

ORDER No. 000004 /A/MINDDEVEL OF 08 JAN 2024
to define conditions for sanctioning a municipal police service or officer.

THE MINISTER OF DECENTRALIZATION AND LOCAL DEVELOPMENT,

- Mindful of the Constitution;
- Mindful of Law No. 92-7 of 14 August 1992 to institute the Labour Code;
- Mindful of Law No. 2019/24 of 24 December 2019 to institute the General Code of Regional and Local Authorities;
- Mindful of Decree No. 78/484 of 9 November 1978 to lay down common provisions applicable to State employees governed by the Labour Code, as amended and supplemented by Decree No. 82/100 of 3 March 1982;
- Mindful of Decree No. 2011/408 of 9 December 2011 to organize the Government, as amended and supplemented by Decree No. 2018/190 of 2 March 2018;
- Mindful of Decree No. 2018/191 of 2 March 2018 to reorganize the Government;
- Mindful of Decree No. 2018/449 of 1 August 2018 to organize the Ministry of Decentralization and Local Development;
- Mindful of Decree No. 2022/354 of 9 August 2022 to lay down conditions for carrying out municipal policing,
- Mindful of Order No. _____/A/MINDDEVEL of _____ relating to the code of ethics for officers in charge of municipal policing,

HEREBY ORDERS AS FOLLOWS:

CHAPTER I GENERAL PROVISIONS

ARTICLE 1: This order, issued pursuant to Article 31 of Decree No. 2022/354 of 9 August 2022 mentioned above, defines the conditions for sanctioning a municipal police service or officer in charge of municipal policing.

CHAPTER II CONDITIONS FOR SANCTIONING A MUNICIPAL POLICE SERVICE

ARTICLE 2: (1) The service in charge of municipal policing may be suspended for any of the following duly established acts:



- a) widespread abuse committed by officers without any measures taken by the council chief executive to put an end thereto, in particular;
- repeated use of force on the population;
 - opposing the operations of the forces of law and order;
 - confrontation with or without violence against the forces of law and order;
- b) failure to comply with the rules of functioning of the service, in particular;
- failure to comply with the tasks devolving upon each municipal police service;
 - implementation of tasks not provided for in the deliberation to establish a municipal police service;
 - intervention by the municipal police force outside the territorial jurisdiction of the council to which it is attached;
 - recurrent discharge of municipal policing tasks outside the hours set out by the regulations in force, save for activities permitted outside these hours;
 - use, within the municipal police service, for the discharge of its tasks of:
 - individuals who do not form part of the council, city council or subdivisional council staff;
 - council employees who do not fulfil the conditions defined by the regulations in force to become a municipal police officer;
 - intervention in violation of the non-political, secular, non-trade union and non-partisan nature of the local authority;
 - recurrent use of a uniform that does not comply with the regulations in force;
 - regular intervention by officers of the service who are not in uniform;
 - use of uniforms, insignia, signage on service vehicles and technical equipment whose colour and inscriptions are similar to or confusing with those of the defence and security forces;
 - use of gadgets or equipment prohibited by the regulations in force;
- c) any irregularity established after a control operation as provided for in Article 32 of the aforementioned Decree No. 2022/354 of 9 August 2022

(2) The suspension referred to in paragraph 1 above shall be declared by order of the territorially competent Senior Divisional Officer, a copy of which shall be sent to the Minister in charge of regional and local authorities.

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ARTICLE 3: (1) The Senior Divisional Officer shall declare the suspension as soon as the reprehensible act referred to in Article 2 (1) above occurs.

(2) As soon as it has been established that the act that may lead to suspension has occurred, the Senior Divisional Officer shall send a formal notice to the council chief executive concerned, requiring him to put an end to the said act or remedy the irregularity within 15 (fifteen) days from the date of receipt of the formal notice:

- repeated use of force on the population;
- failure to comply with the tasks devolving upon each municipal police service;
- discharge of tasks not provided for in the deliberation to establish the municipal police service;
- intervention by the municipal police service outside the territorial jurisdiction of the council to which it is attached;
- recurrent discharge of municipal policing tasks outside the set out hours;
- use of individuals who are not part of the council, city council or subdivisional council staff or council employees who do not fulfil the laid down conditions; and
- regular intervention by council employees of the service who are not in uniform.

(3) Where the council chief executive fails to comply within the set time limit, the Senior Divisional Officer shall order the suspension.

ARTICLE 4: Suspension shall be declared for a period not exceeding 1 (one) month renewable if necessary, under the same conditions of form as the initial suspension, until the causes that led to the suspension cease or corrective measures are taken.

ARTICLE 5: The Senior Divisional Officer shall terminate the suspension by order as soon as he notes that the council chief executive has put an end to the causes thereof or has taken any corrective action.

ARTICLE 6: (1) During the period of suspension, the municipal police service shall cease to function and may not carry out any operations.

(2) However, officers working for the suspended municipal police service shall be temporarily redeployed to other services of the local authority. They shall be entitled to their remuneration and related benefits.

CHAPTER III

CONDITIONS FOR SANCTIONING AN OFFICER IN CHARGE OF MUNICIPAL POLICING

ARTICLE 7: The municipal police officer shall be subject to the same regime of sanctions as other council employees subject to the specific provisions of this order.



SECTION I
DISCIPLINARY REGIME

ARTICLE 8: Municipal police officers shall be subject to a set of rules and obligations, whose violation shall be construed as misconduct and expose them to disciplinary action.

ARTICLE 9: (1) Misconduct may be professional or extra-professional.

(2) Professional misconduct shall be a violation by action, inaction or negligence of the duties and obligations to which the municipal police officer is subject.

(3) Extra-professional misconduct shall be the result of a violation, attitude or behaviour that undermines professional ethics and deontology or public morality, or the good reputation of the municipal police service or the local authority.

(4) The council chief executive may take precautionary measures against the municipal police officer in question.

ARTICLE 10: (1) The professional misconduct of a municipal police officer may stem from the violations listed in Article 2 (1) above, as well as from failure to comply with the following obligations:

- prohibition on using force or coercion on the population, save in cases of lawful self-defence;
- prohibition on carrying or using weapons;
- use of equipment for purposes other than those for which it was made available to the officer;
- ban on detaining an offender who refuses to comply with the laws and regulations in force, his identity document, or the council's administrative document whose validity shall be contested;
- ban on taking the place of law enforcement and security forces;
- unlawful restraint of property;
- any other violation of its obligations under the aforementioned Decree No. 2022/354 of 9 August 2022.

ARTICLE 11: The disciplinary actions that may be imposed on a municipal police officer shall fall in 4 (four) groups as follows:

a) first group penalties:

- Written warning; and
- Reprimand.

b) second group penalties:

- 1 (one) to 8 (eight) days suspension.



c) third group penalties:

- one-year delayed advancement; and
- 1 (one) or 2 (two) reductions in incremental position at most.

d) fourth group penalties:

- Dismissal.

ARTICLE 12: (1) Reasons must be given for any disciplinary action, failing which it shall be absolutely null and void. It shall be included in the personal file of the municipal police officer concerned.

(2) The same disciplinary offence may not be sanctioned of more than once.

(3) Disciplinary proceedings shall be conducted in accordance with the adversarial principle, in compliance with regulation in force.

ARTICLE 13: Disciplinary power shall lie with the council chief executive.

ARTICLE 14: (1) Without prejudice to the provisions of Article 13 above, the disciplinary actions referred to in Article 11 above shall be imposed by the competent authorities as follows:

- a) sanctions of the first group shall be imposed by the council chief executive;
- b) sanctions of the second or third group shall be imposed by the council chief executive, after consulting the disciplinary board;
- c) dismissal shall be declared by the council chief executive after consulting the disciplinary board and deliberation by the council board subject to approval by the representative of the State or the Minister in charge of local authorities as the case may be.

(2) Any municipal police officer dismissed for the offences referred to in this order may no longer serve in the municipal police service of another local authority for a period of 5 (five) years.

(3) A copy of the act sanctioning the municipal police officer shall be forwarded without delay to the representative of the State in all the cases provided for in paragraph (1) above.

SECTION II

OTHER SANCTIONING CONDITIONS

ARTICLE 15: A municipal police officer may be held civilly or criminally liable for any action that causes damage or constitutes an offence.

