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**DELEGATION OF THE EUROPEAN UNION TO MONTENEGRO**

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# HUMAN RIGHTS ACTION'S PROPOSAL FOR AMENDMENTS TO THE LAW ON INTERNAL AFFAIRS

## AMENDMENT 1:

### Method of determining the existence of security impediments

### Article 128

Security impediments are determined by the Commission for the Verification of Security Impediments (hereinafter: the Commission), established by the Minister.

The Commission for the Verification of Security Impediments consists of five members who are officials of the Ministry, of whom three are Police officials, one is an official of the organizational unit responsible for internal control of the Police, and one is an official from another organizational unit.

The President of the Commission for the Verification of Security Impediments is appointed from among the members of the Commission.

The Commission for the Verification of Security Impediments is appointed for a period of two years.

Professional and administrative tasks for the needs of the Commission are performed by a secretary, designated from among Ministry employees.

Only officials who have previously undergone a check for the existence of security impediments, and for whom a report with an opinion on the absence of security impediments has been submitted, may be appointed as members of the Commission for the Verification of Security Impediments.

The check for the existence of security impediments for the proposed members of the Commission for the Verification of Security Impediments is carried out by a special commission established by the Minister, composed of officials of the Ministry and the Police who are not candidates for membership in the Commission for the Verification of Security Impediments.

The check referred to in paragraph 7 of this Article is carried out in accordance with Article 162 of this Law and the regulation referred to in paragraph 19 of this Article.

The check for the existence of security impediments referred to in Article 127, paragraph 1, items 1 to 4 of this Law is carried out by the Commission for the Verification of Security Impediments by reviewing the relevant records.

The check for the existence of a security impediment referred to in Article 127, paragraph 1, items 5 to 8 of this Law is carried out by the Commission for the Verification of Security Impediments in cooperation with the Police.

Regarding the existence of a security impediment referred to in Article 127, paragraph 1, item 6 of this Law, the Commission for the Verification of Security Impediments also obtains the opinion of the Agency for National Security, in accordance with the law governing national security.

The Agency for National Security shall submit the opinion referred to in paragraph 11 of this Article within 90 days.

If the Agency for National Security fails to submit its opinion within the deadline referred to in paragraph 12 of this Article, the Commission for the Verification of Security Impediments shall render its opinion on the existence or non-existence of a security impediment based on the data obtained in accordance with paragraph 10 of this Article.

The Commission for the Verification of Security Impediments shall submit the report with its opinion on the existence or non-existence of a security impediment to the Minister within 30 days of completing the checks.

The Minister shall forward the report referred to in paragraph 14 of this Article to the competent parliamentary committee, for information.

The person subject to the determination of security impediments shall give written consent for the determination of the existence of security impediments.

The candidate shall be notified of the existence of a security impediment, whereby there is no obligation to inform the candidate of the reasons on the basis of which the existence of the security impediment was established.

The President, members, and secretary of the Commission for the Verification of Security Impediments and of the special commission referred to in paragraph 7 of this Article shall receive remuneration for their work on these commissions, in an amount of up to 50% of the average net salary in Montenegro in the preceding year, according to data from the state administration body responsible for statistics.

The manner of operation of the Commission for the Verification of Security Impediments, as well as other matters of importance for checking the existence of security impediments, shall be prescribed by the Ministry.

***Proposed amendment:***

**Article 128 is amended to read:**

"The procedure for determining the existence of security impediments shall be based on the principles of legality, equality of parties, adversarial proceedings, proportionality, individualization, reasoned decisions, and the right to an effective defense.

Security impediments are determined by the Commission for the Verification of Security Impediments, established by the Minister.

The Commission for the Verification of Security Impediments consists of seven members, namely:

1. two police officials, proposed by the Director of Police;

2. one representative of the organizational unit responsible for internal control of the Police, proposed by the Minister;

3. one retired judge, proposed by the Judicial Council on the basis of a public call;

4. one attorney, proposed by the Bar Association of Montenegro on the basis of a public call;

5. one university professor of criminal or administrative law, or a representative of a civil society organization engaged in the protection of human rights and freedoms, proposed by the competent parliamentary committee on the basis of a public call;

6. one representative of the institution of the Protector of Human Rights and Freedoms (Ombudsman), proposed by the Protector of Human Rights and Freedoms.

The President of the Commission for the Verification of Security Impediments is appointed from among the members of the Commission.

Members of the Commission are appointed for a period of five years, with the possibility of reappointment, and may not be removed before the expiry of their term except in cases prescribed by this Law.[1]

Members of the Commission who do not come from the Ministry of Internal Affairs and the Police Directorate may not be persons who:

1. have, within the previous five years, been employed at the Ministry of Internal Affairs or the Police Directorate;

2. have, or within the previous five years have had, business or professional contractual relations with the Ministry of Internal Affairs or the Police Directorate;

3. have marital, extramarital, kinship, or other close personal relations with the Minister of Internal Affairs, the Director of the Police Directorate, or persons in managerial positions in the Ministry of Internal Affairs or the Police Directorate;

4. hold office in a body of a political party or are publicly prominent political party officials.

Professional and administrative tasks for the needs of the Commission are performed by a secretary, designated from among Ministry employees.

Only persons who have previously undergone a check for the existence of security impediments, and for whom a report with an opinion on the absence of security impediments

[1] The reasons for removal of Commission members should be prescribed in a separate article, in order to avoid the possibility of arbitrariness.

has been submitted, may be appointed as members of the Commission for the Verification of Security Impediments.

The check for the existence of security impediments for the proposed members of the Commission for the Verification of Security Impediments is carried out by a special commission established by the Government, on the proposal of the Minister, composed of 3 members: one representative of the Ministry, one representative of the Ministry of Justice, and one representative of the Protector of Human Rights and Freedoms of Montenegro, who are not candidates for membership in the Commission for the Verification of Security Impediments.

The check referred to in paragraph 9 of this Article is carried out in accordance with Article 162 of this Law and the regulation referred to in paragraph 19 of this Article.

The check for the existence of security impediments referred to in Article 127, paragraph 1, items 1 to 4 of this Law is carried out by the Commission for the Verification of Security Impediments by reviewing the relevant records.

The check for the existence of a security impediment referred to in Article 127, paragraph 1, items 5 to 8 of this Law is carried out by the Commission for the Verification of Security Impediments in cooperation with the Police.

Regarding the existence of a security impediment referred to in Article 127, paragraph 1, item 6 of this Law, the Commission for the Verification of Security Impediments also obtains the opinion of the Agency for National Security, in accordance with the law governing national security.

The Agency for National Security shall submit the opinion referred to in paragraph 13 of this Article within 90 days.

If the Agency for National Security fails to submit its opinion within the deadline referred to in paragraph 14 of this Article, it shall be deemed that the security impediment referred to in Article 127, paragraph 1, item 6 of this Law does not exist.

The person subject to the determination of security impediments shall give written consent for the determination of the existence of security impediments.

Before rendering its report with an opinion on the existence or non-existence of a security impediment, the Commission is obliged to hold an oral hearing, to which the person being checked for the existence of security impediments shall be summoned.

At the oral hearing, the person being checked has the right to make statements regarding all facts and evidence held against them, to give statements, propose evidence, question witnesses and other persons giving testimony, and to challenge the authenticity of sources and evidence used in the proceedings, except in respect of the identity of confidential sources and operational methods, in accordance with this Law.

The Commission for the Verification of Security Impediments shall submit the report with its opinion on the existence or non-existence of a security impediment to the Minister within 30 days of completing the checks.

The Minister shall forward the report referred to in paragraph 18 of this Article to the Security and Defense Committee, for information.

The report referred to in paragraph 18 must contain: an accurate description of the decisive facts, an overview of the evidence presented, an assessment of each individual piece of evidence and their mutual connection, the reasons why certain evidence was accepted, the

reasons why certain evidence was rejected, as well as the reasons why the defense's allegations and proposals were not accepted.

Decisions of the Commission and the Minister may not be based solely on general and unverifiable information, without stating the specific facts and evidence on which such findings and suspicions are based.

The candidate shall be notified of the existence of a security impediment, whereby there is an obligation to inform the candidate of the reasons on the basis of which the existence of the security impediment was established, except with respect to information whose disclosure would directly endanger the life of another person or the effective conduct of police actions at the investigative stage.

The Minister shall be obliged to render a decision based on the Commission's report and deliver it to the candidate within 30 days of receiving the report.

The candidate has the right to appeal the Minister's decision to the competent authority within 15 days of the delivery of the decision. The competent authority shall be obliged to decide on the appeal within 60 days of receiving it.

If the competent authority fails to render a decision on the appeal within the deadline referred to in the preceding paragraph, the appeal shall be deemed upheld and the security impediment deemed non-existent, and the verification procedure shall be discontinued.

The President, members, and secretary of the Commission for the Verification of Security Impediments and of the special commission referred to in paragraph 9 of this Article shall receive remuneration for their work on these commissions, in an amount of up to 50% of the average net salary in Montenegro in the preceding year, according to data from the state administration body responsible for statistics.

At least once a year, the Security and Defense Committee shall review: the number of initiated security-impediment verification proceedings, the number of established security impediments, the number of annulled Commission decisions, the number of initiated court proceedings and their outcomes, the number and amount of damages paid, as well as the practice of the Commission for the Verification of Security Impediments, and shall prepare and publish a public report thereon, subject to the obligation to protect classified information and other data whose disclosure could endanger the security of persons or proceedings.

The manner of operation of the Commission for the Verification of Security Impediments, as well as other matters of importance for checking the existence of security impediments, shall be prescribed by the Ministry."

## EXPLANATION

Under the current Article 128, the Commission for the Verification of Security Impediments is composed exclusively of officials of the Ministry, i.e., the Ministry of Internal Affairs (MoIA) and the Police Directorate, with a relatively short term of office and without clear guarantees of independence, while at the same time holding very strong powers and the ability to decide on the basis of confidential information, without any obligation to explain the reasons to the candidate. Such a solution creates a risk that the Commission may in practice become an extension of the Minister and the executive branch, opening room for political and hierarchical influence over decisions that directly affect individuals' rights to work in the police and other security-sensitive positions.

The proposed amendments to Article 128 introduce general procedural principles (legality, equality of parties, adversarial proceedings, proportionality, individualization, reasoned decisions, and the right to an effective defense), thereby bringing the security-impediment verification institution into line with the Constitution and the standards of the European Convention on Human Rights, particularly regarding the right to a fair trial and an effective legal remedy. This makes clear that a decision on the existence of security impediments, although based on security assessments, must be the result of a lawful and individualized procedure in which the candidate has the opportunity to protect their rights.

Regarding the composition of the Commission, it is proposed to increase the number of members from five to seven and to establish a mixed composition consisting of two police officials, one representative of the organizational unit responsible for internal control of the Police, a retired judge, an attorney proposed by the Bar Association of Montenegro, a university professor of criminal or administrative law or a representative of a civil-society organization engaged in the protection of human rights and freedoms, and a representative of the institution of the Protector of Human Rights and Freedoms. It is further proposed that candidates for Commission membership be nominated on the basis of a public call conducted by the authorized nominating bodies. This ensures transparency in the selection process, equal access for all candidates who meet the prescribed requirements, and selection of Commission members based on their expertise, experience, and integrity. The proposed composition of the Commission contributes to strengthening its expertise and multidisciplinary character, reduces the risk of institutional and political bias, and ensures the participation of representatives of various professions and institutions whose constitutional or statutory role is the protection of human rights, the rule of law, and the lawfulness of the work of public authorities.

By prescribing a five-year term, with the possibility of reappointment and a prohibition on removal before the expiry of the term except in cases prescribed by law, the personal independence of Commission members is strengthened, and their removal for political or other impermissible reasons is prevented. Additionally, for Commission members who do not come from the MoIA and the Police Directorate, clear restrictions are introduced regarding prior employment, business, professional, personal, and political engagement (a ban on employment at the MoIA/Police Directorate within the previous five years, a ban on business relations with these bodies during the same period, a ban on close family and personal ties with key officeholders at the MoIA and Police Directorate, and a ban on party-political functions). This significantly reduces the risk of conflicts of interest, abuse, and political influence, in line with contemporary standards of integrity and impartiality for bodies deciding on the restriction of rights and freedoms.

The solution whereby professional and administrative work is carried out by a secretary from among Ministry employees is retained, but under the amended, mixed composition of the Commission, this function has a clearly auxiliary, administrative character, without any ability to influence the independence of decision-making.

The obligation for Commission members to first undergo a security-impediment check is retained as a necessary measure to protect the confidentiality and integrity of the procedure, but the composition of the body carrying out that check is changed. Instead of a commission established entirely by the Minister from among MoIA and Police personnel, it is proposed that the special commission be established by the Government, on the proposal of the Minister, composed of three members: a representative of the Ministry of Internal Affairs, a representative of the Ministry of Justice, and a representative of the Protector of Human Rights and Freedoms of Montenegro. This removes the check from the exclusive control of the MoIA, introduces additional oversight by the justice sector and the Ombudsman, and increases confidence in the objectivity and impartiality of the selection of Commission members.

The provisions concerning the method of verification (review of relevant records, cooperation with the Police, and obtaining the opinion of the Agency for National Security) are retained for continuity and efficiency of the procedure. However, the law's previous solution regarding the opinion of the Agency for National Security is restored. The 90-day deadline for submitting the opinion is retained, and as a consequence of missing that deadline, the legal fiction is restored whereby, if the ANS fails to submit its opinion within the given deadline, it is deemed that the security impediment referred to in Article 127, paragraph 1, item 6 does not exist.

The key change regarding candidates' rights concerns the obligation to inform them of the reasons for an established security impediment. Instead of the current solution, under which the candidate is informed only of the existence of a security impediment, without any obligation to disclose the reasons on which it was established — which the Protector of Human Rights and Freedoms has already found unconstitutional on three occasions[2] — it is proposed that the candidate be informed of the existence of a security impediment along with the reasons on which the decision is based. This means that the words "there is no obligation to inform the candidate of the reasons on the basis of which the existence of the security impediment was established" must be deleted from the current solution. The exception applies only to information whose disclosure would directly endanger the life of another person or the effective conduct of police actions at the investigative stage. This significantly improves the right to an effective defense and an effective legal remedy, since the candidate gains the ability to understand the decision and, if necessary, challenge it before the competent authorities, while at the same time legitimate security interests and the protection of the lives of other persons are safeguarded, in line with the case-law of the European Court of Human Rights and the European Court of Justice on limited access to confidential security information.[3]

The current solution, under which the Minister "forwards the Commission's report to the competent parliamentary committee for information," does not ensure genuine parliamentary oversight of the application of the security-impediment institution, but amounts merely to formal notification without any obligation of analysis, deliberation, or public reporting.

Under the proposed solution, the Security and Defense Committee shall, at least once a year, review: the number of initiated verification proceedings, the number of established security impediments, the number of annulled Commission decisions, the number and outcome of court proceedings, the number and amount of damages paid, as well as the Commission's practice, and shall prepare and publish a public report thereon, while protecting classified information and other sensitive data.

This establishes genuine, rather than merely formal, parliamentary oversight of the Commission's work and the application of the security-impediment institution, ensures systematic monitoring of the lawfulness, purposefulness, and consistency of the Commission's practice, enables the detection of possible abuses, systemic errors, and patterns of discrimination or inconsistent treatment, and strengthens the transparency and accountability of the executive authorities, while simultaneously protecting confidential data relevant to security.

The proposed amendments to Article 128 achieve the depoliticization and professionalization of the Commission, strengthen its institutional and personal independence, introduce clear

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[2] Opinion of the Protector of Human Rights and Freedoms No. 115/24 of 27 May 2024; Opinion of the Protector of Human Rights and Freedoms No. 869/25 of 31 December 2025; Opinion of the Protector of Human Rights and Freedoms No. 01-1013/25 of 8 June 2026.

[3] For more detail, see the statement of the NGO Human Rights Action: "Government Should Urgently Withdraw from Parliamentary Procedure the Draft Laws on Internal Affairs and on the Agency for National Security, as They Are Contrary to Human Rights Standards," 5 March 2026, https://www.hraction.org/2026/03/05/vlada-hitno-da-povuce-iz-skupstinske-procedure-predloge-zakona-o-unutrasnjim-poslovima-i-agenciji-za-nacionalnu-bezbjednost-jer-su-protivni-standardima-ljudskih-prava/

procedural principles and standards of fair proceedings, increase transparency and accountability in decision-making, improve the candidate's right to a reasoned decision and an effective legal remedy, and enhance parliamentary and institutional oversight. At the same time, the legitimate security interests of the state and the efficiency of the procedure are preserved, thereby bringing the security-impediment verification institution into line with international standards of the rule of law and the protection of human rights.

**AMENDMENT 2:**

**A new Article 128a is added, reading:**

**Article 128a:**

A security impediment may not be established on the basis of events older than five years from the date of initiation of the verification procedure, unless criminal proceedings related to that event have been initiated against the person and are ongoing or have become final, or unless new facts and evidence exist that were not known to the competent authorities at the time the event occurred and could not have been known with due diligence.

In the case referred to in paragraph 1 of this Article, the Commission is obliged to specifically explain the existence of new facts or the conduct of criminal proceedings and the reasons why the event, although older than five years, may still constitute a security impediment.

**EXPLANATION:**

The proposed provision introduces the institution of "time-barring" of events as a basis for establishing a security impediment, so that, as a rule, it may not be based on events older than five years, subject to clearly prescribed exceptions. This is a standard rule of legal certainty.

The reason for this solution is to prevent situations in which, after a long period of time (e.g., in 2026, on account of alleged events from 2016), security-impediment verification proceedings would be initiated on the basis of factual allegations that are difficult to reliably verify.

At the same time, exceptions are provided for cases where, in the meantime, criminal proceedings have been initiated against a police official in connection with that event, or where new facts and evidence exist that were not known to the competent authorities. This protects the state's legitimate security interests with respect to serious and newly discovered information, while at the same time ensuring that the security-impediment institution is not abused to retroactively "revive" old, insufficiently verifiable, or previously unproblematic events.

This solution contributes to legal certainty, predictability of proceedings, and the protection of police officials from arbitrary and unlimited retrospective reexamination of their past.

**AMENDMENT 3:**

**A new Article 128b is added, reading:**

**"Article 128b**

**Right to access the case file and judicial review of confidentiality**

A person against whom security-impediment verification proceedings are conducted has the right to access the complete case file, including the right to obtain copies of all acts and evidence, in particular: minutes, attachments, official notes, reports of the Commission for the Verification of Security Impediments, opinions of the Agency for National Security, and other documents on which the Commission's opinion and the Minister's decision are based.

Restriction of the right of access and copying may relate only to information whose disclosure would directly endanger the life or physical integrity of another person, seriously jeopardize the effective conduct of specific operational actions or an investigation, or reveal the identity of confidential sources and special operational methods.

If the Commission or the Minister deny access to a certain part of the file or classify withheld information as confidential, the person has the right, within the framework of court proceedings initiated against the Minister's decision, to request that the court review the entire case file and assess whether the restriction of the right of access was justified.

The court is obliged to conduct a prior review of the complete case file, including the parts for which confidentiality has been determined, and, in the reasoning of its decision, to specifically assess the lawfulness and proportionality of the restriction of the police official's right to access the file."

**EXPLANATION:**

This new Article introduces a clear and explicit right of the candidate/police official to access the complete case file in security-impediment verification proceedings, including copies of all acts and evidence (the Commission's report, the ANS opinion, minutes, official notes, attachments, etc.). This ensures the substantive realization of the principle of adversarial proceedings and the right to an effective defense, since the police official can know the basis of the Commission's opinion and the Minister's decision, challenge the facts and evidence, propose counter-evidence, and initiate effective judicial review.

At the same time, the proposal recognizes the need to protect confidential information, so access may be restricted only to the extent that disclosure would directly endanger the life or physical integrity of another person, seriously jeopardize specific operational actions or an investigation, or reveal the identity of confidential sources and special operational methods. This introduces a narrow, exhaustive list of legitimate grounds for restriction, preventing arbitrary and overly broad classification of information as confidential.

The key innovation is that review of the justification for confidentiality is removed from the exclusive jurisdiction of the Commission and the executive authorities and entrusted to the courts. By requiring the court, within administrative or other competent proceedings, to review the complete file — including the "confidential" parts — and specifically assess the lawfulness and proportionality of the restriction on the right of access, independent and impartial oversight of possible abuse of the confidentiality regime is ensured.

## AMENDMENT 4:

### Security impediments to continued service

### Article 162

Security impediments to continued service in police rank, or to continuation of an internship, education, training, or specialized professional training or advancement under this Law, shall be deemed to exist if, in addition to the grounds for termination of employment by operation of law under this Law, a police official, or a person undergoing internship, education, training, or specialized professional training or advancement:

1) engages in unauthorized contacts with persons of operational interest, members of organized criminal groups, contrary to Article 21, paragraph 3 of this Law, or maintains ties with persons who unlawfully collect classified and other information, terrorists, saboteurs, members of organized criminal groups, or persons reasonably suspected of belonging to such groups;

2) fails to obtain security clearance for access to classified information at the level of confidential, secret, or top secret;

3) is registered in the records of narcotic drug users maintained by the state administration body responsible for health, or is found, during a medical examination, to have psychoactive substances present;

4) is subject to an order for the conduct of an investigation, or has criminal proceedings initiated, for criminal offenses involving elements of organized crime and corruption, or for criminal offenses carrying a prescribed sentence of at least five years' imprisonment; or

5) has provided data and information, or enabled access to data and information obtained in the course of or in connection with the performance of police duties, to unauthorized persons.

A proposal to establish the existence of a security impediment to continued service in police rank shall be submitted by the immediate superior of the police official, without the prior consent of the police official subject to the security check.

By way of exception to paragraph 2 of this Article, a proposal to establish the existence of security impediments may be submitted by the Deputy Director of Police responsible for combating crime.

The check for the existence of security impediments to continued service in police rank shall be carried out by the Commission for the Verification of Security Impediments, established by the Minister.

The check for the existence of security impediments referred to in paragraph 1, item 1 of this Article shall be carried out by the Commission for the Verification of Security Impediments by reviewing the relevant records.

Regarding the existence of a security impediment referred to in paragraph 1 of this Article, the Commission for the Verification of Security Impediments, in addition to reviewing the records referred to in Article 64 of this Law and other records prescribed by law, as well as data held by the organizational unit responsible for criminal offenses prescribed by the law governing the organization and jurisdiction of the Special State Prosecutor's Office, the organizational unit for combating crime, the organizational unit responsible for internal control, and the organizational unit referred to in Article 183 of this Law, shall also obtain the opinion of the Agency for National Security, in accordance with the law governing national security.

The Agency for National Security shall submit the opinion referred to in paragraph 6 of this Article no later than within 90 days.

If the Agency for National Security fails to submit its opinion within the deadline referred to in paragraph 7 of this Article, the Commission for the Verification of Security Impediments shall render its opinion on the existence or non-existence of a security impediment on the basis of the data from the records referred to in Article 64 of this Law and other records referred to in paragraph 6 of this Article.

The Commission for the Verification of Security Impediments shall submit the report with its opinion on the existence or non-existence of a security impediment to the Minister, to the Director of Police for information, and to the immediate superior of the police official concerned for further action, within 30 days of completing the checks.

The Minister shall forward the report referred to in paragraph 9 of this Article to the competent parliamentary committee, for information.

The check for the existence of security impediments to continued service in police rank shall be carried out for all police officials once every five years, according to an annual verification plan adopted by the Commission for the Verification of Security Impediments by the end of the current year for the following year, with the Minister's consent.

The police official shall be notified of the existence of a security impediment, whereby there is no obligation to inform the police official of the reasons on the basis of which the existence of the security impediment was established.

Through the notification referred to in paragraph 12 of this Article, the police official shall be informed of the rights that, in the cases referred to in paragraph 1, items 1 and 2 of this Article, result in the loss of police rank and police powers, while in the cases referred to in paragraph 1, items 3, 4, and 5 of this Article, employment terminates by operation of law.

***Proposed amendment:***

**Article 162 is amended to read:**

Security impediments to continued service in police rank, or to continuation of an internship, education, training, or specialized professional training or advancement under this Law, shall be deemed to exist if, in addition to the grounds for termination of employment by operation of law under this Law, a police official, or a person undergoing internship, education, training, or specialized professional training or advancement:

1) engages in unauthorized contacts with persons of operational interest, members of organized criminal groups, contrary to Article 21, paragraph 3 of this Law, or maintains ties with persons who unlawfully collect classified and other information, terrorists, saboteurs, members of organized criminal groups, or persons reasonably suspected of belonging to such groups;

2) fails to obtain security clearance for access to classified information at the level of confidential, secret, or top secret;

3) is registered in the records of narcotic drug users maintained by the state administration body responsible for health, or is found, during a medical examination, to have psychoactive substances present;

4) has provided data and information, or enabled access to data and information obtained in the course of or in connection with the performance of police duties, to unauthorized persons.

A proposal to establish the existence of a security impediment to continued service in police rank shall be submitted by the immediate superior of the police official, without the prior consent of the police official subject to the security check.

By way of exception to paragraph 2 of this Article, a proposal to establish the existence of security impediments may be submitted by the Deputy Director of Police responsible for combating crime.

The check for the existence of security impediments to continued service in police rank shall be carried out by the Commission for the Verification of Security Impediments referred to in Article 128 of this Law.

The check for the existence of security impediments referred to in paragraph 1, item 1 of this Article shall be carried out by the Commission for the Verification of Security Impediments by reviewing the relevant records.

Regarding the existence of a security impediment referred to in paragraph 1 of this Article, the Commission for the Verification of Security Impediments, in addition to reviewing the records referred to in Article 64 of this Law and other records prescribed by law, as well as data held by the organizational unit responsible for criminal offenses prescribed by the law governing the organization and jurisdiction of the Special State Prosecutor's Office, the organizational unit responsible for combating crime, the organizational unit responsible for internal control, and the organizational unit referred to in Article 183 of this Law, shall also obtain the opinion of the Agency for National Security, in accordance with the law governing national security.

The Agency for National Security shall submit the opinion referred to in paragraph 6 of this Article no later than within 90 days of receiving the request.

If the Agency for National Security fails to submit its opinion within the deadline referred to in paragraph 7 of this Article, it shall be deemed that the security impediment for which the Agency's opinion was requested does not exist.

The Commission for the Verification of Security Impediments, after holding an oral hearing in accordance with Article 128 of this Law, shall prepare a report with an opinion on the existence or non-existence of a security impediment, which must contain the facts, evidence, an assessment of each piece of evidence, the reasons for accepting and rejecting evidence, as well as the reasons why the defense's allegations were not accepted, and shall submit it to the Minister, to the Director of Police for information, and to the immediate superior of the police official concerned for further action, within 30 days of completion of the checks.

The Minister shall forward the report referred to in paragraph 9 of this Article to the Security and Defense Committee, for the purpose of parliamentary oversight, in accordance with Article 128 of this Law.

The check for the existence of security impediments to continued service in police rank shall be carried out for all police officials once every five years, according to an annual verification plan adopted by the Commission for the Verification of Security Impediments by the end of the current year for the following year, with the Minister's consent.

The police official shall be notified of the existence of a security impediment, whereby there is an obligation to inform the police official of the reasons on the basis of which the existence of the security impediment was established, in accordance with the rules on confidentiality and the right of access to the case file under Articles 128 and 128b of this Law.

Through the notification referred to in paragraph 12 of this Article, the police official shall also be informed of the legal consequences of the establishment of the security impediment, in

particular that in the cases referred to in paragraph 1, items 1 and 2 of this Article, police rank and police powers are lost, while in the cases referred to in paragraph 1, items 3 and 4 of this Article, employment terminates by operation of law.

The provisions of Articles 128 and 128b of this Law shall apply mutatis mutandis to the procedure for checking the existence of security impediments to continued service in police rank, in particular with regard to the principles of the procedure, the police official's right to an oral hearing, access to the case file and obtaining copies of evidence, restrictions on confidentiality, and the minimum content of the Commission's report.

A security impediment to continued service in police rank may not be established on the basis of events older than five years from the date of initiation of the verification procedure, unless criminal proceedings related to that event have been initiated against the police official and are ongoing or have become final, or unless new facts and evidence exist that were not known to the competent authorities at the time the event occurred and could not have been known with due diligence. In such a case, the Commission is obliged to specifically explain the existence of new facts or the conduct of criminal proceedings and the reasons why the event, although older than five years, may still constitute a security impediment.

## EXPLANATION:

The amendments to Article 162 align this procedure with the new solutions introduced in Articles 128, 128a, and 128b, so that the same procedural rules apply to checks for continued service as to initial checks (the principles of legality, adversarial proceedings, proportionality, reasoned decisions, and the right to an effective defense). The check is carried out by the same mixed, depoliticized Commission, ensuring a uniform standard of procedure.

An obligation is introduced to hold an oral hearing before deciding on the existence or non-existence of security impediments, the police official's right to make statements, propose and challenge evidence, and the Commission's obligation to specifically state, in its report, the facts, evidence, their assessment, and the reasons for rejecting the defense. This prevents decisions based on abstract formulations lacking concrete facts and enables effective judicial review.

The deadlines for the ANS opinion and the Commission's work are made more precise, and the ANS's silence after 90 days is interpreted as the non-existence of a security impediment. The report is submitted to the Security and Defense Committee for parliamentary oversight, rather than merely "for information," strengthening democratic control over the application of this institution.

By introducing the rule that a security impediment may not be based on events older than five years, unless there are ongoing criminal proceedings or new facts that could not previously have been known, the initiation of proceedings after long periods of time on the basis of hard-to-verify allegations is prevented, and the legal certainty of police officials is strengthened, while retaining the ability to adequately consider serious and newly discovered cases.

**AMENDMENT 5:**

**A new Article 162a is added, reading:**

**"Compensation for damages in the event of annulment of a decision**

**Article 162a**

If the competent court, by a final judgment, annuls a decision establishing the existence of a security impediment to continued service in police rank, the police official shall have the right to:

1. reinstatement to the position held before the decision was rendered, or to another position corresponding to their police rank and level of professional qualification;

2. restoration of their previous police rank and police powers, if these were revoked or reduced on the basis of the annulled decision;

3. payment of the full salary they would have earned had the decision not been rendered, together with applicable interest, reduced by any income earned from employment with another employer during the same period;

4. payment of all contributions for mandatory pension and disability insurance, health insurance, and other mandatory social insurance, for the period during which they did not work as a result of the annulled decision;

5. fair monetary compensation for non-material damage due to injury to reputation, honor, and professional integrity, in accordance with the rules of the law of obligations.

The rights referred to in paragraph 1 of this Article shall be exercised on the basis of a final court decision, and in the event of a dispute over the amount of compensation, the police official may seek protection before the competent court."

**EXPLANATION:**

This new Article regulates the consequences of the unlawful establishment of security impediments for a police official, in cases where the court finally annuls the decision. It is thus clearly established that judicial review is not merely formal — annulment of the decision also entails full restitution to the previous state: return to work, restoration of rank and powers, payment of unpaid salaries with contributions, and fair compensation for non-material damage due to injury to reputation, honor, and professional integrity.

This solution prevents a police official from bearing permanent and severe consequences of an unlawful decision (loss of career, reduction of pension service, damage to reputation), even though the court has found the decision to be unlawful. At the same time, by establishing the obligation to pay contributions and compensate for non-material damage, the accountability of the bodies deciding on security impediments is strengthened, creating an incentive for them to act carefully, lawfully, and with respect for the rights of police officials.