also generate social tension. Another aspect of the issue is that the high number of ID checks (around 2.000.000 per year) calculating with 5 minutes per measure on the average means 334.000 workhour financed by the state budget (as regularly two police officers carry out the ID checks, and single policemen alone may take this measure only under extraordinary circumstances), which adds up to 41.750 workdays. This calculated with the average salary of police officers (net 110.000 forints, gross salary 242.500 forint) amounts to 10 billion forints cost a year.

⁷ Paragraph (2) Article 34

⁸ Paragraph (2) Article 11

⁹ Paragraph (1) Article 12

police headquarters by the Police Commissioner (his Senior Duty Officer). ID checks are regularly made by patrols. Patrol service is one mode of exercising Police control over public areas and places open to the public. Depending on whether general crime-prevention, control or supervision is predominant amongst the duties of a patrol, it may be an anti-crime, public order or traffic-control patrol.

Concerning data protection there is a firm division of responsibilities within the organization of the police. Instruction 11/2004. (VII.1.) of the NPHQ on the Rules of Data Protection and Data Security of the Police appoints the person responsible for data protection who is the economic and administrative director of the NPHQ.¹⁰ Rules relating to the data processing of the particular police organs are laid down in details in the Instructions 11/2004. and 22/2006. (XII.29.) of NPHQ, which will be discussed under section 11.

5. Do the standards explicitly state that stops should not be based on ethnic stereotypes? Or other stereotypes (e.g. gender)?

Neither in the relevant laws nor in the NPHQ instructions can rules be found prohibiting ID checks on the basis of stereotypes. The Police Act provides among the general rules that the Police Officer shall take action in compliance with the provisions of law and without bias. Az Rtv. az általános szabályok között, minden rendőri intézkedésre vonatkozóan rögzíti, hogy a rendőr köteles a törvény rendelkezésének megfelelően, részrehajlás nélkül intézkedni. The Service Regulation puts forth four exemptions for the general rules with regard to the following persons:¹¹

- a. persons enjoying immunity due to diplomatic or other status based on an international treaty;
- b. members of Parliament, parliamentary commissioners, judges and public prosecutors;
- c. non-Hungarian citizens,
- d. members of the armed forces and law enforcement agencies.

In case of a) the police officer records the facts and apart from ascertaining of the identity of the person concerned the police officer takes no further action.

Persons listed under b) can be instructed to prove their identity in case they commit a misdemeanour and after establishing their status of immunity their offence may be reported, but they cannot be given warning or fined on the spot.

With non-Hungarian citizen the procedure is the same as one with the Hungarian citizens but any measures applied against them must be reported to the aliens' control authority.

When taking measures against persons falling under d) the police officer shall act with due respect to the authority of the service and the rank.

These differences are justified beyond reasonable doubt and do not make discriminatory application of law lawful.

The fact that the Police Act does not contain rules relating to equal treatment does not entail that police officers are not obliged to respect the requirement of equal treatment in course of exercising their authority. Under section 4 point d) of Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities the scope of the Act extends to law enforcement agencies, consequently direct discrimination, indirect discrimination and all other forms of discrimination are unlawful in course of taking measures by the police.

¹⁰ Article 36 of NPHQ Instruction No 11/2004. (VII.1.)

¹¹ Articles 46 – 49

6. Is there a clear delineation between the different types of stops and their uses?

The Hungarian law regulates ID checks, close checks, search of clothing, luggage and vehicle among the police measures, the exact definition thereof has been provided above.

Beyond these forms of ID checks the law provides for a special case for applying the measure when regulating the obligation of police officers to give assistance to civilians. Under the Police Act in order to enforce his/her rights, anyone may request the Police Officer to check the identity of a third person.¹² If the person seeking such assistance establishes that he/she has a lawful interest in the identity check and certifies his own identity, the Police Officer shall fulfil the request. In this case the data of the checked person shall be provided by the Police Headquarters to the assistance seeker if the assistance seeker substantiates his/her right to the data in a credible way.

7. Does the legal framework outline how police officers should conduct stops?

The proceedings of the police officer checking the identity of a third person is regulated in details by the Police Act and the Service Regulation.

Under the Service Regulation¹³ any action by a police officer shall begin with a greeting appropriate for the time of day, an address appropriate for the citizen's sex and age and if the officer is wearing uniform with a salute and with stating the proposed action unless due to the nature of the action or the circumstances this is not reasonable. An officer acting while in civilian clothes shall prove his police status and – unless it jeopardizes the efficiency of the action - his authority to act by showing his service identity card. If, on first request by a police officer, the citizen does not comply, the officer gives warning "in the name of the Law" that more severe action is to follow. After completing a measure, the Police Officer shall communicate the number of his identification badge or produce his service certificate, giving name and place of service upon request by the subject of the measure.¹⁴

In course of an ID check¹⁵ the police officer requests the identity card or any other document certifying the identity of the person subject to the measure. In case of doubt about the document's authenticity the police officer may ask check questions. The officer may also request the person to state his particulars and compare these with those in the document. If circumstances justify this, the particulars of the person should also be checked against the Register of Wanted Persons.

Personal identity is verified primarily by the identity card; also any other document may be accepted by which the identity of the checked person may be determined with credibility. The Police Officer may also accept the statement of a person known to him or another person of verified identity who is present at the ID check.

In course of an identity check the identity of a person has to be established and, where this is required for further action or measures or by other circumstances, the particulars of the person involved have to be recorded on an Identity-check Sheet. The Identity-check Sheet contains the following data:

- a) the family- and given names of the person (for women, also the maiden name);
- b) date and place of birth;
- c) mother's maiden name;
- d) address details (home, temporary residence);
- e) serial mark and number of Identity Card or other identity document;
- f) place, time and reason for the identity check

¹² Paragraph (4) Article 24

¹³ Article 7

¹⁴ Paragraph (3) Article 20 of the Act on Police

¹⁵ The following rules are set forth by the Article 32 of the Service Regulation



The Police Act sets forth the rules to be followed in case the person subjected to ID check refuses to identify him/herself.¹⁶ In the case of the denial of verification of identity, the checked person may be detained for this purpose, if the identity check is unsuccessful, he may be taken to the Police station and for the purposes of determining the identity, the fingerprint and photograph of the checked person may be taken and on the basis of inspection and measuring, his external physical properties may be recorded. The identity check may only last for the time necessary to ascertain personal identity. Upon request by the checked person, reasons for the identity check must be given unless it compromises the interests of public security.

Among the rules relating to close check the Police Act provides that except for urgent cases, the search of clothing shall be performed by a person of the same sex as the subject of the measure. The measure shall not be carried out in an indecent manner.¹⁷ The owner the clothes, luggage or vehicle can be forced to submit to the measure, and in case the person rejecting to submit to the measure intends to enter a public place his/her entrance must be denied.

Act XXXII of 1997 on Border Security and Border Guards lays down the rules to be followed by border guarders. As opposed to the proceedings regulated in the Police Act and the Service Regulation, the border guard may accept for the verification of identity only such documents that also prove the legality of the given person's stay in Hungary unless a rule of law or an international treaty rules differently. In case the personal identification cannot be established in any other way, assistance of police organs or cooperating foreign border guard services can be resorted to.¹⁸

8. Are the legal standards reflected in force operating procedures (internal instructions) directing the use of stop and search?

According to the information given by the NPHQ there are no internal rules with a view to ID checks and close checks. NPHQ Instructions No. 22/2006 and 11/2004 contain rules concerning procession of data and files.

9. Are the powers of the police clearly determined with a view the the measures in question?

ID checks can be applied also by border guards, in this case the rules of the Police Act are to be followed.

Apart from police officers and border guards the following persons are entitled to check someone's identity. In case the checked person refuses to identify him/herself the police must be resorted to.

a) Tax Authority

Under the Act XCII of 2003, in order to fulfil its mandate prescribed by law, the Tax authority may instruct persons to identify themselves if circumstances indicate that the person concerned exercises activity after which he/she has to pay taxes or participates in such activity.¹⁹ The tax controller acting on behalf of the tax authority is entitled to check places, rooms and vehicles that might be linked to enterprise activity, the controller may examine the cargo of vehicles found on the spot if, on the basis

¹⁶ Paragraph (2) Article 29

¹⁷ Paragraph (2) Article 31

¹⁸ Decree of Minister of Interior No 40/2001. (XII. 23.) on the Service Regulation of Border Guards

¹⁹ Paragraph (1) Article 101

of the claims or registers of the tax payer, of his/her representative, agent or employee or other identified and controlled sources of data, it can be reasonably presumed that the taxpayer hides or destroys important material evidence relevant to declaration of taxes, invoicing or bookkeeping, or taxpayer covers the real circumstances of the enterprise. This rule authorizes the search of a flat in case the flat is the location of the enterprise.²⁰

b) Armed security guards

In course of fulfilling their lawful tasks armed security guards are entitled and obliged to order to discontinue the activity those offending or threatening security, to check their identity and to restrain those actively defying to the order until a police officer's arrival. The object suitable for attacking or causing bodily harm must be taken away from the person, in order to do that his/her clothing and luggages must be searched.²¹

c) Public Domain Inspectors

In order to report a crime or to carry out other lawful measure public domain inspectors may check persons' identity. Until establishing identity the checked person may be held back. Those who cannot verify their identity can be taken to the nearest police station by the inspector. In case the checked person defies the inspector must resort to the police's assistance. Until the police officer's arrival the checked person may be restrained.²²

d) Person and Property Guards

In course of fulfilling their lawful tasks person and property guards are entitled to instruct the persons affected by their measure to identify themselves. If the person does not verify his/her identity voluntarily with credibility, in justified case the guard may request a person authorized to check identity.²³

Border guards, penitentiary guards, armed security guards and public domain inspectors can also be assigned to police officers as patrol partners. The rights regarding taking measures are to be applied in accordance with the rules to be applied to the organ assigning the patrol..

10. Are police powers covered in national anti-discrimination legislation?

See section 5.

11. Is there a national police intelligence policy? What are the relevant rules?

The data collection of the police is regulated by the Police Act, the Service Regulation and NPHQ Instructions No. 22/2006 and 11/2004. Their territorial scope covers central, regional and local police organs as well.

When applied appropriately, Data Processing Rules ensure the prevalence of the basic constitutional right to the protection of personal data.

The head of the particular police organ is responsible for the existence of the personal, material and technical conditions necessary for proper file processing, he/she is responsible for setting up and operating file processing mechanism and for taking all the relevant measures for this aim and monitoring thereof. While handling the files it must be ensured that their content is known only by those entitled to do so. Files and data must be especially protected against unlawful access, change, forward, disclosure, clearance and destroy.

²⁰ Paragraph (1) Article 103

²¹ Paragraph (1) Article 10

²² Article 15 of Act LXIII of 1999 on 1999 Public Domain Inspectorates

²³ Article 27 of Act CXXXIII of 2005 on the Rules of the Profession of Body Guards, Security Guards and Private Detectives

a) The structure of file handling and data procession

The structure of file handling and data procession of a particular organ must be designed and operated in such way that the documents sent from and received by the organ remain identifiable and which makes it possible that the route of the documents can be traced back. The person responsible for handling the files must also be identifiable.

In order to prevent the unnecessary aggregation of files the police organ must provide for the selection of files for destruction, at the same time it need to be ensured that files of great relevance are stored.

In case of electronic file handling only such softwares may be used that meet the legal requirements set forth by laws regulating the file handling of organs fulfilling tasks of public interest and have the required certificate.

When using file handling softwares the same requirements must be met as those set in relation to manual file handling. The software used must meet the security requirements and has to be supplied with the proper documentation and the user's manual.

b) Processing, storage and selection of files

In order to perform its tasks related to criminal investigation prescribed by law the Police may process and receive from the registration of other data processing organs data that were recorded for the purposes of crime prevention in course of ID checks for two years. According to File Selection Regulation data recorded in course of ID checks and close checks must be stored for one year.

Data processed for the purposes of crime prevention may be rectified or selected in such way that the original data remain recognizable.

c) Communication of data to civilians

If an ID check takes place upon the request from a civilian,²⁴ the police officer shall record the personal data of civilian requesting the ID check as well. Under the Police Act if the person asking for the ID check does not request the data recorded to be passed to him/her within eight days or does not prove his/her right to receive them, the data must be destroyed.²⁵ The person concerned shall be informed about having passed his/her data to the third person whose reasons for requesting the data must also be communicated in the information. In case the checked person so requests, the personal data of the one requesting to pass the checked person's data must be communicated to him/her.²⁶

12. How is national stop and search law translated into local policy?

According to information provided by the National Police Headquarters, there are no local regulations concerning ID checks. The scope of the laws listed above covers the activities of the local, regional and central units as well as the special units of the police.

13. Is there a local intelligence policy and collection system?

According to information provided by the National Police Headquarters, there are no such local policies. The scope of the Data Protection and Data Security Regulation of the Police covers the local, regional and central units as well as all police personnel handling personal data in the course of performing their tasks.

14. What counter-terrorism powers do the police have? Does the law cover the use of stop and search for the purpose of counter-terrorism?

²⁴ Paragraph (4) Article 24 of Police Act

²⁵ Paragraph (5) Article 24 of Police Act

²⁶ Paragraph (6) Article 24 of Police Act

There are no special counter-terrorism provisions regulating ID checks. Naturally, ID checks and close checks may be a means of fighting terrorism. The Police Act²⁷ sets forth that in order to prevent or frustrate an act endangering public security, in a public place determined by the head of the Police organ or in a designated public area the Police may check the identity of persons entering the premises or present there. In order to achieve these objectives, the Police may search buildings, structures, sites, luggage and vehicles. Furthermore, if necessary, the Police, acting with due care, may remove or destroy unattended objects left in a place open for public traffic and endangering public security.

The tasks of the Police in a case of an act of terrorism are set out in very general terms by Article 71 of the Service Regulation. Under this provision:

„In order to prevent, detect and terminate acts of terrorism, the Police shall take the measures that are necessary:

- a) to detect an act of terrorism if that falls within its scope of competence;
- b) to prevent the carrying out of the act of terrorism;
- c) to interrupt an ongoing act of terrorism and to eliminate its harmful consequences;
- d) to collect, record and analyze data necessary for the prevention of terrorism.

In performing the tasks set out above, the Police shall cooperate with the armed forces, other law enforcement agencies, the national security services, other state organizations and local councils, and shall rely on assistance by citizens, their communities and business organizations.

In order to carry out anti-terrorism tasks, the Police may establish a permanent or temporary anti-terrorist service, and take the measures that are necessary to prepare and equip this service.”

Furthermore, if, in the course of an ID check, close check, or a search of clothing, luggage or vehicle, a police officer should acquire information related to an act of terrorism, he/she shall be obliged to report this under Article 13 of the Police Act and Article 6 of the Service Regulation.

Several internal norms are distantly related to police tasks concerning acts of terrorism, but none of these deal with data collection tasks related to terrorism.

15. Do different police agencies have different powers?

With regard to powers related to anti-terrorist measures, it can be said that the same level police organizations have identical tasks. In case of tasks that require special expertise, the norm setting out the task identifies the police unit responsible for its implementation.

16. What are the immigration laws?

- a) Act XXXIX of 2001 on the entry and stay of foreigners – it will be substituted by Act II of 2007 on the entry and stay of third country nationals as of 1 July 2007;
- b) Government Decree 170/2001 (IX. 26.) on the implementation of Act XXXIX of 2001 on the entry and stay of foreigners;
- c) Act LV of 1993 on Hungarian citizenship;
- d) Government Decree 162/1999 (XI. 19.) on the Office of Immigration and Naturalization;
- e) Act CXXXIX of 1997 on asylum;

²⁷ Article 30.

- f) Government Decree 172/2001 (IX. 26.) on the detailed rules of the asylum procedure and the documents of temporarily protected persons.

17. What role are the police expected to play in enforcing them?

In terms of Act XXXIX of 2001 on the entry and stay of foreigners (hereafter: Aliens Act),²⁸ the Police and the Border Guards participate in the implementation of alien policing task by enforcing their statutory rights. Upon a request of the Office of Immigration and Naturalization (hereafter: OIN) or a regional office thereof, the Police and the Border Guards

- a) cooperate in monitoring compliance with alien policing rules;
- b) take action to have the foreigner transported to a border crossing point;
- c) guard the foreigner under arrest;
- d) implement the deportation by air of the expelled foreigner;
- e) when detention is ordered, transport the foreigner to the institution implementing detention;
- f) ensure that the detained foreigner is presented to the court;
- g) escort the foreigner released from a penitentiary institution to the regional alien policing authority;
- h) escort the foreigner to the diplomatic or consular representation with a view to hold the hearing required for obtaining travel documents and return him/her to the institution implementing detention;
- i) transport the detained foreigner to a health care institution for treatment.

The policeman and the border guard shall be entitled to apply coercive instruments in accordance with the relevant provisions.

In terms of the Aliens Act,²⁹ in the course of monitoring compliance with alien policing rules, when called upon to do so, the foreigner shall present and hand over to the authorities entitled by law (including the Police) his/her travel documents, permission to stay or personal identification document. The police officer or the border guard shall place the foreigner who is unable to prove the legality of his/her stay in Hungary or his/her personal identity in a credible manner under arrest and present him/her to the alien policing authority competent to take action. If during the arrest the alien policing authority is unable to establish the legal heading of stay or the personal identity of the foreigner, the police officer or the border guard may apply the measure of apprehension for the necessary period not exceeding twelve hours, against which a complaint may be lodged.

In order to establish his/her place of stay, the OIN, the regional alien policing authority and the alien policing agency of the Border Guard may issue a warrant for the apprehension of the foreigner if certain conditions set out in the law make it necessary (e.g. if the foreigner is subject to an alien policing procedure, has escaped from detention, etc.) The warrant for apprehension shall be ordered by resolution and sent to the police headquarters competent according to the seat of the regional alien policing authority taking action. The police headquarters shall also be notified about the withdrawal of the warrant.

18. Are there local policies on immigration policing?

There are no such policies.

²⁸ Article 66

²⁹ Article 61.

19. Is stop and search used for the purpose of immigration control? If so, how (e.g. as part of routine policing, special operations, or the request of immigration or other authorities, etc.)?

As it was set out above, foreigners shall present and hand over to the authorities entitled by law (including the Police) their travel documents, permissions to stay or personal identification documents. Most foreigners who enter or stay in the Republic of Hungary illegally do not possess personal identification documents. In the reasons attached to the Aliens Act, it is said that „foreigners of unknown identity pose an increased threat to public security, so the Act authorizes the authorities to detain such foreigners with the purpose of preparing expulsion. If within 30 days, the authorities are unable to clarify the identity of the foreigner and the legality of his/her stay, the detention shall be terminated.” The alien policing authority shall in such cases designate compulsory accommodation for the foreigner.

Foreigners of unknown identity are obliged to endure that their photographs and fingerprints are taken.

To control compliance with alien policing rules, the representative of the OIN, regional alien policing authorities and the Border Guard are authorized to enter a private house or private area.

The police are authorized to stop foreigners for an ID check not only on the basis of the Aliens Act, but also in terms of the Police Act. As it was outlined above, the Police Act provides authorization for ID checks whenever a police officer needs to establish a person's identity. As illegal border-crossing and violation of provisions related to travel documents constitute a petty offense under Government Decree 218/1999 (XII. 28) on Petty Offenses,³⁰ and the Police Act prescribes the prevention of petty offences as one of the main police tasks,³¹ any ID check of foreigners would be *formally* justified by the relevant laws.

As it was outlined above, as of 1 July 2007, the Aliens Act will be substituted by Act II of 2007 on the entry and stay of third country nationals.

Rules on the control of third country nationals will be similar to the ones contained by the Aliens Act. The alien policing authorities will have continued authorization to monitor compliance with alien policing regulations. Upon request, third country nationals will be obliged to present and hand over to the authorities entitled by law (including the Police) their travel documents, permissions to stay or personal identification documents. If the third country national is in possession of a travel document that has been issued to another person, the document will be seized, and if no criminal proceeding is launched into the case, it will be sent back to the competent embassy or, if the country does not have an embassy in Hungary, to the issuing authority.

The alien policing authority's right to enter private premises is dropped from the law, as this possibility is already regulated by the general law on the rules of public administrative proceedings.

Complaints mechanism

Complaints mechanisms are regulated by the following laws:

- a) Police Act, Articles 92-93;

³⁰ Article 22

³¹ Article 1

- b) Act XXIX of 2004 on legal amendments related to accession to the European Union, Articles 141-143;
- c) Act CXL of 2004 on the general rules of public administrative procedures and services (hereafter: Code of Administrative Procedure);
- d) Act XLIII of 1996 on the service relationship of professional members of armed organizations (hereafter: Service Act), Articles 119-144.
- e) Decree 11/2006 (III.14.) of the Minister of Interior on the Disciplinary Regulations concerning professional members of armed organizations under the Minister of Interior

20. What are the internal complaints mechanisms?

In terms of the Police Act, police actions and coercive measures regulated in chapters V and VI of the Act may be subject to complaints. (Presenting a person to an authority upon the authority's order is an exception: in such cases remedy shall be provided in accordance with the rules pertaining to the proceedings of the ordering authority.)³²

21. What are the procedures?³³

A complaint may be filed by the person against whom the measure was taken. In the complaints procedure, the complainant may be represented by a counsel or any other person.

The complaint shall be submitted to the police unit which implemented the measure within 8 days from the implementation thereof. The complaint shall be decided upon by the head of the police unit from its submission. An appeal against the decision is possible within 8 days from receipt. The appeal shall be addressed to the superior police unit but it shall be submitted to the police unit that delivered the first instance decision.

The first instance forum has the possibility to withdraw or amend its decision in accordance with the appeal. If this is not done, it shall submit the appeal together with the case file to the superior police unit. The superior police unit shall deliver a decision on the appeal within 15 days: it can uphold, modify or abolish the first instance decision.

If the evidence at hand is not sufficient for delivering a decision on the merits, or the facts of the case need to be further clarified, the superior police unit may gather the evidence itself or may choose to abolish the first instance decision and order the first instance unit to carry out a repeated procedure.

The superior unit shall communicate its decision to the complainant in writing.

The decision of the superior unit shall be regarded as a public administrative decision, a judicial review of which may be requested by the complainant in accordance with the general rules governing the judicial review of public administrative decisions.

Should the complainant miss any deadline, within 8 days from the expiry of the deadline, he/she may – in a reasoned request – ask the competent unit to disregard the delay. The head of the unit shall decide on the request. If the complainant became aware of the delay later than that, or he/she was hindered in carrying out the required procedural act, the deadline for submitting the request for disregarding the delay shall start from the time at which the complainant became aware of the delay

³² Police Act, Article 92

³³ Police Act, Article 93

or the hindrance ceased. Three months after the expiry of the deadline no such request may be put forth.

22. Is there an external independent police complaints mechanism?

If the violation committed by a police officer reaches the level of criminality (i.e. the action of the officer amounts to a criminal offence, e.g. ill-treatment in an official proceeding, forced interrogation or unlawful detention),³⁴ the case is investigated by a special unit of the prosecutor's office, which is independent from the police. If however, the violation does not constitute a criminal offence, there is no external independent police complaints mechanism.

As it was outlined above, complaints are submitted to and adjudicated by the police, although the second instance decision of the superior police unit may be subject to judicial review, since the decision delivered by the head of the superior police unit is to be regarded as a public administrative decision against which a remedy may be sought with the court under Act III of 1952 on the Code of Civil Procedure.³⁵

The request for judicial review shall be submitted either to the first instance police unit or the regional court competent according to the seat of this police unit. The respondent is the police unit delivering the second instance decision. The request for judicial review shall be submitted within 30 days of the receipt of the second instance decision.

It needs to be pointed out though that the court is not authorized to amend the second instance decision. If the court is satisfied that the decision is not in line with the laws, it may only abolish the decision and order that a new procedure be conducted. It is true however that the police units are bound by the reasoning of the court decision and shall act accordingly in the repeated procedure.³⁶

23. Are there standardized complaints forms?

There are no standardized forms for putting forth complaints. Complaints can be submitted in writing or put forth orally at the first instance police unit.

24. Are the public aware of complaints mechanisms?

Although in relation to the riots of September-October 2006, the issue was discussed in the media, the public are not aware of this mechanism. This statement is supported by the fact that in a lot of cases legal assistance with regard to putting forth police complaints may not be provided to clients turning to the Hungarian Helsinki Committee, because the deadline for submitting the complaint is long past. Furthermore, according to data provided by the National Police Headquarters, in 2006 7,520 complaints were submitted. If we compare it to the overall number of police measures (ID checks alone were performed in over 1.8 million cases in that year), it can be concluded that the number is very low.

25. How easy is it to make a complaint?

There are no formal requirements set for complaints. Obviously there are some minimal substantive requirements to be met: the complainant shall provide his/her personal data, possibly identify the

³⁴ Act IV of 1978 on the Penal Code, Article 226-228

³⁵ Article 324

³⁶ Code of Administrative Procedure, Article 111



police unit the measure of which is the subject of the complaint and indicate the name or identification number of the police officer taking the measure. The time and place of the measure shall be included as well as a brief description of the allegedly unlawful measure. Thus, if the complainant respects the deadline, the police is unlikely to reject the complaint on a formal or procedural basis.

26. Is there evidence of community confidence in the complaints mechanism?

There have been no representative polls on public opinion concerning police complaints. The data set forth above (7,520 complaints submitted in 2006 as opposed to approximately 3 million police measures) may be indicative of the degree of confidence.

27. What is the disciplinary/grievance process? What are the data concerning complaints submitted to the pilot police stations?

If during his/her service, a professional member of police personnel violates an obligation related to his/her service relationship, he/she commits a disciplinary offence, and shall be called to account for it in the framework of a disciplinary procedure. Petty offences committed in the place of service or in relation to the service, shall also be adjudicated in a disciplinary proceeding.³⁷

If in a complaints procedure it is established that a disciplinary or criminal proceeding shall be initiated against the police officer, the launching thereof is mandatory.

At the Kaposvár Police Headquarters 10 complaints were submitted. Two of these were found to be well-founded, the remaining eight were rejected as unfounded.

At the Szeged Police Headquarters there was a significant decrease (36.4 %) in the number of all types of complaints (including general complaints not falling under the scope of the Police Act). In 2006 25 such complaints were set forth.

At the Budapest 6th District Police Headquarters, there were nine complaints in 2006, out of which three concerned the ID check of the complainant. All the complaints were found to be groundless and were therefore rejected.

28. What power of remedy does the internal complaint mechanism have?

If the complaint falls under the scope of Article 92 of the Police Act, a decision shall be delivered within 15 days. The decision may be either the rejection of the complaint (if the complaint is unfounded) or, if the complaint is well-founded, a disciplinary and/or criminal procedure shall be initiated against the officer concerned. All complaints not falling under the scope of the above Article, shall be adjudicated in accordance with the Code of Administrative Procedure, which means that not a formal resolution, but a non-substantive administrative decision shall be delivered in the case.

Most of the complaints are rejected. In 2006, out of the 7,520 complaints, 986 (13%) were found to be well-founded.

³⁷ Service Act, Article 119

Practice and operation

29. Which are the emphasized areas of crime control? Does identity check comprise an important part of these?

The emphasized areas of crime control are determined by the actual criminal situation and infection. With regard to the police bodies involved in the project, these are as follows:

a) BRFK VIth district Police Department

- prevention, hindrance and disclosure of robberies committed in public areas;
- prevention, hindrance and disclosure of burglaries, sneak-in thefts;
- prevention, hindrance and disclosure of picking of vehicles, vehicle theft, arbitrary expropriation of vehicles
- prevention, hindrance and disclosure of violent crimes against persons
- prevention and hindrance of family violence
- prevention, hindrance and disclosure of illegal acts against elderly and minor persons

b) Kaposvár Police Department

The criminal situation of the Kaposvár Police Department is determined by the majority of criminal acts against property, which, by adding crimes against public order, takes up 90% of all known criminal acts.

c) Szeged Police Department

- prevention, hindrance and disclosure of burglaries, sneak-in thefts;
- prevention, hindrance and disclosure of pick pocketing;
- prevention, hindrance and disclosure of burglaries committed in public areas and small shops with only one personnel;
- prevention, hindrance and disclosure of picking of vehicles;
- prevention, hindrance and disclosure of vehicle theft, arbitrary expropriation of vehicles;
- prevention, hindrance and disclosure of illegal acts committed in public areas breaching peace and having a truculent nature;
- hindrance of serious criminal acts committed against persons;
- hindrance of illegal acts against public buildings, public areas (impairment)

30. How and with what frequency is the briefing/training of member of the personnel carried out?

There is a briefing for the personnel at each entering into duty, and a reporting when leaving duty. On the briefing – adjusted to the daily events – the main tasks are defined.

31. Are there any identity checks, close checks or search of clothing, luggage and vehicles that are performed in a pre-organized manner, aimed at specific groups or locations? If yes, how and aiming which groups (e.g. reconvicts, certain group of perpetrators, special operations)?

No pre-organized identity checks aimed at specific groups are performed. Still local bodies – as the actual criminal situation requires – carry out close checks, identity checks, search of clothing, luggage and vehicles which are pre-organized and aimed at specific groups or locations.

Completing a close check may result in a decrease of 30-40% in the number of criminal acts committed.

There is a lengthy list of enumerating the reasons for the significance of the measure in question, starting with maintaining order in public areas, through finding a wanted person and apprehension of perpetrators of crimes to the general preventive nature of identity checks, furthermore it is an integral part of nearly all police measures. Thus identity check serves a crime prevention purpose as well. Its preventive nature may be highlighted as a person showing up with an eventual intent of committing a crime may waive such intent after being checked. A person going through identity check loses his/her chance to remain unidentified, and by that loses the possibility to commence the illegal act by minimal risk.

Identity check serves as one major basis of effective police activity in public areas, both concerning prevention of illegal acts as well as disclosing them. It can be traced back in statistical data as well, since in case the number of identity checks and clothing/luggage/vehicles searches increase, so decreases the number of crimes committed and traffic events, and the effectiveness of police measures also rise, mainly with respect to apprehension of wanted persons and persons caught red-handed when committing a crime.

With regard to disclosure, identity check and the clothing/luggage/vehicle search applied provides an opportunity to find wanted persons, objects and means of perpetration during routine checks. Identity checking activity also serves a major role in finding stolen vehicles.

32. Are the members of the personnel aware of the relevant stipulations and their enforcement? Is that reflected in practice as well?

It is a fundamental requirement for the police personnel to have a skill-level and up-to-date knowledge and daily application of the legal regulations relevant to the police work and especially to the given area of expertise, no professional service may be performed without this. The members of the personnel are aware of the relevant stipulations and their enforcement. This is reflected also in practice. Eventually some deficiencies and problems may occur, there are different tools available for the citizens and commanders to remedy or sanction them, depending on their nature (e.g. legal remedy, disciplinary procedure).

The training of personnel, the sharing of actual information and tasks is performed by oral briefing at each entering into duty.

33. How are the operational tasks defined?

The term „operational task” may only be applicable for the troop service regulation of the police, and in the operation of the special service forces. It has no correlation with identity check.

However, at local and regional bodies, with regard to tasks being in their competence, the scope of these is defined by the overall criminal situation, the actual requirements, the relevant orders of commanders and the eventual, unexpected events. Beyond general tasks, the ad hoc tasks are received by the personnel on duty in public areas through regular communication devices (currently 2-wave radio).

With regard to daily duty, the definition of ad hoc tasks is performed by briefings, in case of actions, close checks, at their special briefing, and these are also incorporated in the drawing up of patrol routes for the given areas as well as in the action plan. Briefings are based on the orders issued by the chief officers. When leaving duty the personnel has to report about the tasks completed.

34. How are the results of secret data collection applied when defining tasks and at briefing/training assemblies? How are the results of secret data collection is applied by directives for the daily routine during briefings?

The secret information collection activity of the police is defined by the Police Act, while the rules for secret data acquisition bound to judicial permit are set forth in the Code of Criminal Procedure.

Based on the Police Act the secret information collection activity of the police is bound to certain purposes, statements contained therein may not be a subject for briefings, and it has no noticeable effect on the practice of identity checks.

Local bodies always perform organized close checks, identity checks and clothing/luggage/vehicle searches aiming specific groups or locations by adjusting to the actual criminal demands.

Examples:

- a) Within the vicinity of a club, several lethal or serious traffic accidents occur on weekends. During such traffic policing actions the police check the audience of the club participating in traffic in order to filter out drivers under influence.
- b) In case the similar type of crime is frequent on the same location (e.g. burglaries in recreational areas), the check of vehicles arriving to the area concerned is performed by a crime control action.
- c) By the order of the chief officer of the Budapest Head Police Department in Historical Downtown and in the operational area of the precincts of the Eastern and Western Railway Stations close checks are performed at present as well.
- d) In these areas such group forming places are located, to which specific crimes or other illegal acts (e.g. hetero- and homosexual prostitution in protected areas) are connected.
- e) In Szeged, on highlighted locations, such as the Mars Square, where a market and an international bus station are located, close checks are typical.
- f) Based on direct information, in order to apprehend wanted persons or persons against whom there is a reasonable suspicion of having committed a crime, or for crime prevention purposes, close checks are performed in such entertainment units where illegal acts occur in higher numbers, furthermore there are close checks performed to realize undercover criminal information by open police actions.

35. Does the effecting of identity check, close check and clothing/luggage/vehicle search consists a part of evaluating performance?

In practice, the annual performance evaluation is performed by the direct service superior officer, by reviewing the strategic, competence and personal goals set forth in the preceding year. In course of

this activity it is an aspect of evaluation that how many times has the member of the personnel taken part in apprehension, short-term arrest (taking someone to a police station by a police officer in order to carry out further measure), safety measure, and in what frequency did she/he report a petty offense, imposed on-the-spot fine, performed identity check in public areas, and how effectively did she/he completed the acts performed due to citizens' requests or to superior's command. It is to be reviewed at each case whether the performed measures were legal, being in compliance with the law and the professional standards, and the requirement of proportionality and progressiveness.

Monitoring and supervision

36. Who supervises the data recorded and in what frequency?

Those who have an obligation based on legal regulation or internal stipulation. (Commanders and those bearing an open order, e.g. deputy sub-department chief, sub-department chief, department chief, police chief within the scope of their regular general supervisory duty), otherwise based on particular complaint.

37. Who follows up identity checks, close checks and clothing/luggage/vehicle searches, and by what method?

The lawfulness and professional conduct of police measures is reviewed by the commander toward which the given police officer has a reporting obligation. A report, and also statistical compilation if necessary, is prepared on the measures applied.

The evaluation of the effectiveness of measures may be a subject of annual meetings, and may be a part of the annual evaluation reports.

38. Generally based on which aspects is the performance of members of the personnel evaluated?

See section 35.

39. Which performance indicators are considered when evaluating performance? What is the process of supervision? Who performs the supervision and with what competence?

Article 245/F of the Act XLIII of 1996 on the Service Relations of Members of the Career Active Duty Personnel of Armed Organizations stipulates the performance evaluation of the members of personnel.

„The performance of the member of the active duty personnel is evaluated annually, in writing by the competent commander of the given personnel unit, based on the main goals of the given armed force and the performance requirements defined by considering the scope of work of the person concerned. The main goals serving as the base of the performance requirements is defined by the competent minister annually.

The competent commander of the given unit sets forth the requirements for the member of the active duty personnel in advance for the given year in writing, considering which the performance of the personnel member is evaluated by the end of the given year.”

An additional legal regulation is the Order of the Minister of the Interior No. 2/2002., which stipulates the introduction of the annual performance evaluation of those being in active duty personnel, and sets forth tasks for the rules of completion.

40. How are the implementation of identity checks, close checks, clothing/luggage/vehicles searches supervised on the site of the police measure?

At the police departments, a commander directing service is on duty on a 24-hours schedule, the scope of tasks of whom includes the supervision of the activity of personnel serving duty in public areas. Her/his task is the continuous supervision of the legality and professional conduct of police measures.

The work of the personnel on duty may be supervised on the site of the measures by the police chief, the department chiefs, the whole commanding personnel, furthermore any person from the personnel of the county or national police department who has an „open order” authorizing her/him to conduct supervision.

At a few local bodies such a method is applied that the subject of the measure is interviewed after the measure about the conducting of the police measure and her/his opinion about it.

Identity checks, close checks and clothing/luggage/vehicle searches are not followed-up directly by supervising superior during the time of the measure, unless she/he wishes to supervise the measure itself or the member of the personnel so requests.

41. Are the superiors aware of their tasks with respect to supervising identity checks?

The superiors are indeed aware of their tasks with respect to supervising identity checks. They have appropriate knowledge in formal and legal sense as well - as reported by the police.

42. Are short-term arrests subsequent to identity checks recorded? What data are recorded in this aspect? Where are these data stored? What are these data used for and who has access to them?

Short-term arrests subsequent to identity checks are recorded at every occasion. The rules for short-term arrests are contained in the Police Act and the Service Regulation in details.

In the event of implementing a short-term arrest, a detailed police report is prepared beside the identity check form, and it is separately recorded in the electronic administration as well.



MAGYAR HELSINKI BIZOTTSÁG

1054 Budapest, Bajcsy-Zsilinszky út 36-38. I/12.

1242 Budapest, Pf 317.

Tel/fax: + 36 1 321 4323, 321 4141, 321 4327

helsinki@helsinki.hu

www.helsinki.hu

The prepared documents are filed, and then placed in the file storage room. Identity check forms are recorded in the „Robocop 2000” integrated administrative and data processing system. From those officials having access to the Robocop system, the personnel having proper authorization may have access to these data, but primarily the data are used for other petty offense and criminal cases by administrators conducting the procedures, and the commanders supervising these procedures.

Should the identity check be followed by short-term arrest, the personal data, the legal title and reason of the measure, the start and end of the restraint on personal freedom, the application of means of coercion, their time and method is recorded on the short-term arrest form sheet. It also contains the further measures concerning the arrested person – e.g. the date of release, or the place of duty of the person taking over the procedure, and the opinion of the commander regarding the measure.

43. Does the scope of supervision include the form for data collection as well?

There is no form specially designated for data collection. Still the supervision may be extended to any document prepared during the procedure.

44. Does the public have access to these data (even in a compiled form)?

Personal data – in accordance with the relevant legal rules on data protection – are not to be disclosed to the public. There are, however, strictly anonymized, statistical-type compilations which are accessible by the public by different ways. E.g. on press conferences, regarding the crime-infection of a given areas, or for those performing scientific work, these may be used as background material, may be used in reports of local governments, and police bodies may display them on their websites.



AGIS 2006

Cooperation with the society

45. Is there a national-level advisory board, which helps the operation of the police with regard to the issues of tolerance or anti-discrimination? Are their recommendations taken into consideration? Which are the means of dialogue with the society? How do they work (e.g. appointing members, frequency of sessions, method of decision-making, decisions brought)? Is there a civil advisory board serving strategic role?

The Hungarian government adopted a medium-term measure-package first by its resolution no. 1093/1997. (VII.29.), then by a developed version no. 1047/1999. (V.5.) in order to improve the living conditions of the Roma people. In the spirit of this political intention, it has become a continuous development goal for the police as well to create and maintain a relationship with the biggest minority of the country that is free from prejudice and conflicts.

The National Police Department and the National Roma Self-government entered into a cooperation agreement in 1999 (and was revised in 2004), which established the opportunity for the county police departments and the regional Roma self-governments to enter into cooperation agreements having the appropriate content, and based on the local circumstances and living situations. The areas of regional cooperation tend to go further to the level of local police departments as well.

46. What percentage of the employees of policing agencies are members of a minority? Which programs affirm the employment of employees belonging to a minority?

The tender for the promotion of young Romas to join the police force has been unsuccessful during recent years despite the large-scale information circulated. One reason for that is that there is still only a few young Romas who study in high school, and the other is that there seems to be a serious reluctance among young Romas from joining the armed forces. So they are more willing to choose educational or artistic career.

There is a high-profile place for the studying of the history and culture of the Romas in the education of the police personnel, not only at the College for Police Officers, but teachers are involved in teaching about Roma-related studies also in police high schools. Furthermore, county police departments and local departments organize special oriented professional trainings for police officers by involving professionals having Roma origin.

Budapest Metropolitan Police VIIth District Police Department

47. How is the communication with the local communities performed? Who takes part on such meetings? How much these meeting/forums may be regarded as representative?

The recommendations of the Parliamentary Commissioner of Civil Rights and his deputies are communicated to the personnel, and it is used when applying measures.

They inform residents of the district concerning strategies, information and requests on crime prevention and crime control through the local written and electronic press.

They participate regularly at civil forums of the district, and also as guests at the sessions of the local government's board of representatives, on the sessions of the local policing committee as member of the committee, furthermore on the assemblies of the board of trustees of the For Public Order and Safety of Terézváros Foundation.

They keep regular contact with the local civil guard organizations. They try to keep good relation with the representatives of the local minority self-governments, they also cooperate with the Roma Women Protection Public Benefit Organization.

With regard to homeless issues, they have a daily working contact with mercy organizations, such as the Public Endowment for the Homeless People, the Budapest Methodology Social Centre and its institutions, the Menhely Foundation – this latter coordinates the accommodation of homeless people in public areas if necessary -, their executives and staff.

They have a personal working relation for years with Mr Miklós Vecsei, commissioner for homeless affairs of the Ministry of Social and Labour Affairs.

The police chief holds consulting hours on the first Tuesday of every month, from 2 pm. to 6 pm. Upon arrangement with the secretary board, the residents of the district may turn to the police chief in different time frames as well, in case they would like to communicate a request or information which should be dealt with without delay.

Staff of the police department regularly holds lectures in the subject of education for proper behaviour in traffic, furthermore contests in the local primary schools in the framework of the DADA (crime and drug-prevention) program. The Public Safety Day of Terézváros is held annually, during which local residents may get closer to the work of the police on a pleasant weekend program. On this event representatives of the minorities local student and pensioners appear with their own program,

48. Do publications which inform the members of the society about rights and obligations include the rights regarding identity check, close check and clothing/luggage/vehicle search?

There are no local publications which inform the members of the society about rights and obligations, still in their institutions multi-language publications are available for the public which is distributed by the Crime Prevention Department of the National Police Chief Department.



MAGYAR HELSINKI BIZOTTSÁG

1054 Budapest, Bajcsy-Zsilinszky út 36-38. I/12.

1242 Budapest, Pf 317.

Tel/fax: + 36 1 321 4323, 321 4141, 321 4327

helsinki@helsinki.hu

www.helsinki.hu

Kaposvár Police Department

49. Which are the channels of dialogue with the society? How do they work?

Concerning channels of dialogue with the society, apart from the client hours of the police chief, it is a permanent task of the neighbourhood constables to meet two elderly living in their area, and hear their opinion. The Kaposvár Police Department has its website (www.police.kaposvar.hu) running since March 2006, which provides regular information on the major issues concerning the residents, it publishes announcements, and it is also possible for citizens to post questions and complaints. In case of questions in the guestbook, staff members of the given professional areas provide written replies. The police department keeps contact with civil guard organizations, and with self-defence organizations in compliance with Article 91. of the 3/1995. (III.1.) Decree of the Minister of the Interior (Service Regulation of the Police), furthermore it assists the local governments to cooperate with them and to coordinate tasks.

The Kaposvár Police Department has always tried to react sensitively to the demands of the local residents and the local governments. There is a good relation with the local government of the City of Kaposvár, the notary and the mayor signals the grave problems of the city through their executives, to which the police department reacts quickly. The cooperation is manifested in the joint tenders, in the deployment of a police unit at a residential park, and also in the effectiveness in the field of providing security background for public events. Moreover the community policing nature is enhanced by the resident-oriented activity of the neighbourhood constables.

50. How is the communication with the local communities performed? Who takes part on such meetings? How much these meeting/forums can be regarded as representative?

The police chief submits a detailed report to the board of representatives of the local government annually, in accordance with Article 8. Section (4) of the Police Act, which is reviewed at the session of the board. Keeping a good relation with the local governments of the surrounding towns and villages is also of key importance, thus from year to year the mayor of more and more local governments requests a reporting session about the public order situation of the town. The police chief, the competent department chief, deputy department chief and the local neighbourhood constable also participates at these sessions. The police department entered into a new cooperation agreement with the Roma Minority Self-Government of Kaposvár in 2006, there is a good and permanent relationship with this organization as well.

51. Are there any local initiatives for the involvement of the youth, and if yes, what are those?

The crime prevention department of the police department keeps a regular working relation with various child- and youth-protection authorities and agencies, with educational institutions, and infant-care networks. In the framework of the crime prevention program of the police for schools, the so-called DADA-program, the project is ongoing in three schools on a permanent basis. There are educational lectures in local high schools, and the personnel participate ad hoc in resolving certain arising major problems. Also there is a policing vocational training in one high school of the city.

52. Are communities consulted on special operations that use stop and search and may have a disproportionate impact on certain groups? If so, what kind of information is given to the community before and after such operations??



AGIS 2006

When planning ID checks, signals from the community and local population are taken into account, and the locations of increased checks are determined based on this information. However, these targeted checks will only be effective and successful if the persons to be checked are unable to prepare for them, hence it is of fundamental priority that the parameters of the checks should not become publicly known before they are conducted. Due to the aforementioned needs to conspire, the community is not informed in advance of the time and place of the increased checks.

53. Do informational leaflets on the rights and obligations of citizens contain the rules specially related to ID checks?

The police station at present does not have its own information material about the rights and responsibilities of the members of society. Various distribution materials that provide information about becoming a victim of crime, victims' rights and responsibilities are found at victim protection offices.

54. Do police officers take minutes after an ID check? Is the checked person entitled to see the minutes of the given action?

Police patrols carrying out checks will only take minutes of the action if the relevant procedural rules so require. In case of a simple ID check, this is not necessary. If minutes are taken of a given action, the person subject to the ID check not only has the right to see the minutes, but also has to certify its contents with his signature. In case of a police [internal] report, this is not necessary.

55. What programs help the employment of those belonging to minority groups?

The police station has announced a call by which the police would assume the payment of schooling costs for young persons of Roma origin if the person will take a job at the police upon completion of his/her studies. As a result, one young Roma person's schooling costs are paid by the police in Somogy county in 2007.

Szeged Police Station

56. What structures exist for community consultation and/or dialogue? How do they operate (i.e., composition/frequency or meeting/participation/typical outcomes, etc.) Is there a community policing strategy? How was it devised

The community police officer service was typically created with the aim of establishing community policing. Community police officer are generally required to know the area and the persons living there and to establish good relations with them.

This form of police service stems from society's need for reassuring security as well as policing professional necessity. Furthermore, another frequent form of service is the housing estate police, which are preferred by both municipal governments and the residents. In large housing estates, the same police officers are present on a daily basis, communicate with the residents, take care of their needs as a priority, and with their presence contribute to decreasing the number of violations committed in the area.

57. Is there a strategic community advisory group??



The Szeged Police Station has established a close relationship with the Szeged Crime and Accident Prevention Council, and the Homokhát Micro-region Crime and Accident Prevention Council in Mórahalom. Regular meetings take place on strategic and tactical issues.

58. Are communities involved in setting local policing priorities?

Civil society organisations are involved by concluding cooperation agreements (civil guard, town guard), by preparing and implementing joint projects on public safety and crime prevention or by performing joint services or joint awareness raising programs (with the town guard, civil guard, municipal government general administration office, labour supervision authority, etc.). These organizations make recommendations on public safety and road traffic with a view to securing safer conditions.

59. How does local community consultation take place? Who participates? How representative are such forums/meetings??

Communication with local residents is carried out via assemblies of the municipal government, open public meetings, client hours of the police commissioner and the community police officer, and via the local media.

From the part of the police station, the following persons take part at the meetings: police commissioner, heads of departments, heads of precincts, heads of sub-departments, crime and accident prevention officers, police officers taking part in the DADA program, local community police officer.

From the part of the population: members of parliament, municipal government representatives, partner organizations, leading business figures, communities of residents, teachers, students, civic organizations, civil guard, town guard, social services personnel.

These fora are such that the representatives of the residents living in our area of operations, or the residents themselves are well represented. Even persons living at the peripheries of society are informed, albeit generally in an indirect manner through the social services authorities, as this group – due to their lifestyle – places little trust in the police.

The head of the police station is required to report each year, either in person or by his representative, to the assembly of the municipal government. We are also regularly invited to various public meetings of the local residents where we provide information on current public safety and crime issues. These fora as well as local media frequently receive information about public safety. Due to contacts in person, we receive direct information from the residents which are taken into consideration in the course of our daily work.

60. Are there local initiatives aimed at young people? What kinds of local initiatives?

Emphasis is placed on establishing direct contact with youth in our area through school lectures and various school events (e.g. DADA, lectures on dangers during school holidays or traffic safety issues, short films, and "experience pedagogy in crime prevention"). Furthermore, we provide informational publications for local residents.

On several occasions the Csongrád County Police Headquarters commissioned the University of Miskolc to carry out public opinion surveys to assess residents' satisfaction.

Based on these surveys and our own experience, we've gained a comprehensive picture about the relationship between local residents and local police organs. Building on the above mentioned opportunities to meet, we inform local residents about situation of public order, traffic and criminal activities.

We regularly hold school classes as part of our crime prevention programs in all types of educational institutions. Much attention is paid to the DADA program as well as to the aforementioned programs organized by ourselves, which attract high levels of participation.

Young persons are involved in the production of training films for the crime prevention mediatheque. These films have already received acclaim beyond Hungary as well.

Young persons are also engaged in public safety actions, particularly in checks of clubs and other entertainment venues, carried out jointly with the consumer protection supervisory authority.

61. What information is given to the person affected before and after an ID check?

Persons affected by an action are informed about the action at its start. After the action is ended, questions are answered by the police officer directing the particular action – this can include the provision of information about the action that is not classified as a service secret, state or business or other type of secret.

Following larger scale police actions, the actions taken are evaluated and information is provided to the public at a press conference.

62. Do police officers take minutes after an ID check? Is the checked person entitled to see the minutes of the given action?

The police patrol shall record the action on a pre-printed form.

If the police patrol gives out a warning to the person subjected to the police action, the person concerned shall certify the form with his/her signature that he/she acknowledged the warning.

A different form is filled out if an on-the-spot fine is levied.

If the police officer files an official report, he/she will inform the person who committed the violation orally, then later will file the report in writing. An ID check form is filled out on the spot.

In case of a short-term arrest, the following forms are completed: short-term arrest form, statement on receipt into the short-term arrest room, statement on informing family members, record on receipt of deposited items.

No request to have access to the check form has arisen to date, however – considering that it contains data that do not qualify as service, business or private secrets and only contains the personal data of the person concerned – there are no reasons of principle for refusing such access.

In case a warning is issued to the person subjected to the police measure, the fact thereof shall be acknowledged by the person concerned signing the ID check form. In case of an on-the-spot fine, the police officer shall give one copy of the completed form along with the cheque the fine is to be paid on to the person committing the petty offence. In case an official report is filed on account of a petty

offence, the person concerned may obtain a copy of the report from the petty offence officer conducting the investigation.

Persons arrested for a short-term arrest will be given a certificate following the termination of the measure restricting personal liberty. The certificate contains the duration of the restriction on personal liberty. The person concerned may obtain a copy of the short-term arrest form upon request.

Occasionally the admission criteria of the Police College and the Police Vocational High School will allow affirmative action with respect to minority students wishing to gain admission. Furthermore, regular meetings and consultations are held with representatives of the minority, where information is also shared about employment opportunities.

Training and education of police officers

Education at the Police College

(The curriculum for full time students consists of 3 years and 4 years for part-time students enrolled in correspondence courses. Students enroll in the college after graduation from secondary school, generally with some law enforcement background. All professionals working in the field of criminal activities should have a college degree, and the commanders of uniformed police serving in public are also required to have a degree from the Police College.)

63. What training are officers provided with on the use of their stop and search powers?

These skills are taught and practiced by students at the Police College over five semesters as part of the "fundamental policing skills" course. Detailed instructions are given about the legal framework, including rules on competences and liabilities, measure tactics and the practical implementation of these measures. In the course of practical training, students obtain the skills needed for implementation in actual situations, case studies and practice. They learn which techniques, equipment and methods are able to ensure effective policing procedures. The faculty regularly explains main errors or mistakes that may occasionally lead to ineffective police work or police abuse.

64. At what stages in their careers do officers receive this training? Is it mandatory? Are there refresher courses or further in-service training?

The Police College provides instruction on police actions such as ID checks, increased checks, and inspection of clothing, packages and vehicles as part of basic police training. Students are civilians (i.e. not service personnel) who previously have not performed police work; hence training takes place before the start of their police careers. The training is compulsory. For students who have already graduated, the college does not organise courses to maintain attained skill levels, as this is the task of the executive police organisation. Knowledge can be enhanced through post-graduate degree programs such as those for higher level police officers on public security or criminal law enforcement.

65. What training are officers provided on diversity?

Students receive wide ranging instruction on tolerance. The training is basically twofold: firstly, students become familiar with why and how minorities are present in society, and how police come into contact with this issue in their work, secondly, what attitudes and procedures are needed to address this phenomenon in the performance of duties.

This is taught in the course of several subjects such as criminology, sociology, psychology, ethics and communications. Students become familiar with the theoretical background of these issues, then through case studies and communication trainings they identify practical solutions.

66. What training are officers provided on human rights?

The Department of Constitutional and Public Administrative law teaches a course titled Human Rights. The aim of the course is to ensure appropriate levels of knowledge on human rights theory and concepts, the development of human rights and effective Hungarian regulations. Moreover, the course provides basic information on international legal instruments and the effects thereof on Hungarian law. The presentation of human rights in relation to law enforcement activities is a priority area.

67. How is the quality and effectiveness of training assessed?

There are several ways that the college instruction's quality and effectiveness is assessed. Firstly, as a result oriented survey, graduated students and their superiors are surveyed and feedback is received, potential gaps are identified and useful, constructive recommendations are received. Currently a scientifically developed result oriented assessment is on-going at the College. Secondly, head of departments regularly visit courses to assess the quality of teaching. Thirdly, the heads of the faculty regularly invite acknowledged external professionals to chair final examination committees, who can thus form an opinion about the quality of teaching and the preparedness of graduating students.

68. Are officers given the opportunity to provide feedback on training?

Each year the senior faculty of the College conducts a survey that also engages the student body who can put forward comments and opinions about the curriculum, individual subjects and teachers. This provides an opportunity to assess which subjects and teachers are considered the best. Each teacher can become familiar with students' assessment of their performance. Senior police officers take part in a consultative role in departments' advisory bodies, so they can have direct influence on the content and style of instruction.

69. What training is provided for those whose supervise the ID checks?

All students graduating from the College's police faculty (criminal police, public order, traffic and administration) receive information about commander's supervisory activities in the course of basic concepts of public order protection. The essence of the supervisory activity is that senior police officers check the form and substance, compliance with legal and professional standards of police reports, and to ensure that corrections are made if needed. Such checks ensure that superior officers have sufficient information about the actions and measures taken by their subordinates.

Students at the college's public order protection faculty, who will later on become responsible for directing uniformed personnel, also learn about the rules on how commanders are to examine police actions. They learn what management methods can be applied to maintain high-quality performance in police actions.

As mentioned above, the advanced program on public order protection for senior level officers is aimed at advancing the knowledge of senior officers working in the field of public order protection. Students consider the managerial duties related to supervising police actions, frequently arising

problems and gaps and the steps needed to be taken by superior officers to remedy the gaps through theoretical and practical work.

In practical police work, superior officers and commanders must check police actions and reports thereon. Service superiors must read each and every report about police actions, and must review these reports and take further measures if needed.

Superiors generally become aware of an allegedly discriminative police action following a report from a citizen. Under the Police Act each person subjected to a police measure has the right to file a complaint against the action. The law prescribes that the complaint has to be investigated by the commander. Superiors can also become aware of discriminative actions in the course of on-site checks, reporting from the ranks or a report from a citizen. The superior officer must consider the lawfulness of the police measure and, in case of an unlawful action, to take steps for holding the police officer concerned to account.

a) Education at the police vocational secondary school

Students can enroll in the police vocational secondary school after graduation from secondary school. A police medical suitability test has to be taken before enrollment. The school takes 2 years to complete with significant practical training. Graduates are placed in uniformed services (e.g. patrol, jail guard, community police officer, etc.).

The goal of the secondary school education is to give students a general level of preparedness for performing police duties requiring mid-level police training. Professional and examination criteria require that the students "should be able to successfully execute police actions and procedures in compliance with professional norms", which include ID checks. It is a requirement that students should be skilled in the practice of ID checks, controls and inspection of clothing and packages. Teaching is practice oriented, and theory is presented inasmuch as it is necessary to resolve real-life situations. Certain questions e.g. familiarity with ID documents is already being taught as part of an e-learning course. The final examination includes simulation exercises.

The relevant subjects in the police vocational school curriculum are the following:

a) Basic information on human rights and minority rights

Concept of human rights, protection of minority rights. Respect for human and minority rights in the actions and procedures of law enforcement agencies. Law enforcement agencies in democratic society.

b) Multicultural society

Ethnic, cultural and religious communities in society. Migration. Prejudices, discrimination, racism, anti-Semitism. Gypsies in Hungary: historical roots, cultural traditions, conflicts with majority society. Conflict prevention and resolution.

c) Moral and ethical questions in law enforcement work.

d) **The role of personality in police work** (psychological training exercises).

Importance of empathy and tolerance and unbiased behavior.

e) Communication in law enforcement work.

f) Police and public order protection information

Rules governing police officers' conduct on and off duty.

Content of police officer's duty to act. Methodology, formal and substantive requirements related to police action.

Definition, goals of ID checking, acceptable ID documents. Measures to be taken against persons refusing to identify themselves.

g) Law enforcement administration

Rules relating to registering residence and personal identification documents, information relating to passports.

h) Immigration and asylum issues, tourism

Schengen and Dublin Convention. Definition of foreigners, rules on entry and stay.

b) Advanced training, management training

In the course of professional advancement, these issues are typically confronted by police officers when they start a new position or a position of management, and they are required to take part in specialized training or management training. Trainings are also organized when police practice has to change due to changes in legislation. In these cases, the training materials (in e-learning from in the future) as well as the method of testing is centrally prescribed. These trainings are practice oriented. Trainings aiming to maintain existing knowledge levels are organized by the National Police HQ, if the police leadership require it due to gaps in practice; attendance is compulsory. Issues related to tolerance and human rights are appropriately represented in basic and advanced training.

Legal rules or internal norms regulate the forms and manner of testing, as well as the factors to be considered during assessment in the course of vocational training, specialized courses or management training. Students and participants have a built-in opportunity via the quality assurance system to voice their opinions and provide feedback. Central training, if the participants all belong to the same service location, takes into account local particularities as well. Efforts are made to ensure that students receive practical training in their future place of service in order to facilitate their future integration and work. Trainings organized by regional organs are built on local needs, while topics are also determined by needs.

In order to become a senior officer, one must pass the law enforcement specialized examination. Themes involved in the present project play an important part of the test curriculum. Management training or master leadership training is required in all management (head of department and above) levels. The topics of police actions are dealt with in the curriculum in accordance with the position levels of police officers. Compulsory trainings for managers generally take place prior to their appointment, occasionally afterwards. If the situation so requires, questions dealt with in the present project also feature on the agenda of the countrywide meetings of senior police leaders.

The Directorate General for Training of the National Police HQ is in charge of organizing these latter courses (Chapters 2 and 3). This role primarily includes supervision and coordination of professional trainings and specialized trainings within and beyond the traditional school setting, in the course of which the issue of trainings related to ID checks is dealt with. The curriculum is prepared based on police needs and with the approval of the National Police HQ. Issues related to ID checks, increased checks, inspection of clothing, packages and vehicles are taught in accordance with the law in force and the internal rules of the police.

Community relations

70. How are local crime problems identified and community safety priorities determined?

In this chapter we wish to point out that the Hungarian police are significantly centralized, hierarchical military type of organisation – this essentially means that central decisions, concepts and planning governs above all. Local police organs must follow the instructions of the regional (county-level) or the national police leadership and local needs cannot contradict these instructions. (This all derives





MAGYAR HELSINKI BIZOTTSÁG

1054 Budapest, Bajcsy-Zsilinszky út 36-38. I/12.

1242 Budapest, Pf 317.

Tel/fax: + 36 1 321 4323, 321 4141, 321 4327

helsinki@helsinki.hu

www.helsinki.hu

from Chapter VIII of the Constitution.) Naturally, local particularities (area, population, production, provisions and services, transportation etc.) as well as law enforcement and criminal matters should be known to the police, and the police service should be organized accordingly. The most important indicator is how many criminal acts become known in the local police's area of competence, and how many perpetrators can be identified and held to account. (Accordingly, criminal acts that remain unreported and thus latent by the victims and the population do not form part of the evaluation.)

Due to the respective laws on local governments and the police, municipal governments have a limited scope of supervision and influence over the work of the police (e.g. yearly report from the head of the local police and approval by the municipality's assembly), but generally these powers remain unused. There were ideas to install a post of crime prevention focal points at each municipal government, however, even public order councils or law enforcement committees are rarely set up in municipal assemblies. Accordingly, local norms hardly exist, and in general the few municipal decrees that exist only govern issues such as consumption of alcohol in public or begging. Otherwise public discourse at the municipal level does not include local criminal or safety policy issues. Moreover, in practice there is no criticism of the police, or substantive civilian oversight although certain possibilities are afforded by the present state structures.



AGIS 2006