



Strasbourg, 10 September 2001

<cdl\doc\2001\cdl\084-e>

Opinion N° 171/2001

Restricted
CDL (2001) 84
English only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

Bosnia and Herzegovina
FEDERATION OF BOSNIA AND HERZEGOVINA
GOVERNMENT WORKING GROUP

DRAFT PROPOSAL
Croatian language

LAW
ON THE ESTABLISHMENT OF THE
FEDERATION OF BOSNIA AND HERZEGOVINA
INTELLIGENCE AND SECURITY SERVICE

Sarajevo, May 2001

**LAW ON THE ESTABLISHMENT OF THE
FEDERATION OF BOSNIA AND HERZEGOVINA INTELLIGENCE AND
SECURITY SERVICE**

I - GENERAL PROVISIONS

Article 1

This law establishes the Service for Intelligence and Security (hereinafter: Service) of the Federation of Bosnia and Herzegovina, determines the range of its work, way of organization, authorities and responsibilities and determines other points significant for the successful, timely and lawful work of the Service.

The Service shall exist until the establishment of an intelligence/security service at State level in Bosnia and Herzegovina. At such time, the Federation Service shall cease to function and shall relinquish all property, assets, intelligence documents and materials to the State-level Service in accordance with a schedule of compensation to be determined.

Article 2

The Service is an independent Federation Institution, whose nature and way of organization of work require special organization.

The jurisdictional limit of the Service is the Federation and its ten Cantons.

The Service shall have no police powers, including no power of arrest.

The Headquarters of the Service is in Sarajevo.

II - SCOPE OF WORK AND RESPONSIBILITIES OF THE SERVICE

Article 3

The Service, within its scope of work, performs work and tasks that are related to:

1. Intelligence work on questions of interest for the protection of the constitutional structure of the Federation of Bosnia and Herzegovina (hereinafter: Federation);
2. Collection and processing of information, facts and other data about terrorism and narcotics trafficking and production, within the territory of the Federation;
3. Collection and processing of information about acts punishable under international war and humanitarian law and cooperation with The International Criminal Tribunal for the Former Yugoslavia;
4. Counterintelligence protection of personnel and facilities of the Service and the Federation ;

5. Collection and processing of information concerning persons who are reasonably believed to be a potential source or contact, for the purpose of determining their level of responsibility and/or confidentiality.

Article 4

The Service shall perform its activities in accordance with the BiH and Federation Constitutions and other relevant law and shall ensure protection of internationally recognized human rights.

Article 5

The Service shall collect, analyze and disseminate the results of its work in the form of information documents, findings and data to the President and the Vice President of the Federation, the Federation Prime Minister and Deputy Prime Minister, as well as to Federal Ministries, Agencies, Offices, and Oversight bodies as appropriate, within the framework of the Constitution of the Federation and Constitution of Bosnia and Herzegovina.

Article 6

The Service and other bodies and institutions of the Federation and Bosnia and Herzegovina shall cooperate and assist one another in performing their duties under law and coordinate activities from their scope of work, consistent with regulations regarding protection of sources, methods and other classified information.

Article 7

Whenever the Service obtains information about unconstitutional and illegal activities, it shall report such information to the appropriate prosecutorial and police bodies or other appropriate bodies.

Such reports shall be prepared in a manner that protects intelligence sources and methods.

Article 8

The Service is authorized, for lawful purposes, to collect, keep and disseminate to competent bodies intelligence information in accordance with the laws and constitution of the Federation and BiH, and well as with regulations issued by the Director of the Service, in cooperation with the Deputy Director.

Article 9

The Service may utilize electronic surveillance devices only after receiving approval under paragraph 2 of this Law and only if there is a reasonable suspicion that the person concerned has committed, is preparing to commit or is otherwise involved in unconstitutional activities under Article 3 of this law.

Approval for the use of devices from paragraph 1 of this Article must be obtained, upon the request of the Service, from an investigative judge of the Supreme Court of the Federation before such measures may be employed.

Article 10

The use of electronic surveillance measures under paragraph 9 of this Law shall be employed so as to protect the privacy rights of persons who are not the subject of intelligence collection activities. In making use of electronic surveillance, the Service shall use the least intrusive techniques possible.

Article 11

In order to protect intelligence sources and methods and other classified information of the Service, unauthorized disclosure of such information is prohibited. This prohibition applies to, but is not limited to, all committees and bodies created by this Law, and all employees of such committees and bodies.

The unauthorized disclosure of classified information pursuant to paragraph 1 of this Article constitutes a criminal offence that is punishable with by imprisonment from 6 months till 5 years.

**III – RIGHTS AND DUTIES OF FEDERATION PRESIDENT, VICE-PRESIDENT
AND SUPERVISION OF THE SERVICE****Article 12**

The President and the Vice President of the Federation shall be responsible for the following:

1. Issuing guidelines for implementing established policy on issues of significance for the protection of the Constitutional order of the Federation;
2. Approving proposals on long-term strategic development and program orientation of the Service;
3. Approving financial plans, plans for equipping and obtaining means and equipment of the Service;
4. Determining bases of cooperation with appropriate state organs of Bosnia and Herzegovina, Federation and Cantonal bodies;
5. Approving regulations submitted by the Director;
6. Reviewing quarterly reports on the operation of the Service submitted by the Director.
7. Deciding about other issues important for Service work.

Article 13

In order to co-ordinate and provide guidance regarding intelligence and counter-intelligence policy within the Federation, the Federation Government shall form the “Permanent Federation Working Body” which shall report to the Prime Minister of the Federation. The members of the Permanent Federation Working Body shall be, by position: the Federation

Minister of Interior, Federation Minister of Defense, Federation Minister of Finance and Federation Minister of Justice. The Permanent Federation Working Body shall be responsible for the following:

1. Determining a long-term strategy for development of the Service;
2. Approving the financial plan of the Service;
3. Approving regulations submitted by the Director and reviewed by the Technical Working Group;
4. Reviewing quarterly reports by the Technical Working Group on the operation of the Service;
5. Reviewing reports by the Technical Working Group on the disposition of complaints against the Service;
6. Reviewing quarterly reports by the Technical Working Group on the expenditures of the Service;
7. Reviewing quarterly reports on the operation of the Service submitted by the Director;
8. Approving Decisions on the termination of Service employees under Article 44 of this Law.

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Article 14

In order to co-ordinate and provide guidance regarding intelligence and counter-intelligence operations within the Federation, the Federation Government will form the “Technical Working Group on Intelligence Matters” which shall report to the Permanent Federation Working Body. Each member of the Permanent Federation Working Body shall appoint one representative to the Technical Working Group. The Technical Working Group shall be responsible for the following:

1. Reviewing monthly reports by the Director on the operations of the Service;
2. Reviewing and approving all requests for intelligence support from the Service, including requests for support from the International Criminal Tribunal for the Former Yugoslavia, and forwarding such requests to the Service for action;
3. Reviewing all complaints regarding the operations of the Service, forwarding the complaints to the Inspector General, and periodically reporting on the final disposition of complaints to the Permanent Working Body;
4. Providing quarterly reports to the Permanent Working Body on the operations and expenditures of the Service;
5. Reviewing all regulations promulgated by the Director of the Service for approval by the Permanent Working Body;

6. Reviewing the Director's financial plan for the Service for approval by the Permanent Working Body

The Service shall provide to the Technical Working Group the following:

1. A monthly report on the operations of the Service;
2. A monthly report on the expenditures of the Service;
3. A monthly report on the disposition of complaints against the Service.

Article 15

The Prime Minister of the Federation shall issue Rules of Work for the operation of the Permanent Federation Working Body and the Technical Working Group within thirty (30) days of the entry into force of this law which includes rules on the method of decision-making of these bodies. Compliance with these Rules of Work shall be mandatory.

Article 16

Federation Parliament shall establish a Parliamentary Working Body for the oversight and supervision of the Service. The Parliamentary Working Body shall consist of 3 representatives from the House of Representatives and 3 representatives from the House of Peoples of the Federation Parliament.

Article 17

The Parliamentary Working Body shall be responsible for the following::

1. Reviewing quarterly reports from the Director regarding the work of the Service and he budget and expenditures of the Service;
2. Approving measures related to the interruption, suspension or termination of the work of the Inspector General of the Service under Article 31 of this Law.

Article 18

The method of work of the Parliamentary Working Body shall be regulated by Rules of Work that are passed by the Federation Parliament, which shall include rules on the Working Body's method of decision-making. Compliance with these Rules of Work shall be mandatory.

IV - INTERNAL ORGANIZATION OF THE SERVICE

Article 19

The Service shall be headed by a Director.

The Director shall have a Deputy Director who may not be from the same constituent people as the Director.

The Deputy Director shall share responsibility with the Director for carrying out this law, its enforcement as well as for determining policy in the area regulated by this law.

Article 20

If the Director is not able to carry out his obligations under this Law or if the position of Director becomes vacant, the Deputy Director shall replace the Director.

Article 21

The Director is also assisted in the management of the Service by an Executive Director, Inspector General and Deputy Inspector General.

Director's advisors may be appointed in the Service. *(Does this refer to the positions in paragraph 1 of this Article? If not, the # of advisors should be limited and their duties and compensation should be discussed).*

Article 22

The Director of the Service and the Deputy Director shall be appointed and dismissed by the Federation President and Vice President with the advance approval of the Federation House of Representatives.

Article 23

The Director of the Service has the following responsibilities:

1. To regularly inform the President and Vice president of the Federation, as well as the Federal Government, on all questions regarding the security of the Federation;
2. To be responsible for the collection, dissemination and analysis of intelligence data, which must be objective and independent of political situation;
3. To protect intelligence sources and methods from unauthorized disclosure;
4. To be responsible for the protection and security of facilities of the Service, its activities, information, properties and employees by appropriate means;
5. To carry out tasks given it by the Technical Working Group on Intelligence Matters;
6. To sign contracts with persons and institutions regarding the carrying out of tasks from the area of competence of the service;
7. To propose the long-term conceptual development of the Service;
8. To propose to Federation Government, and the President and Vice President of the Federation the basis of the Service's employee policy.
9. To issue regulations as authorized by this law, subject to the approval of the Permanent Federation Working Body and the President and Vice President;

10. On a quarterly basis, to report to the Parliamentary Working Body, the Permanent Federation Working Body and the President and Vice President of the Federation about the work, expenditures and budget of the Service;
11. On a monthly basis, to report to the Technical Working Group on Intelligence Matters as provided in Article 14 of this Law.

Article 24

The Deputy Director of the Service shall assist the Director in carrying out the functions described in Article 23 of this Law.

Article 25

The Director and Deputy Director may not be appointed from among active duty military persons.

The Director and Deputy Director must have university degrees.

Appointment of the Director and Deputy Director shall be carried out on the basis of security standards of the Service, previous experience in the area of intelligence and counter intelligence activities, and not on the basis of political affiliation.

Article 26

The Executive Director, Inspector General and Deputy Inspector General, based on a proposal of Director and Deputy Director of the Service, are appointed and dismissed by Federation Government with the advance approval of the President and Vice President of the Federation.

All three constituent people in Bosnia and Herzegovina must be represented in the appointments of persons from Article 22 of this Law and in appointments of persons from paragraph 1 of this Article. (*The mechanism should be spelled out, if possible*).

Appointment of persons from paragraph 1 of this Article will be carried out on the basis of security standards of the Service, previous experience in the area of intelligence and counter intelligence activities, and not on the basis of political affiliation.

Article 27

The Executive Director, Inspector General and Deputy Inspector General are responsible for their work to the Director and Deputy Director of the Service, the President and Vice President of the Federation and Federation Government.

Article 28

The Executive Director operationally leads the Service and is responsible to the Director and Deputy Director of the Service for lawful and timely carrying out of tasks, in particular:

1. Organizing, supervising and directing activities and operation of the Service in accordance with Article 3 of this Law, as well as other applicable law.
2. Assigning duties and tasks to organizational units in agreement with the Director and Deputy Director.
3. Maintaining operational responsibility for the security and protection of facilities of the Service, its activities, information, visits and employees.
4. Preparing for the Director the annual budget of the Service and reporting about expenditure of budget means.
5. Preparing reports and proposing plans and programs of the Service.
6. Carrying out other duties and tasks given by the Director.

Article 29

The Inspector General shall be responsible for:

1. Monitoring compliance by the Service with its operational policies and with relevant law;
2. Reviewing the operational activities of the Service;
3. Investigating complaints at the request of the Technical Working Group on Intelligence Matters;
4. Reporting on a quarterly basis to the Director of the Service and to the Parliamentary Working Body on all complaints submitted against the Service and their disposition, completed and in-process investigations within the Service and any other matters of concern to the Inspector General;
5. Issuing recommendations to the Director for remedying problems in the Service.

Article 30

The Deputy Inspector General shall assist the Inspector General in carrying out the functions described in Article 29

Article 31

The Director may, by Decision, prohibit the Inspector General or his Deputy from initiating, continuing or completing an investigation if s/he determines that this is necessary for the protection of the vital security interests of the Federation.

The Director must report his intention to undertake measures from paragraph 1 of this Article to the Parliamentary Working Body prior to issuing a Decision. All Decisions under Paragraph 1 are subject to the approval of the Parliamentary Working Body.

Article 32

The Inspector General and the Deputy Inspector General shall have access to Service employees and data related to the subject being investigated. The Inspector General is obliged to keep the Director and the Deputy Director regularly and fully informed about his work and way of working and other questions that are in the competence of the Service, as well as to give recommendations taking into consideration the need for protection of confidential information.

Article 33

The internal organization of the Service shall be established by a Book of Rules on Internal Organization issued by the Director of the Service in co-operation with the Deputy Director and with the advance approval of the Permanent Federation Working Body and the President and Vice President of the Federation.

The Service shall have the necessary number of organizational units outside its headquarters, and the number of organizational units will be determined by the Book of Rules on Internal Organization.

V - RIGHTS AND DUTIES OF EMPLOYEES OF THE SERVICE

Article 34

Employees of the Service have same rights and responsibilities as employees in Federal administration unless otherwise regulated by this law.

Article 35

In addition to general job requirements for employees of Federation Administration bodies, the Director of the Service, in co-operation with the Deputy, may establish special conditions for employment and work in the Service regarding the type, education, health requirements and security needs to be met by the employees. Any such special conditions must be included in the Book of Rules on Internal Organization.

Article 36

Employees of the Service are obliged to carry out the orders of the Director and the Deputy Director if these orders are in accordance with law.

Article 37

If criminal proceedings are initiated against an employee of the Service for activities performed while carrying out his/her duties, the Service shall provide the services of an attorney, as well as other needed legal assistance to the employee, unless the employee was acting outside the scope of his authority, or otherwise overstepped or misused his authorities while performing his duties. The Service will provide this assistance to an individual even after his/her employment with the Service has ceased.

Article 38

No employee of the Service may be member of a legislative, judicial or executive body within the Federation or in Bosnia and Herzegovina, nor may they belong to any governing or other board of a political party.

Article 39

Employees are obliged to keep military or official secrets (*Consistency in terms is needed here. In para. 1, the Law refers to "military or official secrets, in para. 2 to "classified information". Are these the same?*). This obligation does not cease when the official is no longer employed by the Service.

The Director, in co-operation with the Deputy Director, and with the approval of the President and Vice President of the Federation and the Permanent Federation Working Body shall issue regulations which set forth the measures for protecting classified information as well as responsibilities of Service employees concerning protection of classified information.

Article 40

Employees are obliged to identify themselves to persons towards whom they are carrying out official duties. (*For undercover and Counterintelligence activities as well?*)

Article 41

An employee who experiences a temporary inability to work due to illness or injury suffered during the performance of his/her official duties, has the right to compensation equal to his/her salary in the last month before the illness/injury caused the individual to be unable to work.

Article 42

In the case that an employee has violated his/her official duties, s/he will be held responsible in a manner, under the conditions and through the procedure prescribed for disciplinary responsibility of employees of Federation administration bodies.

Article 43

An employee will be suspended from his duties, or from the Service, when disciplinary or criminal proceedings are instituted against him, and the Director determines that continued execution of his/her duties is harmful to the interests of the Service.

Article 44

In addition to the conditions for termination of employment that apply to other Federal Government institutions, the Director may, in co-operation with the Deputy Director, issue a decision to terminate the employment of an employee if it is determined that s/he cannot fulfill his/her duties or in any other way cannot meet the requirements for work in the Service. Such decisions must be approved in advance by the Permanent Federation Working Body.

Article 45

The Director will establish an ethical code of conduct for Service employees, which expresses the values to be followed by all employees. This code of conduct must be read by employees and each employee must solemnly swear and by his signature accept the obligations to follow this ethical code of conduct, which is a precondition for employment.

Article 46

The Director and Deputy Director may authorize employees to carry weapons during the performance of their duties. However, such weapons may only be used and discharged in self-defense.

VI - FUNDING OF THE SERVICE**Article 47**

Financial means for work of the Service will be determined within the Federation budget.

The financial means from paragraph 1 of this Article are used for carrying out functions of the Service.

The Director, in co-operation with the Deputy Director, shall propose a plan of needed financial means for work of the Service. The Director and Deputy Director are responsible for the lawful expenditure of all funds granted to the Service from the Federal budget. The specific expenditure of these funds shall be reported to the Parliamentary Working Body on a quarterly basis.

Article 48

Funds in the Federal budget that are granted for the functioning of the Service may be spent for all purposes necessary to carry out functions of the Service and in according to the plan that is passed by the Director in co-operation by Deputy Director of the Service.

Article 49

Employees of the Service who are subject to dangerous conditions in the course of their duties will be paid at a rate 30% higher than the salaries for employees in other Federation Government institutions.

VII - TRANSITIONAL AND FINAL PROVISIONS**Article 50.**

Intelligence and Security services that were established according to regulations and that operated in the Federation prior to the entry into force of this Law shall cease to function 6 months after the entry into force of this Law. This pertains to AID, SNS and other civilian security-intelligence services.

No other parallel security-intelligence structures may be created or may continue to operate in the Federation.

Knowingly participating in or purporting to represent a civilian security-intelligence service prohibited under paragraphs 1 and 2 of this Law shall constitute a criminal offense under Federation law. *(A section on penalties should be added.)*

Six months after the entry into force of this Law, at the latest, appropriate premises for the needs of the Service shall be provided.

Article 51

Employees of bodies from paragraph 1 of Article 50 of this law who were employed with such bodies on the day this law becomes effective, may apply for appropriate places in the Service for which they fulfill the conditions established by the Book of Rules on Internal Organization of the Service.

Employees who do not obtain employment with the Service in accordance with the Book of Rules on Internal Organization will obtain their rights under the Law on Employment and Salaries of F BiH Administrative Institutions Employees ("Official Gazette FBiH", no 13/98).

Employees from paragraph 2 of this Article, while obtaining the above-mentioned rights, may not continue to work in the Service and must return all documentation, equipment and means that they have used until receiving the waiting-list decision.

Financial means needed for the realization of obligations under paragraphs 2 and 3 of this Article will be provided by Federal budget.

The composition of employees in the Service shall reflect the ethnic structure of the Federation in accordance with census from 1991 in the territory of Federation.

Article 52

Equipment, inventory, materiel, archives and documents, real estate and other property of bodies from Article 50 of this law shall be handed over to the Service immediately, at the latest 30 days from the day when this law enters into force.

The competent organs from Article 5 of this law are obliged to ensure the hand-over of property from paragraph 1 of this Article.

Article 53

Because continuity of cooperation with the International Criminal Tribunal for the Former Yugoslavia is a priority activity of the Service, the Federation Government will be responsible for ensuring that all obligations that had been carried out prior to the entry into force of this Law by other intelligence services concerning realization of current and future obligations toward the Tribunal continue to be carried out.

With the aim of providing necessary continuity of assistance to the Prosecutor's Office of the Tribunal, the Federation Government will ensure the collection of information about acts punishable under international war and humanitarian law, and will ensure that such information continues to be directly available to the Prosecutor's Office.

The Government, through the Technical Working Group, shall task the Service with performing the activities described in paragraphs 1 and 2 of this Article and providing necessary information to the Tribunal.

Article 54

The Director and Deputy Director shall be appointed no later than 7 days after the entry into force of this Law.

Article 55

The Book of Rules on Internal Organization of the Service shall be issued within 45 days from the entry into force of this Law.

Other regulations required under this law shall be issued by the Director within two months from the entry into force of this Law.

Article 56

As of the entry into force of this Law, all laws and regulations which formerly regulated intelligence security work shall cease to apply.

Article 57

This law enters into force on the 8th day after its publication in the Official Gazette of the Federation.