

LAW ON MILITARY SECURITY AGENCY AND MILITARY INTELLIGENCE AGENCY

I GENERAL PROVISIONS

Article 1

This Law shall regulate competences, activities, tasks, authority, oversight and control of the Military Security Agency (hereinafter referred to as the MSA) and the Military Intelligence Agency (hereinafter referred to as the MIA), co-operation, as well as other matters of importance for their operations.

Article 2

The MSA and the MIA are the administrative bodies within the Ministry of Defence that perform security and intelligence activities of importance for defence and are part of a unified security and intelligence system of the Republic of Serbia.

Article 3

The MSA and MIA shall be independent in conducting their activities within their scope of work.

The MSA and MIA shall carry out mutual co-operation and exchange data.

The method and contents of mutual co-operation and exchange of data stipulated in Paragraph 2 of this Article shall be regulated by the Minister of Defence.

The MSA and the MIA shall co-operate and exchange data with competent institutions, organisations, services and bodies of the Republic of Serbia, as well as security services of other states and international organisations in compliance with the Constitution, the Law, other regulations and general acts, defined intelligence and security policy of the Republic of Serbia and ratified international agreements.

In their work, the MSA and the MIA shall be neutral in terms of politics, ideology and interest.

Article 4

The MSA and MIA shall have the status of a legal entity.

The MSA and MIA shall have their insignia, symbols and other signs and marks.

The Government shall regulate the image and method of using the insignia, symbols and other marks stipulated in Paragraph 2 of this Article following the proposal of the Minister of Defence.

II COMPETENCES, ACTIVITIES, TASKS AND POWERS AND AUTHORITIES OF THE MSA

MSA Competences

Article 5

The MSA shall be responsible for security and counterintelligence protection of the Ministry of Defence and the Serbian Armed Forces and as a part of this responsibility it carries out general security, counter intelligence and other activities and tasks of importance for the defence of the Republic of Serbia in compliance with law and regulations stemming hereof.

MSA Activities and Tasks

Article 6

Within the framework of general security activities in the Ministry of Defence and the Serbian Armed Forces, the MSA shall:

- 1) Perform the security assessment of the risks that may jeopardise their functioning;
- 2) Plan, organise and control security protection of forces, installations and resources;
- 3) Plan, organise and control security measures in the implementation of tasks, jobs and activities;
- 4) Implement and oversee implementation of data protection measures;
- 5) Conduct vetting;
- 6) Issue security clearances (permissions and approvals);
- 7) Carry out the activities pertaining to industrial security;
- 8) Carry out the activities pertaining to security of information systems, computer networks, communications and crypt protection systems;
- 9) Participate in security protection of other elements of the defence system;

10) Conduct other activities and tasks pertaining to general security.

As part of the counter intelligence activities and tasks the MSA shall:

- 1) Detect, trace and prevent intelligence operations, subversive and other activities performed by foreign countries, foreign organizations, groups or persons targeting the Ministry of Defence and the Serbian Armed Forces;
- 2) Detect, trace and prevent internal and international terrorism, extremism and other forms of organized violence targeting the Ministry of Defence and the Serbian Armed Forces;
- 3) Detect, investigate and document criminal acts against constitutional system and security of the Republic of Serbia, criminal acts against humanity and other values protected by the International Law, criminal acts of organized crime, criminal acts of money laundering and criminal acts of corruption (abuse of office, trade in influence, bribery) even when they are not the outcome of activities of an organised criminal group within the Ministry of Defence and the Serbian Armed Forces;
- 4) Detect, investigate and document criminal acts of revealing classified information of interest for defence, unauthorized access to protected computers, computer networks and electronic data processing, disclosure of a classified information and disclosure of military secret;
- 5) Plan, organise and implement counter intelligence protection of classified Ministry of Defence and Serbian Armed Forces data;
- 6) Plan, organise and implement counter intelligence protection of the Ministry of Defence and the Serbian Armed Forces;
- 7) Collect, analyse, process and assess counter intelligence data within its scope of work;
- 8) Conduct other counter intelligence activities and tasks.

Provided activities and acts stipulated in Paragraph 2, Items 1), 2), 3) and 4) of this Article are directed against the Ministry of Defence and the Serbian Armed Forces and performed by persons who are neither the members of the Serbian Armed Forces, nor the employees of the Ministry of Defence, the MSA shall conduct its activities and measures aimed at their disclosure, tracing and prevention, i.e. investigation and documentation by means of mandatory cooperation with the Security-Information Agency or the Police, and together they shall define further activities.

In addition to the activities stipulated in Paragraphs 1 and 2 of this Article, the MSA shall:

- 1) Plan, organise and implement Internal Control of the MSA personnel performance;

- 2) Plan education and organize specialist courses and training centres for its personnel, conduct scientific research, compile archives and publish its own publications;
- 3) Co-operate and exchange data with services, organizations and institutions that deal with security matters and with security services of other countries;
- 4) Process, check, file, assess and protect collected data and information from unauthorised disclosure, transfer, exchange, use, loss or destruction;
- 5) Secure and protects its forces, personnel and installations from illegal actions and threats;
- 6) Protect equipment and resources used in operations from unauthorised access;
- 7) Perform vetting of candidates for employment with the Ministry of Defence and service with the Serbian Armed Forces and other persons of importance for carrying out the activities stipulated in Article 5 hereof in co-operation with the Security Information Agency and Police;
- 8) Plan for new equipment and acquisition of objects for its own needs;
- 9) Carries out other activities within its competences.

1. MSA Powers and Authorities

Data Collection

Article 7

Within its competences, the MSA shall be authorised to collect data from:

- 1) Public sources
- 2) Physical and legal entities:
- 3) State bodies, organisations and services and owners of public competences.

Article 8

The MSA shall be authorised to collect data from physical entities only upon their consent.

Upon presentation of a written consent by the physical entity that is to be interviewed, the audio and visual recording may be produced. Physical entity shall sign the report, thus

confirming that he/she has voluntarily participated in the interview and that the recording is true and complete.

Prior to collection of data from a physical entity, an authorized MSA person shall be obliged to present his/her official ID to the person and warn him/her to keep secret all the findings of the MSA subject of interest.

Article 9

State institutions, organizations and services, institutions of the autonomous provinces, local government bodies, organizations exercising public competences, the Serbian Armed Forces and legal entities shall be obliged to ensure that authorized MSA persons have insight into registers, data collections, electronic data bases and other official documentation, except for security services and police, with which the exchange of data is conducted in compliance with laws regulating the work of security services and the police.

Provided data from registers and other data collections present classified information, entities from Paragraph 1 of this Article shall, except for security services and police, ensure the MSA has access to these registers and data collections upon a written request by the MSA Director in compliance with the Law regulating protection of classified data.

Notwithstanding the provisions stipulated in Paragraphs 1 and 2 of this Article, the MSA shall carry out co-operation and data exchange with the Security Information Agency and the Police in compliance with the provisions of the Law regulating security services and the Police.

Article 10

Within its powers and authorities, the MSA shall be authorised to perform covert data collection by means of special procedures and measures.

Article 11

The MSA shall collect data by means of special procedures and measures when it is not possible to collect data otherwise or when their collection involves excessive risk to life and health of people and property, i.e. excessive costs.

The MSA shall conduct data collection by means of special procedures and measures primarily for the purpose of prevention, i.e. with the aim to prevent threats against the Ministry of Defence and the Serbian Armed Forces.

When it is possible to choose between several special procedures and measures, measures that violate constitutionally guaranteed human rights and liberties to a lesser degree, shall be applied.

Article 12

Special procedures and measures of covert data collection within the competences of the MSA (hereinafter referred to as: special procedures and measures) shall include:

- 1) Covert collaboration with physical entities;
- 2) Operational penetration into organizations, groups and institutions;
- 3) Covert collection and purchase of documents and objects;
- 4) Covert access to personal records and the related data in compliance with the Law;
- 5) Covert surveillance of persons in the open space and in public places by applying technical means;
- 6) Covert electronic surveillance of telecommunications and information systems in order to collect data on telecommunication traffic and the locations of the users without the insight in the content;
- 7) Covert recording and documenting of conversations in the open space and in the closed areas by using technical means;
- 8) Covert surveillance of the content of letters and other means of communication including covert surveillance of the content of telecommunications and information systems;
- 9) Covert surveillance and recording of the interior of facilities, closed areas and objects.

The application of special procedures and measures stipulated in Paragraph 1 of this Article shall be regulated by the Minister of Defence upon the proposal submitted by the Director of the MSA and taking into consideration the opinion of the National Security Council.

Unless the opinion stipulated in Paragraph 2 of this Article is submitted within 30 days from the day of the receipt, the opinion shall be deemed positive.

Article 13

Special procedures and measures stipulated in Article 12, Items 1) through 6) hereof shall be implemented as instructed by the MSA Director, or a person authorized by him/her.

Records shall be kept on the issued instructions pursuant to Paragraph 1 of this Article.

Article 14

Special procedures and measures stipulated in Article 12, Items 7) through 9) hereof shall be implemented based on a written and explained order of the Supreme Court of Cassation.

Chairman of the Supreme Court of Cassation shall appoint judges authorized for issuance of orders stipulated in Paragraph 1 of this Article.

Written proposal for the implementation of the special procedures and measures stipulated in Article 12, Items 7) through 9) hereof shall be submitted to the Supreme Court of Cassation by the MSA Director.

The judge from Paragraph 2 of this Article shall immediately and not later than 24 hours, pass an act related to proposal for implementation of special procedures and measures and forward it to the MSA.

Provided authorized judge refuses to issue an order for the implementation of special procedures and measures, he/she shall immediately inform the MSA of the reasons for refusal and the MSA shall inform the Bureau for Coordination of Security Services.

The proposal from Paragraph 3 of this Article, i.e. the order from Article 13, Paragraph 1 hereof shall contain the title of the special procedure and measure that will be implemented, data on the person, group and organization the procedure will be implemented against, reasons for implementation of the special procedure and measures and the location and duration of their implementation.

The proposal and the order for the implementation of the special procedures and measures shall be classified. Officials and other persons, who participate in the decision making process and undertake special procedures and measures, shall keep secret all the data they uncover.

Following the receipt of the order from the Court, the MSA Director shall issue a Warrant for the Implementation of special procedures and measures.

Article 15

In case of emergency, and, in particular, in a situation of internal and international terrorism, the MSA Director may order the commencement of implementation of special procedures and measures stipulated in Article 12, Items 7) through 9) hereof with the previously obtained approval from the competent court stipulated in Article 14, Paragraph .

Based on the proposal for implementation of special procedures and measures, the judge from Paragraph 1 of this Article shall pass an act on continuation of implementation of adequate measures or on their termination within 24 hours from the beginning of their implementation.

Unless the competent judge approves implementation of special procedures and measures within 24 hours in compliance with Paragraph 2 of this Article, the MSA Director shall immediately terminate their implementation and order destruction of the data collected in the presence of a designated committee and the report on the matter shall be submitted to the competent court from Article 14, Paragraph 1 hereof.

Article 16

Postal, telegraph, and other public utilities, industrial companies and persons registered for telecommunication operations, other forms of information transfer and jobs related to mail delivery, shall provide conditions and enable the MSA temporary measure of covert data collection and implementation of special procedures and measures stipulated in Article 12 here off and measures stipulated in Article 18, Paragraph 3 hereof.

The MSA is entitled to receive information from telecommunication operators on their users, communication established, location of communication and other data of importance for the outcomes of implementation of special measures and procedures.

Article 17

Special procedures and measures of covert data collection stipulated in Article 12, Items 1) to 6) hereof may be implemented for as long as there are reasons for their implementation.

Special procedures and measures of covert data collection stipulated in Article 12, Items 7) to 9) hereof, as per order from competent judge pursuant to Article 14, Paragraph 2 hereof, may be implemented for six months, and on the basis on a new proposal may be extended one more time, up to the period of 6 months at the longest.

Article 18

Provided the data collected by means of implementation of special procedures and measures pursuant to Article 12 indicate preparation or execution of an ex officio criminal act, the MSA shall inform the competent Public Prosecutor's Office on the grounds for suspicion.

The information from Paragraph 1 of this Article shall not contain data on implemented special procedures and measures.

Based on the results of implementation of special procedures and measures, the MSA may suggest to the competent Public Prosecutor's Office the implementation of surveillance and recording telephone and other conversations or communications by using other technical equipment or optical recording of persons, and implementation of other measures for the

criminal acts of organized crime, corruption and other exceptionally serious criminal acts under the conditions and in the way prescribed by law regulating criminal procedure.

Article 19

While discharging its activities and tasks within the scope of its work the MSA is authorized to implement special procedures and measures stipulated in Article 12 and measures stipulated in article 18, Paragraph 3 here off targeting the employees of the Ministry of Defence and members of the Serbian Armed Forces.

When the MSA, while discharging its activities and tasks within the scope of its work, makes an assessment that special procedures and measures from Article 12, Items 5) to 9) here off and measures from Article 18, Paragraph 3 hereof shall be implemented targeting other physical entities, it shall is immediately inform the Security Information Agency or the Police and shall together with them define further measures and procedures.

Article 20

Authorized MSA member shall have access to all locations in order to install devices for implementation of special procedures and measures from Article 12 and measures from Article 18 here off in accordance with an order from the competent court.

Article 21

While implementing the special procedures and measures from Article 12 here off, the MSA is authorized to utilize data, documents and equipment designated for covering the MSA identity, the identity of its personnel and physical entities with whom covert collaboration is established.

In order to implement Paragraph 1 of this Article the identification documents of the Serbian Parliament MPs, Government members, General Secretariat of the Government, President of the country and officials, judges, public prosecutors, members of other security services of the Republic of Serbia, police and other authorised officials may not be used.

Article 22

Provided security reasons require so, the MSA may use business and housing premises and other real estate owned by the Republic of Serbia.

The Government, on the basis of a well-explained proposal from the Minister of Defence, shall regulate the ways of and conditions for the use of the real estate stipulated in Paragraph 1 of this Article.

While carrying out tasks within its competences, the MSA shall, when needed, undertake measures to conceal the ownership of facilities and legal entities and the very purpose of data collection.

The MSA may covertly use the services provided by other physical and legal entities and offer compensation.

The Minister of Defence shall regulate the way of and conditions for compensation based on the proposal from the MSA Director.

The MSA may, in order to implement activities within its competences, establish legal entities and define their work in such a way that shall not relate them to the MSA.

Powers and Authorities pertaining to detection, investigation and documenting of criminal acts

Article 23

In detection, investigation and documenting criminal acts stipulated in Article 6, Paragraph 2, Items 3) and 4) and in Article 6, Paragraph 3 here off, a MSA member with powers and authorities shall have the powers and authorities to:

- 1) Check the identity of persons and objects and identify them;
- 2) Summon;
- 3) Ask for information;
- 4) Temporary confiscate objects;
- 5) Search premises, objects and documentations and perform counter terrorist inspection;
- 6) Observe;
- 7) Collect, process and use personal data;
- 8) Do polygraph testing;
- 9) Exercise police powers and authorities in conducting measures pertaining to surveillance and recording telephone and other conversations or communications by using other technical equipment, optical recording of persons and undertaking other measures and activities in compliance with the Law regulating criminal procedure.

When an authorized MSA member, while performing activities and tasks within its competences, makes an assessment that the powers and authorities from Paragraph 1 of this Article should be applied on the persons that are not employees of the Ministry of Defence and members of the Serbian Armed Forces, the MSA shall immediately inform the Security Information Agency or the Police and, together with them identify further methods and measures.

I. MIA COMPETENCES, ACTIVITIES, TASKS AND POWERS AND AUTHORITIES

1. MIA Competences

Article 24

The MIA shall be responsible for conducting intelligence activities of importance for defence pertaining to collection, analysis, assessment, protection and transfer of data and information on potential and real threats, activities, plans or intentions of foreign countries and their armed forces, international organizations, groups and individuals.

The data and information from Paragraph 1 of this Article are of military, military-political, military-economic character, and are other data and information pertaining to proliferation of weapons and military equipment and terrorist threats directed from abroad towards the defence system of the Republic of Serbia.

2. MIA Activities and Tasks

Article 25

Within its competences, the MIA shall:

- 1) Collect and check the data and information, process them, analyse, assess and present to the competent bodies;
- 2) Co-operate and exchange information and data with services, organizations and institutions of the Republic of Serbia dealing with security and intelligence matters and the services of other countries and organizations in accordance with the defined security-intelligence policy, international agreements and obligations assumed;
- 3) Keep the data and information collected in compliance with the law, by-laws and protects them from unauthorized disclosure, transfer, usage, loss or destruction;

- 4) Plan, organise and implement security protection of its activities, persons, facilities and documents;
- 5) Organise security protection of the Ministry of Defence and the Serbian Armed Forces installations abroad and persons deployed abroad by the Ministry of Defence and the Serbian Armed Forces;
- 6) Protect the equipment and resources used for operations from unauthorised access;
- 7) Collect, develop and utilise information systems, communication systems and data transfer systems and equipment for information protection;
- 8) Organise training of the MIA personnel, specialist courses, conduct research, compile archives and issue publications;
- 9) Plan, organise and implement the Internal Control of the MIA personnel performance;
- 10) Request from competent security services to conduct vetting of legal and physical entities when it is necessary for performing activities within the competences of MIA in compliance with this Law;
- 11) Plan for acquisition of new equipment and conducts procurement of objects for its own needs;
- 12) Perform other activities within its scope of work.

MIA Powers and Authorities

Data Collection

Article 26

As part of its competences, the MIA shall collect data:

- 1) From public sources;
- 2) From physical and legal entities;
- 3) Through exchange with other security services;
- 4) By using special procedures and measures.

Implementation of special procedures and measures for covert data collection

Article 27

Special procedures and measures for covert data collection shall include:

- 1) Covert collaboration with physical and legal entities in order to collect data and information stipulated in Article 24, Paragraph 2 hereof;
- 2) Covert collection and purchase of documents and objects;
- 3) Operational penetration into organizations, institutions and groups;
- 4) Undertaking measures pertaining to concealing identity and property;
- 5) Establishment of legal entities and definition of their work so that the connection to MIA shall not be established;
- 6) Covert utilization of the property and services of physical entities with compensation;
- 7) Usage of special documents and resources that protect the MIA, its personnel, premises and equipment.

Special procedures and measures from Paragraph 1 of this Article shall be undertaken in compliance with the order issued by the MIA Director or by a person authorized by him.

Records shall be kept of the orders issued pursuant to Paragraph 2 of this Article.

The application of special procedures and measures stipulated in Paragraph 1 of this Article shall be regulated by the Minister of Defence upon the proposal submitted by the Director of the MIA and taking into consideration the opinion of the National Security Council.

Unless the opinion stipulated in Paragraph 2 of this Article is submitted within 30 days from the day of the receipt, the opinion shall be deemed positive.

Article 28

In order to implement special procedures and measures stipulated in Article 27, Paragraph 1 hereof the identification documents of the Serbian Parliament MPs, Government members, General Secretariat of the Government, President of the country and officials, judges, public prosecutors, members of other security services of the Republic of Serbia, police and other authorized officials may not be used.

Article 29

Provided security reasons require so, the MIA may use business and housing premises and other real estate owned by the Republic of Serbia.

The Government, on the basis of a well-explained proposal from the Minister of Defence, shall regulate the ways of and conditions for the use of the real estate stipulated in Paragraph 1 of this Article.

Article 30

The data pertaining to methods of work and functioning of the MIA shall be identified as classified data.

The classification level of the data from Paragraph 1 of this Article shall be defined in compliance with the law regulating protection of classified data.

II. RECORDING AND USAGE OF DATA

Article 31

The MSA shall create and keep the collections and registers of personal and other data and documents on those data.

The MIA shall create and maintain collections and registers of data within the scope of its work.

The collections and registers of data and documents from Paragraphs 1 and two of this Article shall be defined as classified data in compliance with the law regulating protection of classified data.

Provided the MSA or the MIA comes into possession of data and information related to the competences of other security services, they shall forward those data to the relevant services.

Unless the data and information are related to the scope of work of the security services, the MSA or the MIA shall immediately destroy these within 30 days and designated committee shall make a record on the matter.

Article 32

Types of registers, collections of personal data and records of MSA or MIA, method of their keeping, access, handling and protection, deadlines for keeping these, archiving and destruction shall be regulated by the Minister of Defence at the proposal of the MSA and the MIA Directors, and upon obtaining an opinion from the National Security Council.

III.SPECIAL POWERS AND AUTHORITIES

Article 33

Authorized MSA member shall be entitled to and has an obligation to keep, carry and use firearms within the competences prescribed by this Law.

Authorized MSA or MIA member is entitled to use equipment for surveillance, recording, navigation and communication and to use transportation vehicle and communications owned by physical or legal entity.

State bodies of the Republic of Serbia and legal entities shall provide necessary assistance to authorized MSA and MIA personnel for the fulfilment of tasks related to the MSA or MIA scope of work.

The method and conditions for exercising the powers and authorities stipulated in Paragraphs 1 and 2 of this Article are regulated by the Minister of Defence at the proposal of the MSA and the MIA Directors following the receipt of the opinion from the National Security Council.

IV. REPORTING AND INFORMATION

Article 34

The MSA and the MIA shall regularly, when needed and upon request, deliver reports, information and assessments from their scope of work, that are of importance for defence to the President of the Republic, Minister of Defence and the Serbian Armed Forces Chief of Staff.

Provided there is an immediate danger threatening the security of the Ministry of Defence and the Serbian Armed Forces commands, units and installations, the MSA and the MIA are shall promptly inform the competent leadership and command bodies on the data they acquired while discharging the activities and tasks proscribed hereof.

Reports, information, and assessments from Paragraphs 1 and 2 of this Article shall present classified information, in compliance with the law regulating protection of classified data.

Article 35

The MSA and the MIA shall provide accurate, true and complete information on data collected on persons and data of public significance in compliance with the regulations

governing data protection on persons, free access to information of public significance and provisions of this Law.

The right to information and insight in data from Paragraph 1 of this Article is limited in accordance with regulations governing the area of free access to public information, protection of classified data, protection of data on persons and provisions.

The right to information and insight into data from Paragraph 1 of this Article shall not be related to data on: authorized official personnel of the MSA or MIA who were undertaking measures; identity of present and former collaborators and informants of the Service; third persons whom the disclosure of those data could harm; methods of acquisition of security and intelligence data; current actions; methods of implementation of special procedures and measures; and the data and information that were acquired through exchange with foreign services and international organizations and classified data and information by other state bodies that are in possession of the service.

Exchange of data with bodies and security services of foreign countries and international organizations

Article 36

In compliance with the defined security and intelligence policy of the Republic of Serbia, the MSA and the MIA exchange data from Article 31 of this Law with security bodies and services of foreign countries and international organizations in accordance with the Constitution, the Law, other regulations, general acts and ratified international agreements.

The method and procedure of data exchange on immediate threats to security by a foreign country or an international organization, or value protected with international law shall be regulated by the Minister of Defence at the proposal of the MSA and MI Directors, in compliance with the guidelines of the National Security Council.

The data delivered as stipulated in Paragraphs 1 and 2 of this Article may be used solely for the purpose they were collected for.

Records are kept on the delivered data as stipulated in Paragraph 1 of this Article.

VII. MANAGEMENT AND INTERNAL ORGANIZATION OF THE MSA AND THE MIA

1. Management of the MSA and MIA

Article 37

The MSA and MIA are managed by directors who are accountable for their work to the Minister of Defence.

The MSA and MIA Directors have their deputies, who are accountable for their work to the Directors.

The MSA and MIA directors and their deputies shall be appointed and recalled by a decree issued by the President of the Republic based on a proposal from the Minister of Defence, if it is a professional military officer, and by the Government based on a proposal from the Minister of Defence, in compliance with the Law regulating the position of civil servants.

The MSA and MIA Directors and their deputies shall be appointed for the period of five years.

The MSA and MIA directors and their deputies shall not be members of a political party, or take any other public office.

Person may be appointed Director of the MSA and MIA provided he/she has completed the General Staff Advanced Training and has had at least nine years of experience in intelligence and security matters within the defence system.

Article 38

The MSA or the MIA Director shall:

- 1) Issue orders and instructions for the work of Agency's bodies and personnel;
- 2) Be responsible for legal and expert functioning of the Agency;
- 3) Be responsible for appropriate use of financial and other resources;
- 4) Propose the plan for development, equipment and annual activities to the Minister of Defence;
- 5) Select and decide on employment and termination of employment in the Agency in accordance with the prescribed criteria;
- 6) Propose to the competent body to release the Agency personnel of the obligation of keeping a secret;
- 7) Submit report on work;
- 8) Propose to the Minister of Defence to proscribe regulations related to the scope of work of the Agency;

9) Discharge other duties and tasks stipulated the law and by-laws.

The MSA and the MIA directors or their deputies may, in addition to the conditions defined by law, be recalled before the termination of their term in office under the following conditions:

- 1) At their own request;
- 2) Due to health issues, which make them permanently incapable of performing their duties;
- 3) When they are sentenced to an unconditional prison sentence of at least six months for an offence or for an act that makes them disreputable for performing the duty;
- 4) Unless, when carrying out their duties, they act in compliance with the Constitution, law and other regulations, service rules of procedure, in a conscientious, impartial and politically neutral way, which causes illegal and unprofessional functioning of the agency.

The Minister of Defence shall submit a proposal for the dismissal of the MSA or MIA Director or their deputies.

2. Internal organization of the MSA and the MIA

Article 39

The Minister of Defence shall pass acts on internal organization and systematisation of the MSA and MIA based on the proposals from the Directors of the MSA and MIA, and in compliance with the Law and other regulations.

Acts on internal organization and systematisation of the MSA and MIA and the manner in which they function shall be considered a state secret.

V. MSA AND MIA PERSONNEL

Article 40

MSA and MIA personnel shall be professional Serbian Armed Forces members, appointees and civil servants.

1. Labour relations in the MSA and the MIA

Article 41

The Law and other regulations governing the Serbian Armed Forces shall apply to the commencement of service, rights and duties and termination of service of the professional Serbian Armed Forces members deployed to the MSA and MIA, unless this Law, and regulations passed in compliance with this Law, prescribe otherwise.

The Law on defence of the Republic of Serbia and regulations on appointees and civil servants shall be applied to commencement of service, rights and duties and termination of service of the appointees and civil servants serving with the MSA and MIA, unless this Law and the regulations passed in compliance with this Law, prescribe otherwise.

Special criteria and the procedures for the commencement of service and termination of service for persons from Paragraphs 1 and 2 of this Law shall be regulated by the Government at the proposal by the Minister of Defence.

Article 42

The MSA and MIA personnel:

- 1) Shall obey orders given by the MSA Director, MIA Director or an immediate superior person and report on their work;
- 2) Shall not express and advocate their political beliefs while discharging their official duties;
- 3) Shall be independent in their work and personally responsible for illegal behaviour.

Provided a MSA and MIA member believes that an order issued by directors of the MSA or MIA or their immediate superiors is illegal, they shall warn them in writing on the matter, and provided a superior insists on the fulfilment, they request to get the order in writing. If the order is confirmed, they shall inform the more senior person and the Internal Control.

Provided the MSA and the MIA member is in possession of findings on the illegal activities in the service, they shall report to the Director and to the Internal Control without any consequences to their status.

Unless the MSA and the MIA Director or the Internal Control reacts to the report from Paragraph 3 of this Article, the MSA and the MIA member may address the oversight and control bodies without any consequences to their status.

2. Preservation of covert identity

Article 43

An MSA and the MIA member and the physical entity, who the covert collaboration is established with, may testify before the legal bodies in the process against persons under suspicion based on the procedures implemented by the MSA and MIA only if the protection of their identity has been provided for, in compliance with this Law or the Law regulating criminal procedure.

Article 44

Authorised person shall be an MSA and MIA member who exercises the powers and authorities proscribed by this Law.

The Minister of Defence, based on the proposal of the MSA and the MIA directors, shall prescribe who is considered to be an authorized person of the MSA and the MIA, and the scope of their powers and authorities.

Authorised MSA and the MIA person is in the possession of an official ID card with a badge, and the MSA and MIA member who does not enjoy the status of an authorized person in possession of an ID card only.

The type, form and content of the ID card and the design of the MSA and the MIA badge shall be prescribed by the Government at the proposal of the Minister of Defence.

3. Salary bonus

Article 45

At the proposal of the MSA and the MIA Directors, an authorized MSA and MIA member shall be entitled to additional salary bonus in the amount prescribed in a regulation passed by the Minister of Defence.

The MSA and MIA member that does not enjoy the status from Paragraph 1 of this Article may be entitled to additional salary bonus in the amount prescribed in a regulation passed by the Minister of Defence.

4. Prohibition of public speech

Article 46

The MSA and the MIA members shall not address the public and reveal data and findings related to the MSA and the MIA operations, and the other data pertaining to security that are of importance for defence without an approval from the MSA and the MIA directors.

5. Rights of persons and the families of the persons who establish covert collaboration

Article 47

Person that suffers physical damage, or loses the labour capability while covertly collaborating with the MSA and the MIA, shall enjoy the same rights in that respect as the MSA and the MIA personnel.

In case of death of the person from Paragraph 1 of this Article, their family members shall enjoy the same rights as the family members of the MSA and the MIA personnel.

6. Legal, material and other assistance to the MSA and the MIA personnel and persons with whom they establish covert collaboration

Article 48

Provided a criminal procedure is initiated against the MSA or the MIA present or former personnel or against a person, who covert collaboration is established with, because of the actions perpetrated while in service, or during covert operations, they shall be entitled to legal aid proposed by the MSA and the MIA, except for the cases when the criminal procedure is initiated in pursuant to the MSA and MIA criminal charges.

7. Risk insurance

Article 49

The MSA and the MIA may contract life insurance for their personnel, insurance in case of death or loss of working capability in accordance with the risks in service.

8. Deployment abroad

Article 50

The MSA and the personnel may be deployed abroad as part of co-operation with foreign security service or another relevant service in compliance with an international agreement or in compliance with law.

9. Addressing competent bodies

Article 51

The MSA and the MIA personnel in possession of findings that there is breach of constitutional rights, legality, human rights and liberties, professional behaviour, of appropriate implementation of powers and authorities and political and ideological neutrality, may directly address Inspector General, the Minister of Defence, the Government and the relevant Committee of the National Parliament with no consequences to their status.

An MSA or MIA member may address the Inspector General and the relevant Committee of the National Parliament when they believe that their rights are breached while discharging duties and tasks within the MSA and the MIA.

VI. OVERSIGHT AND INTERNAL CONTROL

1. National Parliament

Article 52

The National Parliament shall exercise oversight of the MSA and the MIA activities in compliance with the provisions of the law regulating the basic arrangement of the security services of the Republic of Serbia and this Law.

2. Government

Article 53

The Government shall exercise control through the MoD, provide necessary resources for the MSA and the MIA activities and exercise other competences in compliance with the Law.

3. Inspector General

Article 54

Inspector General shall:

- 1) Oversee implementation of the principles of political, ideological and interest neutrality in the activities of the MSA and the MIA and their personnel;
- 2) Oversee legality of implementation of special procedures and measures for covert data collection;
- 3) Oversee legality of budget and other resources spending for the their activities;
- 4) Offer opinion on draft laws, other regulations and general acts within the competences of the MSA and the MIA;
- 5) Establish the facts regarding observed illegal or irregular actions in the activities of the MSA and the MIA and their personnel;
- 6) Report to the Minister of Defence on the findings of the oversight including further measures.

Inspector General shall be appointed by the Government for the period of five years at the proposal from the Minister of Defence, taking into consideration an opinion of the National Security Council.

Inspector General shall be accountable to the Minister of Defence.

Inspector General shall report on the implemented oversight at least once a year to the relevant Committee of the National Parliament.

Inspector General cannot be a member of a political party or hold any other public office.

Article 55

Person who has at least ten years of experience in service may be appointed Inspector General.

Inspector General shall hold the status of a civil servant in the third group of the Ministry of Defence list of positions in compliance with the Law.

Inspector General may, in addition to the conditions prescribed by law, be recalled prior to the expiration of the period they have been appointed to under the following conditions:

- 1) At their personal request;
- 2) Provided they are permanently health wise incapable of performing their duties;
- 3) When sentenced for a criminal act to an unconditional prison sentence of at least six months or for the act that makes them disreputable for performing the duty;

- 4) Unless they act in compliance with the Constitution, law and other regulations, service rules of procedure, in a conscientious, impartial and politically neutral way.

The procedure for the recall of the Inspector General may be initiated by the Government or the Minister of Defence.

Article 56

The method of exercising internal control of the MSA and the MIA and the other issues of importance for the work of the Inspector General shall be prescribed by the Minister of Defence.

4. Internal Control

Article 57

Internal Control of the MSA and the MIA shall carry out inspection of the legality of their work and the implementation of powers and authorities of their personnel.

Internal Control manager shall be directly subordinated to the MSA or the MIA Director, to who, he/she shall regularly submit reports on their activities and on potential abuses and irregularities in the MSA and the MIA operations.

Internal Control manager shall inform Inspector General, and when needed, relevant Committee of the National Parliament, when they have findings that the MSA or the MIA Director has failed to prevent from illegality or irregularity in the work identified by the Internal Control.

At the request of the Internal Control and as a result of the decision of the MSA or the MIA Director, the MSA or the MIA member shall consent to security check up, inspection of psychological and physical capability, inspection of health status, polygraph testing and other check-ups.

VII. FINANCING

Operational resources

Article 58

The MSA and the MIA operational resources shall be provided from the budget of the Republic of Serbia in compliance with the law regulating budgetary system.

The data on financial and material operations of the MSA and the MIA shall be classified data in compliance with the law regulating data secrecy.

Article 59

Regulations stipulating procurement for the Ministry of Defence shall be applied for the procurement of objects intended for discharging duties and tasks within the scope of work of the MSA and the MIA.

While carrying out the procurement from Paragraph 1 of this Article, the MSA and the MIA are authorized to use data, documents and resources that are used to cover the Agency's identity and identity of its personnel.

VIII. PROTECTION AND FILING OF CLASSIFIED DATA

Article 60

An MSA and MIA member, who has access to data and documents that have been classified as secret by law and other regulations, shall protect and file them during and after his work in the MSA and the MIA in compliance with the regulations pertaining to defence and protection of classified data.

An MSA and MIA member shall keep the secrecy of the MSA and the MIA personnel identity, or identity of persons, who covert collaboration is established with and other sources of data, or of the method in which the data were collected in compliance the law regulating protection of classified data.

XII PROTECTION OF CITIZENS' RIGHTS

Article 61

A citizen who believes that his/her human rights and liberties are violated or denied as a result of individual MSA or MIA act or action may address Inspector General or bodies and institutions of the Republic of Serbia.

Article 62

The Republic of Serbia shall be responsible for any damage inflicted on physical and legal entities as a result of the irregular MSA or MIA actions.

XIII. MISCELLANEOUS

Article 63

Regulations for the implementation of this Law shall be passed within six months of the effective date.

Regulations passed for the implementation of the Law on Security Services of the Federal Republic of Yugoslavia (Official Gazette of the FRY, No. 37/02 and Official Gazette of Serbia and Montenegro, No. 17/04) shall remain in force until the adoption of the adequate regulations or the implementation of this Law, unless they are contrary to the provisions.

Until the adoption of the regulations governing court system organization and the commencement of the work of the Supreme Courte of Cassation, the tasks of the Supreme Court of Cassation shall be discharged by the Supreme Court of Serbia.

Article 64

The Law on Security Services of the Federal Republic of Yugoslavia shall ceased to be valid on the effective date (Official Gazette of the FRY, No.37/02, and the Official Gazette of Serbia and Montenegro, No. 17/04).

Article 65

This Law shall come into effect on the eighth day from its publishing in the Official Gazette of the Republic of Serbia.

