Resolution 690 (1979)[1]

Declaration on the Police

Parliamentary Assembly

The Assembly,

1. Considering that the full exercise of human rights and fundamental freedoms, guaranteed by the European Convention on Human Rights and other national and international instruments, has as a necessary basis the existence of a peaceful society which enjoys the advantages of order and public safety ;

2. Considering that, in this respect, police play a vital role in all the member states, that they are frequently called upon to intervene in conditions which are dangerous for their members, and that their duties are made yet more difficult if the rules of conduct of their members are not sufficiently precisely defined ;

3. Being of the opinion that it is inappropriate for those who have committed violations of human rights whilst members of police forces, or those who have belonged to any police force that has been disbanded on account of inhumane practices, to be employed as policemen ;

4. Being of the opinion that the European system for the protection of human rights would be improved if there were generally accepted rules concerning the professional ethics of the police which take account of the principles of human rights and fundamental freedoms ;

5. Considering that it is desirable that police officers have the active moral and physical support of the community they are serving ;

6. Considering that police officers should enjoy status and rights comparable to those of members of the civil service ;

7. Believing that it may be desirable to lay down guidelines for the behaviour of police officers in case of war and other emergency situations, and in the event of occupation by a foreign power,

8. Adopts the following Declaration on the Police, which forms an integral part of this resolution ;

9. Instructs its Committee on Parliamentary and Public Relations and its Legal Affairs Committee as well as the Secretary General of the Council of Europe to give maximum publicity to the declaration.

1. Assembly debate on 1 February 1979 (24th Sitting of the 30th Session) (see Doc. 4212, report of the Legal Affairs Committee). Text adopted by the Assembly on 8 May 1979 (2nd Sitting of the 31st Session).

Appendix Declaration on the Police

Ethics[2]

1. A police officer shall fulfil the duties the law imposes upon him by protecting his fellow citizens and the community against violent, predatory and other harmful acts, as defined by law.

2. A police officer shall act with integrity, impartiality and dignity. In particular he shall refrain from and vigorously oppose all acts of corruption.

3. Summary executions, torture and other forms of inhuman or degrading treatment or punishment remain prohibited in all circumstances. A police officer is under an obligation to disobey or disregard any order or instruction involving such measures.

4. A police officer shall carry out orders properly issued by his hierarchical superior, but he shall refrain from carrying out any order he knows, or ought to know, is unlawful.

5. A police officer must oppose violations of the law. If immediate or irreparable and serious harm should result from permitting the violation to take place he shall take immediate action, to the best of his ability.

6. If no immediate or irreparable and serious harm is threatened, he must endeavour to avert the consequences of this violation, or its repetition, by reporting the matter to his superiors. If no results are obtained in that way he may report to higher authority.

7. No criminal or disciplinary action shall be taken against a police officer who has refused to carry out an unlawful order.

8. A police officer shall not co-operate in the tracing, arresting, guarding or conveying of persons who, while not being suspected of having committed an illegal act, are searched for, detained or prosecuted because of their race, religion or political belief.

9. A police officer shall be personally liable for his own acts and for acts of commission or omission he has ordered and which are unlawful.

10. There shall be a clear chain of command. It should always be possible to determine which superior may be ultimately responsible for acts or omissions of a police officer.

11. Legislation must provide for a system of legal guarantees and remedies against any damage resulting from police activities.

12. In performing his duties, a police officer shall use all necessary determination to achieve an aim which is legally required or allowed, but he may never use more force than is reasonable.

13. Police officers shall receive clear and precise instructions as to the manner and circumstances in which they should make use of arms.

14. A police officer having the custody of a person needing medical attention shall secure such attention by medical personnel and, if necessary, take measures for the preservation of the life and health of this person. He shall follow the instructions of doctors and other competent medical workers when they place a detainee under medical care.

15. A police officer shall keep secret all matters of a confidential nature coming to his attention, unless the performance of duty or legal provisions require otherwise.

16. A police officer who complies with the provisions of this declaration is entitled to the active moral and physical support of the community he is serving.

Status

1. Police forces are public services created by law, which shall have the responsibility of maintaining and enforcing the law.

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2. Parts A and B of the declaration cover all individuals and organisations, including such bodies as secret services, military police forces, armed forces or militias performing police duties, that are responsible for enforcing the law, investigating offences, and maintaining public order and state security.

2. Any citizen may join the police forces if he satisfies the relevant conditions.

3. A police officer shall receive thorough general training, professional training and in-service training, as well as appropriate instruction in social problems, democratic freedoms, human rights and in particular the European Convention on Human Rights.

4. The professional, psychological and material conditions under which a police officer must perform his duties shall be such as to protect his integrity, impartiality and dignity.

5. A police officer is entitled to a fair remuneration, and special factors are to be taken into account, such as greater risks and responsibilities and more irregular working schedules.

6. Police officers shall have the choice of whether to set up professional organisations, join them and play an active part therein. They may also play an active part in other organisations.

7. A police professional organisation, provided it is representative shall have the right :

to take part in negotiations concerning the professional status of police officers ;

to be consulted on the administration of police units ;

to initiate legal proceedings for the benefit of a group of police officers or on behalf of a particular police officer.

8. Membership of a police professional organisation and playing an active part therein shall not be detrimental to any police officer.

9. In case of disciplinary or penal proceedings taken against him, a police officer has the right to be heard and to be defended by a lawyer. The decision shall be taken within a reasonable time. He shall also be able to avail himself of the assistance of a professional organisation to which he belongs.

10. A police officer against whom a disciplinary measure has been taken or penal sanction imposed shall have the right of appeal to an independent and impartial body or court.

11. The rights of a police officer before courts or tribunals shall be the same as those of any other citizen.

War and other emergency situations- occupation by a foreign power[3]

1. A police officer shall continue to perform his tasks of protecting persons and property during war and enemy occupation in the interests of the civilian population. For that reason he shall not have the status of "combatant", and the provisions of the Third Geneva Convention of 12 August 1949, relative to the treatment of prisoners of war, shall not apply.

2. The provisions of the Fourth Geneva Convention of 12 August 1949, relative to the protection of civilian persons in time of war, apply to the civilian police.

3. The occupying power shall not order police officers to perform tasks other than those mentioned in Article 1 of this chapter.

4. During occupation a police officer shall not :

take part in measures against members of resistance movements ;

take part in applying measures designed to employ the population for military purposes and for guarding military installations.

5. If a police officer resigns during enemy occupation because he is forced to execute illegitimate orders of the occupying power which are contrary to the interests of the civilian population, such as those listed above, and because he sees no other way out, he shall be reintegrated into the police force as soon as the occupation is over without losing any of the rights or benefits he would have enjoyed if he had stayed in the police force.

6. Neither during nor after the occupation may any penal or disciplinary sanction be imposed on a police officer for having executed in good faith an order of an authority regarded as competent, where the execution of such an order was normally the duty of the police force.

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3. This chapter does not apply to the military police.

7. The occupying power shall not take any disciplinary or judicial action against police officers by reason of the execution, prior to the occupation, of orders given by the competent authorities.