

On basis of Article IV.4.a) of the Constitution of Bosnia and Herzegovina, Parliamentary Assembly of Bosnia and Herzegovina at the Session of the House of Peoples, held on _____, and at the Session of the House of Representatives, held on _____, adopted the following:

LAW ON THE INTELLIGENCE AND SECURITY AGENCY OF BOSNIA AND HERZEGOVINA

I –GENERAL PROVISIONS

Article 1

This Law establishes the Intelligence and Security Agency of Bosnia and Herzegovina (hereinafter: the Agency), which shall be responsible for gathering, analyzing, and disseminating intelligence in order to protect the security, including the sovereignty, territorial integrity and constitutional order, of Bosnia and Herzegovina.

The Agency shall conduct its work in accordance with the Constitution of Bosnia and Herzegovina, including the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols referenced therein.

Article 2

The Agency shall be a civil intelligence and security institution, which shall have the status of an independent administrative organisation of Bosnia and Herzegovina.

The Agency has the status of a legal entity.

The Agency is formed from those civilian intelligence-security institutions formerly operating in the Federation of Bosnia and Herzegovina (hereinafter: Federation) and Republika Srpska.

No other civilian intelligence-security structures may be established or may operate in Bosnia and Herzegovina.

Article 3

The Agency has jurisdiction throughout the territory of Bosnia and Herzegovina.

The Headquarters of the Agency is in Sarajevo.

The internal organisation of the Agency shall be determined by the Book of Rules on Internal Organisation whereby the organisational units shall be established taking into consideration the Constitutional structure of Bosnia and Herzegovina. The Book of Rules on Internal Organisation shall be issued by the Director-General of the Agency in consultations with the

Deputy Director-General and with the approval of the Council of Ministers of Bosnia and Herzegovina (hereinafter: The Council of Ministers).”

Article 4

Financial means for the work of the Agency shall be provided entirely from the State budget, in accordance with the *Law regulating the Treasury of the Institutions of Bosnia and Herzegovina*.

II – DUTIES AND TASKS OF THE AGENCY

Article 5

The Agency is responsible for gathering intelligence both within and outside Bosnia and Herzegovina regarding threats to the security of Bosnia and Herzegovina, analyzing such intelligence, and disseminating such intelligence to the officials and bodies listed in Article 6, paragraph 5 of this Law, as well as gathering, analyzing and disseminating intelligence for the purpose of providing assistance to authorized officials as defined in criminal procedure codes in Bosnia and Herzegovina and other competent bodies in Bosnia and Herzegovina, where necessary to prevent threats to the security of Bosnia and Herzegovina.

For the purpose of this Law, “threats to the security of Bosnia and Herzegovina” shall be understood to mean threats to the sovereignty, territorial integrity, constitutional order, and fundamental economic stability of Bosnia and Herzegovina, as well as threats to global security which are detrimental to Bosnia and Herzegovina, including:

- a) terrorism, including international terrorism;
- b) espionage directed against Bosnia and Herzegovina or otherwise detrimental to the security of Bosnia and Herzegovina;
- c) sabotage directed against the vital national infrastructure of Bosnia and Herzegovina or otherwise directed against Bosnia and Herzegovina;
- d) organized crime directed against Bosnia and Herzegovina or otherwise detrimental to the security of Bosnia and Herzegovina;
- e) drug, arms and human trafficking directed against Bosnia and Herzegovina or otherwise detrimental to the security of Bosnia and Herzegovina;
- f) illegal international proliferation of weapons of mass destruction, and the components thereof, as well as materials and tools required for their production;
- g) illegal trafficking of internationally controlled products and technologies;
- h) acts punishable under international humanitarian law; and
- i) organized acts of violence or intimidation against ethnic or religious groups within Bosnia and Herzegovina.

In performing the activities listed in paragraphs 1 and 2 of this Article, the Agency is entitled to make use of those operational tools and methods listed in Chapter VIII and Chapter IX of this Law.

Article 6

The Agency shall cooperate with intelligence and security services in other states and other foreign and international institutions for the purpose of performing those tasks listed in paragraphs 1 and 2 of Article 5 of this Law, in accordance with Article 70 of this Law.

The Agency shall use its operative means and methods in order to provide protection for institutions and facilities of Bosnia and Herzegovina as well as the institutions and facilities of Federation, Republika Srpska and Brcko District of Bosnia and Herzegovina (hereinafter: Brcko District), and diplomatic missions of Bosnia and Herzegovina located abroad, as well as to provide protection for State visits and other events as designated by the Chair of the Council of Ministers (hereinafter: the Chair) or the Director-General. The Agency shall not provide physical protection for such institutions and events.

The Agency shall cooperate with the International Criminal Tribunal for the Former Yugoslavia, *inter alia*, by providing information to the Tribunal concerning persons responsible for serious violations of international humanitarian law in the territory of the former Yugoslavia since 1991 (hereinafter: the International Tribunal).

The Agency shall provide the security clearance of individuals seeking employment in the Agency for the purpose of determining their level of responsibility and confidentiality, as well as provide security checks of those individuals seeking citizenship of Bosnia and Herzegovina.

As necessary to fulfill its duties under this Law, the Agency shall keep the following officials and bodies informed of intelligence matters in a timely manner, both upon its own initiative and upon the request of the latter: the Presidency of Bosnia and Herzegovina (collectively) (hereinafter: the Presidency), the Chair of the Council of Ministers, the Minister of Foreign Affairs, the Minister of Security, Minister of Defence, the Presidents, Vice-Presidents and Prime Ministers of the Federation and Republika Srpska, the Ministers of Interior of the Federation and Republika Srpska, the Chair and Deputy Chairs of the House of Representatives of Bosnia and Herzegovina, the Chair and Deputy Chairs of the House of Peoples, the Speaker and Deputy Speakers of the Republika Srpska National Assembly, and the Chair and Deputy Chairs of the Federation House of Representatives, as well as the Intelligence Committee of the Parliamentary Assembly of Bosnia and Herzegovina (hereinafter: Intelligence Committee). Information shall be provided on a “need-to-know” basis, unless otherwise provided by this Law.

The Agency shall prepare, and make available to the public, an annual report concerning its objectives, policies and the general focus of its activities based on non-confidential information.

III –EXTERNAL DIRECTION AND OVERSIGHT OF THE AGENCY

(a) Rights and Responsibilities of the Council of Ministers

Article 7

The Council of Ministers is responsible for the following:

1. Preparing an annual Intelligence Policy Platform, which contains general guidelines for the work of the Agency in line with international practice. The Intelligence Policy Document is approved by the Presidency;
2. Approving the Book of Rules on Internal Organization of the Agency;
3. Approving the annual Activity Programme of the Agency, taking into consideration the written opinion of the Ministry of Finance and Treasury on the financial aspects of such Programme;
4. Considering an annual report on the work and expenditures of the Agency;
5. Defining general principles for coordination and assistance between and among the Agency and bodies and institutions in Bosnia and Herzegovina, in accordance with Article 67 of this Law; and
6. Determining a list of those institutions and facilities subject to protection pursuant to Article 6, paragraph 2 of this Law.

(b) Rights and Responsibilities of the Chair of the Council of Ministers

Article 8

The Chair shall coordinate the activities of the Agency and provide guidance regarding intelligence policy. S/he shall supervise, and be politically responsible for, the work of the Agency. S/he shall take into account the views of the Executive Intelligence Committee and the Council of Ministers as a whole in carrying out his/her responsibilities pursuant to Article 9 of this Law.

Article 9

The Chair is responsible for the following:

1. Supervising the operation of the Agency and ensuring the lawful performance of its work, including by providing general guidelines to the Agency for the performance of tasks within its competency under Articles 5 and 6 of this Law in a manner that shall promote the effectiveness and responsibility of the Agency;
2. Formulating policies for development of the Agency, and issuing guidelines for the implementation of such policy in coordination with the Director-General;
3. Issuing instructions necessary for the implementation of this Law;
4. Convening the Executive Intelligence Committee at least once each calendar month.
5. . Providing an annual briefing on the activities of the Agency to the Presidency;
6. Providing reports concerning matters within his/her competence under this Law to the Intelligence Committee pursuant to Article 18 of this Law;
7. Reviewing and approving all requests for intelligence support and forwarding approved requests to the Director-General;
8. Forwarding to the Director-General requests for support from the International Criminal Tribunal for the former Yugoslavia;
9. After receiving the opinion of the Intelligence Committee on the proposed budget of the Agency, submitting the proposal to the Council of Ministers for incorporation into the annual budget of the institutions of Bosnia and Herzegovina, which is adopted by the Parliamentary Assembly;

10. Directing the Inspector General to conduct an inspection, audit or investigation concerning an actual or potential problem within the Agency and ensuring that action is taken to correct any problems made evident by such inspection, audit or investigation;
11. Reviewing reports from the Inspector General on the disposition of complaints against the Agency investigated by the Inspector General; and
12. Ensuring that a security clearance of the Director-General, Deputy Director-General and Inspector General is carried out prior to their appointment.

Article 10

The Chair may not, in whole or in part, assume the responsibilities of the Director-General or the Deputy Director-General as set forth in this Law.

An Intelligence Advisory Office reporting to the Chair shall be formed by the Chair for the sole purposes of providing support to the Chair so as to enable him/her to carry out the responsibilities enumerated in Article 9 of this Law and acting as the Secretariat to the Executive Intelligence Committee. Employees of the Intelligence Advisory Office may not issue instructions to, or otherwise direct the work of, the Director-General, the Deputy Director-General, the Inspector General or other employees of the Agency.

Employees of the Intelligence Advisory Office shall be subject to the *Law on Civil Service in the Institutions of Bosnia and Herzegovina*. Their appointment to the Intelligence Advisory Office shall be made by the Chair, in consultation with the Director-General. Employees of the Intelligence Advisory Office must undergo a security clearance carried out by the Agency prior to their employment.

The Chair shall, after consultation with the Executive Intelligence Committee and the Director-General, issue a Book of Rules on the organization of the Intelligence Advisory Office and the responsibilities of its employees.

The Chair may require the Director-General to direct employees of the Agency to provide expert assistance to the Intelligence Advisory Office, where s/he deems necessary.

c) Executive Intelligence Committee

Article 11

In order to advise the Chair of the Council of Ministers on his tasks as outlined in Article 9 of this Law and to facilitate co-ordination of intelligence-security matters, the Chair of the Council of Ministers shall establish an Executive Intelligence Committee (hereinafter the Executive Committee).

The Executive Committee shall consist of the following three members: the Chair of the Council of Ministers, the Minister of Security of the Council of Ministers of BiH, and the Minister for Foreign Affairs of the Council of Ministers of BiH.

The Chair of the Council of Ministers shall be the Chairman of the Executive Committee.

The Executive Committee shall meet at least once each calendar month.

The Chairman shall convene Executive Committee meetings by communicating the time, venue and agenda of the meeting to all members of the Executive Committee. The members of the Executive Committee can propose to the Chair items for inclusion in the agenda prior to the session.

The Chairman shall prepare the Rules of Procedure of the Executive Committee. This Rules of Procedures shall be adopted by the Executive Committee.

Article 12

The Executive Committee shall be responsible for the following:

1. Advising the Chair of the Council of Ministers on his tasks as outlined in Article 9 of this Law;
2. Discussing all issues under the competence of the Council of Ministers regarding the Intelligence and Security Agency prior their discussion at a session of the Council of Ministers.
3. Resolving inter-Governmental, inter-Ministerial matters as they relate to intelligence-security;
4. Asserting over all matters that have been submitted by the Chairman, or, with his permission, by any of the members of the Executive Committee.

Article 13

For the execution of tasks outlined in Article 12, the Executive Committee shall review:

1. Reports from the Chair regarding matters within the competence of the Chair;
2. Reports from the Director-General regarding the operations of the Agency;
3. Reports from the Inspector-General pursuant to Article 32 of this Law.

Article 14

The Intelligence Advisory Office shall act as the Secretariat to the Executive Committee.

Article 15

The Executive Committee or any individual member therein may not issue instructions to, or otherwise direct the work of the Director-General, the Deputy Director-General, the Inspector General or other employees of the Agency, except as provided in Article 9 of this Law.

Article 16

The members of the Executive Committee shall be bound by an obligation of secrecy with respect to information concerning official, military or state secrets to which they have had access in their capacity. This obligation shall remain in effect after termination of their membership to the committee.

(d) Parliamentary Oversight

Article 17

The House of Representatives of Bosnia and Herzegovina and the House of Peoples of Bosnia and Herzegovina shall jointly establish an Intelligence Committee for the oversight of the Agency.

The Intelligence Committee shall consist of nine (9) members, out of which six (6) are members of the House of Representatives and three (3) are members of the House of Peoples. Members nominated for the Committee shall undergo a security clearance performed by the Agency.

In cases where the Agency denies issuance of a security clearance to a nominee, the Collegium of the Parliamentary Assembly may request that the Agency reconsider such denial if it has justified concerns as to its legitimacy. Should the Agency reaffirm the original denial, the Collegium shall either put forward the name of another candidate or confirm its initial proposal.

The Intelligence Committee shall have a Chairman selected from among the Committee members who must be a member of a party represented in the House of Representatives that is not a part of the governing coalition. Members of the Committee shall be nominated according to the principle of proportional representation of the political parties in the House of Representatives. Each of the three constituent peoples shall be represented on the Committee.

Article 18

The Intelligence Committee shall hold sessions at least biannually. The Chairman of the Committee shall convene sessions at his/her initiative or at the request of at least five (5) members of the Committee.

The Committee decides on all issues by simple majority, unless otherwise stipulated in this Law.

The sessions of the Committee are closed to the public unless otherwise decided by the Committee.

The Intelligence Committee has competence for:

1. overseeing the legality of the work of the Agency;
2. holding hearings on the appointment of the Director-General and Deputy Director-General of the Agency and expressing an opinion on such appointment;
3. reviewing reports from the Chair regarding matters within the competence of the Chair, which shall include actions taken to correct any problems in the Agency made evident by an inspection, audit or investigation;
4. reviewing reports from the Director-General regarding the operations and expenditures of the Agency;

5. reviewing reports from the Inspector General, pursuant to Article 32 of this Law;
6. calling upon employees of the Agency, through the Chair, to provide expert consultancy, where necessary for the purpose of exercising its oversight authority;
7. providing an opinion on the detailed budget proposal for the Agency;
8. conducting inquiries regarding the work of the Agency, in accordance with Article 19 of this Law.

Article 19

If the Intelligence Committee has grounds to believe that the Agency is performing its duties in an unlawful manner, it may conduct an inquiry, in the course of which it may question employees of the Agency and have access to relevant documents of the Agency. If the Intelligence Committee finds that the operation of the Agency is unlawful, it may call upon the Chair and/or Director General to take necessary measures and to initiate an examination of liability. The Chair and/or Director General shall be obliged to inform the Intelligence Committee about the findings of any such examination.

In the exercise of its functions, the Intelligence Committee may request information from the Chair, the Director-General, any other employee of the Agency, or any employee of the Intelligence Advisory Office regarding the work of the Agency. The Intelligence Committee may also order the Chair and/or the Director-General to appear before it to give an oral report regarding the activities of the Agency.

The individuals listed in the previous paragraph have a legal obligation to provide all requested information to the Committee, with the exception of information specified in Article 20, paragraph 1 of this Law.

Article 20

In the course of the parliamentary oversight exercised by the Intelligence Committee, the obligation of the Chair and the Director-General to provide information shall not extend to the release of information, with the exception of paragraph 2 of this Article, the disclosure of which would threaten vital national security interests linked to the protection of sources or methods in a specific case.

In the course of the inquiry conducted by the Intelligence Committee concerning a suspected illegal activity of the Agency, the Intelligence Committee may, with the consent of (5) five of its members, obligate the Chair and the Director-General to provide information, the knowledge of which is essential for overseeing the legality of the work of the Agency. Information gained through this procedure may only be used in the procedure of the Intelligence Committee.

Article 21

The members of the Intelligence Committee shall be bound by an obligation of secrecy with respect to information concerning official secrets to which they have had access in their capacity as such, which shall remain in effect after termination of their membership to the committee.

Where it deems necessary for the protection of the public welfare, the Committee may decide to remove the obligation of secrecy. Such an action requires the consent of at least six (6) members of the Committee.

Article 22

The Intelligence Committee shall establish written procedures to protect from unauthorized disclosure all classified information that is furnished to the Committee. These procedures shall be established in consultation with the Director-General.

No staff officer of the Committee or the Parliamentary Assembly may be given access to any classified information unless the individual has:

1. agreed in writing and under oath to be bound by the security rules of the Committee both during and after his/her employment for the Committee or for the Parliamentary Assembly; and
2. received a security clearance as determined by the Committee in consultation with the Director-General.

IV- INTERNAL DIRECTION AND CONTROL OF THE AGENCY

(a) Rights and Responsibilities of the Director-General and Deputy Director-General

Article 23

The Agency is headed by a Director-General. The Agency shall also have Deputy Director General.

In directing the Agency, the Director-General and Deputy Director-General shall be assisted by Directors, who shall head organizational units, as well as by Advisors, in accordance with the Book of Rules on Internal Organization.

Article 24

The Director-General and the Deputy Director-General are appointed and dismissed by the Council of Ministers, upon the proposal of the Chair and in consultation with the members of the Presidency, the Executive Committee and the Intelligence Committee.

The Director-General may propose to the Chair that the Deputy Director-General be dismissed by the Council of Ministers.

Appointment of the Director-General and Deputy Director-General shall be carried out on the basis of demonstrated professionalism and previous experience in the area of intelligence, counter intelligence and/or law enforcement, and not on the basis of political affiliation. The requisite experience may not have solely been gained through positions requiring apolitical appointment.

Notwithstanding Article 18 of the *Law on Council of Ministers of Bosnia and Herzegovina*, the Council of Ministers shall appoint the Director-General and Deputy Director-General by a

majority decision, which must include the votes of at least one member of each constituent people.

Article 25

The Director-General and Deputy Director-General shall serve four-year terms, which may be renewed once.

The Director-General of the Agency and the Deputy Director-General may be dismissed before the expiration of their mandates upon their own request; if they permanently lose the capacity to execute their duties; fail to implement a decision of the Council of Ministers guiding the work of the Agency; fail to comply with applicable legislation or regulations; fail to implement measures for supervision of the Agency; if criminal proceedings for the criminal offenses of abuse of office or disclosing a State, military or official secret have been instituted against them, or if a final imprisonment sentence for a criminal offense which makes them unworthy of executing such duties is rendered against them.

Article 26

The Director-General shall be responsible for the professional, lawful and timely carrying out of activities of the Agency.

The Director-General of the Agency has the following rights and duties:

1. Organizing, approving and supervising all activities of the Agency in accordance with this Law, as well as other applicable legislation;
2. Directing analytical, technical, administrative and partnership cooperation operations, as well as the external operations, of the Agency;
3. Directly reporting to, and consulting on a regular basis with, the Chair regarding the work of the Agency, and responding to requests for intelligence support forwarded to him/her by the Chair as specified in Article 9 of this Law;
4. Providing regular reports to the Executive Intelligence Committee regarding the work of the Agency
5. Implementing general guidelines given to him/her by the Chair;
6. Assigning tasks to organizational units of the Agency;
7. Obtaining, through the Chair, approval and support from the Minister of Foreign Affairs for activities that may have a serious impact on the foreign policy of Bosnia and Herzegovina;
8. Disseminating information to the officials listed in Article 6 of this Law regarding activities falling within the scope of the duties of the Agency;
9. Protecting the following from unauthorized disclosure: intelligence sources, intentions and operations, collectors, means and methods of collection, contacts, information and knowledge gained, as well as information and means obtained from foreign governments, intelligence and security services or other organizations;
10. Ensuring the protection and security of facilities of the Agency, its properties and employees by appropriate means;
11. Preparing the annual budget of the Agency, in consultation with the Chair, and ensuring the lawful expenditure of all funds granted to the Agency from the State budget;

12. Preparing reports as required under this Law, as well as proposing plans and programs of the Agency, including the annual Activity Programme and Activity Report;
13. Concluding contracts with natural and legal entities and institutions regarding the execution of tasks falling within the competence of the Agency; and
14. Initiating and concluding Memoranda of Understanding with other institutions and bodies pursuant to Article 67 of this Law;
15. Directing employees of the Agency to provide support to the Intelligence Committee, as well as the Intelligence Advisory Office established in Article 10, paragraph 2 of this Law;
16. Directing the Inspector General to conduct an inspection, audit or investigation concerning an actual or potential problem within the Agency;
17. Ensuring that employees are familiar with the Agency Code of Ethics and other relevant internal Rule Books, regulations and instructions; and
18. Responding to complaints made by individuals pursuant to Article 68 of this Law.

Article 27

The Director General shall be responsible for issuing, inter alia, the following Rule Books, regulations and instructions:

- a. Code of Ethics
- b. Data Security Plan
- c. Book of Rules on Classification and Declassification of Data
- d. Book of Rules on the Security Clearance Procedure
- e. Book of Rules on the Safeguarding of Secret Data and Data Storage
- f. Regulations on Dissemination of Data
- g. Book of Rules on the Recruitment, Handling and Payment of Informants
- h. Book of Rules on the Application, Use and Engagement of Special and Technical Operational Means
- i. Book of Rules on Use of Firearms
- j. Book of Rules on Work
- k. Book of Rules on Salaries
- l. Book of Rules on Internal Security
- m. Book of Rules on Disciplinary Procedure
- n. Book of Rules on Employment Abroad
- o. Book of Rules on Basic and General Vocations of Employees of the Agency
- p. Book of Rules on Cooperation with Bodies and Institutions in Bosnia and Herzegovina
- q. Book of Rules on the Conclusion of Memoranda of Understanding with Bodies and Institutions in Bosnia and Herzegovina
- r. Book of Rules on Cooperation with International Bodies and Intelligence Exchange
- s. Book of Rules on Liaison Officers
- t. Book of Rules on Identification Cards

Article 28

The Deputy Director-General of the Agency shall direct the operational activities of organizational units of the Agency, under the supervision of the Director-General.

Article 29

If the Director-General is not able to carry out his responsibilities under this Law, the Deputy Director-General shall perform the responsibilities of the Director-General.

Article 30

In carrying out their responsibilities, the Director-General and Deputy Director-General shall ensure that information collected and produced by the Agency is timely, relevant, accurate, reliable, objective and independent of political considerations.

The Director-General and Deputy Director-General shall carry out their responsibilities so that a proper balance is achieved between the acquisition of essential information for the security of Bosnia and Herzegovina and the protection of individual interests.

(b) Rights and Responsibilities of the Inspector General

Article 31

An Inspector General shall be appointed and dismissed by the Council of Ministers upon the proposal of the Chair.

The Inspector General shall serve a four-year term, which may be renewed once.

The Inspector General may be dismissed before the expiration of his/her mandate upon his/her own request; if s/he permanently loses the capacity to execute his/her duties; fails to comply with applicable legislation or regulations; fails to implement measures for supervision of the Agency; if criminal proceedings for the criminal offenses of abuse of office or disclosing a State, military or official secret have been instituted against him/her; if a final imprisonment sentence for a criminal offense which makes him/her unworthy of executing such duties is rendered against him/her; or if s/he fails to conduct an investigation, inspection or audit in a timely and lawful manner.

Article 32

The Inspector General shall be responsible for providing an internal control function within the Agency by:

1. Reviewing the activities of the Agency to ensure they are conducted in accordance with applicable legislation and regulations, including the Book of Rules on Internal Organization of the Agency;

2. Investigating complaints regarding the activities of the Agency at the request of the Chair, the Intelligence Committee, the Executive Committee, the Director-General or directly from aggrieved Parties;
3. Initiating inspections, audits and investigations on his/her own initiative, where s/he deems necessary;
4. Supporting investigations of the Ombudsman of Bosnia and Herzegovina, initiated on the basis of a complaint or ex officio;
5. Where s/he deems necessary, investigating complaints made by persons in Bosnia and Herzegovina pursuant to Article 68 of this Law;
6. Reporting every six (6) months to the Intelligence Committee on grounded complaints against the Agency, as well as the disposition of such complaints. Particularly serious matters shall be reported immediately to the Intelligence Committee;
7. Informing the Chair, the Executive Intelligence Committee, the Director-General and Deputy Director-General on a regular and timely basis of the matters referred to in this Article; and
8. Issuing recommendations to the Director-General and Deputy Director-General for remedying complaints against, or problems in, the Agency, as well as determining whether such recommendations have been implemented.

Article 33

The Director-General, with the consent of the Inspector General, shall decide on the assignment of employees of the Agency to the office of the Inspector General.

Article 34

Upon notification to the Director-General, the Inspector General may question Agency employees and have access to the premises and data of the Agency where necessary for the purpose of an internal investigation, inspection or audit.

In the conduct of his/her activities under this Law, the Inspector General shall take into account the need for confidentiality and security of the information collected and stored by the Agency.

(c) General Provisions

Article 35

The Director-General, Deputy Director-General and Inspector General appointed pursuant to this Chapter are subject to the following restriction:

- a. they shall be subject to the *Law on Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina*;
- b. they may not be appointed from among active duty military persons; and
- c. they must not be members of a political party.

The Director-General, Deputy Director-General and Inspector General must have university degrees in a relevant field.

Not more than one of the positions of Director-General, Deputy Director-General and Inspector General may be filled by a representative of any one constituent people or of the group of Others.

V – STAFF OF THE AGENCY

a) Employment

Article 36

Employees of the Agency shall not be subject to the *Law on Civil Service in the Institutions of Bosnia and Herzegovina*.

Where the rights and duties of employees and working relations have not been regulated in this Law, relevant legislation and regulations of Bosnia and Herzegovina concerning employment shall apply.

The structure of employees within the Agency shall generally reflect the national structure of the population of Bosnia and Herzegovina in accordance with the last census.

An open public competition shall not be obligatory for employment in the Agency. The Book of Rules on Internal Organisation shall define the requirements for each position in the Agency, as well as set forth specific requirements for employment within the Agency.

Article 37

As an exception to Article 36 of this Law, certain positions in the Agency may be filled through an open public competition. The Book of Rules on Internal Organization shall enumerate those positions, which are subject to open public competition. Such positions shall be filled pursuant to the procedure set forth in this Article and Article 38 of this Law.

Vacancy announcements for positions in the Agency, with a description of the vacant position and the general requirements for such positions, shall be published in both the Official Gazette of Bosnia and Herzegovina and in at least one widely read daily newspaper in Bosnia and Herzegovina with a view to reaching the widest possible readership.

Article 38

The Director-General shall establish a selection committee responsible for screening applications and for interviewing candidates who have been short-listed by the Committee.

Interviews shall be conducted in such a manner as to secure the upholding of the principles of legality, merit, independent scrutiny, openness and transparency. Following the interviews, the selection committee shall put forward a ranked list with the best-qualified candidates to the Director-General for further consideration.

The candidate ranked as first and recommended by the majority of the members of the selection committee shall be appointed by the Director-General. In the case that this appointment cannot be made due to justified reasons with supporting evidence, the next candidates on the short-list shall be successively considered.

The Agency shall maintain all records regarding the selection process, including the vacancy announcement and applications received.

Article 39

Persons seeking employment with the Agency must:

- a. be citizens of Bosnia and Herzegovina;
- b. be over 18 years of age;
- c. hold appropriate educational and professional qualifications, as determined by the Book of Rules on Internal Organization;
- d. satisfy medical examinations required for their position;
- e. be free of military obligations;
- f. not have been dismissed from the civil service as a consequence of a disciplinary measure at any level of governance in Bosnia and Herzegovina three years prior to the date of the application for a position within the Agency;
- g. possess a certificate stating that the individual has not been subject to a criminal conviction and that criminal proceedings have not been instituted against him/her; and
- h. not be affected by Article IX.1 of the Constitution of Bosnia and Herzegovina.

Persons seeking employment with the Agency must meet security requirements that shall be determined through a security clearance procedure. The security clearance shall be carried out with the consent of individual concerned, and shall also include persons with whom the individual lives in the same household. In case the employee does not agree to the security clearance, he/she may not be employed in the Agency. The scope and manner of conducting the security clearance shall be defined by the Book of Rules on the Security Clearance Procedure issued by the Director-General.

Apart from the general requirements for employment with the Agency, persons seeking employment with the Agency shall also meet specific requirements for employment and assignment to individual tasks (e.g., specified level of education and profession, years of service, special professional skills and knowledge, special health abilities) that shall be defined by the Book of Rules on Internal Organisation of the Agency.

If a person is not employed with the Agency because s/he fails to meet the requirements above or there are impediments to such employment, the Agency shall not be obliged to explain the reasons for which the individual was not employed.

Article 40

Final decisions on employment and assignment shall be made by the Director-General of the Agency, unless otherwise stipulated in this Law.

(b) Duties and Rights

Article 41

Employees of the Agency shall perform tasks assigned to them, consistent with this and other relevant laws and regulations and with respect for the principles enshrined in the Constitution of Bosnia and Herzegovina.

Employees shall be personally responsible for the good faith execution of the mission of the Agency, as set forth in this Law and relevant policy documents.

Should an employee believe that s/he has received an illegal order, s/he shall draw the attention of the issuer of the order to his/her concerns with respect to its illegality.

In cases where the issuer of the order repeats the order, the employee shall request a written confirmation of such order. If the employee continues to have reservations, s/he shall forward the order to the immediate superior of the issuer of the order and report the matter to the Inspector General.

The employee may refuse to perform an order that s/he reasonably believes to be criminal offense under criminal legislation in Bosnia and Herzegovina.

An employee may not be disciplined for taking action under the preceding paragraph unless it is deemed frivolous by the Inspector General.

If an employee otherwise believes that the Agency or an Agency employee may have violated, or may be in violation of, relevant law, regulations or policy, s/he must report this to the Inspector General.

Article 42

Upon the order of a supervisor, employees shall be obliged to perform their tasks for periods longer than their regular working hours, if the supervisor deems this to be necessary for the successful and timely performance of the work of the Agency.

For the work referred to in the preceding paragraph of this Article, employees shall be entitled to reimbursement in money or time, in accordance with the Book of Rules on Work of the Agency.

Article 43

Employees shall have a right:

- a. to a permanent tenure of office until such time as the requirements for a pension are met, with the exception of those individuals who are employed under a contract of service for a fixed period;
- b. to a leave of absence in accordance with the Book of Rules on Work of the Agency and the ability to continue in the same or similar job position when the leave ends;
- c. to be rewarded for duties and performance as established by this law;
- d. to receive salary and remuneration in accordance with this law;
- e. to advance their career and professional development through training and other means;
- f. to be protected in their physical and moral integrity by the State while fulfilling their official duties;
- g. to be treated by superiors with respect for human dignity; and
- h. to be entitled to form and to join, but not be obliged to join, a Trade Union or professional association.

Employees shall be entitled to receive fair and equitable treatment in all aspects of personnel management without regard to ethnic origin, social origin, Entity citizenship, residency, religion, political or other opinion, sex, colour, birth, marital status, age, property, handicap or other status.

Article 44

Employees shall be entitled to an accelerated retirement plan, whereby each 12 months spent on duty shall be calculated as 15, 16 or 18 months of service, in accordance with the Book of Rules on Work of the Agency.

At the proposal of the Director-General, the Council of Ministers of Bosnia-Herzegovina shall designate those positions having an accelerated retirement plan and shall specify the method of calculation of the retirement plan for such positions in accordance with paragraph 1 of this Article.

(c) Incompatibilities

Article 45

Employees shall not be members of political parties, take instructions from political parties or perform any remunerative activity or other public or professional duties incompatible with work in the Agency.

An employee seeking to perform any remunerative activity or other public or professional duty must seek authorization from the Director-General. Authorization shall be refused in cases where such activity is incompatible with work in the Agency or where such activity may give opportunity for the abuse of information obtained by the Agency.

Notwithstanding Article 43, paragraph 1(h) of this Law, employees shall not have the right to industrial action or any other form of collective work stoppage.

Employees may not, without the agreement of the Director-General, give public statements or otherwise comment on the work of the Agency, or provide information to unauthorised persons on data, documents, contacts, intentions, knowledge or personnel of the Agency.

Employees shall be impartial and, in particular:

- a. shall refrain from any action or omission which is incompatible with their responsibilities as established by this Law; and
- b. shall not pursue or accept any gain, benefit, monetary advantage, or services for themselves or for their relatives other than those authorised by this law.

Employees shall not occupy real estate property that is owned by a refugee or displaced person, occupy an apartment where a refugee or displaced person has claimed an occupancy right, or occupy an apartment that is legally designated for use as alternative accommodation.

A violation of the provisions of this Article shall be considered a reason for suspension, removal or termination of employment pursuant to this Law.

(d) Performance Evaluation

Article 46

The performance evaluation of employees refers to the monitoring and appraisal of employee accomplishments during their tenure.

Performance evaluations shall be carried out by an employee's direct supervisor. Employees shall consult with their direct supervisor regarding their performance evaluations at least on an annual basis.

The results achieved during the performance of functions for the reporting period shall be determined by the following marks: Unsatisfactory, Satisfactory, Successful and

Extremely successful, which shall be further defined by a by-law issued by the Director-General.

(e) Transfer

Article 47

Where necessary to carry out the duties and tasks of the Agency, an employee may be temporarily or permanently transferred to another organizational unit of the Agency. Transfer up to one year shall be considered temporary transfer.

Permanent transfer shall be possible only upon the consent of the employee. A complaint against a decision on transfer shall not delay its execution. A mechanism for resolving such complaints shall be established by an internal regulation issued by the Director-General.

Article 48

An employee temporarily or permanently working in a different workplace more than 60 kilometers from his/her place of permanent residence shall be entitled to:

- a. A salary equal to the salary in his/her former workplace, if the salary in the former workplace is more favourable;
- b. Expenses/remuneration for a separate life; and
- c. Allowance for appropriate accommodation.

Article 49

An employee may be transferred to work abroad as part of his/her regular duties, as part of cooperation with a foreign intelligence service, cooperation with an Agency or Institution of a foreign State, an international organization of states or an institution thereof, where necessary for the efficient and effective work of the Agency. The Director-General shall issue a regulation on the rights, duties and responsibilities of employees transferred to work abroad.

(f) Salaries

Article 50

The basis for calculation of an employee's salary and coefficients of the salary grades shall be determined by a decision of the Council of Ministers in accordance with this Law.

Article 51

The salary shall be determined by multiplying the basis from Article 50 of the Law by the coefficient of salary grade. The salary shall be raised by 0,5% for each year of service, not to exceed a total of 20%.

Article 52

Apart from the salary determined in accordance with the provisions of Article 51 of this Law, employees shall be entitled to salary increments due to special work conditions, hazards and responsibility in performing tasks.

The increments referred to in paragraph 1 of this Article shall be determined by the Council of Ministers in the amount up to [40%] of an employee's salary.

(g) Other Remuneration

Article 53

Employees shall be entitled to the following:

- a. costs of transportation to and from work;
- b. costs of food rations;
- c. holiday cash grant;
- d. financial assistance related to the death of the employee or one of his/her family members;
- e. education expenses related to professional advancement;
- f. anniversary rewards; and
- g. retirement severance pay.

Article 54

Employees shall be entitled to compensation for expenses arising from official trips (e.g., per diem, transportation expenses).

Article 55

In the case of dismissal arising from redundancy, the dismissed employee shall be entitled to a severance package of six months of salary. The amount of the severance package referred to in paragraph 1 shall be 12 months of salary for employees who have at least 15 years of service.

(h) Accident or Illness

Article 56

An employee who, by a decision of a competent medical panel, is declared incapable of performing the tasks he/she is assigned due to injury or disease which occurred while performing operational tasks, shall be assigned to other tasks which he/she is capable of performing and shall retain the salary and other rights from the previous employment. In the

event that he/she cannot be reassigned to another position within the Agency, he/she shall retain the salary and other rights from the previous employment pending a final decision on pension entitlement.

An employee who loses his/her life while performing his/her tasks or in connection with his/her tasks shall be buried in the place chosen by his/her family at the expense of the budget of the Agency.

In the case referred to in paragraph 2 of this Article, the family of the employee shall be entitled to one-time financial assistance in the amount of the employee's last paid net monthly salary, six times increased.

i) Criminal Proceedings and Damage Inflicted in the Course of Duties

Article 57

If criminal proceedings are initiated against an employee due to acts committed in the performance of the tasks of the Agency, the Agency shall provide a lawyer or other legal aid for the employee, unless the employee acted outside the scope of his/her authority or misused his/her authority.

Under the conditions referred to in paragraph 1 of this Article, the Agency shall also ensure legal aid for an employee after termination of his/her employment, unless the employee is otherwise entitled to equivalent legal aid.

Article 58

Bosnia-Herzegovina shall be responsible for damage inflicted upon legal and natural persons by acts of employees of the Agency committed in the performance, or in relation to the performance, of tasks of the Agency, in accordance with this Law.

Bosnia-Herzegovina shall be entitled to request the employee of the Agency who is found to be responsible for the damage referred to in paragraph 1 of this Article to reimburse the amount paid to third persons, if resulting from the gross negligence, or the intentional or unauthorized act of the employee.

j) Disciplinary Responsibility

Article 59

Employees may be held accountable for violations of official duty as set forth in this Law. "Violation of official duties" shall be understood to mean:

- a. undertaking actions defined as a criminal offence against official duty, or other serious or minor offences which are harmful to the reputation of the Agency;
- b. disclosure of a State, military or official secret in contravention of applicable legislation and regulations;

- c. abuse of official position or exceeding authority;
- d. failure to execute a legal order of a direct superior;
- e. undertaking actions which may impede or prevent citizens or other persons from realizing their rights pursuant to this and other relevant law;
- f. causing substantial material damage in the course of his/her work, intentionally or through extreme negligence;
- g. unexcused absence from work;
- h. failure to execute entrusted tasks and duties in a timely and proper manner;
- i. violation of the Code of Ethics.

Disciplinary responsibility under this Article shall not be understood as precluding criminal liability, where applicable.

The procedure for determining disciplinary responsibility shall be specified in a Book of Rules issued by the Director-General.

(k) Termination of employment

Article 60

The employment of Agency employees shall be terminated in the following cases:

- a. Voluntary resignation from the Agency;
- b. End of contract, where applicable;
- c. Reaching legal retirement age;
- d. Permanent inability to fulfill official duties due to health conditions, provided that the employee is not eligible to be transferred to other suitable positions within the Agency;
- e. Loss of citizenship of Bosnia and Herzegovina;
- f. Acquisition of the citizenship of another country in violation of the Constitution and the laws of Bosnia and Herzegovina;
- g. Redundancy;
- h. Two consecutive unsatisfactory performance appraisal
- i. Conviction for a criminal offense which carries a prison sentence of more than six months;
or
- j. Dismissal from the service as a result of a disciplinary procedure.

(l) Identification Cards

Article 61

Employees shall be issued identification cards, the type, form and contents of which shall be determined by a special regulation issued by the Director-General.

VI – OPERATIVE PRINCIPLES

Article 62

The Agency shall be apolitical, and shall not be involved in furthering, protecting or undermining the interests of any political party, lawful political organization or any constituent people.

The Agency may not investigate acts of protest, advocacy or dissent that are organized and carried out in a lawful manner.

Article 63

The Agency shall have no powers to physically enforce compliance and no power of arrest.

Article 64

The Agency may not engage in military activity or engage in the import, export, transit or brokerage of weapons or military equipment.

Article 65

The internal organization and detailed rules of operation of the Agency, as well as its chain of command, shall be determined in such a way that individual responsibility can always be established.

Article 66

The Director-General may authorize employees to carry weapons during the performance of intelligence-gathering duties if it is suspected that the life or safety of employees or other persons is endangered. Weapons may only be used and discharged in necessary defense.

The conditions and manner of use of firearms shall be regulated in a Book of Rules on Use of Firearms issued by the Director-General following approval by the Chair and the Minister of Security.

Article 67

The Agency and other bodies and institutions in Bosnia and Herzegovina, including but not limited to the State Border Service, **SIPA**, Entity and Cantonal Ministries of Interior, customs and tax authorities, financial police, Interpol liaison bodies, Offices for Co-operation with the ICTY and military intelligence-security structures shall be obliged to mutually cooperate and assist one another in performing their duties and shall coordinate activities within their competence, consistent with laws and regulations regarding the protection of sources, methods and other classified information.

The Director-General, with the approval of the Chair, may enter into agreements with institutions in Bosnia and Herzegovina for the provision of undercover intelligence support.

The Director-General, with the approval of the Chair and the Minister for Foreign Affairs may assign employees of the Agency to serve as liaison officers to

Embassies of Bosnia and Herzegovina abroad, when necessary for the fulfillment of the responsibilities of the Agency pursuant to this Law.

Article 68

Individuals who feel that their rights have been violated by acts or omissions of the Agency may seek judicial redress before a competent court.

Any person in Bosnia and Herzegovina may raise a complaint with the Director-General regarding actions of the Agency.

Article 69

The Agency may not collect intelligence using secret means and methods regarding international organizations or non-domestic bodies established pursuant to the General Framework Agreement for Peace in Bosnia and Herzegovina, except for the purpose of preventing threats to such bodies. The Director-General shall be obliged to inform the heads of these bodies regarding all such threats.

CHAPTER VII– INTERNATIONAL COOPERATION

Article 70

For the purpose of fulfilling its responsibilities in accordance with this Law, the Agency may, with the approval of the Chair, enter into an arrangement with intelligence and security services of other countries.

For the purpose of fulfilling its responsibilities in accordance with this Law, the Agency may also, with the approval of the Chair after consultation with the Minister for Foreign Affairs of Bosnia and Herzegovina, enter into an arrangement with an Institution of a foreign State, an international organization of states or an institution thereof. The Chair shall inform the Intelligence Committee regarding the existence of any such arrangements.

On the basis of international agreements, the Agency may cooperate with foreign security and other appropriate services for the purpose of exchanging data, jointly executing activities that fall under the scope of the activities of the Agency, and establishing technical and educational cooperation.

Article 71

The Agency may only provide foreign security and other appropriate services with data regarding citizens of Bosnia and Herzegovina on the basis of information that the citizen poses a danger to the security of Bosnia and Herzegovina, the receiving State or a broader danger to regional or global security.

The Agency may not provide data regarding citizens pursuant to the preceding paragraph unless it has reasonable assurance that the recipient will provide the data with the same level of protection as provided in Bosnia and Herzegovina.

VIII- COLLECTION OF INFORMATION

a) General Authorizations

Article 72

The Agency is authorized to collect, analyze, keep and disseminate to competent bodies within Bosnia and Herzegovina intelligence information in a manner consistent with the Constitution of Bosnia and Herzegovina, this law and other relevant State legislation.

Article 73

The Agency may collect only such information as can reasonably be assumed to be necessary for the performance of its duties as enumerated in Articles 5 and 6 of this Law.

Article 74

In the course of activities authorized by the Director-General of the Agency, the Agency is entitled to collect information:

- a. from all publicly available sources;
- b. from other bodies and institutions in Bosnia and Herzegovina, which shall be obliged to answer requests for information made by the Agency unless expressly forbidden to do so by law;
- c. through physical surveillance in public places (i.e. purposeful and systematic observation in order to gain information on specific matters of persons or objects reasonably believed to be involved in any activities or preparation of activities that fall under the scope of responsibilities of the Agency);
- d. surveillance in non-public places, provided that the conditions set forth under Articles 77 and 78 of this Law are met;
- e. through searches of movable and immovable property, provided that the conditions set forth Articles 77 and 78 of this Law are met;
- f. through electronic surveillance provided that the conditions set forth in Articles 77 and 78 of this Law are met; and
- g. by use of other sources who are likely to be able to contribute information needed by the Agency, provided that the conditions under Article 75 of this Law are met.

Article 75

Cooperation with the Agency pursuant to Article 74, item (g) of this Law shall be voluntary.

If personal data concerning the informant is to be recorded, the informant must be notified of this before the Agency takes his/her statement. Such notification may only be withheld

because of overriding public interests that fall within the scope of the responsibilities of the Agency.

(b) Secret Information Gathering Subject to Authorization by the Director-General

Article 76

When the Director-General deems necessary for the purpose of fulfilling the responsibilities of the Agency under this Law, the Agency may:

- a. gather information concealing the reasons for their gathering due to the security nature thereof;
- b. establish clandestine contacts with private individuals;
- c. establish and use information systems promoting the gathering of intelligence;
- d. use forms of operative deception which do not cause physical injury or impair health;
- e. prepare and use cover documents for the protection of employees of the Agency and natural persons co-operating with them, as well as for the concealment of the security purpose thereof;
- f. establish and maintain temporary organisations for the purpose of covert data gathering; and
- g. assign employees of the Agency to work undercover in institutions and bodies pursuant to Article 67, paragraph 2 of this Law.

(c) Secret Information Gathering Subject to Judicial Authorization

Article 77

Surveillance in non-public places, the surveillance of telecommunication, and other forms of electronic surveillance, as well as the search of property without consent of the owner or temporary occupant, may only be used in cases where there has been advance authorization by the President of the Court of Bosnia and Herzegovina or a Judge of the Court of Bosnia and Herzegovina designated by the President of the Court of Bosnia and Herzegovina.

The Director-General shall make a written application to the judge where s/he believes on reasonable grounds that surveillance or search under this section is required to enable the Agency to investigate a threat to the security of Bosnia and Herzegovina. All such applications must contain the following information:

1. The type of communication proposed to be intercepted, the type of information, records, documents or things proposed to be obtained, and the means to be exercised for that purpose;
2. The person or persons to whom the surveillance or search is proposed to be directed;
3. A general description of the place or places where the surveillance or search is proposed to be executed, if a general description of that place can be given;
4. The information to justify that the surveillance or search is required, on reasonable grounds, to enable the Agency to investigate a threat to the security of Bosnia and Herzegovina;

5. A declaration that the required information cannot be obtained in any other manner within the necessary time;
6. The period, not exceeding 60 days, for which the warrant is requested to be in force; and
7. Information on any previous application made in relation to the person or place subject to the surveillance or search, the date on which such application was made, the name of the judge to whom such application was made; and the decision of the judge thereon.

The judge shall make a decision within 48 hours of the submission of the proposal. No appeal is possible against this decision.

In carrying out surveillance or searches pursuant to this Article, the Agency shall use the least intrusive techniques reasonably available.

Article 78

The warrant must contain:

- a. The type of communication proposed to be intercepted, the type of information, records, documents or things proposed to be obtained and the powers to be exercised for that purpose;
- b. The person or persons to whom the warrant is directed;
- c. A general description of the place or places where the warrant is to be executed, if such description can be given; and
- d. The period for which the warrant is in force.

Where s/he deems appropriate, the judge may also prescribe certain conditions for execution of the warrant.

The warrant may not be authorized for longer than 60 days. In justified cases, the judge may extend the warrant for additional 60 days periods if s/he is satisfied that a warrant continues to be required.

Notwithstanding the provisions contained in Article 77 of this Law and the previous paragraph of this Article, the use of these measures may be authorized by the Director-General with the agreement of the Chair when delay would cause irreparable harm to the security of Bosnia and Herzegovina.

Upon authorizing such measures, the Director-General must immediately inform the judge, who shall take appropriate action to confirm the authorization or to terminate the information-gathering, pursuant to this Law.

Article 79

Secret information gathering shall be immediately terminated if:

- a. It has achieved the objective set forth in the warrant;
- b. No further results can be expected from its continued use;
- c. The deadline set for its completion has expired without extension; or

d. The covert information gathering is unlawful for any reason.

The Director-General shall ensure that data obtained in a manner inconsistent with this Law shall be immediately destroyed. In such circumstances, the Director-General shall inform of that the Chair and the Inspector-General.

Article 80

The judge shall be bound by an obligation of secrecy with respect to information that s/he gains pursuant to Article 77 of this Law.

IX – DATA MANAGEMENT

Article 81

The Law on Protection of Personal Data of Bosnia and Herzegovina shall not apply to personal data collected and further processed by the Agency.

Article 82

Personal data that is collected under this Law shall:

- a. be stored for legitimate purposes pursuant to this Law and not used in a manner incompatible with those purposes;
- b. be kept up to date where necessary;
- c. be preserved in a form which permits identification of the data subjects for no longer than is necessary for the purpose for which those data are stored; and
- d. only be disseminated on a “need-to-know” basis and where specifically provided for by this Law.

Article 83

The collection of information on individuals solely on the basis of their ethnic or racial origin, religious convictions, sexual behavior, political opinions or membership in particular movements or organizations which are not prescribed by law is prohibited.

Article 84

Appropriate security measures shall be taken for the protection of intelligence information relating to identified or identifiable persons stored in automated data files against accidental or unauthorized destruction and accidental loss as well as against unauthorized access, alteration or dissemination.

Article 85

Information shall be held by the Agency only for as long as is necessary for the performance of its tasks. The need for continued storage shall be reviewed by the Agency at regular periods concerning the accuracy of the information and legitimacy of further storage.

The procedure for storage and review shall be established in a regulation issued by the Director-General.

Article 86

The Director-General of the Agency is responsible for establishing and implementing an efficient system of classification of information for the Agency.

The Director-General shall issue regulations setting forth the measures for protecting classified information as well as responsibilities of Agency employees concerning protection of classified information.

Article 87

Information held by the Agency and classified as confidential or secret may only be disclosed upon the authorization of the Director-General of the Agency. The Director-General may delegate the authority for decision-making regarding certain categories of disclosure to the Deputy Director-General.

If information is classified because it contains personal data, disclosure may only be authorized if expressly foreseen by law or if one of the following conditions is fulfilled:

- a. the person concerned has given his/her consent to the disclosure;
- b. disclosure is necessary in the vital interest of the person concerned; or
- c. disclosure is necessary because of overriding public interests which fall under the
- d. responsibilities of the Agency.

Article 88

All requests for disclosure of information must specify the body or person making the request, as well as the reason for the request.

Information disclosed must not be used for purposes other than those specified in the request for disclosure.

Article 89

Registers, files and archives of the Agency may not contain information outside the purview of the Agency. If the Agency comes into possession of such information, the Agency shall destroy it without delay.

Article 90

The Director-General shall forward information regarding a severe threat to the security of Bosnia and Herzegovina to the officials listed in Article 6 of this Law and other competent bodies and institutions without unnecessary delay.

Where the Agency obtains information regarding illegal activity that has been, or that is likely to be, carried out, it shall report such information to the competent Office of the Prosecutor, investigative authorities or other relevant bodies.

Article 91

The Agency is required to inform a citizen, upon his/her written request, whether data collection measures have been instituted against him/her and whether the Agency is maintaining a record on his/her personal information and, at his/her request, make such records available for his/her inspection. Such records may not contain information on members of the Agency who gathered such information or data on third parties.

The Agency shall provide the required information and/or allow inspection of records specified in paragraph 1 hereof within 60 days of the date of receiving the request.

The Agency may be exempted from paragraph 1 hereof:

1. if such information would jeopardize performance of the Agency's tasks;
2. if such information could lead to endangerment of safety of a source or another person.

In cases where the Director-General has exempted the Agency from the provisions of paragraph 1 of this Article, s/he shall issue a decision supported by the reasons specified in paragraph 3 hereof. The Director-General shall inform the Inspector General concerning all such decisions, which shall be kept in the archives of the Agency.

Individuals may request an appeal of such decisions in accordance with *the Law on Freedom of Access to Information in Bosnia and Herzegovina*.

X - FUNDING OF THE AGENCY

Article 92

Funds provided in the budget of Bosnia and Herzegovina for the needs of the Agency may be used for all purposes in accordance with regulations that regulate public expenditure, unless otherwise determined by this Law or by a regulation issued by the Council of Ministers.

Article 93

Planning and reporting on the expenditure of funds granted to the Agency shall be carried out in a manner that protects intelligence operations, sources, methods and operational measures of the Agency.

XI –TRANSITIONAL AND FINAL PROVISIONS

Article 94

The Agency shall become operational on 1 April 2004.

Article 95

The Council of Ministers, in agreement with the Governments of the Federation and Republika Srpska where appropriate, shall provide appropriate premises for the needs of the Agency, both for the headquarters and organizational units outside of the headquarters, on or before the date in the preceding Article.

Article 96

Civilian Intelligence-Security Services that operated in Bosnia and Herzegovina in accordance with legislation of the Federation and Republika Srpska prior to the entry into force of this Law shall be abolished as of 1 April 2004.

Article 97

The first Director-General, Deputy Director-General and Inspector General shall each serve for a term of two years. These individuals may be eligible for re-appointment for a regular four-year term.

The first appointment of the individuals listed in the preceding paragraph shall not be subject to the *Law on Ministerial, Council of Ministers and Other Appointments of Bosnia and Herzegovina*, Article 18, paragraph 5(2) of this Law or Article 24, paragraph 1 of this Law.

Notwithstanding Article 94 of this Law, within 10 days of the entry into force of this Law, the Chair, in agreement with the Deputy Chairs of the Council of Ministers, shall forward the name of a candidate for each of the above positions to the Council of Ministers for approval.

Within 10 days of the receipt of the names of these candidates, the Council of Ministers shall make a decision on their appointment in accordance with Article 24, paragraph 4 of this Law.

Article 98

As of 1 April 2004, the *Law on Intelligence and Security Service of Republika Srpska* (Official Gazette of the Republika Srpska 21/98, 17/99) and the *Law on the Federation of Bosnia and Herzegovina Intelligence and Security Service* (Official Gazette of the Federation of Bosnia and Herzegovina 23/02) shall be abolished.

The Agency may decide to, pending the adoption of appropriate regulations as defined in this Law, apply previously applicable regulations concerning intelligence gathering to the extent that such regulations are not inconsistent with this Law. Such regulations may not be applied for a period longer than six months after establishment of the Agency.

Article 99

As of 1 April 2004, employees of the former intelligence services shall be employees of the Agency and subject to the provisions of Chapter V of this Law on “Staff of the Agency”. Employees shall not be subject to Article 43, paragraph 1(a) or Article 54 of this Law until such time as a final decision regarding their status and future employment in the Agency has been reached by the Director-General following the review process provided for in Article 101 of this Law.

For a period no longer than two years following the establishment of the Agency, positions in the Agency requiring a university degree may be filled by employees who hold a two-year college degree.

The Director-General, with the approval of the Council of Ministers, shall establish the structure of severance payments for employees of the Agency whose employment is terminated pursuant to a decision of the Director-General following the review process.

For the purpose of this Law and as a consequence of the transfer of Federation and Republika Srpska employees to State employment, employees of the former intelligence services shall not be eligible for severance payments until a final decision regarding their status and future employment in the Agency has been made following the review process in Article 101 of this Law.

After a final decision has been reached regarding the status and future employment in the Agency of all employees of the former intelligence services, the Director-General shall assess whether the structure of employees within the Agency generally reflects the national structure of the population of Bosnia and Herzegovina in accordance with the last census and, if necessary, shall develop a plan containing gradual corrective measures for enhancing the representation of certain constituent people and others within the Agency. In such circumstances, the Director-General shall inform the Chair of the Council of Ministers and the Executive Intelligence Committee about such measures.

Article 100

Within 60 days of the appointment of the Director-General and Deputy Director-General, the Director-General shall, in consultation with the Deputy Director-General, prepare an Organizational Plan for the Agency, which defines the measures necessary to meet the requirements of this Law, in particular with regard to the organizational structure of the Agency, as well as rationalization of staffing at the headquarters and organizational units of the Agency. The Director-General shall submit the Plan through the Chair to the Council of Ministers for approval, and the process of approval shall be completed within 30 days from the date of submission.

The Plan shall be based on a comprehensive analysis of the capital, technical and human resources required by the Agency, in undertaking its duties pursuant to this Law.

Article 101

The Chair, upon the proposal of the Director-General, shall appoint one or more Review Committees, each of which shall contain four employees of the Agency and one individual from the Intelligence Advisory Office established in Article 10, paragraph 2 of this Law. The Review Committee(s) shall be responsible for reviewing employees of the Agency for their compliance with the requirements for employment in Chapter V of this Law, as well as other criteria as established by the Director-General and approved by the Council of Ministers.

Prior to the establishment of the Review Committee(s) pursuant to the preceding paragraph, the Director-General, Deputy Director-General and Inspector General shall conduct a review of the members of the Committee(s) who are employees of the Agency to determine their compliance with the requirements for employment in Chapter V of this Law, as well as other criteria established by the Director-General and approved by the Council of Ministers.

Article 102

As of 1 April 2004, all movable and immovable property of the former intelligence services, obligation rights of the former intelligence services, and items in the lawful possession of the former intelligence services, including archives, files and other documents, may be directly used, controlled and modified by the Agency, as the Director-General sees fit to meet the needs of the Agency.

Within 60 days of the entry into force of this Law, the Director-General shall arrange for an inventory to be made of all movable and immovable property and obligation rights of the former intelligence services. Within 6 months, s/he shall prepare a plan for transfer of rights to the Agency where necessary, in order to provide for the effective and efficient work of the Agency. The Director-General shall submit the plan to the Council of Ministers for approval, and the process of approval shall be completed within 30 days from the date of submission. Except otherwise provided in the said plan, each entity government shall remain liable and responsible for the debts, liabilities and other obligations of the respective former entity intelligence service. The entity governments will not seek indemnities from Bosnia and Herzegovina or the Agency against such debts, liabilities and other obligations.

Within 60 days after the approval of the plan by the Council of Ministers, the Director-General shall prepare a draft framework agreement regarding the transfer of property rights held by the former intelligence services, where necessary, for conclusion by the Council of Ministers and the Governments of the Federation and Republika Srpska.

In the interim period prior to conclusion of the said framework agreement, the legal status of such property may only be changed with the written approval of the Director-General and the Council of Ministers.

Article 103

The Council of Ministers, at the proposal of the Director-General, shall issue any further instructions or decisions necessary to ensure the effective implementation of Article 103 of

this Law and shall, at the request of the Chair, appoint one or more arbitrators where necessary to solve specific problems.

Article 104

During the period from entry into force of this Law until 1 April 2004, sufficient funds shall be provided from the State budget in order to allow the Director-General, Deputy Director-General and Inspector General appointed in accordance with Article 97 of this Law to perform tasks related to the transition from former intelligence services of the Federation and Republika Srpska.

Minister of Finance and Treasury shall separately submit the budget proposal of the Agency for 2004 for adoption, with the aim of ensuring that the budget proposal will enter into force by 1 April 2004. The Federation and Republika Srpska shall, in accordance with the adopted budget of the Agency, transfer funds for the operation of the Agency.

In the event that the annual budget for the Institutions of Bosnia and Herzegovina for 2005 is not adopted by 1 December 2004; the Minister of Finance and Treasury shall separately submit the budget proposal of the Agency for adoption, with the aim of ensuring that the budget proposal is adopted by 1 January 2005. The Federation and Republika Srpska shall, in accordance with the adopted budget of the Agency, transfer funds for the operation of the Agency.

Article 105

Notwithstanding Article 17 of this Law, individuals may serve on the first Intelligence Committee established following entry into force of this Law without having received a security clearance, until the entry into force of a law establishing a security clearance procedure for members of the Intelligence Committee, but in no event longer than six months after the establishment of the Agency.

The Chair of the Council of Ministers shall be responsible for the preparation of the law establishing a security clearance procedure for members of the Intelligence Committee within three months of the establishment of the Agency.

Article 106

The Book of Rules on Internal Organization of the Agency shall be prepared 30 days after the appointment of the Director-General and Deputy Director-General and issued 15 days after submission to the Council of Ministers.

All other Books of Rules and regulations required by this Law shall be issued within six months of the establishment of the Agency.

Article 107

This Law shall be published in the Official Gazettes of Bosnia and Herzegovina, the Federation and Republika Srpska.

Article 108

This Law shall enter into force on the 8th day after its publication in the Official Gazette of Bosnia and Herzegovina.