

Pursuant to Article 12 of the Law on the Prosecutor's Office of Bosnia and Herzegovina and Article 3 of the Law on the State Investigation and Protection Agency and in the light of provisions of Article 36 and 218 of the Law on Criminal Proceedings of Bosnia and Herzegovina, the Chief Prosecutor of Bosnia and Herzegovina and the Director of the State Investigation and Protection Agency, hereby issue the following

**INSTRUCTIONS ON THE PROFESSIONAL BASIS FOR COOPERATION
BETWEEN THE STATE INVESTIGATION AND PROTECTION AGENCY
AND THE PROSECUTOR'S OFFICE OF BOSNIA AND HERZEGOVINA IN
DISCOVERY AND PROSECUTION OF PERPETRATORS OF CRIMINAL
OFFENCES**

I. BASIC PROVISIONS

Article 1

These Instructions shall regulate the cooperation between the Prosecutor's Office of Bosnia and Herzegovina (hereinafter referred to as „the Prosecutor's Office“) and the State Investigation and Protection Agency (hereinafter referred to as „the Agency“) in discovery and prosecution of perpetrators of the criminal offenses that are within the competence of the Prosecutor's Office, and especially with regard to informing prosecutors and police officers and giving instructions to police officers for their work.

In order to provide for efficient discovery and prosecution of war crimes perpetrators, police officers and the prosecutor shall be obliged to cooperate in revealing criminal offences and locating and prosecution of the perpetrators thereof.

Article 2

Police officers shall be obliged to inform the prosecutor about all cases where there are grounds of suspicion that a criminal offence was committed.

Article 3

The prosecutor shall direct the work of police officers working on a specific case. If the prosecutor does not direct the work of the Agency police officers, the Agency shall act independently, within the legal competence vested in it for revealing criminal offences and their perpetrators.

Article 4

The prosecutor shall direct the work of the police officers by:

- Providing interpretation with regard to substantive and procedural law;

- Providing instructions and proposals for collecting information and evidence on legally relevant facts to be established in the investigative procedure;
- Participation in the procedural and other activities in the course of investigative procedure.

II. DELIVERY OF INFORMATION

Article 5

The police officers shall inform the prosecutor as follows:

- a) About the criminal offense requiring control or some other investigative activities, immediately after finding out that it was committed, based on the information provided by the police officer dealing with the case,
- b) Within 7 days, upon receipt of an information on the commission of a criminal offence for which 5 years imprisonment is prescribed, a criminal offence which is underway or is being prepared or organized, the police officer dealing with the case shall inform the prosecutor accordingly;
- c) Immediately upon receipt of information alleging that a criminal offence was committed or is underway for which imprisonment in duration of 5 or more years is prescribed, the police officer shall inform the prosecutor accordingly.
- d) The police officer shall also proceed in the manner prescribed under items a), b) and c) in cases where he/she receives a report from a natural or legal person, by sending the received report to the prosecutor if the report was submitted in writing or, if it is an oral report, by drafting a record or an official note on the report; in that case the police officer shall resume his activities until the prosecutor decides otherwise,

Delivery of information related to items a), b) and c) may be performed orally, and in relation to item d), in writing.

In cases foreseen in items a), b), and c), and where there is enough evidence which indicate that there are grounds for suspicion that criminal offences were committed, the police officer shall submit his/her official report in accordance with Article 219 Para. 5 of CPC BiH.

Article 6

Police officers are obliged to inform the prosecutor on measures taken in the collection of evidence, and especially when some of the following measures are being taken:

- Detention of suspect in accordance with Article 131 and 135 of CPC.
- Deprivation of liberty and detention in accordance with Article 139 of CPC
- Interviewing persons in accordance with Article 78 and 86 of CPC
- Search of an apartment, other premises and moveable property or some other actions necessary for the purpose of proving.

In principle, the police officers shall inform the state prosecutor verbally, and in cases where the Law prescribes so, in writing.

Article 7

A report alleging that a perpetrator of a criminal offence that falls within the competence of the BiH Court is a police officer or a prosecutor, or a note on receipt of such report or grievance regarding a police officer's or a prosecutor's activity, the police officer shall refer to the Chief Prosecutor immediately.

The Chief Prosecutor shall give priority to such matter and provide the necessary guidelines.

Article 8

If an official report has not been submitted within 30 days from the moment of being informed about a criminal offence and from the moment the prosecutor is informed about that, the police officer shall inform the prosecutor on the following measures, acts and activities taken until that point:

- a) temporary seizure of objects,
- b) search of an apartment, other premises and moveable property,
- c) investigations undertaken,
- d) findings of expert witnesses,
- e) results of other activities ordered by the prosecutor or the Court,
- f) other activities that have been undertaken.

Immediately upon receipt of information on temporary seizure of valuable items or objects the keeping of which requires large expenses, the prosecutor shall decide whether those objects would be kept or returned to their owners.

Article 9

The police officers shall inform the prosecutor on their further activities regarding the submission of an official report at least once a month, or upon request of the prosecutor.

If the Agency or some other person has submitted an official report, the prosecutor shall inform the Agency in case the order on non-conduct of an investigation into that case has been issued.

Article 10

As a rule, the police officers shall inform the prosecutor verbally and also via communication means and in writing. The prosecutor and police officers shall be obliged to keep records on messages and to file them in the respective case files.

III. POLICE WORK ORGANIZATION

Article 11

Police officers and the prosecutor who are included in the investigation should as a rule schedule working meetings once a month in order to discuss issues related to planning investigative procedure in a concrete case. Other important issues regarding the revealing and proving of criminal offences shall also be discussed at these meetings.

Article 12

At least twice a year there shall be an extended meeting with the participation of all prosecutors, the Agency Director and heads of Crime/Investigation Section, to discuss current issues of mutual cooperation, plans and work strategies in the future period.

Other Agency and the Prosecutor's Office employees may attend this meeting as well.

The meeting shall be organised by the Chief Prosecutor and the Agency Director.

Article 13

The police officer or the Head of the Agency Organizational Unit may consult the prosecutor in respect to the case he is working on, and the prosecutor shall provide professional assistance.

Article 14

If the prosecutor refuses to assist the police officer or the Head of the Agency Organizational Unit, they shall inform their supervisor accordingly, who shall in turn inform the Chief Prosecutor, who shall then take necessary measures. The Chief Prosecutor should be informed in case of repeated violations of provisions set forth in this Instruction, who shall provide for the undertaking of adequate measures to ensure that these Instructions are followed.

Article 15

In case of submission of information under Article 5 of this Instruction, the prosecutor must be informed about all evidence collected by the Agency. If the prosecutor so requests, he may directly contact the police officers dealing with the case.

Article 16

Having received the information, the prosecutor shall immediately, and not later than within three days, give the police officer guidelines for his work in the investigative procedure. If the prosecutor does not provide the guidelines within the requested time-limit, it shall be considered that the prosecutor will not be providing guidelines for the investigative procedure, but he may be included in the case at a later stage.

Article 17

The prosecutor shall direct work on the case by giving instructions to the police officer dealing with a case, regarding the evidence and information to be collected, and he may propose the mode of collecting evidence. As a rule, instructions shall be in writing, but they can also be expressed orally. In case of oral instructions, the prosecutor and the police officer shall provide for an official note to be made and filed in the respective case file.

Guidelines and instructions of the prosecutor shall be binding for the police officer. The superior officer of the particular police officer may cooperate with the prosecutor in the framework of the issued guidelines and instructions, and he shall provide support and assistance necessary for the implementation of the guidelines.

Article 18

If the prosecutor directs the investigative procedure, the police officer who is dealing with the case shall inform the prosecutor about the course of the actions taken and the results thereof. For the purpose of coordination, the prosecutor may contact the supervisor of the police officer who is dealing with the case. The prosecutor shall provide professional assistance to the police officer.

Article 19

If due to justified reasons the police officer is not able to proceed in line with the guidelines received from the prosecutor, he shall immediately explain the reasons to the prosecutor and his supervisor, and upon request of the prosecutor he shall do it in writing. This written explanation is confidential by nature, and will not constitute an integral part of the final official report on the committed criminal offence.

The prosecutor shall assess whether to collect information and evidence in some other way, or whether the decision may be reached without the requested information. In that case, the given guidelines should be supplemented by a written note.

Article 20

If police officers undertake actions contrary to the given instructions, or if they do not act in accordance with their legal authority and standards of professional ethics, the prosecutor shall inform the Chief Prosecutor accordingly, who shall in turn inform the Agency Director, who shall then take appropriate measures.

In case of repeated irregularities, the Chief Prosecutor and the Agency Director shall be notified, and shall then take measures in order to ensure compliance with the Instruction.

Article 21

If a mixed expert team for discovering and investigating criminal offences is created within the Agency, the work of that team shall be directed by the prosecutor. That team may include police officers from other police agencies in Bosnia and Herzegovina as well as from abroad, in case that it proceeds in accordance with

international agreements on cooperation or upon requests for international legal aid. In that case too, the work of the team shall be coordinated by the prosecutor.

IV. PUBLIC INFORMATION

Article 22

The public should be informed about investigative proceedings directed by the prosecutor in a way as decided by the Chief Prosecutor and the Agency Director, personally or via a person they authorize, in accordance with the established rules for public relations established within the Prosecutor's Office and the Agency, respectively.

In cases when an order to conduct investigation has been issued, the prosecutor in charge of the investigation, as well as the Chief Prosecutor, shall be the only authorised persons to approve revealing of information on the investigation to the public.

V. SPECIAL INVESTIGATIVE ACTIVITIES

Article 23

As a rule, when special investigative activities are applied in the investigative procedure, the prosecutor shall coordinate the procedure.

The police officer who is dealing with the case in which reasons exist and conditions have been met for the application of special investigative activities in accordance with the CPC, shall inform his supervisor accordingly and consult with the prosecutor on the application of such activities.

As a rule, the police officer who is dealing with the case and the prosecutor shall have a preliminary discussion on their application and on the proposal to order the application of special investigative activities pursuant to the CPC.

Article 24

The police officer must in due time advise or propose to the prosecutor the initiation of special investigative activities to enable the prosecutor to make decision and draft a proposal to the Court to issue an order, or personally issue such an order in cases of emergency and in accordance with the CPC.

The prosecutor shall make a decision upon the advice or proposal in due time and before the time-limit set for the beginning of application of such measures and activities.

As a rule, the proposal to extend special investigative activities should be submitted to the prosecutor within 48 hours at the latest before the expiration of the activities ordered.

Article 25

The prosecutor may request from the police officer who is dealing with the implementation of special investigative measures and activities to inform him, while the case is still open, on any information acquired thus far through the application of those measures and activities.

Article 26

Before the very completion of the ordered special investigative measures and activities, the police officer shall accordingly inform the prosecutor who participated in the procedure of applying those special investigative activities.

Article 27

Notes on the communication between the police officers and the prosecutor shall not be part of the official report, and shall be regulated by internal memos for each individual agency.

VI. MEANING OF TERMS

Article 28

The Prosecutor's Office is the Prosecutor's Office of Bosnia and Herzegovina.

The Court is the Court of Bosnia and Herzegovina.

The CC is the Criminal Code of Bosnia and Herzegovina.

The CPC is the Criminal Procedure Code of Bosnia and Herzegovina.

The Agency is the State Investigation and Protection Agency.

The Police Officer is an employee of the State Investigation and Protection Agency, with the authorization based on the Criminal Procedure Code of Bosnia and Herzegovina and the Law on Police Officers of Bosnia and Herzegovina.

VII. FINAL PROVISIONS

This Instruction shall enter into force on the day it is signed by the Chief Prosecutor and the Director of the State Investigation and Protection Agency.

Sarajevo, 12.10.2005.

Marinko Jurčević

**Chief Prosecutor
Prosecutor's Office
Bosnia and Herzegovina**

Sredoje Nović

**Director
State Agency for Investigation and Protection**