

The Law on Security Information Agency

Official Gazette of the Republic of Serbia, Nos. 42/2002, 111/2009, 65/2014 – US, 66/2014

I. BASIC PROVISIONS

Article 1

The Security Information Agency (hereinafter: “the Agency”) has been established as an independent organization.

Article 2

The Agency shall perform tasks relating to the security of the Republic of Serbia and detection and prevention of activities directed to undermining or disruption of constitutionally established order of the Republic of Serbia, to obtaining, collecting, processing and analysis of security-intelligence data and findings relevant to the security of the Republic of Serbia, and to informing competent state authorities on those data, as well as other activities determined by the Law.

Article 3

In accordance with the Law, the Agency shall have the status of a legal entity.

Article 4

The activities of the Agency shall be controlled by competent authorities, in accordance with the Law and other regulations.

Within its sphere of activity, the Agency shall cooperate with other competent state institutions and services.

The Agency shall cooperate with institutions, organizations and services from other countries and international organizations, in line with guidelines of the Government of the Republic of Serbia (hereinafter: “the Government”) and the security-intelligence policy of the Republic of Serbia.

II. WORK ORGANIZATION

Article 5

The activities of the Agency shall be directed by the Director, who shall be appointed and dismissed by the Government.

Article 6

Special organizational units shall be formed within the Agency to deal with security issues within its jurisdiction.

Article 7

The internal organization and job systematization of the Agency shall be regulated by principles of internal organization and job systematization in the ministries and special organizations, unless certain operations in the Agency require different organization structure.

Article 8

The Director shall issue internal directives that regulate specific aspects of the internal organization and activities within the competence of the Agency. Also, he shall provide members of the Agency with mandatory instructions on how to perform their duties.

III. WORKING METHOD

Article 9

While operating within its jurisdiction, the Agency shall apply adequate operational methods, measures and activities, as well as appropriate operational and technical means to collect data and information in order to eliminate and avert activities aimed at undermining or disruption of constitutionally established order of the Republic of Serbia, and endangering of national security and, in that regard, it shall undertake other necessary measures and activities in accordance with the Law and regulations compliant to the Law.

Decision on the application of measures and methods from paragraph 1 of this Article shall be issued by the Director of the Agency or a person he authorizes.

Article 10

In performing activities from their field of work, members of the Agency shall be authorized to request and receive information, data and professional assistance important for clarification of

facts relevant for performing activities within the Agency's competence, from state institutions and other institutions, and legal and natural persons.

No one can be forced to provide assistance, information and data stated in paragraph 1 of this Article. Withholding or refusing to provide assistance, information or data has to be based upon legally determined reasons.

Article 11

The Agency shall process, store and use gathered information and documentation on the activities within its competence, and it shall keep appropriate records on those and protect their secrecy.

Method of filing, processing, storing, using, protecting of information and documents from paragraph 1 of this Article, as well as method for their dissemination to other competent state institutions, shall be determined by the Government.

Article 12

Members of the Agency, assigned to special organizational units from Article 6 of this Law, engaged in detection, monitoring, documenting, preventing, combating and disrupting of activities of organizations and individuals engaged in organized crime and criminal offenses with elements of foreign, domestic and international terrorism and serious forms of criminal offenses against humanity and international law, and the constitutionally established order and security of the Republic, shall implement their authorizations determined by the Law and other regulations intended for authorized officers and members with limited authority in the Ministry competent for internal affairs, in accordance with the regulations on internal affairs.

Article 13

Former Article 13 is no longer in effect. (See Decision US – 65/2014-99)

Article 13.*

Special measures which deviate from inviolability of secrecy of letters and other means of communication (hereinafter: “special measures”) are:*

1) secret surveillance and recording of communications, regardless of the form and technical means used for it, or surveillance of electronic or any other address;*

2) secret surveillance and recording of communications in public places and places with limited access or in premises;*

3) statistical electronic surveillance of communications and information systems with aim to obtain data on communication or location of used mobile terminal equipment;*

4) computer search of already processed personal and other data and their comparing with data acquired through the application of measures stipulated in points 1) - 3) of this paragraph.*

Secret surveillance and recording of locations, premises and objects, including devices for automatic data processing and equipment used or potentially used for storing of electronic records, may be approved with special measures from paragraph 1, points 1) and 2) of this Article.*

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Article 14

Former Article 14 is no longer in effect. (See Decision US – 65/2014-99)

Article 14*

Special measures may be prescribed against an individual, group or organization when there are grounds for suspicion that they are conducting or preparing acts directed against the security of the Republic of Serbia, and when the circumstances of the case indicate that those acts could not be otherwise detected, prevented or proved, or that it would cause extreme difficulties or substantial danger.*

While deliberating on prescribing and duration of special measures, it shall particularly be taken into a consideration whether the same result could be acquired in a manner less restrictive for citizens' rights, in a volume necessary for fulfilling the purpose of limitation in a democratic society.*

**Official Gazette of the RS, No. 66/2014*

Article 15

Former Article 15 is no longer in effect. (See Decision US – 65/2014-99)

Article 15*

If conditions stipulated in Article 14 of this Law are met, court may order the application of a special measure based on substantiated proposal of the Director of the Agency.*

Proposal from paragraph 1 of this Article shall contain title of the special measure, data available on an individual, group or organization against which it shall be applied, existence of conditions for its application and its duration.*

Decision on the proposal from paragraph 1 of this Article shall be made by the President of the Higher Court in Belgrade, i.e. judge whom he shall delegate among judges from the

Special department of that Court, which, according to the law, processes cases dealing with criminal offences relating to organized crime, corruption and other particularly severe criminal offences.*

Decision on proposal from paragraph 1 of this Article shall be made within 48 hours from submitting of the proposal.*

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Article 15a*

If the Court adopts proposal for prescribing of a special measure, it shall issue an order.*

The order prescribing a special measure shall include title of the special measure, data available on an individual, group or organization against which it shall be applied, reasons stating that conditions from Article 14 of this Law are met, manner of application, extent and duration of the special measure.*

Special measure may be in effect for three months, and due to necessity of detection, prevention or collection of evidence on acts from Article 14, paragraph 1 of this Law, it may be prolonged not more than three times, each time for three months period. Application of the special measure shall be discontinued when reasons for its application cease to exist.*

If the Court discards proposal for prescribing of a special measure, it shall issue a resolution.*

The Director of the Agency may file complaint to the Court of Appeal in Belgrade against the resolution from paragraph 4 of this Article.*

Decision on the complaint from paragraph 5 of this Article shall be made by committee comprising three judges from the Special department in the Court of Appeal in Belgrade that has legal mandate to process cases relating to criminal offenses of organized crime, corruption and other particularly severe criminal offences, within 48 hours from filing the complaint.*

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Article 15b*

If during the application of a special measure the member of the Agency obtains information indicating that an individual, group or organization applies other means of communication, electronic or other address, or that communication is made in other places with limited access or in other premises, he shall instantly inform the Director of the Agency who may order extension of the special measure.*

In case of issuing order from paragraph 1 of this Article, the Director of the Agency shall, within 48 hours, issue a proposal for additional approving of extension of the special measure application. Decision on the said proposal shall be made by the judge from Article 15, paragraph 3, of this Law, within 48 hours from receiving the proposal.*

If the judge adopts the proposal from paragraph 2 of this Article, he shall subsequently approve extension of the special measure application. In case he rejects the proposal, material collected in line with paragraph 1 of this Article shall be destroyed.*

Material from paragraph 3 of this Article shall be destroyed in the presence of the judge who shall make a report on it.*

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Article 15v*

If, during the application of special measures, material is collected on criminal offense for which special evidentiary measures may be prescribed, such material shall be submitted to competent public prosecutor's office. The material shall be handled with in line with provisions defining the criminal procedure.*

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Article 15g*

Proposal for prescribing and extension of special measures, decision on the proposal, order on extension of a special measure and report on destruction of material from Article 15b, paragraph 4, of this Law, shall be recorded in a special registry, and stored together with material on the application of special measures in a separate file marked with "special measures" and classification level in line with provisions of the Law regulating data secrecy.*

Data on proposing, deliberating and application of special measures shall be classified.*

Data from paragraph 2 of this Article shall be kept as secret by other individuals that get hold of those in any capacity.*

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Article 16

When special reasons for the security of the Republic of Serbia require it, the Agency may take over and directly carry out activities within the competence of the Ministry competent for internal affairs.

The decision on taking over and performing activities within the competence of the Ministry competent for internal affairs shall be made in agreement by the Director of the Agency and the Minister competent for internal affairs.

In case of conflict of jurisdiction, the Government shall make decision in accordance with the Law and other regulations. Duties from paragraphs 1 and 2 of this Article that are taken over by the members of the Agency shall be executed in line with conditions, manner and authorizations determined by the Law and other regulations applied by the authorized officers and members with limited authority of the Ministry competent for internal affairs, in accordance with the regulations on internal affairs.

The Director of the Agency and the Minister competent for internal affairs shall, in agreement, in a form of an act, determine in detail mandatory forms and method of cooperation between the Agency and the Ministry competent for internal affairs regarding the issues relevant to the security and constitutional order of the Republic of Serbia, i.e. the security of persons and property.

IV. WORK CONTROL

Article 17

The Director of the Agency shall be under obligation to submit a work report of the Agency and on the security status of the Republic of Serbia to the National Assembly and the Government of the Republic of Serbia twice a year.

Article 18

In performing activities from its field of work, the Agency shall be obliged to comply with basic principles and guidelines of the Government, which refer to security-intelligence policy of the Republic of Serbia.

Article 19

Individuals partaking in control of the work of the Agency shall be under obligation to protect and preserve the confidentiality of data and information that they obtain both while working as controllers, and when they leave their functions.

V. MEMBERS OF THE AGENCY

Article 20

Rights, duties and responsibilities resulting from the employment status of the members of the

Agency, shall subject to regulations that apply to members of the Ministry competent for internal affairs.

Members of the Agency cannot be members of any political party.

Members of the Agency shall not be entitled to organize unions or strike.

Article 21

A member of the Agency shall prove his status by his official identity card. The Government shall determine the type, form and content of the official identity cards.

Article 22

A member of the Agency shall perform duties and tasks assigned to him in accordance with the Law, other regulations or general act, or by the Director's order, i.e. the order of his immediate superior in the Agency.

A member of the Agency shall be independent in his work and he shall be personally accountable for it.

Article 23

A member of the Agency shall be under obligation to safeguard data of the Agency classified as state, military, official or business secret, as well as methods, measures or actions considered to be or containing any of these secrets, as well as other data the disclosure of which would cause damage to the interests of natural or legal entities, or impair the effectiveness of the Agency's work.

Upon the commencement of employment, one shall accept the obligation to maintain secrecy of data, measures and actions mentioned in paragraph 1 of this Article, which shall continue even after the termination of employment in the Agency.

The Director of the Agency may release a member of the Agency from his obligation relating to the maintenance of secrecy.

Article 24

A disciplinary procedure against a member of the Agency shall be conducted in accordance with the Law and other regulations.

The public shall be excluded from the disciplinary procedure against a member of the Agency.

The Government determines in detail issues relevant to the disciplinary responsibility of a member of the Agency.

Article 25

If criminal or other proceeding is held against present or former member of the Agency on account of his application of appropriate measures, i.e. the use of coercion means, the Agency shall provide him free legal assistance in that proceeding, unless the Agency itself initiates or launches proceeding.

In case life, i.e. personal safety or safety of property of a member of the Agency, or member of his family, is endangered due to performance of his duties, the Agency shall provide, apart from legal assistance mentioned in paragraph 1 of this Article, any additional assistance and protection required for eliminating the danger.

The rights mentioned in paragraphs 1 and 2 of this Article shall also apply to citizens that provide the Agency with assistance in its field of work.

VI. TRANSITIONAL AND FINAL PROVISIONS

Article 26

Sub-legal acts, relevant to the implementation of this Law, shall be enacted within 90 days from the day the Law comes into force.

Until the acts from paragraph 1 of this Article are enacted, the existing acts, which are not contrary to this Law, shall be applied.

Article 27

Members of the Ministry of Interior - the National Security Service who shall not be taken over by the Agency within 90 day from the day this Law comes into force, shall be assigned to working positions in the Ministry of Interior, which correspond to their qualifications and professional abilities.

The Agency shall take over premises, objects, archive and other registry material, equipment, working and other means that the Ministry of Interior – National Security Service used on the very day this Law was enacted.

Article 28

This Law shall enter into force on the eighth day following its publication in the “Official Gazette of the Republic of Serbia”.

PROVISIONS LEFT OUT OF THE “REVIZED TEXT” OF THE LAW

The Amendments to the Law on Security-Information Agency: “Official Gazette of the RS”, No. 111/2009-35

Article 3

This Law shall enter into force on the day following that of its publication in the “Official Gazette of the Republic of Serbia” and it shall apply as of 1 January 2010.